



FALKLAND ISLANDS GAZETTE

Extraordinary

PUBLISHED BY AUTHORITY

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26 January 2018

No. 1

NOTICES

No. 1

26 January 2018

Environmental Impact Statement Premier Oil Exploration & Production Limited

An Environmental Impact Statement (EIS) has been submitted to the Falkland Islands Government by Premier Oil Exploration & Production Ltd. The EIS covers the production of hydrocarbons at the Sea Lion oil field and ancillary activities. Details on how to obtain electronic copies of the non-technical summary and the document in its entirety are available from the Department of Mineral Resources, Ross Road, Stanley (telephone 27322 or email info@mineralresources.gov.fk).

Written representations in relation to the Environmental Impact Statement must be made by Friday 9 March 2018 to the Department of Mineral Resources, Ross Road, Stanley (or by email to info@mineralresources.gov.fk).

Dated 26 January 2018

S.C. LUXTON,
Director of Mineral Resources.



FALKLAND ISLANDS GAZETTE

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No. 2

Appointment

Arturo Reyes Atienza, Plant Operator/Handyperson, Material Section, Public Works Department, 02.01.18.

Allan Regines Santos, Plant Operator/Handyperson, Material Section, Public Works Department, 02.01.18.

Christopher Nicholas Bath, Probation Officer, Health and Social Services Department, 04.01.18.

Felicity Claire Bath, Probation Officer, Health and Social Services Department, 04.01.18.

Richard James Alexander Hyslop, Senior Public Policy Adviser, Policy and Economic Development Department, 04.01.18.

Neil James Appleby, Head Teacher, Falkland Islands Community School, Education Department, 09.01.18.

Jeffrey McMahon, Chief of Police, Royal Falkland Islands Police, Emergency Services Department, 13.01.18.

Gerard Allan Ford, Assistant Foreman, Highways Section, Public Works Department, 15.01.18.

Joanne Claire Ford, Childcare Advisory Teacher, Education Department, 15.01.18.

Hannah Audrey McKechnie, Physiotherapist, Health and Social Services Department, 15.01.18.

Alan David Moore, Primary Teacher, Infant and Junior School, Education Department, 15.01.18.

Rachel Louise Seddon, Director, Education Department, 15.01.18.

Lee-Anne Butler-Slack, English Teacher, Education Department, 19.01.18.

Sarah Laurie Whitby, Crown Counsel (Civil and Safeguarding), Government Legal Services, Law and Regulation Directorate, 19.01.18.

Ailyana Salumbides, Learning Support Assistant, Falkland Islands Community School, Education Department, 22.01.18.

Zoe Leigh Taylor, Learning Support Assistant, Infant and Junior School, Education Department, 22.01.18.

Robert John Wilkinson, Skilled Handyperson Carpenter, Property and Municipal Section, Public Works Department, 22.01.18.

Irina Petrova Chemshirova, Fisheries Observer, Natural Resources Department, 23.01.18.

Tomasz Boleslaw Zawadowski, Fisheries Observer, Natural Resources Department, 26.01.18.

Kristy Lesley Anne Buckland, Accounting Assistant, Treasury, 29.01.18.

Nicholas James Jeffries, Meat Hygiene Inspector, Natural Resources Department, 29.01.18.

Dafne Gomez-Reid, Medical Laboratory Assistant, Health and Social Services Department, 30.01.18.

Completion of contract

Judith Carolyn Westerman, School Nurse, Health and Social Services Department, 09.01.18.

Paul Brian Barton, Deputy Head Teacher, Falkland Islands Community School, Education Department, 13.01.18.

Joanne Claire Ford, Primary Teacher, Infant and Junior School, Education Department, 14.01.18.

Ronald Lawrence Rothwell, Hospital Estates Manager, Health and Social Services Department, 14.01.18.

Anne Jeanette Bailey, Company Taxation Officer, Tax Office, Treasury, 15.01.18.

Wilhelmina Geertruida Maria Brakeboer, Midwife, Health and Social Services Department, 15.01.18.

Maria Verinica Iriarte, Fisheries Observer, Natural Resources Department, 15.01.18.

Anne Margaret Milston, Deputy Head Teacher, Infant and Junior School, Education Department, 17.01.18.

Michael Keith Sawden, English Teacher, Falkland Islands Community School, Education Department, 19.01.18.

Amanda Manuela Kuepfer, Seabirds Fisheries Observer, Natural Resources Department, 21.01.18.

Cian Peter Derbyshire, Fisheries Observer, Natural Resources Department, 23.01.18.

Oliver Thomas, Fisheries Observer, Natural Resources Department, 23.01.18.

Mary Elizabeth Ashdown, Senior Dental Officer, Health and Social Services Department, 31.01.18.

Alexander Moreton, Senior Staff Nurse, Health and Social Services Department, 31.01.18.

Renewal of contract

Judith Carolyn Westerman, School Nurse, Health and Social Services Department, 01.01.18.

Paul Brian Barton, Deputy Head Teacher, Falkland Islands Community School, Education Department, 14.01.18.

Ronald Lawrence Rothwell, Hospital Estates Manager, Health and Social Services Department, 15.01.18.

Anne Jeanette Bailey, Company Taxation Officer, Tax Office, Treasury, 16.01.18.

Maria Verinica Iriarte, Fisheries Observer, Natural Resources Department, 16.01.18.

Anne Margaret Milston, Deputy Head Teacher, Infant and Junior School, Education Department, 18.01.18.

Amanda Manuela Kuepfer, Seabirds Fisheries Observer, Natural Resources Department, 22.01.18.

Cian Peter Derbyshire, Fisheries Observer, Natural Resources Department, 24.01.18.

Oliver Thomas, Fisheries Observer, Natural Resources Department, 24.01.18.

Resignation

Ross Brent James, Biosecurity Officer, Natural Resources Department, 12.01.18.

Aaron Charles Clarke, Assistant Foreman, Highways Section, Public Works Department, 12.01.18.

Retirement

Peter Betts, Qualifying Mechanic, Falkland Islands Government Air Service, Development and Commercial Services Department, 31.01.18.

Transfer

Michaela Sara Monica Clifford, from Learning Support Assistant, Infant and Junior School, Education Department to Residential Care Worker, Health and Social Services Department, 16.12.17.

Denise Blake, from Data Manager, Natural Resources Department to Environmental Officer and Policy Adviser, Environmental Planning Department 02.01.18.

Anya Deirdre Smith, from Assistant Taxation Officer, Tax Office to Accounting Assistant, Treasury, 08.01.18.

Sally Hermione Heathman, from Legal Secretary, Law and Regulation Directorate to Public Relations and Media Assistant, Policy and Economic Development Department, 18.01.18.

Tansie Rebecca Bonner, from Pensions Assistant, Treasury, to Assistant Taxation Officer, Tax Office, Treasury, 22.01.18.

Henna Karen Lazcano-Riquelme, from Receptionist, Leisure Centre, Development and Commercial Services Department to Learning Support Assistant, Infant and Junior School, Education Department, 22.01.18.

NOTICES

No. 2

3 January 2018

Marriage Ordinance 1996 section 26

Registration as Minister for Marriages

In exercise of my powers under section 26(2) of the Marriage Ordinance 1996, I appoint **Lieutenant Colonel the Reverend Nicholas Justin Mercer** as a Minister for the solemnisation of marriages.

Dated 3 January 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 3

4 January 2018

Falkland Islands Constitution Order 2008 section 88

Appointment of Chief Justice

1. Section 88 of the Falkland Islands Constitution Order 2008 (SI 2008/2846) provides that the Chief Justice shall be appointed by the Governor in pursuance of instructions given by Her Majesty through a Secretary of State.

2. Pursuant to such instructions given on 7 December 2017 by Her Majesty through the Secretary of State for Foreign and Commonwealth Affairs I appoint **James Thomas Lewis QC** to be Chief Justice of the Falkland Islands.

3. This appointment takes effect on the date below and expires on the day which **James Thomas Lewis QC** reaches the age of

70, or on such earlier date as may be permitted in accordance with section 90 of the Constitution.

Dated 4 January 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 4 9 January 2018

Falkland Islands Tourist Board Ordinance 2014
section 8

Appointment of Vice Chairperson

1. Section 8(b) of the Falkland Islands Tourist Board Ordinance 2014 provides that the Vice Chairperson of the Falkland Islands Tourist Board Governing Body is appointed by the Governor.

2. In exercise of my powers under section 8, and in accordance with the advice of Executive Council, I appoint **Alex Olmedo** to be Vice Chairperson of the Falkland Islands Tourist Board Governing Body for 24 months.

3. This appointment has effect from the date of signature below and continues in effect as indicated above, unless terminated sooner.

Dated 9 January 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 5 9 January 2018

Administration of Justice Ordinance 1949
paragraph 3, Schedule 3

**Revocation of appointment of Bailiff
to the Courts of the Falkland Islands**

1. Paragraph 3(1) of Schedule 3 to the Administration of Justice Ordinance 1949 provides for the Governor to remove any person from office as Bailiff.

2. **Andrew James Scott Furniss** was appointed as Bailiff on 27 March 2017, in exercise of my powers as above I now remove **Andrew James Scott Furniss** from office as Bailiff with effect from 12 January 2018.

Dated 9 January 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 6 15 January 2018

Land Ordinance 1949
section 11A

Notice of Application for Vesting Deed

Notice is given that **Donald William Betts** of 7 Jeremy Moore Avenue, Stanley, Falkland Islands has made application in accordance with section 11A of the Land Ordinance to have executed in his favour a Vesting Deed of land in Stanley,

Falkland Islands measuring approximately 1022 square metres or thereabouts forming part of Crown Grant 33 bounded on the east by the public road known as Dean Street for a distance of 73 metres or thereabouts, bounded on the south by the property known as 5 Dean Street for a distance of 14 metres or thereabouts, bounded on the west by the property known as 19 Fitzroy Road for a distance of 73 metres or thereabouts and bounded on the north by the verge of the public road known as Fitzroy Road for a distance of 14 metres or thereabouts.

The applicant's statutory declaration may be inspected by any person at the Registrar General's Office, Town Hall, Stanley during normal working hours for 30 days following the date of publication of this notice.

Notice is given that any person objecting to the vesting of title to the land in the application may, within 30 days following publication of this notice, lodge a notice in writing, specifying the grounds for objection, delivered to the Registrar General.

Notice is hereby given that unless any objection has been received within 30 days following the publication of this notice the Registrar General under the terms of section 11A of the Land Ordinance will execute in favour of Donald William Betts a Vesting Deed of the said land.

Dated 15 January 2018

E. J. DENT,
Registrar General.

No. 7 16 January 2018

Falkland Islands Constitution Order 2008
section 84
Police Ordinance 2000
section 4

Appointment of Chief Police Officer

1. Section 84(4) and (5) of the Falkland Islands Constitution Order 2008 (SI 2008/2846) 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 in his discretion, shall appoint a person to be the Chief Police Officer.

3. In exercise of my powers under the Constitution and Police Ordinance, I appoint **Jeffrey McMahon** to be the Chief Police Officer.

4. In accordance with my powers under section 4(3) of the Police Ordinance I direct that during his appointment as Chief Police Officer, Jeffrey McMahon will hold the rank of Superintendent.

5. The appointment of Chief Police Officer has effect from 13 January 2018 and continues in effect for the duration of Jeffrey McMahon's contract of employment with the Falkland Islands Government, unless terminated sooner.

Dated 16 January 2018

N. J. PHILLIPS C.B.E.,
Governor.

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

Mr Ahmad Cheema MBBS FRCS
Dr Rebecca Edwards MBBS DRCOG DFSRH
Dr Mukhtar Uqaili MBBS MRCGP(Int) MCPS DPH
Dr Arthur Allison BSc MBChB FRCA
Dr Maciej Stronczak MD
Dr Donald MacLeod MBChB FFARCSI
Mr Norman Binnie BSc (Med Sci) MBChB MD FRCSEd
Mr Peter Richard Sill MBChB FRCOG
Dr Oscar Varas MD
Dr Mandy Fry MBBS Mphil DGH DFFP FRCGP
Dr Dipankar Bandyopadhyay MBBS FRCPsych
Ms Venessa Lawton MBChB MRCOG MD
Dr David Edwards-Moss MBBS DTM&H
Dr Bernadette M Paver MBBS MRCGP DPD DOccMed
Dr Katrina Hope BMBS BMedSci MSC FRCA
Dr Alstynn Pillay MBBS
Dr Colin Berry MBBS FRCA
Dr Stephenie Foot MBChB FRCA
Mr Daniel Archer MBBS LRCP MRRS FDSRCS Max Face
Dr Ryan Jackson MBBS MRCGP DiPAVMed DCH
Dr Mary Whittle MB Bch BAO MRCPsych Dip Criminology
Dip Forensic Psy
Dr Nick McPhail MD
Dr Daniel Zimmerman MD
Mr James Vesty DM FRCP
Dr Domonkos Lendvai MD Consultant Anaesthetist
Dr John Clark MBChB FRCPath
Mr Sean Kelly BSc MBChB FRCS Ed Orth
Dr Alvaro Pemarkin MD
Dr Grant Rogers MD
Dr Yvonne Littler BMBS BmedSci FRCPath
Dr Suzanne Foster MBChB
Dr Mary Rogerson MBBS FRCP
Dr Neil Williams MBChB FRCA
Mr Matthew Hayes DM FRCS FRCS(urol)
Dr Mark Oliver MBBS BSc FRCA
Dr Pedro Toscano MD
Mr Charles Cox MBBS FRCS FRCOG
Dr Bretton Hari MD
Dr James Miller BSc MBChB DROCG DFSRH
Dr Madura Sundareswaran MD
Dr Rimi Sambi MD
Dr Mathew Moore MD
Dr Kim Hunter MD
Dr Rosasharn Browne MRCGP DROCG
Dr Roberto Aspee MD Cardiology
Dr Gonzalo Lira MD Cardiology
Mr Thomas Day MA Mchir FRCS FRCP
Dr Aoife Ni Mhaoileoin MBChB BAO MRCGP DFSRH
Mr Michael Sterns FRCS
Mr Henrick Allermand MD

Dentists

Dr Mary Ashdown BDS MSc DPHRCS DPDS
Dr Sally Owen BChD
Dr David Fyfe BDS (UK)
Dr Colwyn Jones BDS FDS MPH FFPH

Midwives

Mrs Mandy Heathman SRN SCM
Mrs Claire Neves-Scott RM
Lillian Nembaware RGN/RM
Mieke Brakeboer RM

Dated 16 January 2018

R. E. EDWARDS,
Chief Medical Officer.

No. 9

22 January 2018

Pegasus Limited
Company Number: 15023

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 22 January 2018

E. J. DENT,
Registrar of Companies.

No. 10

23 January 2018

Index of Retail Prices

The Index for the quarter ended 30 September 2017 has now been completed.

The Index has increased during the quarter, to 101.616; this equates to a 0.9% increase for the quarter, and a 1.5% increase for the year:

| <i>Date</i> | <i>Index</i> | <i>Annual Change</i> | <i>Quarterly change</i> |
|-------------|--------------|----------------------|-------------------------|
| 30.09.16* | 100.130 | -1.8% | 0.6% |
| 31.12.16 | 100.565 | -1.0% | 0.4% |
| 31.03.17 | 100.022 | -0.1% | -0.5% |
| 30.06.17 | 100.740 | 1.2% | 0.7% |
| 30.09.17 | 101.616 | 1.5% | 0.9% |

*On 22 February 2017, Standing Finance Committee approved amendments to the Retail Price Index for quarters one to three of 2016, in respect of changes to data allowances in internet packages that had not been accounted for in previously published data.

Dated 23 January 2018

M. DALY,
for Director of Policy and Economic Development.

No. 11

26 January 2018

Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance 1949

Take notice that **Malvina Ellen Spinks** of 8 Thatcher Drive, Stanley died on 16 October 2017.

Whereas **Vivien Delia Briones Sepulveda** 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 26 January 2018

J. BROOKS,
Registrar, Supreme Court

No. 12

26 January 2018

Education Ordinance 1989
section 57

Academic Year 2018 – 2019
Term Dates

Term One

Wednesday 5 September – Friday 14 December 2018

Half Term

Monday 22 October – Friday 26 October 2018 (inclusive)

Term Two

Monday 21 January – Friday 12 April 2019

Half Term

Monday 25 February – Friday 1 March 2019 (inclusive)

Term Three

Monday 29 April – Thursday 8 August 2019

Half Term

Monday 10 June – Friday 14 June 2019 (inclusive)

Public Holidays (schools closed)

Monday 1 October 2018 Peat Cutting Monday

Monday 10 December 2018 Battle Day

Professional Development Days for Teaching and Non-Teaching Staff

Monday 3 September 2018

Tuesday 4 September 2018

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

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 Head Teacher of Infant Junior School/Camp Education in advance.

Dated 26 January 2018

R. SEDDON,
Director of Education.

No. 13

26 January 2018

Commissioners for Oaths Ordinance 1969
section 2

Appointment of Commissioner for Oaths

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

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

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

Dated 26 January 2018

N. J. PHILLIPS C.B.E.,
Governor.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

31 January 2018

No. 1

The following is published in this Supplement –

Commons Ordinance 2017 (No 19 of 2017).

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Commons Ordinance 2017

(No: 19 of 2017)

ARRANGEMENT OF PROVISIONS

Section

PART 1 — INTRODUCTION

1. Title and commencement
2. Interpretation

PART 2 — DESIGNATION OF COMMONS

3. Designation of Commons
4. Restrictions and other matters relating to Commons

PART 3 — STANLEY COMMON

5. Dedication of Stanley Common
6. Restriction on grants of Stanley Common land
7. Restriction on acquisition of title etc. by adverse possession and prescription
8. Amendment of the Category A Stanley Common Land boundary
9. Development and uses — Category A Stanley Common Land
10. Development and uses — Category B Stanley Common Land
11. Lands Committee — by-laws
12. Governor — necessary infrastructure in Category B Stanley Common Land
13. Fees for Common grazing
14. Penalties
15. Stanley Common Regulations

PART 4 — GENERAL

16. Application to the Crown
17. Regulations
18. Repeal of Stanley Common Ordinance
19. Transitional and savings

PART 5 — CONSEQUENTIAL AMENDMENTS

20. Amendment of Trespass Ordinance
 21. Amendment of Land Charges Ordinance
 22. Amendments to Board of Health By-Laws
 23. Revocation of Stanley Common Rules
- Schedules

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

COMMONS ORDINANCE 2017

(No: 19 of 2017)

(assented to: 21 December 2017)
(commencement: in accordance with section 1)
(published: 31 January 2018)

AN ORDINANCE

To repeal and re-enact the Stanley Common Ordinance 1999 as the Commons Ordinance so that it provides for the designation of Commons in the Falkland Islands, to amend the Trespass Ordinance, Land Charges Ordinance and to revoke various subsidiary legislation and make consequential amendments to some.

ENACTED by the Legislature of the Falkland Islands —

PART 1 — INTRODUCTION

1. Title and commencement

(1) This Ordinance is the Commons Ordinance 2017.

(2) This Ordinance comes into force on a date appointed by the Governor by notice published in the *Gazette*.

2. Interpretation

In this Ordinance, and unless the context otherwise requires —

“common” means the Stanley Common Land or any piece of land designated as a common by the Governor under section 3;

“development” has the same meaning as it has under section 26 of the Planning Ordinance 1991;

“land” includes land covered by water (including the sea) and the bed of any river or of the sea or other body of water;

“Lands Committee” means the Committee for the time being established by Executive Council under section 57(3) of the Constitution to advise Executive Council on land management and to perform such other functions as may be delegated to it;

“Museum and National Trust” means the trust established by section 3 of the Museum and National Trust Ordinance 1991;

“Planning Officer” means the officer appointed by the Governor under section 10 of the Planning Ordinance; and

“public purpose” in relation to land or the use of land means —

(a) any purpose connected with —

(i) exclusive government use;

(ii) general public use;

(iii) ancillary to the public interest or utility;

(iv) town planning;

(v) the defence of the Falkland Islands;

(vi) ancillary to naval, military or air force requirements;

(vii) the promotion or creation of healthy and sanitary surroundings and the prevention or abatement of what the Governor considers to be a nuisance, dangerous to health or limb;

(b) any purpose intended to result in a benefit or advantage to the community and without prejudice to its generality to include the development, utilization or disposal of property (in whole or in part) for the promotion of the physical, economic, social, or aesthetic well-being of the community;

(c) any other purpose specified as public by any Ordinance or which the Governor may declare to be a public purpose;

“Stanley Common” means the area shown in Schedule 1;

“Category A Stanley Common Land” means the land in the vicinity of Stanley, the boundaries of which are delineated on the map appearing in Schedule 1 to this Ordinance; and

“Category B Stanley Common Land” means the land in the vicinity of Stanley, the boundaries of which are delineated on the map appearing in Schedule 1 to this Ordinance.

PART 2 — DESIGNATION OF COMMONS

3. Designation of Commons

(1) The Governor may by order, designate an area or areas within the Falkland Islands as common land for the benefit of —

- (a) all people in the Falkland Islands;
- (b) residents of any settlement, village, town, city in the Falkland Islands; or
- (c) any specific group of people living within a specific distance of any such settlement, village, town or city.

(2) An order made under subsection (1) must specify the rights, duties, obligations and responsibilities of the people specified in the order in relation to the designated common land and different rights, duties, obligations and responsibilities may be specified for different classes of people.

(3) An order made under subsection (1) must be registered with the office of the Registrar General as a Class II land charge in terms of the Land Charges Ordinance.

4. Restrictions and other matters relating to Commons

(1) The Governor may include in a designation order under section 3 all or any of the following—

- (a) general restrictions on the whole or any part of the land designated as a common;
- (b) conditions for removing or taking land out of the area designated as a common;
- (c) restrictions on the use of the land designated as a common;
- (d) restrictions on the development of the land designated as a common.

(2) An order under section 3 may further provide for —

- (a) the imposition of fees or any other penalty (by way of fine or imprisonment) for any contravention of the restrictions;
- (b) the imposition of charges for different activities within the Common to be used for the maintenance of the land.

PART 3 – STANLEY COMMON

5. Dedication of Stanley Common

(1) Subject to the provisions of this Ordinance Stanley Common continues to be dedicated as an open space for the benefit of all people in the Falkland Islands to which the public has access in perpetuity.

(2) For purposes of this Ordinance the area of land known as Stanley Common is divided into the following —

(a) the area delineated on the map appearing in Schedule 1 to be referred to as “Category A Stanley Common Land”;

(b) the area delineated on the map appearing in Schedule 1 to be referred to as “Category B Stanley Common Land”.

(3) Notwithstanding the generality of subsection (1) and the historic public rights that the public has over Stanley Common the following public rights continue to be available to the public —

(a) the right to graze livestock on the land subject to section 13;

(b) the right to cut or take away peat subject to a licence or authorisation from the Governor;

(c) the right to throw or burn rubbish on the areas within the land which has been designated for that purpose;

(d) the right to use the land for recreational purposes;

(e) the right of passage in and through the land (on foot, horseback, or vehicle or similar);

6. Restriction on grants of Stanley Common land

(1) Subject to subsection (2), any grant of land by the Crown within Category A Stanley Common Land or Category B Stanley Common Land which purports to create —

(a) a freehold interest;

(b) a term of years absolute;

(c) any other interest for a period in excess of three years; or

(d) an interest for a period of three years or less of any kind inconsistent with this Ordinance,

is void and of no effect whatever.

(2) Subsection (1) does not apply to the following —

- (a) the Crown Grants set out in Part I of Schedule 2 to this Ordinance;
- (b) the Crown Leases and other matters set out in Part II of Schedule 2 to this Ordinance for the periods indicated or for the periods of any renewals or extensions of occupation that may be reached between the Crown and the occupier;
- (c) a grant or lease in favour of the Museum and National Trust in accordance with section 13 of the Museum and National Trust Ordinance 1991; and
- (d) any land removed from the Category A Stanley Common Land in terms of section 8.

7. Restriction on acquisition of title etc. by adverse possession and prescription

(1) No person may acquire any title or other right or interest to or in land comprised within Category A Stanley Common Land or Category B Stanley Common Land by virtue of any law which has the effect of conferring or creating such title or any other right or interest to or in land by the doctrines known as adverse possession and prescription or by application of the doctrine of lost modern grant and, without limiting the generality of the foregoing, the provisions of section 11A of the Land Ordinance do not apply to Category A Stanley Common Land or Category B Stanley Common Land.

(2) Subsection (1) does not operate to remove any public or customary rights of way which may have arisen or be enjoyed by the public or class of the public prior to the introduction of this Ordinance nor to prevent public or customary rights arising or continuing from Stanley or points within the Category A Stanley Common Land or Category B Stanley Common Land to ways points or tracks beyond the boundaries of Category A Stanley Common Land or Category B Stanley Common Land.

8. Amendment of the Category A Stanley Common Land boundary

(1) Subject to this section, the boundaries of the Category A Stanley Common Land (“Category A Stanley Common Land boundary”) as delineated on the map appearing in Schedule 1 to this Ordinance may be amended.

(2) The Governor may by regulations make amendments to the Category A Stanley Common Land boundary where —

- (a) the Governor considers it necessary for public purposes;
- (b) there are exceptional circumstances that require the amendment of the Category A Stanley Common Land boundary to facilitate the sustainable development of Stanley;
- (c) the amendments made to the Category A Stanley Common Land boundary do not result in the material reduction of the overall area of the Category A Stanley Common Land; and
- (d) the overall suitability of the land available for the different appropriate uses is maintained.

(3) Before any amendment is made to the Category A Stanley Common Land boundary, the Planning Officer must publish a draft proposal containing information detailing the proposed amendments and the reasons for the amendments.

(4) The Planning Officer must —

(a) make the draft proposals available for public comment for a period of at least 8 weeks; and

(b) summarise all the written comments received and forward the summary to the Governor.

(5) The Governor must take the summary into account when making the decision to amend the Category A Stanley Common Land boundary.

(6) It is unlawful to remove any land from the Category A Stanley Common Land unless that land is removed in accordance with an amendment authorised under this section.

(7) A person who commits an offence under this section is liable on conviction to a fine not exceeding level six on the standard scale.

9. Development and uses — Category A Stanley Common Land

(1) It is an offence to use Stanley Common in a manner that is prohibited under this Ordinance or Regulations made under it.

(2) It is an offence to carry out any development within the Category A Stanley Common Land.

(3) The following are permitted within the Category A Stanley Common Land —

(a) the cutting and taking away of peat under a licence or permission granted by or on behalf of the Governor;

(b) the use by the Falkland Islands Defence Force and the Royal Falkland Islands Police of firearms for training on approval by the Governor for that purpose;

(c) the use for training on a part of the Category A Stanley Common Land which has been approved by the Governor for that purpose by the Falkland Islands Defence Force, the Fire and Rescue Service or any other organisation approved by the Governor;

(d) the grazing of animals —

(i) where it is in accordance with a grazing permit issued by the Department of Agriculture as provided for under section 13; or

(ii) where the Department of Agriculture has authorised the grazing of animals on that part of the Category A Stanley Common Land for a specified period.

(4) An activity or use which unduly restricts reasonable access to an area of Category A Stanley Common Land or unduly impacts on the amenity or safety of other users is only permissible to be carried out in Category A Stanley Common Land where that activity or use has been approved by the Lands Committee under section 11.

(5) A person who does any of the acts specified under subsection (3) without the necessary approval, authorisation, licence, permit or in the prescribed manner commits an offence.

(6) A person who commits an offence under this section is liable on conviction to a fine not exceeding level six on the standard scale.

10. Development and uses — Category B Stanley Common Land

(1) It is an offence to use Category B Stanley Common Land in a manner that is prohibited under this Ordinance, Regulations or by-laws made under it.

(2) Subject to section 12 developments may be carried out within Category B Stanley Common Land and where it is necessary for public purposes land may be removed from Category B Stanley Common Land.

(3) The following are permitted within the Category B Stanley Common Land —

(a) the cutting and taking away of peat under a licence or permission granted by or on behalf of the Governor;

(b) the use by the Falkland Islands Defence Force and the Royal Falkland Islands Police of firearms for training on approval by the Governor for that purpose;

(c) the use for training by the Falkland Islands Defence Force or the Fire and Rescue Service on a part of the Category B Stanley Common Land which has been approved by the Governor for that purpose;

(d) the grazing of animals —

(i) where it is in accordance with a grazing permit issued by the Department of Agriculture as provided for under section 13; or

(ii) where the Department of Agriculture has authorised the grazing of animals on that part of the Category B Stanley Common Land for a specified period;

(e) the burying of animals on Category B Stanley Common Land, where it is in accordance with an authorisation by the Department of Agriculture;

(f) the throwing, depositing or causing to be thrown or deposited on Category B Stanley Common Land any waste or other noxious matter where it is done in a place and in accordance with such conditions as may be prescribed for that purpose; and

(g) any developments necessary for public purposes.

(4) A development or activity which unduly restricts reasonable access to an area of Category B Stanley Common Land or unduly impacts on the amenity or safety of other users is only permissible to be carried out in Category B Stanley Common Land where that activity, use or development has been approved by the Lands Committee under section 11.

(5) A person who does any of the acts specified under subsection (3) without the necessary approval, authorisation, licence, and permit or in the prescribed manner commits an offence.

(6) A person who commits an offence under this section is liable on conviction to a fine not exceeding level 6 on the standard scale.

11. Lands Committee — by-laws

(1) The Lands Committee in consultation with the Environmental Committee may make by-laws authorising —

(a) the carrying out of different uses and activities within Category A Stanley Common Land;
or

(b) the carrying out of different uses and activities within Category B Stanley Common Land or the development of Category B Stanley Common Land.

(2) Without derogating from the generality of subsection (1), the Lands Committee may make by-laws on the use of Category A Stanley Common Land for the following —

(a) sport and recreation;

(b) use of Category A Stanley Common Land or any part of Category A Stanley Common Land as an amenity area;

(c) nature conservation;

(d) acts of remembrance; and

(e) any other uses as may be prescribed.

(3) Without derogating from the generality of subsection (1), the Lands Committee in consultation with the Environmental Committee may make by-laws on the following—

(a) use of Category B Stanley Common Land or any part of Category B Stanley Common Land as an amenity area;

(b) use of Category B Stanley Common Land for firearms training;

(c) use of Category B Stanley Common Land for training by the Falkland Islands Defence Force or the Fire and Rescue Service; and

(d) development of Category B Stanley Common Land.

(4) In order to be considerate of the different users of Category A Stanley Common Land the by-laws made under this section may contain restrictions or limitations on access and use of the land for specific activities.

(5) In order to be considerate to the different users of Category B Stanley Common Land by-laws made under this section —

(a) must include the process of notifying the public about any proposed developments where the developments result in land being removed from Category B Stanley Common Land;

(b) may contain restrictions or limitations on access and use of the land where specific activities are taking place (*such as firearms training*).

(6) The Lands Committee in consultation with the Environmental Committee may develop and disseminate guidance on the use of Category A Stanley Common Land and Category B Stanley Common Land to facilitate the implementation of this Ordinance and any by-laws made under this section.

(7) The Lands Committee must keep the guidance under review and issue new guidance when necessary.

12. Governor — necessary infrastructure in Category B Stanley Common Land

(1) The Governor may make regulations authorising the construction or installation of necessary infrastructure on the Category B Stanley Common Land where the Governor considers that —

(a) the infrastructure is necessary for public purposes;

(b) the Category B Stanley Common Land would be the most appropriate place for the infrastructure to be located; and

(c) the land on which the infrastructure is to be located cannot be removed from the Category B Stanley Common Land.

(2) For purposes of this section, the following is necessary infrastructure —

(a) 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 the area);

(b) road (where the primary purpose of the road is to facilitate uses within Category B Stanley Common Land);

(c) facilities necessary for the purpose of supplying and preserving the supply of water to the town of Stanley;

(d) facilities necessary for the purpose of supplying electricity pursuant to the Electricity Supply Ordinance 1939 including the installation of electricity wind turbines and associated equipment;

(e) facilities necessary for the provision of telecommunications services;

(f) facilities for the conduct of scientific research on an area of land not exceeding one tenth of one acre;

(g) facilities for mining; and

(h) facilities for aircraft or maritime navigation.

(3) Regulations made under this section must include the process for consultation where any infrastructure is likely to result in land being removed from Category B Stanley Common Land.

(4) The Governor may by Order amend the list of infrastructure under subsection (2).

13. Fees for Common grazing

(1) In order to be issued with a grazing permit by the Department of Agriculture referred to under sections 9(3)(d)(i) and 10(3)(d)(i), a person must pay the fees set out in Schedule 3.

(2) Any person whose animal is found grazing in the Category A Stanley Common Land or the Category B Stanley Common Land who does not have a grazing permit referred to in subsection (1) or where there is no authorisation from the Department of Agriculture commits an offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

(3) The Governor may amend Schedule 3 by order.

14. Penalties

Any person who contravenes any of the provision of this Part for which a penalty is not specified commits an offence and is liable on conviction to a fine not exceeding level 6 on the standard scale.

15. Stanley Common Regulations

(1) The Governor may make regulations —

(a) restricting the public's access to the Category A Stanley Common Land or any part of the Category B Stanley Common Land;

(b) prescribing the manner of making proposals to amend the Category A Stanley Common Land boundary under section 8;

- (c) prescribing policy principles and procedural requirements to be followed by the Lands Committee in consultation with the Environmental Committee in the making of by-laws under section 11;
 - (d) prescribing the different uses to which the Category A Stanley Common Land and the Category B Stanley Common Land may be put, in addition to the uses specified under this Ordinance;
 - (e) designating specific areas of the Category B Stanley Common Land for carrying out developments and necessary infrastructure; and
 - (f) prescribing anything reasonably necessary for the better carrying out of the provisions of this Ordinance.
- (2) The Governor may make by-laws relating to —
- (a) the issuing of grazing permits under this Ordinance;
 - (b) the granting of authorisations for the burial of animals on Category B Stanley Common Land; and
 - (c) any other matter as may be necessary.
- (3) The Director of Natural Resources may develop and publish guidance on the process relating to the grazing of animals on Stanley Common and the burial of animals on Category B Stanley Common Land.
- (4) The Director of Natural Resources must keep the guidance under review and issue new guidance when necessary.
- (5) The Director of Natural Resources must arrange for a notice to be published in the Gazette specifying —
- (a) that guidance has been issued;
 - (b) whether it is new guidance or a replacement for an existing one; and
 - (c) the date on which the guidance comes into force.
- (6) The Director of Natural Resources must make arrangements for the guidance to be available (either as paper copies or in electronic form).

PART 4 — GENERAL

16. Application to the Crown

This Ordinance binds the Crown.

17. Regulations

Any regulations made under this Ordinance must, in order to have effect, first be approved by a resolution of the Legislative Assembly.

18. Repeal of Stanley Common Ordinance

The Stanley Common Ordinance 1999 is repealed.

19. Transitional and savings

(1) The activities set out under Schedule 4 are to be treated as authorised for purposes of this Ordinance.

(2) Any regulations made under the Ordinance repealed by section 18 which were in force immediately before the commencement of this Ordinance continue in force in so far as they are not inconsistent with this Ordinance, until they are revoked or amended.

PART 5 — CONSEQUENTIAL AMENDMENTS

20. Amendment of Trespass Ordinance

(1) This section amends the Trespass Ordinance 1904.

(2) The Trespass Ordinance is amended as follows —

(a) in section 5 by deleting —

(i) 25p and replacing it with “£36.00”

(ii) 13p and replacing it with “£18.00”;

(b) by repealing sections 8 and 9;

(c) by omitting the words “and commonage fees” from section 11; and

(d) by omitting the Schedule.

21. Amendment of Land Charges Ordinance

(1) This section amends the Land Charges Ordinance 1996.

(2) The Land Charges Ordinance is amended in section 4(3) by inserting immediately after paragraph (c) the following new paragraph —

“(d) a registered common”.

22. Amendments to Board of Health By-Laws

(1) This section amends the Board of Health By-Laws 1937.

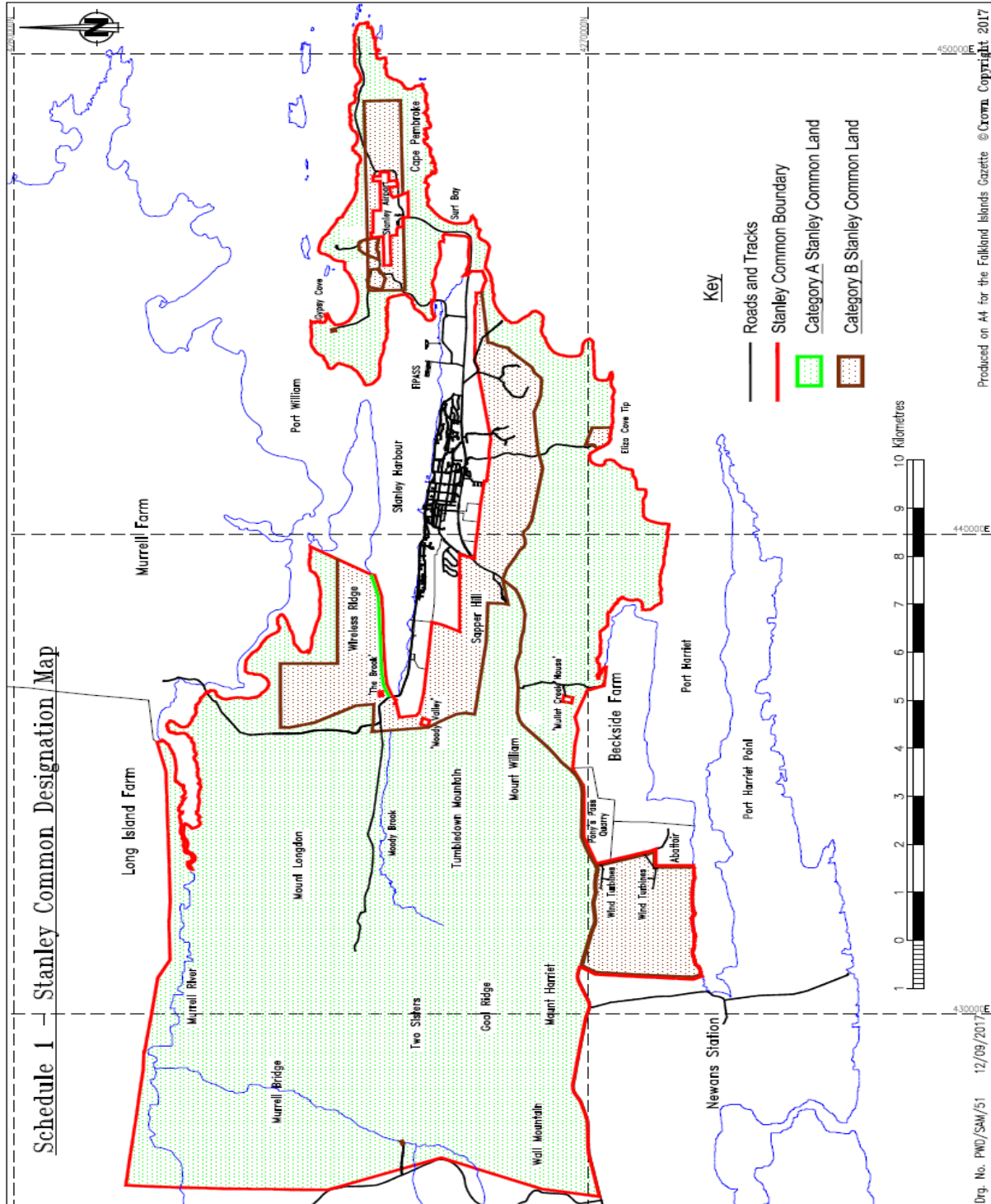
(2) The Board of Health By-Laws are amended in by-law 65 by omitting “of the Common or”.

23. Revocation of Stanley Common Rules

- (1) This section revokes the Stanley Common Rules 1949.
- (2) The Stanley Common Rules are revoked.

SCHEDULE 1

(section 5)



SCHEDULE 2

Part I List of Crown Grants

(section 6(2)(a))

| Crown Grant | Land | Grantee |
|-------------|--|---|
| No 565 | 3,478 acres at Moody Valley | James Stephenson |
| No 715 | 5 acres at Mullet Creek | Hazel Alazia |
| No 884 | 1.25 acres known as Old Filtration Plant, Moody Brook | Simon Peter Goss and Sandra Kathleen Goss |
| No 896 | 1,215 square metres at Moody Valley | Barry Elsby and Bernadette Paver |
| No 900 | 2,050 square metres at Moody Valley | Douglas Graham Fiddes and Julia Bertrand Fiddes |
| No 1004 | 18 acres at Moody Valley | Barry Elsby and Bernadette Marguerite Paver |
| No 1021 | 2,550 square metres adjacent to The Brook, Moody Brook | Douglas Graham Fiddes |

Part II List of Crown Leases and other matters

(section 6(2)(b))

| Nature of Agreement | Land | Occupier | Term |
|---|---|---|--|
| CL 379 | 3950 acres known as Mount Longdon Camp | Neil Watson | 1 January 2006 to 31 December 2015 |
| CL 356: current (in date) Deed of Variation 06.07.2006 | 4.4 acres at Moody Brook | Douglas Graham Fiddes and Julia Bertrand Fiddes | 11 December 2001 to 10 December 2021 |
| CL 357: continuing year to year | 4.4 acres at Moody Brook | Douglas Graham Fiddes and Julia Bertrand Fiddes | 2 years from 11 December 2001 (continuing in occupation) |
| Right of Access contained in Crown Lease No 417 (Camber Dockyard) | Track from Moody Brook east to Fairy Cove | Fortuna Ltd | 999 years |

| | | | |
|------------------|---|-------------------------------|---|
| CL No 418 | Abattoir holding Paddocks comprising 1,325 acres | Falkland Islands Meat Company | 1 January 2017 to 31 December 2017 (renewed annually) |
| Disused quarry | 24.5 acres at Mary Hill | The Crown | |
| Refuse Tip | 8 acres at Eliza Cove | The Crown | |
| Ammunition Store | Approximately 320 square metres to the south of the new FIDF HQ | The Crown | |

SCHEDULE 3 Fees

(section 13(1))

Winter grazing is limited to the number of animals that can be maintained on the grass available

| Grazing seasons: | Fee per animal |
|---------------------------------------|-----------------------|
| Summer: 1 October to 31 May | £24.00 |
| Winter: 1 June to 30 September | £12.00 |
| Annual Fee: 1 June to 31 May | £36.00 |

Animals may, by request, be grazed on the Common for a maximum of 10 days or less at the rate of £1.00 per day.

Animals grazing on the Common for more than 10 days will be charged the full rate.

SCHEDULE 4

Authorised activities

(section 19(1))

- (a) Rookery Bay Rifle Range, Phillips Point Gun Range and the Kiel Canal Road Archery Range as areas for recreational target practice under the supervision of clubs formed for the purpose;
- (b) The construction of the road to the FIDF ammunitions store by FIG;
- (c) The laying of power cables to the FIDF ammunitions store by FIG;
- (d) Development of Moody Valley and the Murrell River Catchment Area by FIG for the purpose of supplying and preserving the supply of water to the town of Stanley;
- (e) Development of Mount William for telecommunications purposes by communications providers and FIG;
- (f) Laying of power cables to the medium wave transmitter on Mount William by communications providers and FIG;

- (g) Development of Sapper Hill for telecommunications purposes by communications providers and FIG;
- (h) Development of Sapper Hill for the purpose of scientific research by communications providers and FIG;
- (i) Development of Sapper Hill for the purpose of the supply of electricity by FIG;
- (j) Development of Cape Pembroke Point and Engineers Point for the purpose of maritime navigation by FIG;
- (k) Land south-east of the rugby pitch as an area for recreational operation of model aircrafts and other remote-controlled vehicles by the Model Aircraft Club;
- (l) Several Solar System sculptures erected by Mr Rob Yssel as artwork;
- (m) Siting of the septic tank serving Marine Cottage, Moody Brook and the pipes running to it, by Douglas Graham Fiddes;
- (n) Sand extraction (not mechanical extraction by hand only) at Yorke Bay dunes; and
- (o) Water supply facilities in the surrounds of Mullet Creek House.

Passed by the Legislature of the Falkland Islands on 28 September 2017.

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.



FALKLAND ISLANDS GAZETTE

Supplement

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No. 2

The following is published in this Supplement –

Maritime Ordinance 2017 (No 20 of 2017).

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Maritime Ordinance 2017

(No: 20 of 2017)

ARRANGEMENT OF PROVISIONS

Section

PART 1 – PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Meaning “qualifying foreign ship”
4. Persons qualified to own British ships

PART 2 – REGISTRATION OF BRITISH SHIPS IN THE FALKLAND ISLANDS

5. British ships
6. Falkland Islands ships
7. Falkland Islands ships - entitlement to fly the British flag
8. Offences relating to British character of ship
9. Penalty for carrying improper colours
10. Duty to show British flag or Falkland Islands colours
11. Duty to declare national character of ship
12. Proceedings on forfeiture of ship

PART 3 – REGISTRATION REQUIREMENTS

13. General - keeping of register
14. Registration of ships in the Falkland Islands as British ships – basic provisions
15. Registration regulations
16. Status of certificate of registration

Tonnage of ships

17. Requirement to ascertain tonnage of ships
18. Tonnage ascertained for registration to be tonnage of ship
19. Tonnage regulations
20. Offences in relation to a ship's British ownership or Falkland Islands connection
21. Supplementary provisions as respects fishing vessels
22. Private law provisions for registered ships and liability of owner

Ships on bareboat charter

23. Ships bareboat chartered by Falkland Islands charterers
24. Proceedings on the forfeiture of a ship
25. Disclosure of information relating to registration

PART 4 – MASTERS AND SEAFARERS

26. Application of this Part
27. Interpretation

Engagement and discharge of crews

28. Crew agreements
29. Regulations relating to crew agreements
30. Discharge of seafarers
31. Seafarers left behind aboard otherwise than on discharge
32. Discharge of seafarers when ship ceases to be registered in the Falkland Islands

Wages etc.

33. Payment of seafarers' wages
34. Account of seafarers' wages
35. Regulations relating to wages and accounts
36. Power of superintendent or proper officer to decide disputes about wages
37. Restriction on assignment of and charge upon wages
38. Power of court to award interest on wages due otherwise than under crew agreement
39. Allotment notes
40. Right of person named in allotment to sue in own name
41. Right, or loss of right, to wages in certain circumstances
42. Protection of certain rights and remedies
43. Claims against seafarer's wages for maintenance, etc. of dependants
44. Remedies of master for remuneration, disbursement and liabilities

Safety, health and welfare

45. Obligation of shipowners as to seaworthiness
46. Crew accommodation
47. Complaints about provisions or water
48. Expenses of medical and other treatment during voyage

Manning, qualifications, training and uniform

49. Application of sections 50 to 54

50. Manning
51. Power to exempt from manning requirements
52. Prohibition of going to sea undermanned
53. Production of certificates and other documents of qualification
54. Crew's knowledge of English
55. Unqualified persons going to sea as qualified officers or seafarers
56. Medical treatment on board ship
57. Special certificates of competence
58. Young persons
59. Financial assistance for training
60. Uniform

Offences by seafarers, etc.

61. Conduct endangering ships, structures or individuals
62. Concerted disobedience and neglect of duty

Disciplinary offences - Prospective

63. Breaches by seafarers of codes of conduct
64. Inquiry into fitness or conduct of officer
65. Disqualification of holder of certificate other than officer
66. Inquiry into fitness or conduct of seafarer other than officer
67. Re-hearing of and appeal from inquiries
68. Rules as to inquiries and appeals
69. Failure to deliver cancelled or suspended certificate
70. Power to restore certificate
71. Power to summon witness to inquiry into fitness or conduct of officer other than seafarer

Civil liability of seafarers for offences

72. Civil liability for absence without leave
73. Civil liability for smuggling
74. Civil liability for fines imposed under immigration laws

Relief and repatriation and relief costs

75. Relief and return of seafarer etc. left behind and shipwrecked
76. Limit of employer's liability under section 75
77. Recovery of expenses incurred for relief and return, etc.
78. Financial assistance in respect of crew relief costs

Documentation

79. Official log books
80. Lists of crew
81. Falkland Islands seafarers' cards
82. Discharge books
83. Handing over of documents by master

PART 5 – SAFETY

Safety and health on ships

- 84. Safety and health on ships
- 85. Provisions supplementary to section 85: general
- 86. Provisions supplementary to section 85: dangerous goods
- 87. Safety of submersible and supporting apparatus

Special provisions

- 88. Report of dangers to navigation

Assistance at sea

- 89. Duty of ship to assist the other in case of collision
- 90. Duty to assist aircraft in distress

Unsafe ships

- 91. Meaning of “dangerously unsafe ship”
- 92. Power to detain dangerously unsafe ship
- 93. References of detention notices to arbitration
- 94. Compensation in connection with invalid detention of ship
- 95. Owner and master liable in respect of dangerously unsafe ship
- 96. Use of unsafe lighters, etc.
- 97. Owner liable for unsafe operation of ship

Temporary exclusion zones

- 98. Power to establish temporary exclusion zones
- 99. Temporary exclusion zones: offences

Power to require ships to be moved

- 100. Power to require ships to be moved
- 101. Offences in relation to section 100
- 102. Service of directions under section 100
- 103. Requirements to be met by ships in respect of which trans-shipment licences in force
- 104. Failure to comply with prescribed standards in respect of ship in respect of which trans-shipment licence in force

Control of, and returns as to, persons on ships

- 105. Offences in connection with passenger ships
- 106. Power to exclude drunken passengers from certain passenger ships
- 107. Stowaways
- 108. Unauthorised presence on board ship
- 109. Master’s power of arrest
- 110. Unauthorised persons: offences relating to safety
- 111. Return to be furnished by masters of ships as to passengers
- 112. Returns of births and deaths in ships, etc.

PART 6 – FISHING VESSELS
Chapter I – Skipper and Seafarers
Engagement and discharge of crews

113. Regulations relating to crew agreements

Wages

- 114. Payment of seafarers' wages
- 115. Regulations relating to wages: deductions
- 116. Accounts of wages and catch
- 117. Restriction on assignment of and charge upon wages
- 118. Right, or loss of right, to wages in certain circumstances

Safety, health and welfare

119. Hours of work

Manning and qualifications

120. Production of crew certificates and other documents of qualification

Offences by seafarers

- 121. Drunkenness on duty
- 122. Unauthorised liquor
- 123. Disciplinary offences

Exemptions

124. Power to grant exemptions from this Chapter

Chapter II – Safety

- 125. Fishing vessel construction rules
- 126. Fishing vessel survey rules
- 127. Fishing vessel certificates
- 128. Provisions supplementary to section 128
- 129. Prohibition on going to sea without approval certificate
- 130. Notice of alterations

PART 7 – PREVENTION OF POLLUTION

Chapter I – Pollution Generally

- 131. Prevention of pollution from ships etc.
- 132. Further provision for prevention of pollution from ships
- 133. Regulation of transfers between ships in territorial waters

Chapter II – Waste reception facilities at harbours

- 134. Interpretation of Chapter II
- 135. General
- 136. Waste management plans
- 137. Charges for and use of waste reception facilities
- 138. Supplementary

Chapter III – Oil Pollution

General provisions for preventing pollution

- 139. Interpretation
- 140. Discharge of oil from ships into certain Falkland Islands waters
- 141. Defences of owner or master charged with offence under section 140
- 142. Defences of occupier charged with offence under section 140
- 143. Protection for acts done in exercise of certain powers of the Authority
- 144. Restrictions on transfer of oil at night
- 145. Duty to report discharge of oil into waters of harbours
- 146. Discharges etc. authorised under other enactments

Shipping casualties

- 147. Shipping casualties
- 148. Right to recover in respect of unreasonable loss or damage
- 149. Application of sections 147 and 148 to pollution by substances other than oil
- 150. Offences in relation to section 147
- 151. Service of directions under section 147
- 152. Application of sections 147 to 151 to certain foreign and other ships

Enforcement

- 153. Oil records
- 154. Prosecutions and enforcement of fines
- 155. Power to detain ships for section 140 offences
- 156. Interpretation of section 155
- 157. Enforcement and application of fines
- 158. Enforcement of Conventions relating to oil pollution

Miscellaneous and supplementary

- 159. Power of Governor to grant exemptions
- 160. Application to Government ships
- 161. Annual Report

Chapter IV – Liability for Oil Pollution

Preliminary

- 162. Interpretation

Liability

- 163. Liability for oil pollution in case of tankers
- 164. Liability for oil pollution in case of other ships
- 165. Exceptions from liability under sections 163 and 164
- 166. Restrictions of liability for oil pollution
- 167. Limitation of liability under section 163
- 168. Limitation actions
- 169. Restriction on enforcement after establishment of limitation fund
- 170. Concurrent liabilities of owners and others
- 171. Establishment of limitation fund outside Falkland Islands

172. Extinguishment of claims

Compulsory insurance

173. Compulsory insurance against liability for pollution

174. Issue of certificate by Governor

175. Rights of third parties against insurers

Supplementary

176. Jurisdiction of Falkland Islands courts and registration of foreign judgments

177. Government ships

178. Limitation of liability under section 164

179. Saving for recourse actions

Chapter V – International Oil Pollution Compensation Fund

Preliminary

180. Interpretation

181. Meaning of the “Liability Convention”, “the Fund Convention” and related expressions

Contributions to Fund

182. Contributions by importers of oil and others

183. Power to obtain information

184. Liability of the Fund

185. Limitation of Fund’s liability under section 184

Supplemental

186. Jurisdiction and effects of judgments

187. Extinguishment of claims

188. Subrogation

189. Supplementary provisions as to proceedings involving the Fund

Chapter VI – Carriage of hazardous and noxious substances

190. Introductory

191. Power to give effect to Convention

192. Power of Governor to make orders

PART 8 – LIABILITY OF SHIPOWNERS AND OTHERS

Carriage of passengers and luggage by sea

193. Scheduled convention to have force of law

Limitation of liability of shipowners, etc. and salvors for maritime claims

194. Limitation of liability for maritime claims

195. Exclusion of liability

Multiple fault: apportionment, liability and contribution

196. Damage or loss: apportionment of liability

197. Loss of life or personal injuries: joint and several liability

198. Loss of life or personal injuries: right of contribution
- Time limit for proceedings against owners or ship*
199. Time limit for proceedings against owner or ship
- Limitation of liability of the Authority*
200. Limitation of liability: Authority
- Application to Crown and its ships*
201. Application to Crown and its ships
- Regulations requiring insurance or security*
202. Compulsory insurance or security
- Aids to navigation: charts and publications*
203. Establishment and management of aids
204. Nautical publications, charts and other information
205. Prosecution of offences relating to aids
206. Detention of ships
207. Fire or lights detrimental to navigation

PART 9 – WRECK AND SALVAGE

Chapter 1 – Salvage

208. Interpretation
209. Salvage Convention 1989 to have the force of law
210. Valuation of property by receiver
211. Detention of property liable for salvage by receiver
212. Sale of detained property by receiver
213. Apportionment of salvage under £5,000 by the receiver
214. Apportionment of salvage by the court
215. Salvage claims against the Crown and Crown rights of salvage and its regulation

Chapter II – Wreck

Vessel in distress

216. Application of, and discharge of functions under, sections 219, 220, 221 and 222
217. Duty of receiver where vessel in distress
218. Powers of receiver in case of vessel in distress
219. Power to pass over adjoining land
220. Liability for damage in case of plundered vessel

Dealing with wreck

221. Duties of finder etc. of wreck
222. Provisions as respects cargo, etc.
223. Receiver to give notice of wreck.
224. Claims of owners to wreck
225. Immediate sale of wreck in certain cases

Unclaimed wreck

- 226. Right of Crown to unclaimed wreck
- 227. Notice of unclaimed wreck to be given to persons entitled
- 228. Disposal of unclaimed wreck
- 229. Effect of delivery of wreck etc. under this Part

Offences in respect of wreck

- 230. Taking wreck to foreign port
- 231. Interfering with wrecked vessel or wreck
- 232. Powers of entry, etc.

**Chapter III – Supplemental
Administration**

- 233. Functions of the Governor as to wreck
- 234. Expenses and fees of receivers

Coastguard services

- 235. Remuneration for services of coastguard

Release from customs and excise control

- 236. Release of goods from customs and excise control

Removal of wrecks

- 237. Powers of Authority in relation to wrecks

PART 10 – ENFORCEMENT OFFICERS AND POWERS

Enforcement Officers

- 238. Appointment of inspectors and surveyors

Inspection etc. powers

- 239. Powers to require production of ships' documents
- 240. Powers to inspect ships and their equipment, etc.
- 241. Powers of inspectors in relation to premises and ships
- 242. Provisions supplementary to section 241

Improvement notices and prohibition notices

- 243. Improvement notices
- 244. Prohibition notices
- 245. Provisions supplementary to sections 238 and 241
- 246. References to notices of arbitration
- 247. Compensation in connection with invalid prohibition notices
- 248. Offences

PART 11 – ACCIDENT INVESTIGATIONS AND INQUIRIES

Marine accident investigations

- 249. Investigations of marine accidents
- 250. Formal investigation into marine accidents

- 251. Re-hearing of and appeal from investigations
- 252. Rules as to investigations and appeals

Inquiries into and reports on deaths and injuries

- 253. Inquiries into death of crew members and others
- 254. Reports of and inquiries into injuries
- 255. Transmission of particulars of certain deaths on ships

PART 12 - ADMIRALTY JURISDICTION

- 256. Admiralty jurisdiction of Supreme Court
- 257. Mode of exercising Admiralty jurisdiction
- 258. Restriction on entertainment of actions in personam in collision and other similar cases
- 259. Supreme Court not to have jurisdiction in cases within Rhine Convention
- 260. Supplementary provisions as to Admiralty jurisdiction

PART 13 – LEGAL PROCEEDINGS

Prosecution of offences

- 261. Offences by officers of bodies corporate
- 262. Accessories and abettors

Jurisdiction

- 263. Jurisdiction in relation to offences.
- 264. Jurisdiction over ships lying off coasts.
- 265. Jurisdiction in case of offences on board ship.
- 266. Offences committed by British seafarers

Return of offenders

- 267. Return of offenders

Detention of ship and distress on ship

- 268. Enforcing detention of ship
- 269. Sums ordered to be paid leviable by distress on the ship

Special evidential provisions

- 270. Depositions of persons abroad admissible
- 271. Admissibility in evidence and inspection of certain documents
- 272. Admissibility of documents in evidence
- 273. Inspection and admissibility in evidence of copies of certain documents
- 274. Proof, etc. of exemptions

Service of documents

- 275. Service of documents

PART 14 — DUMPING AND DEPOSITS AT SEA

- 276. Interpretation

Requirement for licences

- 277. Requirement of licences for deposit of substances and articles in the sea
- 278. Requirement of licences for incineration at sea, etc.
- 279. Exemptions
- 280. Licences
- 281. Revocation or variation of licence

Offences relating to the licensing system

- 282. Offences related to the licensing system
- 283. Power to take remedial action

Enforcement

- 284. Power of officers
- 285. Enforcement of Convention

Miscellaneous

- 286. Power of Governor to test and charge for testing
- 287. Offences, penalties, etc.
- 288. General defence of due diligence

PART 15 – MISCELLANEOUS

Administration

- 289. General functions of Governor
- 290. Functions of Governor in relation to marine pollution
- 291. General power to dispense
- 292. Registrar General of Shipping
- 293. Mercantile marine superintendents
- 294. Wreck commissioners, etc.
- 295. Transmission of documents to Registrar General
- 296. Returns, etc. to Governor
- 297. Advisory committees

Financial provisions

- 298. Fees
- 299. Funding of maritime services
- 300. Expenses of Collector of Customs
- 301. Expenses charged on money provided by the Crown in virtue of its Government in the Falkland Islands
- 302. Payments to be made into Consolidated Fund

Application of Ordinance to certain descriptions of ships, etc.

- 303. Application of Ordinance to ships not registered in the Falkland Islands
- 304. Application of Ordinance to government ships
- 305. Application of Ordinance to ships chartered by demise to the Crown
- 306. Application of Ordinance to certain structures, etc.

Subordinate legislation

- 307. Regulations, rules, and orders, etc.
- 308. Regulations
- 309. Forms

Final provisions

- 310. Repeals and savings
- Schedules

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

MARITIME ORDINANCE 2017

(No: 20 of 2017)

(assented to: 21 December 2017)

(commencement: in accordance with section 1)

(published: 31 January 2018)

AN ORDINANCE

To make comprehensive provision, to modernise and consolidate various enactments relating to merchant shipping, dumping and deposits at sea, Admiralty jurisdiction in the Falkland Islands, to incorporate different Orders in Council extending different provisions of UK legislation to the Falkland Islands as well as specifying international conventions which apply to Falkland Islands law, to repeal enactments rendered obsolete by the provisions of this Ordinance and for connected purposes.

ENACTED by the Legislature of the Falkland Islands —

PART 1 – PRELIMINARY

1. Title and commencement

This Ordinance is the Maritime Ordinance 2017 and comes into force on a date (being a date not earlier than the approval of this Ordinance by an Order in Council under the provisions of section 735 of the Merchant Shipping Act 1894) as the Governor may appoint by notice published in the *Gazette*.

2. Interpretation

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

“Authority” means the Falkland Islands Maritime Authority established by the Governor under the Harbours and Ports Ordinance 2017;

“British citizen”, “British Overseas Territories citizen”, “British Overseas citizen” have the same meaning assigned to them under the British Nationality Act 1981 of the United Kingdom;

“British ship” has the meaning given in section 5,

“commissioned military officer” means a commissioned officer in Her Majesty’s land forces on full pay;

“commissioned naval officer” means a commissioned officer of Her Majesty’s Navy on full pay;

“Commonwealth citizen” has the same meaning as in the British Nationality Act 1981 of the United Kingdom;

“conservancy authority” includes all persons entrusted with the function of conserving, maintaining or improving the navigation of a tidal water;

“consular officer”, in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country;

“customs officer” has the same meaning given under the Customs Ordinance 2003;

“Department” means a Department of the Government of the Falkland Islands;

“Departmental inspector” and “Departmental officer” have the meanings given in section 238(9);

“Falkland Islands registered ship” has the meaning given in section 6;

“Falkland Island connection” has the meaning given in section 14(10);

“Falkland Islands waters” means the sea or other waters within the seaward limits of the territorial sea of the Falkland Islands; and

“fishing vessel” means a vessel for the time being used (or, in the case of an application for registration, intended to be used) for, or in connection with, fishing for sea fish other than a vessel used (or intended to be used) for fishing otherwise than for profit; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (that is to say, any species of trout which migrates to or from the sea);

“foreign ship” means a ship which is not —

(a) a Falkland Islands ship; or

(b) a British ship;

“Government ship” has the meaning given in section 304(4);

“harbour” has the meaning assigned to it under the Harbours and Ports Ordinance 2017;

“master” includes a captain and every person (except a pilot) having command or charge of a ship and, in relation to a fishing vessel, means the skipper or any other person for the time being in command of or in charge of the fishing vessel or in charge of the fishing operations on board the fishing vessel;

“national maritime domain” means the following areas of the sea —

- (a) internal waters;
- (b) territorial sea;
- (c) contiguous zone;
- (d) exclusive economic zone;
- (e) continental shelf; and
- (f) possible outer limits of the continental shelf;

“national waters”, in relation to the Falkland Islands, means Falkland Islands waters landward of the baselines for measuring the breadth of its territorial sea;

“Organization” means the International Maritime Organization;

“port” includes place;

“proper officer” means a consular officer, who must be duly appointed as a public officer in the Falkland Islands and, in relation to a port in a country outside the Falkland Islands which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

“qualifying foreign ship” has the meaning given in section 3;

“register” means the register maintained under section 13;

“Registrar”, “Registrar General” and “Registrar General of Shipping and Seamen” means the person appointed by the Governor as such and includes a person authorised by the Governor to act in that capacity;

“registration regulations” means regulations to be made under section 14;

“relevant British possession” means —

- (a) the Isle of Man;

(b) any of the Channel Islands; and

(c) any territory for which the United Kingdom is responsible, including the Falkland Islands;

“safety regulations” means regulations to be made under section 84(1);

“seafarer” includes every person (except masters and pilots) employed or engaged in any capacity on board any ship;

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

“skipper” in relation to fishing vessel means the master or captain of a fishing vessel;”

“small ship” means a ship less than 24 metres in length (“length” having the same meaning as in the tonnage regulations);

“superintendent” means a mercantile marine superintendent appointed under section 293;

“surveyor of ships” has the meaning given in section 238(9);

“the Act” means the Merchant Shipping Act 1995 of the United Kingdom;

“the tonnage regulations” means regulations to be made under section 19;

“treaty” includes an international convention; and

“wages” includes emoluments.

(2) In this Ordinance “right of innocent passage”, “right of transit passage” and “straits used for international navigation” must be construed in accordance with the United Nations Convention on the Law of the Sea 1982 as amended from time to time.

(3) A vessel for the time being used (or intended to be used) wholly for the purpose of conveying persons wishing to fish for pleasure is not a fishing vessel.

3. Meaning of “qualifying foreign ship”

(1) In this Ordinance, “qualifying foreign ship” means any ship other than —

(a) a British ship, or

(b) a ship which is not registered under Part 3 and which (although not by virtue of section 5(1)(e) a British ship) —

(i) is wholly owned by persons falling within subsection (2); and

(ii) is not registered under the law of a country outside the United Kingdom.

- (2) The following persons fall within this subsection, namely —
- (a) British citizens;
 - (b) British Overseas Territories citizens;
 - (c) British Overseas citizens;
 - (d) persons who, under the British Nationality Act 1981, are British subjects;
 - (e) British Nationals (Overseas) (within the meaning of the British Nationality Act 1981 Act);
 - (f) British protected persons (within the meaning of the British Nationality Act 1981 Act); or
 - (g) bodies corporate incorporated in the United Kingdom, the Falkland Islands or in any relevant British possession and having their principal place of business in the United Kingdom, the Falkland Islands or in any relevant British possession.

4. Persons qualified to own British ships

Where, for the purposes of any enactment the question arises whether a ship is owned by persons qualified to own British ships, the question must be determined by reference to registration regulations made under section 15(2)(a).

PART 2 – REGISTRATION OF BRITISH SHIPS IN THE FALKLAND ISLANDS

5. British ships

- (1) A ship is a British ship if —
- (a) the ship is registered in the Falkland Islands under Part 3;
 - (b) the ship is registered in the United Kingdom under Part II of the Act;
 - (c) the ship is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council made under section 308 of the Act or under regulations made under section 15 of this Ordinance;
 - (d) the ship is registered under the law of a relevant British possession;
 - (e) the ship —
 - (i) is not registered under Part 3, but
 - (ii) is wholly owned by qualified owners, and
 - (iii) is not registered under the law of a country outside the Falkland Islands.

(2) For the purposes of subsection (1)(e), “qualified owners” means persons of such description qualified to own British ships as prescribed by regulations.

6. Falkland Islands ships

(1) A ship is a Falkland Islands ship for the purposes of this Ordinance if the ship is registered in the Falkland Islands in accordance with Part 3.

(2) A ship registered in the Falkland Islands in accordance with Part 3 is subject to all the responsibilities and, is entitled to all the rights and privileges afforded to British ships under section 1 of the Act.

[Merchant Shipping Act 1995 (UK), s. 1]

7. Falkland Islands registered ships - entitlement to fly the British flag

(1) As provided for under the Act, a ship registered in the Falkland Islands as a British ship under Part 3 is entitled to fly the red ensign (without any defacement or modification) and, subject to subsections (2) and (3), no other colours.

(2) Subsection (1) does not apply to Government ships.

(3) The following are also proper national colours for ships registered in the Falkland Islands, that is to say —

(a) any colours allowed to be worn in pursuance of a warrant from Her Majesty or the Secretary of State in relation to British ships registered in the Falkland Islands ; or

(b) the red ensign defaced with the arms of the Falkland Islands in accordance with article 2 of the Merchant Shipping (Falkland Islands Colours) Order 1998 (S.I. 1998/3147).

[Merchant Shipping Act 1995 (UK), s. 2]

8. Offences relating to British character of ship

(1) If the master or owner of a ship which is not a British ship registered in the Falkland Islands does anything or permits anything to be done, for the purpose of causing the ship to appear to be a British ship registered in the Falkland Islands then, except as provided by subsections (2) and (3), the ship is liable to forfeiture and the master, owner and any charterer each commits an offence.

(2) No liability arises under subsection (1) where the assumption of British nationality has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(3) Where the registration of any ship has been terminated by virtue of any provision of the termination regulations, any marks that were prescribed by registration regulations and displayed on the ship must be disregarded for the purpose of subsection (1) within a period of 14 days beginning with the date of termination of that registration.

(4) If the master or owner of a British ship registered in the Falkland Islands does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship is liable to forfeiture and the master, owner and any charterer of the ship each commits an offence.

(5) Without prejudice to the generality of subsections (1) and (4), those subsections apply in particular to acts or deliberate omissions as respects —

(a) the flying of a national flag;

(b) the carrying or production of certificates of registration or other documents relating to the nationality of the ship; or

(c) the display of marks required by the law of any country.

(6) Any person convicted of an offence under this section is liable to imprisonment for a term not exceeding two years or a fine not exceeding the maximum of level 11 on the scale set out in Schedule 7, or both.

(7) Subsection (6) applies equally to things done outside the Falkland Islands as it does to things done within the Falkland Islands, by a ship registered in the Falkland Islands; and the courts of the Falkland Islands are equally entitled to prosecute offences related to things done outside as within the Falkland Islands.

(8) Notwithstanding subsections (6) and (7), the courts of the Falkland Islands will not have jurisdiction to try offences related to things done outside the Falkland Islands by British ships registered in the Falkland Islands if the ship, in its capacity as a British ship, has already been convicted or acquitted of an offence related to the thing done by a court in any relevant British possession or in the United Kingdom.

[Merchant Shipping Act 1995 (UK), s. 3]

9. Penalty for carrying improper colours

(1) If any of the following colours, namely —

(a) any distinctive national colours except —

(i) the red ensign or, in the case of a Falkland Islands ship, a red ensign defaced in accordance with the Merchant Shipping (Falkland Islands Colours) Order 1998 (S.I. 1998/3147).;

(ii) the Union flag (commonly known as the Union Jack) with a white border;

(iii) in the case of a ship registered in a relevant British possession, any colours authorised or confirmed under section 2(3)(b) of the Act in the form it has effect in the relevant British possession;

(b) any colours usually worn by Her Majesty's ships or resembling those of Her Majesty; or

(c) the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant,

are hoisted on board any British ship registered in the Falkland Islands without warrant from Her Majesty or from the Secretary of State, the master of the ship, or the owner of the ship (if on board) and every other person hoisting them commits an offence.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 7 on the scale set out in Schedule 7.

(3) If any colours are hoisted on board a ship in contravention of subsection (1), any of the following, namely —

- (a) any commissioned naval or military officer;
- (b) any customs officer;
- (c) any member of the Royal Falkland Islands Police Force; or
- (d) any proper officer,

may board the ship and seize and take away colours.

(4) Any colours seized under subsection (3) are forfeited to the Crown and must be dealt with in such manner as the Governor may by order direct.

(5) In this section, "colours" includes any pendant.

[Merchant Shipping Act 1995 (UK), s. 4]

10. Duty to show British flag or Falkland Islands colours

(1) Subject to subsection (2), a ship registered in the Falkland Islands as a British ship must hoist the red ensign or the Falkland Islands colours —

- (a) on a signal being made to the ship by one of Her Majesty's ships (including any ship under the command of a commissioned naval officer);
- (b) on entering and leaving any foreign port; and
- (c) in the case of ships of 50 or more tons gross tonnage, on entering or leaving any Falklands Islands port.

(2) Subsection (1)(c) does not apply to a small ship.

[Merchant Shipping Act 1995 (UK), s. 5]

11. Duty to declare national character of ship

(1) A customs officer must not grant clearance or transire for any ship until the master of the ship has declared to that officer the name of the nation to which the master claims that the ship belongs, after which that officer must enter that name on the clearance or transire.

(2) If a ship attempts to proceed to sea without a clearance or transire, the ship may be detained until the declaration is made.

[Merchant Shipping Act 1995 (UK), s. 6]

12. Proceedings on forfeiture of ship

(1) Where any ship has either wholly or as to any share in it becomes liable to forfeiture under this Part —

(a) any commissioned naval or military officer; or

(b) any person appointed by the Governor for the purposes of this section,

may seize and detain the ship and bring it for adjudication before the court.

(2) Where a ship is subject to adjudication under this section the court may —

(a) adjudge the ship and her equipment to be forfeited to the Crown; and

(b) make such order in the case as seems just.

(3) Any officer who brings proceedings under this section is not liable in damages in respect of the seizure or detention of the ship, notwithstanding that the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the court is satisfied that there were reasonable grounds for the seizure or detention.

(4) If the court is not satisfied it may award costs and damages to the party aggrieved and make such other order as the court thinks just.

(5) In this section, “court” means the Supreme Court of the Falkland Islands.

[Merchant Shipping Act 1995 (UK), s. 7]

PART 3 –REGISTRATION REQUIREMENTS

13. General - keeping of register

(1) There will continue to be a register of British ships at Stanley for all registrations of British ships in the Falkland Islands.

(2) Subject to subsection (3), the register must be maintained by the Registrar.

(3) The Governor may designate any person to discharge, on behalf of the Registrar, all or some of the Registrar’s functions as registrar of ships as the Governor may direct.

(4) The Governor may give the Registrar directions of a general nature as to the discharge of any of the Registrar's functions.

(5) The register referred to under subsection (1) must be so constituted as to distinguish, in a separate part, registration of fishing vessels and may otherwise be divided into parts so as to distinguish between classes or descriptions of ships.

(6) The register must be maintained in accordance with —

(a) the registration regulations;

(b) the private law provisions for registered ships; and

(c) any directions given by the Governor under subsection (4).

(7) The register must be available for public inspection.

(8) Any document purporting to be a copy of any information contained in an entry in the register and certified as a true copy by the Registrar is evidence of the matters stated in the document.

[Merchant Shipping Act 1995 (UK), s. 8]

14. Registration of ships in the Falkland Islands as British ships: basic provisions

(1) Subject to the provisions of this Part, a ship is entitled, upon an application for registration in respect of it being duly made, to be registered in the register of British ships at Stanley if —

(a) it is owned, to the prescribed extent, by persons qualified to own British ships; and

(b) such other conditions as are prescribed under subsection (2)(b) are satisfied.

(2) The Governor must by regulations (to be known as “registration regulations”) —

(a) determine —

(i) the persons who are qualified to be owners of British ships and prescribe the extent of the ownership required for compliance with subsection (1)(a);

(ii) British ships of any class or description which can be registered in the register of British ships at Stanley (that is to say, ships registered in the Falkland Islands as British ships); and

(b) prescribe other requirements designed to secure that, taken into account with the requisite ownership, only ships having a Falkland Islands connection are registered in that register.

(3) Notwithstanding subsection (2)(b), vessels owned by the British Antarctic Survey are deemed to have a Falkland Islands connection.

(4) Notwithstanding any provision of the registration regulations, the Registrar may, if the Governor so directs, refuse to register or terminate the registration of a ship.

(5) The Governor may give a direction under subsection (4) if he or she is satisfied that having regard to any requirements of this Ordinance or of any law of the Falkland Islands it would be inappropriate for the ship to be or, as the case may be, to remain registered.

(6) Subject to subsection (7), where a ship becomes registered at a time when it is already registered in a country outside the Falkland Islands, the owner must take all reasonable steps to secure the termination of the ship's registration in the other country as provided for under the law of that country.

(7) Subsection (6) does not apply to a ship which becomes registered on a transfer of registration to the register from the United Kingdom or a relevant British possession.

(8) Any person who contravenes subsection (6) commits an offence and is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

(9) In this section, "relevant requirement" in relation to this Ordinance and any other law of the Falkland Islands means —

(a) in relation to any ship —

(i) the requirements as to the condition of ships or their equipment so far as relevant to their safety or any risk of pollution; and

(ii) the requirements as to the safety, health and welfare of persons employed or engaged in the ships; and

(b) in relation to a fishing vessel, additionally, the requirements in relation to the possession of or compliance with the conditions of a licence in relation to any fishing operations carried on by the fishing vessel in respect of which a licence is required to be held and, compliance in respect of the vessel with any conservation measures imposed by or under any law of the Falkland Islands or required by any such law to be complied with.

(10) In this Part, references to a ship having a Falkland Islands connection are references to compliance with the conditions of entitlement imposed by subsection (1)(a) and (b) and "declaration of Falkland Islands connection" is to be construed accordingly.

[Merchant Shipping Act 1995 (UK), s. 10]

15. Registration regulations

(1) The Governor must by registration regulations make provision for and in connection with the registration of ships in the Falkland Islands as British ships as provided for under section 14.

(2) Without prejudice to the generality of subsection (1), registration regulations may, in particular, make provision with respect to any of the following matters —

(a) the person by whom and the manner in which applications in connection with registration are to be made;

(b) the information and evidence (including declarations of Falkland Islands connection) to be provided in connection with such applications and any supplementary information or evidence as may be required by the Authority;

(c) the shares in the property in, and the number of owners (including joint owners) of, a ship permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;

(d) the issue of certificates (including provisional certificates) of registration, their production and surrender;

(e) restricting and regulating the names of ships registered or to be registered;

(f) the marking of ships registered or to be registered, including marks for identifying Stanley as the port to which the ship is to be treated as belonging;

(g) the period for which registration is to remain effective without renewal;

(h) the production to the Registrar of declarations of Falkland Islands connection or other information relating to that, as respects registered ships, at specified intervals or at the Registrar's request;

(i) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the tonnage regulations;

(j) the refusal, suspension and termination of registration in specified circumstances;

(k) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);

(l) the charging of fees in connection with registration or registered ships;

(m) the transfer of the registration of ships to and from the register from and to registers or corresponding records in countries other than the Falkland Islands;

(n) inspection of the register; and

(o) any other matter which is authorised or required by this Part to be prescribed in registration regulations.

(3) Registration regulations —

(a) may make different provision for different classes or descriptions of ships and for different circumstances;

(b) may without prejudice to paragraph (a), make provision for the granting of exemptions or dispensations by the Governor from specified requirements of the regulations, subject to such conditions (if any) as the Governor thinks fit to impose;

(c) may make such transitional, incidental or supplementary provision as appears to the Governor to be necessary or expedient, including provision authorising investigations and conferring powers of inspection for verifying the Falkland Islands connection of a ship;

(d) may make provision for the registration of any class or description of ships to be such as to exclude the application of the private law provisions for registered ships and, if they do, may regulate the transfer, transmission or mortgaging of ships of the class or description so excluded;

(e) may make provision for any matter which is authorised or required by provisions made under paragraph (d) to be prescribed by registration regulations;

(f) must make provision precluding notice of any trust being entered in the register or being receivable by the Registrar except as respects specified classes or descriptions of ships or in specified circumstances;

(g) may create offences subject to the limitation that no offence so created is punishable by imprisonment for a term exceeding six months or by a fine exceeding level 7 on the scale set out in Schedule 7, or both;

(h) may provide for —

(i) the approval of forms by the Governor;

(ii) the discharge of specified functions by specified authorities or persons;

(i) may provide for any of their provisions to extend to places outside the Falkland Islands; or

(j) may provide that any reference in any other United Kingdom Act or Ordinance or in any instrument made under any United Kingdom Act or Ordinance to the port of registry or to the port to which the ship belongs must be construed as a reference to the port of registry identified by the marks required by the registration regulations.

[Merchant Shipping Act 1995 (UK), s. 10]

16. Status of certificate of registration

A certificate of registration for a ship registered in accordance with this Part and issued under the registration regulations made under section 15(2)(d) must only be used for the lawful navigation of the ship, and can not be the subject of detention to secure any private right or claim.

[Merchant Shipping Act 1995 (UK), s. 13]

Tonnage of ships

17. Requirement to ascertain tonnage of ships

(1) The tonnage of any ship to be registered under this Part must be ascertained in accordance with regulations made by the Governor (to be known as “tonnage regulations”).

(2) Tonnage regulations may —

(a) make different provisions for different descriptions of ships or for the same description of ships in different circumstances;

(b) make any regulation dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;

(c) prohibit or restrict the carriage of goods stored in spaces not included in the registered tonnage and may provide for making the master and the owner each liable to a fine not exceeding level 3 on the scale set out in Schedule 7 where such prohibition or restriction is contravened.

[Merchant Shipping Act 1995 (UK), s. 19]

18. Tonnage ascertained for registration to be tonnage of ship

(1) When the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations that tonnage must be treated as the tonnage of the ship except so far as registration regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

[Merchant Shipping Act 1995 (UK), s. 11]

(2) Where an Order in Council has been made under section 12 of the Act in relation to ships of a foreign country, the Governor must make an order providing that the ships of that foreign country, without being re-measured in the Falkland Islands must be treated as being of the tonnage denoted by the ships’ certificates of registration or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registration of a Falkland Islands ship as being the tonnage of that ship.

(3) The Governor may amend an order made under subsection (2) whenever an Order in Council is made in relation to the ships of a foreign country as is authorised by section 12 of the Act.

19. Tonnage regulations

(1) Tonnage regulations may make provision —

(a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can be safely loaded;

(b) for indicating on the ship, by such mark as may be specified in the regulations, that such lower tonnage has been assigned to it; and

(c) where the lower tonnage has been assigned to it as an alternative, for indicating on the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.

(2) Tonnage regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be prescribed in the regulations, by persons appointed by such organisations as may be authorised for the purpose by the Governor.

(3) Tonnage regulations may provide for the issue, by the Governor or by a person appointed by such organisations as may be authorised for the purpose by the Governor, of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the Falkland Islands, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.

(4) Regulations requiring the delivery up of any certificate may make failure to comply with the requirements an offence punishable with a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 19]

20. Offences in relation to a ship's British ownership and Falkland Islands connection

(1) Any person who, in relation to any matter relevant to the British ownership or Falkland Islands connection of a ship —

(a) makes to the Registrar a statement which the person knows to be false or recklessly makes a statement which is false; or

(b) furnishes to the Registrar information which is false,

commits an offence.

(2) If at any time there occurs, in relation to a registered ship, any change affecting the British ownership of the ship or any change affecting the Falkland Islands connection of the ship, the owner must, as soon as practicable after the change occurs, notify the registrar of that change, and if the owner fails to do so he or she commits an offence.

(3) Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the British ownership of the ship or the Falkland Islands connection of the ship and which the person has been required to produce to the Registrar in pursuance of registration regulations commits an offence.

(4) A person convicted of an offence under this section is liable to imprisonment for a term not exceeding two years or a fine not exceeding level 11 on the scale set out in Schedule 7, or both.

(5) This section applies to things done outside, as well as to things done within, the Falkland Islands.

[Merchant Shipping Act 1995 (UK), s. 14]

21. Supplementary provisions as respects fishing vessels

(1) The skipper, owner and charterer of a fishing vessel that is being or has been used in the course of fishing for profit in Falkland Islands waters each commits an offence if that fishing vessel —

(a) is entitled to be registered in the Falkland Islands;

(b) is wholly owned by persons who under this Ordinance are qualified to be owners of ships registered in the Falkland Islands in the part of the register relating to fishing vessels; and

(c) is not registered either under —

(i) this Ordinance in the part of the register relating to fishing vessels of the law of any country outside the Falkland Islands; or

(ii) the law of any country outside the Falkland Islands.

(2) Where an offence under subsection (1) is committed, the fishing vessel involved is liable to forfeiture.

(3) Subsections (1) and (2) do not apply to fishing vessels of such classes or descriptions in such circumstances as may be specified in regulations made by the Governor.

(4) If the skipper or owner of a fishing vessel which is not registered in the Falkland Islands does anything, or permits anything to be done, for the purpose of permitting the vessel to appear to be a vessel registered in the Falkland Islands, then, subject to subsection (5), the vessel is liable to forfeiture and the skipper, the owner and the charterer each commits an offence.

(5) Any marks prescribed by registration regulations to be displayed on a fishing vessel will cease to be valid and must be disregarded for purposes of subsection (3) within the period of 14 days from the date of termination of the registration of that fishing vessel.

(6) Any person convicted of an offence under this section is liable to imprisonment for a term not exceeding two years or to a fine not exceeding level 11 on the scale set out in Schedule 7, or both.

(7) This section applies to things done outside, as well as things done within, the Falkland Islands.

[Merchant Shipping Act 1995 (UK), s. 15]

22. Private law provisions for registered ships and liability of owner

(1) Schedule 1 (which makes provision relating to the title to, and the registration of mortgages over, ships) has effect.

(2) Schedule 1 does not apply in relation to ships which are excluded from its application by registration regulations under paragraphs (d) to (f) of section 12(3).

(3) Where any person is beneficially interested, otherwise than as a mortgagee, in any ship or in any share in a ship registered in the name of some other person as owner, the person so interested, as well as the registered owner, is liable to any penalties imposed by or under this or any other Ordinance, or any United Kingdom Act, on the owners of registered ships.

(4) Where the registration of any ship terminates by virtue of any provision of registration regulations, the termination of that registration must not affect any entry made in the register so far as relating to any undischarged registered mortgage of that ship or of any share in it.

(5) In this Part, “the private law provisions for registered ships” means the provisions of Schedule 1 and registration regulations made for the purposes of that Schedule or the provisions of registration regulations made under section 15(3)(d).

[Merchant Shipping Act 1995 (UK), s. 16]

Ships on bareboat charter

23. Ships bareboat chartered by British or Falkland Islands charterers

(1) This section applies to any ship which is —

(a) registered under the law of a country other than the Falkland Islands whose merchant shipping law is compatible with this Ordinance (“the country of original registration”);

(b) chartered on bareboat charter to a charterer who is a person qualified to own a British ship or register the ship in the Falkland Islands; and

(c) so chartered in circumstances where the conditions of entitlement to registration prescribed under section 14(2)(b), read with the requisite modifications, are satisfied in respect of the charterer and the ship.

(2) The “requisite modifications” of those conditions are the substitution for any requirement to be satisfied by or as respects the owner of a ship of a corresponding requirement to be satisfied by or as respects the charterer of the ship.

(3) A ship to which this section applies is entitled to be registered if an application for registration is duly made, but section 14(3) applies also in relation to registration by virtue of this section.

(4) The registration of a ship registered by virtue of this section remains in force (unless terminated earlier by virtue of registration regulations and subject to any suspension under the registration regulations) until the end of the charter period and terminates by virtue of this subsection.

(5) Section 14(5) does not apply in relation to a ship registered by virtue of this section but registration regulations must include provision for securing that the authority responsible for the registration of ships in the country of original registration is notified of the registration of the

ship and of the termination of its registration whether by virtue of subsection (4) or registration regulations.

(6) During the period for which the ship is registered by virtue of this section —

(a) the ship is, as a British ship, entitled to fly the British flag as specified in section 7;

(b) this Ordinance applies, subject to subsections (7) and (8), to the ship as a British ship or as a Falkland Islands registered ship as it applies to other British ships and to Falkland Islands registered ships; and

(c) any other enactment applicable to British ships or ships registered under this Ordinance apply, subject to subsection (8), to the ship as a British ship or as a Falkland Islands registered ship.

(7) The private law provisions for registered ships set out in Schedule 1 do not apply to a ship registered by virtue of this section and any matters or questions corresponding to those for which the private law provisions for registered ships make provision must be determined by reference to the law of the country of original registration.

(8) The Governor may, subject to subsection (9), by Order provide that any enactment falling within subsection (6)(b) or (c) must not have effect —

(a) in accordance with that subsection in relation to a ship registered by virtue of this section; or

(b) subject to such modifications (if any) as may be specified in the Order.

(9) Provision must not be made by an Order under subsection (8) which would have the effect of relaxing the relevant requirements of this Ordinance (as defined in section 8(8)) in their application to a ship to which this section applies.

(10) An Order under subsection (8) may make such transitional, incidental or supplementary provision as appears to the Governor to be necessary or expedient (including provision divesting or providing for the divestment or ownership in the ship).

(11) In this section —

“bareboat charter terms” in relation to a ship, means the hiring of the ship for a stipulated period on terms which give the charter possession and control of the ship, including the right to appoint the master and crew; and

“the charter period” means the period during which the ship is chartered on bareboat charter terms.

[Merchant Shipping Act 1995 (UK), s. 17]

24. Proceedings on the forfeiture of a ship

Section 16 applies in relation to ships or shares in ships which become liable to forfeiture under this Part as it applies in relation to ships or shares in ships which become liable to forfeiture under Part 2.

[Merchant Shipping Act 1995 (UK), s. 20]

25. Disclosure of information relating to registration

(1) No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) precludes any Falkland Islands government department or public officer from disclosing to —

(a) the Governor;

(b) the Registrar; or

(c) any public officer authorised by the Governor to request or receive the same,

information for the purpose of the performance of any functions of the Governor or of the Registrar under this Part.

(2) Information obtained by any person in pursuance of subsection (1) must not be disclosed by the person to any other person except where the disclosure is made —

(a) to a person to whom the information could have been disclosed in accordance with subsection (1); or

(b) for the purpose of any legal proceedings arising out of this Part.

[Merchant Shipping Act 1995 (UK), s. 21]

PART 4 – MASTERS AND SEAFARERS

Application of Part

26. Application of this Part

(1) With the exceptions specified in subsection (2), this Part applies only to ships which are sea-going ships and to masters and seafarers employed in sea-going ships.

(2) The exceptions referred to under subsection (1) are sections 46, 49 to 55, 57, 58, 61, and 64 to 71.

(3) This Part applies subject to the following —

(a) sections 33 and 34 do not apply to fishing vessels; and

(b) sections 114 and 116 apply to fishing vessels, subject to the modifications made in those sections.

[Merchant Shipping Act 1995 (UK), s. 24]

27. Interpretation

(1) In this Part —

“crew agreement” has the meaning given to it by section 28(2);

“relief and maintenance” includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency; and

“ship’s boat” includes a life-raft.

(2) References in this Part to going to sea include references to going to sea from any country outside the Falkland Islands.

(3) For the purposes of this Part, a seafarer is discharged from a ship when the seafarer’s employment in that ship is terminated.

(4) For the purposes of this Part a seafarer discharged from a ship in any country and left there is deemed to be left behind in that country despite that the ship also remains there.

(5) Any power conferred by this Part to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.

[Merchant Shipping Act 1995 (UK), s. 84]

Engagement and discharge of crews

28. Crew agreements

(1) Except as provided under subsection (5), any person who employs a person to work as a seafarer in a ship registered in the Falkland Islands must enter into an agreement in writing with that person and the agreement must be signed by both parties.

(2) The agreements made under this section with the several persons employed in a ship as seafarers must be contained in one document (in this Part referred to as a crew agreement) except that, in such cases as the Governor may approve —

(a) the agreements to be made under this section with seafarers may be contained in more than one crew agreement; and

(b) one crew agreement may relate to more than one ship.

(3) The provisions and form of a crew agreement must be of a kind approved by the Governor; and different provisions and forms may be approved for different circumstances.

(4) Subject to subsections (5), (6) and (7), a crew agreement must be carried in the ship to which it relates whenever the ship goes to sea.

(5) The Governor may make regulations providing for exemptions from the requirements of this section —

(a) with respect to such descriptions of ship as may be specified or with respect to voyages in such areas or such description of voyages as may be so specified; or

(b) with respect to such descriptions of seafarers as may be specified, and the Governor may grant other exemptions from those requirements (whether with respect to particular seafarers or with respect to seafarers employed by a specified person or in a specified ship or in the ships of a specified person) in cases where the Governor is satisfied that the seafarers to be employed otherwise than under a crew agreement will be adequately protected.

(6) Any ship that is exempted by the Governor from carrying a crew agreement under this section must carry a document which shows that it has been exempted (in this Part referred to as an “exemption document”).

(7) Regulations made under this section may —

(a) enable ships required under this section to carry a crew agreement to comply with the requirement by carrying a copy of it, certified in such manner as may be provided by the regulations; and

(b) specify the form of the exemption document.

(8) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section the master or the person who employs the crew commits an offence and is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7 and the ship, if in the Falkland Islands, may be detained.

[Merchant Shipping Act 1995 (UK), s. 25]

29. Regulations relating to crew agreements

(1) The Governor may make regulations —

(a) requiring such notice as may be specified in the regulations to be given to a superintendent or proper officer, except in such circumstances as may be specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;

(b) providing for the delivery to a superintendent, proper officer or the Registrar of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;

(c) providing for the requirement to —

(i) post in ships copies of, or extracts from crew agreements;

(ii) supply to any crew member requesting such, copies of, or extracts from crew agreements;

(iii) present for inspection copies of or extracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew; and

(iv) produce to a customs officer any documents carried in a ship in pursuance of this Ordinance.

(2) Regulations made under this section may provide that contravention of any provision of the regulations is an offence punishable, on conviction, by a fine not exceeding level 3 on the scale set out in Schedule 7 or such less amount as may be specified in the regulations.

[Merchant Shipping Act 1995 (UK), s. 26]

30. Discharge of seafarers

(1) The Governor may make regulations prescribing the procedure to be followed in connection with the discharge of seafarers from ships registered in the Falkland Islands.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision —

(a) requiring notice of such a discharge to be given, at such time as may be specified in the regulations, to the superintendent or proper officer at a place specified in or determined under the regulations;

(b) requiring such a discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to a superintendent or proper officer or the Registrar.

(3) Regulations under this section may provide that in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, a seafarer must not be discharged outside the Falkland Islands from a ship registered in the Falkland Islands without the consent of the proper officer.

(4) Regulations made under this section may make a contravention of any provision of those regulations an offence punishable, on conviction, with a fine not exceeding level 3 on the scale set out in Schedule 7 or such less amount as may be specified in the regulations.

[Merchant Shipping Act 1995 (UK), s. 27]

31. Seafarers left behind abroad otherwise than on discharge

Regulations made under section 30 may apply any provision of that section, with such modifications as appear to the Governor to be appropriate, to cases where a seafarer employed in a Falkland Islands ship is left behind outside the Falkland Islands otherwise than on being discharged from the ship.

[Merchant Shipping Act 1995 (UK), s. 28]

32. Discharge of seafarers when ship ceases to be registered in the Falkland Islands

Where a ship registered in the Falkland Islands ceases to be so registered, any seafarer employed in the ship must be discharged from the ship unless the seafarer consents in writing to continue his or her employment in the ship; and sections 33 to 36 apply in relation to the seafarer's wages as if the ship had remained registered in the Falkland Islands.

[Merchant Shipping Act 1995 (UK), s. 29]

Wages etc.

33. Payment of seafarers' wages

(1) Where a seafarer employed under a crew agreement relating to a ship registered in the Falkland Islands leaves the ship on being discharged from it, then, except as provided by or under this Part or any other enactment, the wages due to the seafarer under the agreement must either —

(a) be paid to the seafarer in full at the time when the seafarer so leaves the ship (in this section and in section 34 referred to as the "time of discharge"); or

(b) be paid to the seafarer in accordance with subsections (4) and (5).

(2) If the amount shown in the account delivered to a seafarer under section 34(1) as being the amount payable to the seafarer under subsection (1)(a) is —

(a) replaced by an increased amount shown in a further account delivered to the seafarer under section 34(3), the balance must be paid to the seafarer within seven days of the time of discharge; and

(b) if the amount so shown in the account delivered to the seafarer under section 34(1) exceeds £50 and it is not practicable to pay the whole of it at the time of discharge, not less than £50 nor less than one-quarter of the amount so shown must be paid to the seafarer at that time and the balance within seven days of that time.

(3) If any amount which, under subsection (1)(a) or (2), is payable to a seafarer is not paid at the time at which it is payable, the seafarer is entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of 56 days following the time of discharge; and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it carries interest at the rate of 20 per cent per annum.

(4) Where the crew agreement referred to in subsection (1) provides for the seafarer's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seafarer under the agreement must (subject to subsection (5)) be paid to the seafarer not later than the date on which the next payment of the seafarer's basic wages following the time of discharge would have fallen due if the seafarer's employment under the agreement had continued.

(5) If it is not practicable, in the case of any amount due to the seafarer by way of wages additional to the seafarer's basic wages, to pay that amount by the date mentioned in subsection (4), that amount must be paid to the seafarer not later than what would have been the last day of the pay cycle immediately following that date if the seafarer's employment under the crew agreement had continued.

(6) If any amount which, under subsection (4) or (5), is payable to a seafarer is not paid at the time at which it is so payable, it carries interest at the rate of 20 per cent per annum.

(7) The provisions of subsection (3) or (6) do not apply if the failure to pay was due to —

(a) a mistake;

(b) a reasonable dispute as to liability;

(c) the act or default of the seafarer; or

(d) any other cause, not being the wrongful act or default of the persons liable to pay the seafarer's wages or of their servants or agents,

and so much of those provisions as relates to interest on the amount due does not apply if a court in proceedings for its recovery so directs.

(8) Where a seafarer is employed under a crew agreement relating to more than one ship this section has effect, in relation to wages due to the seafarer under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of the seafarer's employment under the crew agreement.

(9) Where a seafarer, by virtue of section 32, is discharged from a ship outside the Falkland Islands but returns to the Falkland Islands under arrangements made by the persons who employed the seafarer, this section has effect, in relation to the wages due to the seafarer under a crew agreement relating to the ship, as if for the references in subsections (1) to (4) to the time of discharge there were substituted references to the time of the seafarer's return to the Falkland Islands, and subsection (8) were omitted.

(10) For the purposes of this section any amount of wages must, if not paid to the seafarer in cash, be taken to have been paid to the seafarer —

(a) on the date when a cheque, or a money or postal order issued by the Post Office company (within the meaning of the Post Office Ordinance 1898, if that amount was despatched by the recorded delivery service to the seafarer's last known address; or

(b) on the date when any account kept by the seafarer with a bank or other institution was credited with that amount.

[Merchant Shipping Act 1995 (UK), s. 30]

34. Account of seafarers' wages

(1) Subject to subsections (4) and (5) and to regulations made under section 35 or 75, the master of every ship registered in the Falkland Islands must deliver to every seafarer employed in the ship under a crew agreement an account of the wages due to the seafarer under that crew agreement and of the deductions subject to which the wages are payable.

(2) The account must indicate whether the amounts stated are subject to any further adjustments that may be found necessary and must be delivered not later than 24 hours before the time of discharge or, if the seafarer is discharged without notice or at less than 24 hours' notice, at the time of discharge.

(3) If the amounts stated in the account require adjustment the employer (persons who employed the seafarer) must deliver to the seafarer a further account stating the adjusted amounts; and that account must be delivered not later than the time at which the balance of the seafarer's wages is payable to the seafarer.

(4) Where section 33(4) or (5) applies to the payment of any amount of wages due to a seafarer under a crew agreement —

(a) the employer (persons who employed the seafarer) must deliver to the seafarer an account of the wages payable to the seafarer under that subsection and of the deductions subject to which the wages are payable;

(b) any such account must be delivered at the time when the wages are paid to the seafarer; and

(c) subsections (1) to (3) do not apply,

and section 33(10) applies for the purposes of this subsection as it applies for the purposes of that section.

(5) Where a seafarer is employed under a crew agreement relating to more than one ship, any account which under this section would be required to be delivered to the seafarer by the master must, instead be delivered to the seafarer by the persons employing the seafarer and must, be delivered on or before the termination of the seafarer's employment under the crew agreement.

(6) If a person fails without reasonable excuse to comply with this section the person is liable, on conviction, to a fine not exceeding level 2 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 31]

35. Regulations relating to wages and accounts

The Governor may make regulations —

(a) authorising deductions to be made from the wages due to a seafarer under a crew agreement (in addition to any authorised by any provision of this Part or of any other enactment for the time being in force) in cases where a breach of the seafarer's obligations

under the agreement is proved against the seafarer and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;

(b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;

(c) prescribing the manner in which wages due to a seafarer under a crew agreement are to be or may be paid;

(d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seafarer leaves the ship from which the seafarer is employed in the Falkland Islands otherwise than on being discharged from it; or

(e) prescribing the form and manner in which any account required to be delivered by section 34 is to be prepared and the particulars to be contained in the form (which may include estimated amounts).

[Merchant Shipping Act 1995 (UK), s. 32]

36. Power of superintendent or proper officer to decide disputes about wages

(1) Any dispute relating to the amount payable to a seafarer employed under a crew agreement may be submitted by the parties to a superintendent or proper officer for decision.

(2) The superintendent or proper officer is not bound to accept a dispute submitted to him or her under subsection (1) where he or she is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him or her.

(3) The decision of a superintendent or proper officer on a dispute submitted to him or her under this section is final.

[Merchant Shipping Act 1995 (UK) s. 33]

37. Restriction on assignment of and charge upon wages

(1) As respects the wages due or accruing to a seafarer employed in a ship registered in the Falkland Islands —

(a) the wages are not subject to attachment;

(b) an assignment of the wages before they have accrued does not bind the seafarer and the payment of the wages to the seafarer is valid notwithstanding any previous assignment or charge; and

(c) a power of attorney or authority for the receipt of the wages is not irrevocable.

(2) Nothing in this section affects the provisions of sections 39 and 40 with respect to allotment notes.

(3) Nothing in this section applies to any disposition relating to the application of wages —

(a) in the payment of contributions to a fund declared by regulations made by the Governor to be a fund to which this section applies; or

(b) in the payment of contributions in respect of the membership of a body declared by regulations made by the Governor to be a body to which this section applies; or

(c) to anything done or to be done for giving effect to such a disposition.

[Merchant Shipping Act 1995 (UK), s. 34]

38. Power of court to award interest on wages due otherwise than under crew agreement

In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to that person as wages the court, unless it appears to it that the delay in paying the sum was due to —

(a) a mistake;

(b) a reasonable dispute as to liability;

(c) the act or default of the person claiming the amount; or

(d) any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents,

may order them to pay, in addition to the sum due, interest on it at the rate of 20 per cent per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

[Merchant Shipping Act 1995 (UK), s. 35]

39. Allotment notes

(1) Subject to this section, a seafarer may, by means of an allotment note issued in accordance with regulations made by the Governor, allot to any person or persons part of the wages to which the person or persons will become entitled in the course of the seafarer's employment in a ship registered in the Falkland Islands.

(2) A seafarer's right to make an allotment under this section is subject to such limitations as may, by virtue of this section, be imposed by regulations made by the Governor.

(3) Regulations made by the Governor for the purposes of this section may prescribe the form of allotment notes and may —

(a) limit the circumstances in which allotments may be made;

(b) limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom the wages may be allotted to and may prescribe the method by which that part of the wages is to be calculated;

(c) limit the persons to whom allotments may be made by a seafarer to persons of such descriptions or persons standing to the seafarer in such relationships as may be prescribed by the regulations; or

(d) prescribe the times and the intervals at which payments under allotment notes are to be made.

(4) Regulations under this section may make different provision in relation to different descriptions of seafarers and different circumstances relating to the seafarers.

[Merchant Shipping Act 1995 (UK), s. 36]

40. Right of person named in allotment to sue in own name

(1) A person to whom any part of a seafarer's wages has been allotted by an allotment note issued in accordance with regulations made under section 39 has the right to recover that part in the person's own name and for that purpose has the same remedies as the seafarer has for the recovery of his or her wages.

(2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seafarer's wages has been allotted it must be presumed, unless the contrary is shown, that the seafarer is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

[Merchant Shipping Act 1995 (UK), s. 37]

41. Right, or loss of right, to wages in certain circumstances

(1) Where a ship registered in the Falkland Islands is wrecked or lost and a seafarer whose employment in the ship is as a result terminated before the date contemplated in the agreement under which the seafarer is employed, the seafarer is, subject to subsection (3), entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which the seafarer is unemployed in the two months following that date.

(2) Where a ship registered in the Falkland Islands is sold while outside the Falkland Islands or ceases to be registered in the Falkland Islands and a seafarer's employment in the ship is as a result terminated before the date contemplated in the agreement under which the seafarer is employed, then, unless it is otherwise provided in the agreement, the seafarer is, subject to subsection (3), entitled to wages at the rate payable under the agreement at the date on which the seafarer's employment is terminated for every day on which the seafarer is unemployed in the two months following that date.

(3) A seafarer is not entitled to wages by virtue of subsection (1) or (2) for a day on which the seafarer was unemployed, if it is shown —

(a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of the seafarer's employment on the sale of the ship or its ceasing to be registered in the Falkland Islands; or

(b) that the seafarer was able to obtain suitable employment for that day but unreasonably refused or failed to take it.

(4) This section applies to a master as it does to a seafarer.

[Merchant Shipping Act 1995 (UK), s. 38]

42. Protection of certain rights and remedies

(1) A seafarer's lien, remedies for the recovery of wages, right to wages in case of the wreck or loss of a ship on which the seafarer is employed, and any right the seafarer may have or obtain in the nature of salvage is not capable of being renounced by any agreement.

(2) Subsection (1) does not affect the terms of any agreement made with the seafarer belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, that provide for the remuneration to be paid to the seafarer for salvage services rendered by that ship.

[Merchant Shipping Act 1995 (UK), s. 39]

43. Claims against seafarer's wages for maintenance, etc. of dependants

(1) Where, during a seafarer's employment in a ship, expenses are incurred by a responsible authority for the benefit of any dependant of the seafarer and the expenses are of a kind specified in regulations under this section and such further conditions, if any, as may be so specified are satisfied, the authority may by notice in writing complying with the regulations require the persons employing the seafarer —

(a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and

(b) to give to the responsible authority, as soon as may be practicable, notice in writing of the seafarer's discharge from the ship;

and the persons employing the seafarer must comply with the notice (subject to subsection (3)) and give notice in writing of its contents to the seafarer.

(2) For the purposes of this section —

(a) the following persons, and no others, must be taken to be a seafarer's dependants, that is to say, the seafarer's spouse and any person under the age of 19 whom the seafarer is liable, for the purposes of any enactment in any part of the Falkland Islands, to maintain or in respect of whom the seafarer is liable under any such enactment to make contributions to the Authority; and

(b) expenses incurred for the benefit of any person include (in addition to any payments made to the seafarer or on the seafarer's behalf) expenses incurred for providing the seafarer with accommodation or care or for exercising supervision over the seafarer,

but no expenses are permitted to be specified in regulations made under this section unless they are such that the magistrate's court has power under any enactment in force in the Falkland Islands to order the making of payments in respect of those expenses.

(3) Not more than the following proportion of a seafarer's net wages is permitted to be retained under subsection (1) (whether in pursuance of one or more notices) —

(a) one-half, if the notice or notices relate to one dependant only; or

(b) two-thirds, if the notice or notices relate to two or more dependants.

(4) Where the Authority has served a notice under this section on the persons employing a seafarer, a magistrate's court may, on the application of the authority, make an order for the payment to the Authority of such sum, not exceeding the proportion of the seafarer's wages which those persons were required by virtue of this section to retain, as the court thinks fit, having regard to the expenses incurred by the Authority and the seafarer's means.

(5) Any sums paid out of a seafarer's wages in pursuance of an order under this section must be deemed to be paid to the seafarer in respect of the seafarer's wages; and the service, on the persons who employed the seafarer, of such an order or of an order dismissing an application for such an order terminates the period for which they were required to retain the wages.

(6) An application for an order under this section for the payment of any sum by the persons who employed a seafarer must be deemed, for the purposes of any proceedings, to be an application for an order against the seafarer; but the order, when served on those persons, must have effect as an order against them and may be enforced accordingly.

(7) The relevant provisions of the Maintenance Orders Act 1958 as it applies to the Falkland Islands have effect as if an order under this section were included among those referred to in the Act as it applies in the Falkland Islands; and any sum payable by any persons under an order made under this section in the Falkland Islands is recoverable from them as a debt due to the Authority on whose application the order was made.

(8) Any notice or order under this section may be served by registered post or recorded delivery service.

(9) The Governor may make regulations specifying —

(a) the expenses in respect of which a notice may be served by a responsible authority under subsection (1);

(b) any conditions that must be satisfied if such a notice is to be served;

(c) the period that may be specified in such a notice (being a period beginning with the service of the notice and ending a specified number of days after the seafarer's discharge from his or her ship);

(d) the form of the notice and the information to be contained in the notice; and

(e) the amounts to be deducted from a seafarer's wages in computing his or her net wages for the purposes of this section, including the amounts allotted by allotment notes issued under section 37.

(10) In this section "responsible authority" means the Governor or such other person or authority as the Governor may by order appoint under this section.

[Merchant Shipping Act 1995 (UK), s. 40]

44. Remedies of master for remuneration, disbursements and liabilities

The master of a ship has the same lien for his or her remuneration, and all disbursements or liabilities properly made or incurred by him or her on account of the ship, as a seafarer has for the seafarer's wages.

[Merchant Shipping Act 1995 (UK), s. 41]

Safety, health and welfare

45. Obligation of shipowners as to seaworthiness

(1) In every contract of employment between the owner of a ship registered in the Falkland Islands and the master of the ship, or any seafarer employed in the ship there must be implied an obligation on the owner of the ship that —

(a) the owner of the ship;

(b) the master of the ship; and

(c) every agent charged with —

(i) the loading of the ship;

(ii) the preparing of the ship for sea; or

(iii) the sending of the ship to sea,

must use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition during the voyage.

(2) The obligation imposed by subsection (1) applies notwithstanding any agreement to the contrary.

(3) No liability on the owner of a ship arises under subsection (1) in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

[Merchant Shipping Act 1995 (UK), s. 42]

46. Crew accommodation

(1) The Governor may make regulations with respect to the crew accommodation to be provided in ships registered in the Falkland Islands.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may, in particular —

(a) prescribe the minimum space per person which must be provided by way of sleeping accommodation for seafarers and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;

(b) regulate the position in the ship in which the crew accommodation or any part of that accommodation may be located and the standards to be observed in the construction, equipment and furnishing of any accommodation;

(c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise the surveyor to inspect any such works; and

(d) provide for the maintenance and repair of crew accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed.

(3) Regulations made under this section may make different provision with respect to different descriptions of ship or with respect to ships which were registered in the Falkland Islands at different dates or the construction of which was begun at different dates and with respect to crew accommodation provided for seafarers of different descriptions.

(4) Regulations made under this section may exempt ships of any description from any requirements of the regulations and the Governor may grant other exemptions from any such requirement with respect to any ship.

(5) Regulations under this section may require the master of a ship or any officer authorised by the master for the purpose to carry out inspections of the crew accommodation as may be prescribed by the regulations.

(6) If the provisions of any regulations under this section are contravened the owner or master is liable, on conviction, to a fine not exceeding level 5 on the scale set out in Schedule 7 and the ship, if in the Falkland Islands, may be detained.

(7) In this section —

“crew accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seafarers but does not include any accommodation which is also used by or provided for the use of passengers;

“surveyor of ships” means such person as the Governor may from time to time appoint to survey ships, and whose appointment may be on terms determined by the Governor.

[Merchant Shipping Act 1995 (UK), s. 43]

47. Complaints about provisions or water

(1) If three or more seafarers employed in a ship registered in the Falkland Islands consider that the provisions or water provided for the seafarers employed in that ship are not in accordance with safety regulations containing requirements as to the provisions and water to be provided on ships (whether because of bad quality, unfitness for use or deficiency in quantity) they may complain to the master, who must investigate the complaint.

(2) If the seafarers are dissatisfied with the action taken by the master as a result of the master’s investigation or by the master’s failure to take any action they may inform the master about —

(a) their dissatisfaction with the master’s decision; and

(b) their intention to complain to a superintendent or proper officer,

after which the master must make adequate arrangements to enable the seafarer to make the complaint as soon as the service of the ship permits.

(3) The superintendent or proper officer to whom a complaint has been made under this section must investigate the complaint and may examine the provisions or water or cause them to be examined.

(4) If the master fails without reasonable excuse to comply with the provisions of subsection (2), the master is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 and if the master has been notified in writing by the person making an examination under subsection (3) that any provisions or water are found to be unfit for use or not of the quality required by the regulations, then —

(a) if they are not replaced within a reasonable time, the master or owner is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7 unless the master proves that the failure to replace them was not due to the master’s neglect or default; or

(b) if the master, without reasonable excuse after having been notified, permits them to be used the master is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 44]

48. Expenses of medical and other treatment during voyage

(1) If a person, while employed in a ship registered in the Falkland Islands, receives outside the Falkland Islands, any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses of that treatment must be borne by the person's employers.

(2) If a person dies while employed in a ship registered in the Falkland Islands and is buried or cremated outside the Falkland Islands, the expenses of the person's burial or cremation must also be borne by the person's employers.

(3) The reference in subsection (2) to dying in a ship includes a reference to dying in a ship's boat.

[Merchant Shipping Act 1995 (UK), s. 45]

Manning, qualifications, training and uniform

49. Application of sections 50 to 54

Sections 50 to 54 apply to every ship registered in the Falkland Islands and also to any ship registered outside the Falkland Islands which carries passengers —

(a) between places in the Falkland Islands; or

(b) on a voyage which begins and ends at the same place in the Falkland Islands and on which the ship calls at no place outside the Falkland Islands.

[Merchant Shipping Act 1995 (UK), s. 46]

50. Manning

(1) Subject to subsection (2), the Governor may make regulations —

(a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seafarers or qualified seafarers of any description as may be specified in the regulations; or

(b) prescribing standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seafarers of any description in order to be qualified for the purposes of this section.

(2) The Governor must not exercise his or her power to make regulations requiring ships to carry seafarers other than doctors and cooks except to the extent that it appears to him or her necessary or expedient in the interests of safety.

(3) Regulations made under this section may make different provision for different descriptions of ship or for ships of the same description in different circumstances.

(4) Without prejudice to the generality of subsection (1)(b), the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision for —

- (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
- (b) the conduct of any examinations, the conditions for admission to the examinations and the appointment and remuneration of examiners; and
- (c) the issue, form and recording of certificates and other documents,

and different provisions may be so made or enabled to be made for different circumstances.

(5) If a person makes a statement which the person knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for that or another person a certificate or other document which may be issued under this section, the person is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 47]

51. Power to exempt from manning requirements

(1) The Governor may exempt any ship or description of ship from any of the requirements of regulations made under section 50.

(2) An exemption given under this section may be limited to a particular period or to one or more particular voyages.

[Merchant Shipping Act 1995 (UK), s. 48]

52. Prohibition of going to sea undermanned

(1) Subject to section 51, if a ship to which this section applies goes to sea or attempts to go to sea without carrying the officers and other seafarers as it is required to carry under section 50, the owner or master is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7; and the ship, if in the Falkland Islands, may be detained.

(2) This section, in its application to ships which are not sea-going ships, has effect as if for the words “goes to sea or attempts to go to sea” were substituted for the words “ goes on a voyage or excursion or attempts to do so” and the words “if in the Falkland Islands” were omitted.

[Merchant Shipping Act 1995 (UK), s. 49]

53. Production of certificates and other documents of qualification

(1) Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that the person is qualified for the purposes of section 50 must on demand produce it to any superintendent, surveyor of ships or proper officer and (if the person so making the demand is not the master) to the master of the ship.

(2) If, without reasonable excuse, a person fails to comply with subsection (1) the person is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 50]

54. Crew's knowledge of English

(1) Where in the opinion of a superintendent or proper officer the crew of a ship to which this section applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then —

(a) if the superintendent or proper officer has informed the master of that opinion, the ship must not go to sea; and

(b) if the ship is in the Falkland Islands, it may be detained.

(2) If a ship goes to sea or attempts to go to sea in contravention of this section the owner or master commits an offence and is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 51]

55. Unqualified persons going to sea as qualified officers or seafarers

(1) If a person goes to sea as a qualified officer or seafarer of any description without being such a qualified officer or seafarer the person is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

(2) In this section “qualified” means qualified for the purposes of section 50.

[Merchant Shipping Act 1995 (UK), s. 52]

56. Medical treatment on board ship

Where a ship registered in the Falkland Islands does not carry a doctor among the seafarers employed in it the master must make arrangements for securing that any medical attention on board the ship is given either by the master or under his or her supervision by a person appointed by the master for that purpose.

[Merchant Shipping Act 1995 (UK), s. 53]

57. Special certificates of competence

(1) The Authority may issue and record documents certifying the attainment of any standard of competence relating to ships registered in the Falkland Islands or their operation, notwithstanding that the standard is not among those prescribed or specified under section 50(1)(b).

(2) If a person makes a statement which he or she knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or herself or another person a document which may be issued under this section the person is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 54]

58. Young persons

(1) Subject to subsection (2), a person under the school-leaving age must not be employed in any ship registered in the Falkland Islands except as permitted by regulations under this section.

(2) The Governor may make regulations —

(a) prescribing circumstances in which and conditions subject to which persons under school-leaving age who have attained such age as may be specified in the regulations may be employed in a ship which is not a sea-going ship registered in the Falkland Islands in such capacities as may be so specified;

(b) prescribing circumstances and capacities in which persons over school leaving-age but under the age of 18 or under such lower age as may be specified in the regulations must not be employed in a ship registered in the Falkland Islands which is not a sea-going ship or may be so employed only subject to such conditions as may be specified in the regulations;

(c) prescribing circumstances and capacities in which persons of at least the age of 16 but under the age of 18 or under such lower age as may be specified in the regulations must not be employed in a sea-going ship registered in the Falkland Islands or may be so employed only subject to such conditions as may be specified in the regulations.

(3) Regulations made for the purposes of this section may make different provision for different employments and different descriptions of ship and any other different circumstances.

(4) If any person is employed in a ship in contravention of this section or if any condition subject to which a person may be employed under regulations made for the purposes of this section is not complied with, the owner or master is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

(5) For the purposes of this section a person employed in a ship is deemed —

(a) to be over the school-leaving age if the person has, attained the age which is the upper limit of compulsory school age —

(i) under the enactments for the time being in force relating to education in the Falkland Islands;

(ii) if the person entered into that agreement outside the Falkland Islands or is employed otherwise than under an agreement, under the enactments relating to education in the Falkland Islands,

and if the person is treated for the purposes of those enactments as not having attained that age the person must be so treated also for the purposes of this section; or

(b) under the school-leaving age if the person has not attained the age which is the upper limit of compulsory school age under the enactments referred to in paragraph (a), as may be applicable.

[Merchant Shipping Act 1995 (UK), s. 55]

59. Financial assistance for training

(1) The Governor may give any person or body of persons of any description determined by the Governor for the purposes of this section financial assistance out of the Consolidated Fund in respect of expenses incurred or to be incurred by any such person or body in connection with the training (whether in the Falkland Islands or elsewhere) of officers and ratings for service in merchant ships, including expenses incurred or to be incurred by any such person in connection with the person's undergoing any such training.

(2) Assistance under this section may be given by way of a grant or a loan or otherwise; and in giving any such assistance the Governor may impose such conditions as the Governor thinks fit, including conditions requiring a grant to be repaid in specified circumstances.

(3) This section is without prejudice to any other power of the Governor to give financial assistance in connection with any such training as is mentioned in subsection (1).

(4) In providing assistance in accordance with this section the Governor must have regard to the maintenance and development of the Falkland Islands' merchant fleet and marine related business and for that purpose must —

(a) keep under review all aspects of that fleet and business; and

(b) seek the advice of those who appear to the Governor to have experience of that fleet or business.

(5) In this section, "marine related business" means any trade, business or other activity concerned with the manufacture of, or the provision of goods and services for, or the operation or use of, ships; and includes maritime educational establishments, marine classification societies, marine equipment suppliers, marine surveyors, marine and naval architects, marine insurance companies, protection and indemnity clubs, providers of maritime financial or legal services, the operators of ports and harbours and shipbrokers.

[Merchant Shipping Act 1995 (UK), s. 56]

60. Uniform

(1) Subject to subsection (3), if any person, not being entitled to wear the merchant navy uniform, wears that uniform or any part thereof, or any dress having the appearance or bearing any of the distinctive marks of that uniform, the person commits an offence.

(2) On conviction of an offence under subsection (1), a person is liable —

(a) except in a case falling within paragraph (b), to a fine not exceeding level 1 on the scale set out in Schedule 7;

(b) if the person wears it in such a manner or under such circumstances as to be likely to bring contempt on the uniform, to a fine not exceeding level 1 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding one month.

(3) Subsection (1) does not prevent any person from wearing any uniform or dress in the course or for the purposes of a stage play or representation, or a music-hall or circus performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.

(4) If any person entitled to wear the merchant navy uniform when aboard a ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, the person is liable on conviction to a fine not exceeding level 1 on the scale set out in Schedule 7.
[Merchant Shipping Act 1995 (UK), s. 57]

Offences by seafarers, etc.

61. Conduct endangering ships, structures or individuals

(1) This section applies —

(a) to the master of, or any seafarer employed in, a ship registered in the Falkland Islands;
and

(b) to the master of, or any seafarer employed in, a ship which —

(i) is registered in any country outside the Falkland Islands; and

(ii) is in a port in the Falkland Islands or within Falkland Islands waters while proceeding to or from that port.

(2) If a person to whom this section applies, while on board his or her ship or in its immediate vicinity —

(a) does any act which causes or is likely to cause —

(i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment;

(ii) the loss or destruction of or serious damage to any other ship or any structure;

(iii) the death of or serious injury to any person; or

(b) omits to do anything required —

(i) to preserve his or her ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged;

(ii) to preserve any person on board his or her ship from death or serious injury; or

(iii) to prevent his or her ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,

and either of the conditions specified in subsection (3) is satisfied with respect to that act or omission, the person (subject to subsections (6) and (7)) commits an offence.

(3) Those conditions are that —

(a) the act or omission was deliberate or amounted to a breach or neglect of duty;

(b) the master or seafarer in question was under the influence of drink or a drug at the time of the act or omission.

(4) If a person to whom this section applies —

(a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a); or

(b) fails to discharge any of his or her duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,

the person (subject to subsections (6) and (7)) commits an offence.

(5) A person convicted of an offence under this section is liable on conviction, to a fine not exceeding level 11 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years or a fine, or both.

(6) In proceedings for an offence under this section it is a defence to prove —

(a) in the case of an offence under subsection (2) where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;

(b) in the case of an offence under subsection (2), that at the time of the act or omission alleged against the accused, the accused was under the influence of a drug taken by the accused for medical purposes and either that the accused took it on medical advice and complied with any directions given as part of that advice or that the accused had no reason to believe that the drug might have the influence it had;

(c) in the case of an offence under subsection (4), that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or

(d) in the case of an offence under either of those subsections —

(i) that the accused could have avoided committing the offence only by disobeying a lawful command; or

(ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him or her.

(7) In the application of this section to any person falling within subsection (1)(b), subsections (2) and (4) have effect as if subsection (2)(a)(i) and (b)(i) were omitted; and no proceedings for any offence under this section can be instituted against any such person except by or with the consent of the Attorney General.

(8) In this section —

“breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;

“duty” —

(a) in relation to a master or seafarer, means any duty falling to be discharged by the seafarer in his or her capacity as such; and

(b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of the master’s ship, its machinery and equipment; and

“structure” means any fixed or movable structure (of whatever description) other than a ship.

[Merchant Shipping Act 1995 (UK), s. 58]

62. Concerted disobedience and neglect of duty

(1) If a seafarer employed in a ship registered in the Falkland Islands combines with other seafarers employed in that ship —

(a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;

(b) to neglect any duty which is required to be discharged at such a time; or

(c) to impede, at such a time, the progress of a voyage or the navigation of the ship, he or she is liable on conviction, to a fine not exceeding level 11 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years or a fine or both.

(2) For the purposes of this section, a ship must be treated as being at sea at any time when it is not securely moored in a safe berth.

[Merchant Shipping Act 1995 (UK), s. 59]

Disciplinary offences – Prospective

63. Breaches by seafarers of codes of conduct

(1) The Governor may make regulations under the provisions of this section for the purpose of maintaining discipline on board ships registered in the Falkland Islands; and in this section “disciplinary body” means a body established or approved by the Governor under subsection (7).

(2) Regulations may provide for the hearing on shore in the Falkland Islands, by a disciplinary body, of a complaint by the master or owner of a ship registered in the Falkland Islands, other than a fishing vessel, against a seafarer alleging that during his or her employment on board the ship the seafarer contravened a provision of a code of conduct approved by the Governor for the purposes of this section.

(3) The alleged contravention may be one on or off the ship and in the Falkland Islands or elsewhere.

(4) Regulations may enable a disciplinary body —

(a) to dismiss the complaint if it finds the allegation not proved;

(b) if it finds the allegation proved —

(i) to warn the seafarer;

(ii) to reprimand the seafarer; or

(iii) to recommend to the Governor that the seafarer must, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 80 and is required to surrender any such book which has been issued to the seafarer.

(5) Regulations may —

(a) enable the seafarer to appeal against such a recommendation to another disciplinary body (an “appellate body”);

(b) enable an appellate body —

(i) to confirm the recommendation;

(ii) to cancel the recommendation; or

(iii) in the case of a recommendation that the seafarer ceases to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that the seafarer ceases to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified.

(6) Regulations may make provision for securing that a recommendation that the seafarer permanently ceases to be entitled to a discharge book is not submitted to the Governor unless it has been confirmed, either on appeal or otherwise, by an appellate body.

(7) Regulations may make provision for the establishment or approval for the purposes of this section of such number of bodies as the Governor thinks fit and with respect to the composition, jurisdiction and procedure of any such body.

(8) Regulations may make provision for the payment out of the Consolidated Fund, of such remuneration and allowances as the Governor may determine to any member of such a body.

(9) Regulations may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Governor considers appropriate.

(10) Without prejudice to the generality of the preceding provisions, regulations may include provision for any proceedings to take place notwithstanding the absence of the seafarer to whom they relate.

(11) Nothing in the regulations or done in pursuance of the regulations are to be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.

[Merchant Shipping Act 1995 (UK), s. 60]

64. Inquiry into fitness or conduct of officer

(1) If it appears to the Governor that an officer —

(a) is unfit to discharge his or her duties, whether by reason of incompetence or misconduct or for any other reason;

(b) has been seriously negligent in the discharge of his or her duties; or

(c) has failed to comply with the provisions of section 88,

the Governor may cause an inquiry to be held by one or more persons appointed by the Governor and, if the Governor does so, may, if the Governor thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 50 and require the officer to deliver it to the Governor.

(2) Where a certificate issued to an officer has been suspended under subsection (1) the suspension may, on the application of the officer, be terminated by the Supreme Court and the decision of the court on such an application is final.

(3) An inquiry under this section must be conducted in accordance with rules made under section 68(1) and those rules must require the persons holding the inquiry to hold it with the assistance of one or more assessors.

(4) The persons holding an inquiry under this section into the fitness or conduct of an officer —

(a) may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1), cancel or suspend any certificate issued to the officer under section 50 or censure the officer;

(b) may make such order with regard to the costs of the inquiry as they think just; and

(c) must make a report on the case to the Governor,

and if the certificate is cancelled or suspended the officer (unless he or she has delivered it to the Governor in pursuance of subsection (1)) must deliver it forthwith to the persons holding the inquiry or to the Governor.

(5) Any costs which a person is ordered to pay under subsection (4)(b) may be recovered from him or her by the Governor.

[Merchant Shipping Act 1995 (UK), s. 61]

65. Disqualification of holder of certificate other than officer

(1) Where it appears to the Governor that a person who is the holder of a certificate to which this section applies is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any other reason, the Governor may give the person notice in writing that the Governor is considering the suspension or cancellation of the certificate.

(2) The notice must state the reasons why it appears to the Governor that that person is unfit to be the holder of such a certificate and must state that within a period specified in the notice, or such longer period as the Governor may allow, the person may make written representations to the Governor or claim to make oral representations to the Governor.

(3) After considering any representations made in pursuance of subsection (2) the Governor must decide whether or not to suspend or cancel the certificate and must give the holder of it written notice of his decision.

(4) Where the decision is to suspend or cancel the certificate the notice must state the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and must require the holder to deliver the certificate to the Governor not later than the date so specified unless before that date the holder has required the case to be dealt with by an inquiry under section 66.

(5) Where, before the date specified in the notice, the holder requires the case to be dealt with by such an inquiry, then, unless the holder withdraws the requirement, the suspension or cancellation will not take effect except as ordered in pursuance of the inquiry.

(6) The Governor may make regulations prescribing the procedure to be followed with respect to the making and consideration of representations in pursuance of this section, the form of any notice to be given under this section and the period to be specified in any such notice as the period within which any steps are to be taken.

(7) This section applies to every certificate issued under section 57 and to any certificate issued under section 50 other than one certifying that a person is qualified as an officer.

[Merchant Shipping Act 1995 (UK), s. 62]

66. Inquiry into fitness or conduct of seafarer other than officer

(1) Where a person has, before the date mentioned in section 63(4), required his or her case to be dealt with by an inquiry under this section the Governor must cause an inquiry to be held by one or more persons appointed by the Governor.

(2) An inquiry under this section must be conducted in accordance with rules made under section 68(1) and those rules must require the persons holding the inquiry to hold it with the assistance of one or more assessors.

(3) The persons holding an inquiry under this section —

(a) may confirm the decision of the Governor and cancel or suspend the certificate accordingly;

(b) may, where the decision was to cancel the certificate, suspend it instead;

(c) may, where the decision was to suspend the certificate, suspend it for a different period;

(d) may, instead of confirming the decision of the Governor, censure the holder of the certificate or take no further action;

(e) may make such order with regard to the costs of the inquiry as they think just; and

(f) must make a report on the case to the Governor,

and if the certificate is cancelled or suspended it must be delivered forthwith to the persons holding the inquiry or to the Governor.

(4) Any costs which a person is ordered to pay under subsection (3)(e) may be recovered from the person by the Governor.

[Merchant Shipping Act 1995 (UK), s. 63]

67. Re-hearing of and appeal from inquiries

(1) Where an inquiry has been held under section 64 or 66, the Governor may order the whole or part of the case to be reheard, and must do so —

(a) if new and important evidence which could not be produced at the inquiry has been discovered; or

(b) if there appear to the Governor to be other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under subsection (1) may provide for the re-hearing to be as follows if the inquiry was held in the Falkland Islands, by the persons who held it, by a wreck commissioner or by the Supreme Court.

(3) Any re-hearing under this section which is not held by the Supreme Court must be conducted in accordance with rules made under section 68(1).

(4) Where the persons holding the inquiry have decided to cancel or suspend the certificate of any person or have found any person at fault, then, if no application for an order under subsection (1) has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry, has appeared at the hearing and is affected by the decision or finding, may appeal to the Supreme Court.

[Merchant Shipping Act 1995 (UK), s. 64]

68. Rules as to inquiries and appeals

(1) The Governor may make rules for the conduct of inquiries under sections 64 and 66 and for the conduct of any re-hearing under section 67 which is not held by the Supreme Court.

(2) Without prejudice to the generality of subsection (1), rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.

(3) Rules of court made for the purpose of re-hearings under section 67 which are held by the Supreme Court, or of appeals to the Supreme Court, may require the court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

[Merchant Shipping Act 1995 (UK), s. 65]

69. Failure to deliver cancelled or suspended certificate

If a person fails to deliver a certificate as required under sections 64, 65 and 66 the person is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 66]

70. Power to restore certificate

Where a certificate has been cancelled or suspended under section 64, 65, 66, or 67, the Governor, if of the opinion that the justice of the case requires it, may re-issue the certificate or,

as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

[Merchant Shipping Act 1995 (UK), s. 67]

71. Power to summon witness to inquiry into fitness or conduct of officer or other seafarer

(1) The persons holding an inquiry under section 64 or 66 may —

(a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in the person's custody or under the person's control which relate to any matter in question at the inquiry; and

(b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.

(2) If on the failure of a person to attend such an inquiry in answer to a summons under this section —

(a) the persons holding the inquiry are satisfied by evidence on oath that —

(i) the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry;

(ii) the person has been duly served with the summons;

(iii) a reasonable sum has been paid or tendered to the person for costs and expenses; and

(b) it appears to them that there is no just excuse for the failure,

they may issue a warrant to arrest and bring the person before the inquiry at a time and place specified in the warrant.

(3) If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may commit the person to custody until the end of such period not exceeding one month as may be specified in the warrant or until the person gives evidence or produces the document (whichever occurs first); or impose on the person a fine not exceeding £2,500 or both.

(4) A fine imposed under subsection (3) must be treated for the purposes of its collection, enforcement and remission as having been imposed by the magistrate's court for the area in which the inquiry in question was held, and the persons holding the inquiry must, as soon as practicable after imposing the fine, give particulars of it to the proper officer of that court.

(5) In subsection (1) "proper officer" means, in relation to a magistrate's court, the head of courts.

[Merchant Shipping Act 1995 (UK), s. 68]

Civil liability of seafarers for offences

72. Civil liability for absence without leave

(1) This section apply with respect to the liability of a seafarer employed in a ship registered in the Falkland Islands to damages for being absent from the ship at a time when the seafarer is required under the seafarer's contract of employment to be on board.

(2) If the seafarer proves that the seafarer's absence was due to an accident or mistake or some other cause beyond the seafarer's control and that the seafarer took all reasonable precautions to avoid being absent, the seafarer's absence must not be treated as a breach of contract.

(3) Where subsection (2) does not apply, then —

(a) if no special damages are claimed, the seafarer's liability is 1 day's wages of the seafarer's income;

(b) if special damages are claimed, the seafarer's liability will not be more than 1 weeks's wages of the seafarer's income.

[Merchant Shipping Act 1995 (UK), s. 70]

73. Civil liability for smuggling

If, in civil proceedings before a court in the Falkland Islands, a seafarer employed in a ship registered in the Falkland Islands is found to have committed an act of smuggling, whether within or outside the Falkland Islands, the seafarer is liable to make good any loss or expense that the act has caused to any other person.

[Merchant Shipping Act 1995 (UK), s. 71]

74. Civil liability for fines imposed under immigration laws

(1) The following provisions of this section apply where, at a time when a ship registered in the Falkland Islands is in the national or territorial waters of another country, a seafarer employed in the ship is absent without leave and present in that country in contravention of that country's laws.

(2) If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seafarer the penalty must be treated as being attributable to the seafarer's absence without leave and may, subject to the provisions of section 72, be recovered from the seafarer as special damages for breach of contract.

(3) If by reason of the contravention a penalty is incurred under those laws by any other person, the amount, or, if that amount exceeds 1 week's wages of the seafarer's income, 1 week's wages of the seafarer's income may be recovered by that person from the seafarer.

[Merchant Shipping Act 1995 (UK), s. 72]

Relief and repatriation and relief costs

75. Relief and return of seafarer etc. left behind and shipwrecked

(1) Where —

(a) a person employed as a seafarer in a ship registered in the Falkland Islands is left behind in any country outside the Falkland Islands or is taken to such a country on being shipwrecked; or

(b) a person who became so employed under an agreement entered into outside the Falkland Islands is left behind in the Falkland Islands or is taken to the Falkland Islands on being shipwrecked,

the persons who last employed him or her as a seafarer must make such provision for the employee's return and for the employee's relief and maintenance until the employee's return and such other provisions as may be required by regulations made by the Governor.

(2) The provisions to be so made may include the repayment of expenses incurred in bringing a shipwrecked seafarer ashore and maintaining the shipwrecked seafarer until the shipwrecked seafarer is brought ashore and the payment of the expenses of the burial or cremation of a shipwrecked seafarer who dies before he or she can be returned.

(3) The Governor may also make regulations providing for the manner in which any wages due to any person left behind or taken to any country as mentioned in subsection (1), and any property of that person left on board ship, are to be dealt with.

(4) The Governor may make regulations requiring a superintendent or proper officer to make such provision as may be prescribed by the regulations with respect to any matter for which provision may be required to be made by regulations made under subsection (3).

(5) Without prejudice to the generality of the preceding provisions, regulations made under this section may make provision —

(a) for determining the place to which a person is to be returned;

(b) for requiring the master of any ship registered in the Falkland Islands to convey a person to a place determined in accordance with the regulations and for enabling a superintendent or proper officer to give the master directions for that purpose;

(c) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and

(d) for the keeping of records and the rendering of accounts.

(6) Regulations under this section may make a contravention of any provision thereof an offence punishable on conviction with a fine not exceeding level 3 on the scale set out in Schedule 7 or such less amount as may be specified in the regulations.

(7) This section applies to a person left behind on being discharged in pursuance of section 30, whether or not at the time the person is left behind the ship is still registered in the Falkland Islands.

(8) This section applies to the master of a ship as it applies to a seafarer and sections 76 and 77 have effect accordingly.

[Merchant Shipping Act 1995 (UK), s. 73]

76. Limit of employer's liability under section 75

Where a person left behind in or taken to any country as mentioned in section 75(1) remains there after the end of a period of three months the persons who last employed him or her as a seafarer is not liable under that section to make provision for the person's return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations under that section to make provision with respect to the person.

[Merchant Shipping Act 1995 (UK), s. 74]

77. Recovery of expenses incurred for relief and return, etc.

(1) Where any expenses are incurred in respect of any matter for which the employers of a seafarer are required to make provision under section 75, then —

(a) if the expenses are incurred by the Governor, or are incurred by the government of any country outside the Falkland Islands and repaid to them on behalf of the Crown, the Governor may recover them from the employers; or

(b) if the expenses are incurred by the seafarer, the seafarer may recover them from the employers unless they prove either that under the terms of the seafarer's employment they were to be borne by the seafarer or that the seafarer would not have been left behind but for the seafarer's own wrongful act or neglect.

(2) Where, in the case of any seafarer, expenses are incurred by the Governor or are incurred by the government of any country outside the Falkland Islands and repaid to them on behalf of the Crown —

(a) in respect of any matter for which, but for section 76, the seafarer's last employers would have been required to make provision under section 75; or

(b) in respect of any matter for which provision is required to be made under section 75(4)(b),

the Governor may recover them from the seafarer (or, if the seafarer has died, from the seafarer's personal representatives).

[Merchant Shipping Act 1995 (UK), s. 75]

78. Financial assistance in respect of crew relief costs

(1) The Governor may give financial assistance to —

(a) the owner of a ship registered in the Falkland Islands; or

(b) any manager of a ship so registered, being either an individual ordinarily resident in the Falkland Islands or a body corporate which is incorporated in the Falkland Islands and has its principal place of business there,

in respect of travel and other costs incurred by the owner or manager in connection with members of the ship's crew joining or leaving the ship outside the Falkland Islands or the South American mainland.

(2) If the Authority so determines, eligibility for assistance under this section must be conditional on the fulfilment of such conditions with respect to all or any of the following matters as are specified in the Authority's determination —

(a) the nationality of any person in relation to whom any such costs as are mentioned in subsection (1) are incurred;

(b) the ordinary residence of any such person;

(c) the place outside the Falkland Islands or the South American mainland where any such person joins or leaves the ship.

(3) Assistance under this section may be given by way of a grant or loan or otherwise; and in giving any such assistance the Governor may impose such conditions as the Governor thinks fit.

(4) For the purposes of this section, the crew of a ship is taken to include the master and other officers of the ship.

[Merchant Shipping Act 1995 (UK), s. 76]

Documentation

79. Official log books

(1) Except as provided by regulations under this section, an official log book in a form approved by the Governor must be kept in every ship registered in the Falkland Islands.

(2) The Governor may make regulations prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.

(3) The regulations may require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified in the logbooks.

(4) Regulations under this section may exempt ships of any description from any requirements of the regulations either generally or in such circumstances as may be specified in the regulations.

(5) Contravention of any provision of regulations made under this section is an offence punishable on conviction with a fine not exceeding level 2 on the scale set out in Schedule 7.

(6) If a person intentionally destroys or mutilates or renders illegible any entry in an official log book, the person is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK) s. 77]

80. Lists of crew

(1) Except as provided by regulations made under this section, the master of every Falkland Islands ship must make and maintain a list of the crew containing such particulars as may be required by the regulations.

(2) The Governor may make regulations —

(a) specifying the particulars to be entered in a list of the crew;

(b) limiting the time for which a list of the crew may remain in force;

(c) providing for the maintenance by such persons and either in such place as may be specified in the regulations or, if it is so specified, in the ship, of a copy or copies of each list of a crew, and for the notification to such persons of any changes therein;

(d) for the production of a list of the crew to such persons, in such circumstances and within such time as may be specified in the regulations; and

(e) for the delivery to a superintendent or proper officer or the Registrar General of Shipping, in such circumstances as may be specified in the regulations, of a list of the crew or a copy of such a list maintained under the regulations and for the notification to any named person of any changes in such a list.

(3) Regulations under this section may enable a list of the crew to be contained in the same document as a crew agreement and may treat any particulars entered in the crew agreement as forming part of the particulars entered in the list.

(4) Regulations under this section may exempt from the requirements thereof such descriptions of ship as may be specified in the regulations and may make different provisions for different circumstances.

(5) Contravention of any provision of regulations made under this section is an offence punishable on conviction with a fine not exceeding level 2 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 78]

81. Falkland Islands seafarers' cards

(1) The Governor may make regulations providing —

(a) for the issue of cards to Falkland Islands seafarers (in this section referred to as “Falkland Islands’ seafarers cards”) in such form and containing such particulars with respect to the holders and any other particulars (if any) as may be prescribed by the regulations, and for requiring Falkland Islands seafarers to apply for such cards;

(b) for requiring the holders of Falkland Islands seafarers’ cards to produce the cards to such persons and in such circumstances as may be prescribed by the regulations;

(c) for the surrender of Falkland Islands seafarers’ cards in such circumstances as may be prescribed by the regulations;

(d) for any incidental or supplementary matters for which the Governor thinks it expedient for the purposes of the regulations to provide.

(2) Any provision of the regulations having effect by virtue of paragraph (a) of subsection (1) may be so framed as to apply to all Falkland Islands seafarers or any description of them and as to have effect subject to any exemptions for which provision may be made by the regulations.

(3) Contravention of any provision of regulations made under this section is an offence punishable on conviction with a fine not exceeding level 2 on the scale set out in Schedule 7.

(4) If a person makes a statement which he or she knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining personally or for another person a Falkland Islands seafarers’ card, the person is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK) s. 79]

82. Discharge books

(1) The Governor may make regulations providing for —

(a) the issue of discharge books to —

(i) persons who are or have been employed in ships registered in the Falkland Islands; or

(ii) to persons who are or have been employed in other ships but are not aliens within the meaning of the British Nationality Act 1981;

(b) requiring the persons mentioned in paragraph (a) to apply for discharge books;

(c) the form of discharge books and the particulars (if any) that they are to contain with respect to their holders;

(d) requiring the holders of discharge books to produce them to such persons and in such circumstances as may be prescribed by the regulations;

(e) the surrender of discharge books in such circumstances as may be prescribed by the regulations; or

(f) any incidental or supplementary matters for which the Falkland Islands thinks it expedient for the purposes of the regulations to provide,

and any provision of the regulations having effect by virtue of paragraph (a), (b) or (c) may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provision may be made by the regulations.

(2) Regulations under this section may provide for —

(a) a person to cease to be entitled to a discharge book in consequence of a recommendation made by a disciplinary body by virtue of regulations made under section 61(3) or (4); and

(b) the re-issue of discharge books which have been surrendered in consequence of such a recommendation.

(3) Contravention of any provision of regulations made under this section is an offence punishable on conviction with a fine not exceeding level 2 on the scale set out in Schedule 7.

(4) A person who, in the Falkland Islands or elsewhere —

(a) obtains employment as a seafarer on board a ship registered in the Falkland Islands and does so when he or she is disentitled to a discharge book by virtue of regulations made under subsection (2)(a); or

(b) employs as such a seafarer a person who he or she knows or has reason to suspect is disentitled as aforesaid,

is liable on conviction to a fine not exceeding level 11 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years or a fine or both.

[Merchant Shipping Act 1995 (UK), s. 80]

83. Handing over of documents by master

(1) If a person ceases to be the master of a ship registered in the Falkland Islands during a voyage of the ship the person must deliver to his or her successor the documents relating to the ship or its crew which are in the person's custody.

(2) If, without reasonable excuse, the master of such a ship fails to comply with subsection (1), he or she is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 81]

PART 5 – SAFETY
Safety and health on ships

84. Safety and health on ships

(1) The Governor may by regulations (to be known as “safety regulations”) make such provision as the Governor considers appropriate for securing the safety of —

(a) ships registered in the Falkland Islands and persons on them, and for protecting the health of persons in the Falkland Islands; or

(b) other ships and persons on them while they are within Falkland Islands waters and for protecting the health of persons on ships other than ships registered in the Falkland Islands while they are within Falkland Islands waters.

(2) Except as provided by subsection (3), safety regulations do not apply in relation to —

(a) a qualifying foreign ship while it is exercising —

(i) the right of innocent passage; or

(ii) the right of transit passage through straits used for international navigation; or

(b) persons on a qualifying foreign ship while it is exercising any right specified under paragraph (a).

(3) Safety regulations apply in relation to a qualifying foreign ship, and persons on such a ship, even though the ship is exercising a right mentioned in subsection (2)(a), to the extent that the safety regulations give effect to any provisions of an international agreement extended to the Falkland Islands so far as it relates to the safety of ships or persons on them or to the protection of the health of persons on ships.

(4) In subsection (1) “ship registered in the Falkland Islands” includes a ship which is not registered in another country but is wholly owned by persons each of whom is —

(a) a person with Falkland Islands status; or

(b) a body corporate which is established under the law of the Falkland Islands and has its principal place of business in the Falkland Islands.

(5) Safety regulations may make provision with respect to any of the following matters, that is to say —

(a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;

- (b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;
- (c) the carrying out of any operation involving a ship;
- (d) the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
- (e) the manning of ships, including the employment on ships of persons qualified to attend to the health and safety of persons on the ships;
- (f) the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;
- (g) the access to, presence in and egress from a ship, and different parts of it, of persons of any description;
- (h) the ventilation, temperature and lighting of different parts of a ship;
- (i) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;
- (j) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;
- (k) the steps to be taken to prevent any collision involving a ship and in consequence of any collision involving a ship;
- (l) the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;
- (m) the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
- (n) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
- (o) the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation of the ship;
- (p) the keeping of registers and the issue of certificates in cases for which registration or a certificate is required by virtue of the regulations; and
- (q) the furnishing of information,

but the mention of specific matters in this subsection must not be construed as restricting the generality of the power conferred by paragraph (a) or (b) of subsection (1).

(6) The power to make regulations conferred by subsection (1) extends also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships and seaplanes and subsection (3)(k) and (5) and to subsection (7) and section 85(1) has effect accordingly.

(7) Safety regulations —

(a) may make provision in terms of approvals given by the Governor or another person and in terms of any document which the Governor or another person considers relevant from time to time;

(b) may provide for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such an approval; and

(c) must provide for any approval in pursuance of the regulations to be given in writing and to specify the date on which it takes effect and the conditions (if any) on which it is given.

(8) Without prejudice to section 85(1)(b), safety regulations may provide for —

(a) the granting by the Governor, on such terms (if any) as the Governor may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases; and

(b) the alteration or cancellation of exemptions granted in pursuance of the regulations.

(9) Safety regulations may provide that —

(a) in such cases as are prescribed by the regulations a ship is liable to be detained and that section 271 has effect, with such modifications (if any) as may be prescribed by the regulations, in relation to the ship;

(b) a contravention of the regulations is an offence punishable on conviction by a fine not exceeding level 7 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years and a fine;

(c) in such cases as are prescribed by the regulations, such persons as are so prescribed commit an offence created by virtue of paragraph (b) or (c);

[Merchant Shipping Act 1995 (UK), s. 85]

85. Provisions supplementary to section 84: general

(1) Safety regulations may —

- (a) make different provision for different circumstances and, in particular, make provision for an individual case;
- (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
- (c) be made so as to extend outside the Falkland Islands;
- (d) contain such incidental, supplemental and transitional provisions as the Governor considers appropriate;
- (e) make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with the regulations, for any expense or loss caused in consequence of the signal's being taken for a signal of distress,

and any compensation falling to be paid by virtue of regulations under paragraph (e) may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(2) Nothing in section 84(3) to (6) or subsection (1) is to be construed as prejudicing the generality of section 84(1).

(3) Before the Governor makes safety regulations or gives an approval in pursuance of safety regulations, it is the duty of the Governor before giving effect to the proposal, to consult such persons in the Falkland Islands (if any) as the Governor considers will be affected by the proposal.

[Merchant Shipping Act 1995 (UK), s. 86]

86. Provisions supplementary to section 84: dangerous goods

(1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship, whether or not the ship is registered in the Falkland Islands —

- (a) without being marked as required by safety regulations;
- (b) without such notice having been given as is required by safety regulations;
- (c) under a false description; or
- (d) with a false description of their sender or carrier,

the Supreme court (by virtue of its having Admiralty jurisdiction under section 256) may declare the goods, and any package or receptacle in which they are contained, to be forfeited.

(2) On a declaration of forfeiture being made, the goods must be forfeited and they must be disposed of as the Supreme court directs.

(3) Subject to subsection (4), the powers conferred on the Supreme court by subsections (1) and (2) are exercisable notwithstanding that the owner of the goods —

- (a) has not committed any offence under safety regulations relating to dangerous goods;
- (b) is not before the court; and
- (c) has no notice of the proceedings,

and notwithstanding that there is no evidence to show to whom the goods belong.

(4) Nevertheless, the court may, in their discretion, require such notice as they may direct to be given to the owner or shipper of the goods before they are forfeited.

(5) In this section “dangerous goods” means goods designated as dangerous goods by safety regulations.

[Merchant Shipping Act 1995 (UK), s. 87]

87. Safety of submersible and supporting apparatus

(1) This section applies to any submersible or supporting apparatus —

- (a) operated within Falkland Islands waters; or
- (b) launched or operated from, or comprising, a ship registered in the Falkland Islands.

(2) The Governor may make regulations for —

- (a) the safety of submersible and supporting apparatus;
- (b) the prevention of accidents in or near submersible or supporting apparatus;
- (c) the safety, health and welfare of persons on or in submersible and supporting apparatus;
- (d) prohibiting or otherwise restricting the operation of any submersible apparatus except in accordance with the conditions of a licence granted under the regulations;
- (e) the registration of submersible apparatus;
- (f) all matters relevant to the maintenance of a register of submersible apparatus;
- (g) the issue of certificates of registration or exemption, and the custody, surrender, production or display of the certificates or copies of the certificates;
- (h) the period for which any registration exemption remains effective without renewal;
- (i) the alteration or cancellation in any prescribed circumstances of registration or exemption or of any conditions attached to the registration or exemption;

(j) the person by whom and the manner in which applications in connection with any registration or exemption are to be made, and information and evidence to be furnished in connection with the applications;

(k) the marking or other means of identification of any submersible apparatus; and

(l) matters arising out of the termination of any registration or exemption, or any conditions attached to the termination of any registration or exemption.

(3) Subject to sub-section (2), regulations made under this section may provide for —

(a) the creation of offences;

(b) in respect of any description of offence created by the regulations, such defence (if any) as may be prescribed; and

(c) the contravention of the regulations to be an offence which is punishable on conviction by a fine not exceeding level 11 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years and a fine.

(4) The operation of any regulations made under this section may be excluded in whole or in part in relation to any class or description of submersible or supporting apparatus by regulations, or in relation to any particular apparatus by the direction of the Governor given in such manner as the Governor thinks appropriate.

(5) Any exemption or exclusion by regulations or by directions of the Governor under this paragraph may be made subject to the imposition of conditions specified by the regulation or direction.

(6) Where, in pursuance of this paragraph, a person is exempted or excluded from the requirements of the provisions of regulation made under this section but subject to a condition, and the condition is not observed, the exemption or exclusion will not have effect, and accordingly proceedings may be brought in respect of any offence created by the regulations.

(7) In this section —

“apparatus” includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment;

“specified” means specified in regulations made by the Governor for the purposes of this section;

“submersible apparatus” means any apparatus used, or designed for use, in supporting human life on or under the bed of any waters or elsewhere under the surface of any waters; and

“supporting apparatus” means any apparatus used, or designed for use, in connection with the operation of any submersible apparatus.

[Merchant Shipping Act 1995 (UK), s. 88]

Special provisions

88. Report of dangers to navigation

(1) Every person in charge of a controlled station for wireless telegraphy must, on receiving the signal prescribed under safety regulations relating to dangers to navigation, which indicates that a message is about to be sent under those regulations, —

(a) refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by the Governor; and

(b) transmit the message in such manner as may be required by the Governor.

(2) Compliance with subsection (1) is deemed to be a condition of every wireless telegraphy licence.

(3) In this section —

“controlled station for wireless telegraphy” means a station for wireless telegraphy as defined in the Wireless Telegraphy Ordinance 1994; and

“wireless telegraphy licence” has the same meaning as in the Wireless Telegraphy Ordinance 1994.

[Merchant Shipping Act 1995 (UK), s. 91]

Assistance at sea

89. Duty of ship to assist the other in case of collision

(1) In the case of a collision between two ships, it is the duty of the master of each ship, if and so far as the master can do so without danger to the ship under the master’s control, its crew and passengers (if any) —

(a) to render to the other ship, its master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until the master has ascertained that it has no need of further assistance; and

(b) to give to the master of the other ship the name of the ship under his control and also the names of the ports from which it comes and to which it is bound.

(2) The duties imposed on the master of a ship by subsection (1) apply to the masters of ships registered in the Falkland Islands and to the masters of foreign ships when in Falkland Islands waters.

(3) The failure of the master of a ship to comply with the provisions of this section does not raise any presumption of law that the collision was caused by the master's wrongful act, neglect, or default.

(4) A master who fails without reasonable excuse to comply with —

(a) subsection (1)(a), is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7 or imprisonment for a term not exceeding six months, or both;

(b) subsection (1)(b), is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7,

and in either case if the master is a certified officer, an inquiry into his or her conduct may be held, and his or her certificate cancelled or suspended.

[Merchant Shipping Act 1995 (UK), s. 92]

90. Duty to assist aircraft in distress

(1) The master of a ship, on receiving at sea, a signal of distress from an aircraft or information from any source that an aircraft is in distress, must proceed with all speed to the assistance of the persons in distress (informing them if possible that he or she is doing so) unless the master is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless the master is released from this duty under subsection (4) or (5).

(2) The duties imposed on the master of a ship by subsection (1) apply to the masters of ships registered in the Falkland Islands and to the masters of foreign ships when in Falkland Islands waters.

(3) A master is released from the duty imposed by subsection (1) if the master is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(4) A master who fails to comply with this section is liable on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 7 on the scale set out in Schedule 7, or both.

(5) Compliance by the master of a ship with the provisions of this section does not affect the master's right, or the right of any other person, to salvage.

[Merchant Shipping Act 1995 (UK), s. 93]

Unsafe ships

91. Meaning of “dangerously unsafe ship”

(1) For the purposes of sections 92, 93, 94 and 95 a ship in port is “dangerously unsafe” if, having regard to the nature of the service for which it is intended, the ship is, by reason of the matters mentioned in subsection (2), unfit to go to sea without serious danger to human life.

(2) For the purposes of subsection (1) a ship at sea is “dangerously unsafe” if, having regard to the nature of the service for which it is being used or is intended, the ship is, by reason of the matters mentioned in subsection (3), either —

(a) unfit to remain at sea without serious danger to human life; or

(b) unfit to go on a voyage without serious danger to human life.

(3) Those matters are —

(a) the condition, or the unsuitability for its purpose, of —

(i) the ship or its machinery or equipment; or

(ii) any part of the ship or its machinery or equipment;

(b) undermanning;

(c) overloading or unsafe or improper loading;

(d) any other matter relevant to the safety of the ship,

and are referred to in the sections referred to in subsection (1), in relation to any ship, as “the matters relevant to its safety”.

(4) Any reference in the sections referred to in subsection (1) to “going to sea” must, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

[Merchant Shipping Act 1995 (UK), s. 94]

92. Power to detain dangerously unsafe ship

(1) Where a ship which is —

(a) in a port in the Falkland Islands; or

(b) at sea in Falkland Islands waters,

appears to a relevant inspector to be a dangerously unsafe ship, the ship may be detained.

(2) Subject to subsection (3), the power of detention conferred by subsection (1) is exercisable in relation to foreign ships as well as ships registered in the Falkland Islands.

(3) The power of detention conferred by subsection (1)(b) is not exercisable in relation to a qualifying foreign ship while the ship is exercising —

(a) the right of innocent passage; or

(b) the right of transit passage through straits used for international navigation.

(4) The officer detaining the ship must serve on the master of the ship a detention notice which must —

(a) state that the relevant inspector is of the opinion that the ship is a dangerously unsafe ship;

(b) specify the matters which, in the relevant inspector's opinion, make the ship a dangerously unsafe ship; and

(c) require the ship to comply with the terms of the notice until it is released by a competent authority.

(5) In the case of a foreign ship (which is not a British ship) the officer detaining the ship must cause a copy of the detention notice to be sent as soon as practicable to the nearest consular officer for the country to which the ship belongs.

(6) In this section "relevant inspector" means any person mentioned in section 238.

[Merchant Shipping Act 1995 (UK), s. 95]

93. References of detention notices to arbitration

(1) Any question as to whether any of the matters specified in relation to a ship in a detention notice in pursuance of section 92(4)(b) in connection with any opinion formed by the relevant inspector constituted a valid basis for that opinion must, if the master or owner of the ship so requires, by a notice given to the relevant inspector within 21 days from the service of the detention notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by the relevant inspector.

(2) Where a notice is given by the master or owner of the ship in accordance with subsection (1), the giving of the notice will not suspend the operation of the detention notice unless, on the application of the person requiring the reference, the arbitrator so directs.

(3) The arbitrator must have regard, in coming to a decision, to any other matters not specified in the detention notice which appear to him or her to be relevant to whether the ship was or was not a dangerously unsafe ship.

(4) Where on a reference under this section the arbitrator decides, as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion, the arbitrator must either cancel the detention notice or affirm it with such modifications as the arbitrator in the circumstances thinks fit; and in any other case the arbitrator must affirm the notice in its original form.

(5) The arbitrator must include in his or her decision a finding whether there was or was not a valid basis for the detention of the ship as a dangerously unsafe ship.

(6) A person is not qualified for appointment as an arbitrator under this section unless the person—

(a) holds a certificate of competency as a master mariner or as a marine engineer officer class 1 (issued by the appropriate authority in, and in accordance with the relevant laws of the United Kingdom), or a person holding a certificate equivalent to any such certificate;

(b) is a naval architect in accordance with the relevant laws of the United Kingdom;

(c) falls within subsection (7); or

(d) has special experience of shipping matters, of the fishing industry, or of activities carried on in ports.

(7) For the purposes of subsection (6)(c) a person falls within this subsection if —

(a) the person has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); or

(b) the person is a legal practitioner (within the meaning of section 2 of the Legal Practitioners Ordinance 1988) with special experience of shipping matters, of the fishing industry, or of activities carried on in harbours and ports.

(8) In connection with his or her functions under this section an arbitrator has the powers conferred on an inspector by section 240.

(9) In this section —

“competent authority” means any officer mentioned in section 270(1); and

“relevant inspector” has the same meaning as in section 238.

[Merchant Shipping Act 1995 (UK), s. 96]

94. Compensation in connection with invalid detention of ship

(1) If on a reference under section 93 relating to a detention notice in relation to a ship —

(a) the arbitrator decides that any matter did not constitute a valid basis for the relevant inspector’s opinion; and

(b) it appears to the arbitrator that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may award the owner of the ship such compensation, as the arbitrator thinks fit, in respect of any loss suffered by the owner of the ship in consequence of the detention of the ship.

(2) Any compensation awarded under this section is payable out of the Consolidated Fund.

(3) In this section “relevant inspector” has the same meaning as in section 92.
[Merchant Shipping Act 1995 (UK), s. 97]

95. Owner and master liable in respect of dangerously unsafe ship

(1) If a ship which —

(a) is in a port in the Falkland Islands; or

(b) is registered in the Falkland Islands and is in any other port,

is dangerously unsafe, then, subject to subsections (4) and (5), the master and the owner of the ship each commits an offence.

(2) Where, at the time when a ship is dangerously unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either —

(a) directly, under the terms of a charter-party or management agreement made with the owner; or

(b) indirectly, under the terms of a series of charter-parties or management agreements, the reference to the owner in subsection (1) must be construed as a reference to that other person or (as the case may be) to each of those other persons.

(3) A person convicted of an offence under this section is liable on conviction, to a fine not exceeding level 10 on the scale set out in Schedule 7.

(4) It is a defence in proceedings for an offence under this section to prove that at the time of the alleged offence —

(a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge; or

(b) it was reasonable for such arrangements not to have been made.

(5) It is also a defence in proceedings for an offence under this section to prove —

(a) that, under the terms of one or more charter-parties or management agreements entered into by the accused, the relevant responsibilities, namely —

(i) where the accused is the owner, his or her responsibilities with respect to the matters relevant to the ship’s safety; or

(ii) where the accused is liable to proceedings under this section by virtue of subsection (2), so much of those responsibilities as had been assumed by the accused as mentioned in that subsection,

had at the time of the alleged offence been wholly assumed by some other person or persons party to the charter or the agreement; and

(b) that in all the circumstances of the case the accused had taken such steps as it was reasonable for him or her to take, and exercised such diligence as it was reasonable for him or her to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a),

and, in determining whether the accused had done so, regard must be had in particular to the matters mentioned in subsection (6).

(6) Those matters are —

(a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and

(b) the extent to which the accused was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subsection (5)(a) —

(i) to terminate it; or

(ii) to intervene in the management of the ship,

in the event of any such deficiency, and whether it was reasonable for the accused to place himself or herself in that position.

(7) In this section —

“management agreement”, in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person); and

“relevant responsibilities” must be construed in accordance with subsection (5).

(8) References in this section to responsibilities being assumed by a person under the terms of a charter-party or management agreement are references to their being so assumed by the person whether or not the person has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

[Merchant Shipping Act 1995 (UK), s. 98]

96. Use of unsafe lighters, etc.

(1) If any person uses or causes or permits to be used in navigation any lighter, barge or like vessel when, because of —

- (a) the defective condition of its hull or equipment;
- (b) overloading or improper loading; or
- (c) undermanning,

it is so unsafe that human life is endangered, the person is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

(2) This section does not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

[Merchant Shipping Act 1995 (UK), s. 99]

97. Owner liable for unsafe operation of ship

(1) It is the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.

(2) This section applies to any ship —

- (a) registered in the Falkland Islands; and
- (b) which —
 - (i) is registered under the law of any country outside the Falkland Islands; and
 - (ii) is within Falkland Islands waters while proceeding to or from a port in the Falkland Islands,

unless the ship is not able to proceed as a result of weather conditions or any other unavoidable circumstances.

(3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him or her by subsection (1), he or she is liable on conviction, to a fine not exceeding level 10 on the scale set out in Schedule 7.

(4) Where any such ship —

- (a) is chartered by demise; or
- (b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 95,

any reference to the owner of the ship in subsection (1) or (3) must be construed as including a reference —

- (i) to the charterer under the charter by demise;
- (ii) to any such manager as is referred to in paragraph (b); or
- (iii) to both the charterer and any such manager if the ship is both chartered and managed as mentioned,

and accordingly the reference in subsection (1) to the taking of all reasonable steps must, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him or her to take in the circumstances of the case.

[Merchant Shipping Act 1995 (UK), s. 100]

Temporary exclusion zones

98. Power to establish temporary exclusion zones

(1) Subsection (2) applies where a ship, structure or other thing —

- (a) is in Falkland Islands waters or a part of the sea specified in an Order in Council made under section 129(2)(b) of the Act; and
- (b) is wrecked, damaged or in distress.

(2) If it appears to the Governor —

- (a) that significant harm will or may occur as a direct or indirect result of the relevant casualty being wrecked, damaged or in distress; and
- (b) that if access to an area around the relevant casualty were restricted in accordance with section 99, significant harm, or the risk of such harm, would be prevented or reduced,

the Governor may by order identify an area to which access is so restricted (“a temporary exclusion zone”).

(3) In this section —

- (a) “significant harm” means —
 - (i) significant pollution in the Falkland Islands, in Falkland Islands waters or in a part of the sea specified in an Order in Council made under section 129(2)(b) of the Act; or
 - (ii) significant damage to persons or property; and
- (b) in section 99 “the relevant casualty” means that ship, structure or other thing.

(4) A temporary exclusion zone may not include any area which is neither within Falkland Islands waters nor within a part of the sea specified in an Order in Council made under section 129(2)(b) of the Act.

(5) If it appears to the Governor at any time after a temporary exclusion zone is established that the zone is larger than is needed for the purpose of preventing or reducing significant harm, or the risk of such harm, the Governor must through an order vary the order establishing the zone accordingly.

(6) Subject to subsections (4) and (5), a temporary exclusion zone may be identified by reference to the position of the relevant casualty from time to time.

(7) If it appears to the Governor at any time after a temporary exclusion zone is established that the zone is not needed for the purpose of preventing or reducing significant harm, or the risk of such harm, the Governor must through another order revoke the order establishing the zone.

(8) Where the Governor makes an order under this section, the Governor must —

(a) as soon as practicable, publish it in such manner as he or she considers appropriate for bringing it to the attention of persons likely to be affected by it; and

(b) within the period of 24 hours from making the order, send a copy of it to the International Maritime Organization.

(9) This section applies alongside an order made under section 4 of the Protection of Wrecks Ordinance 1977 which designates an area around a vessel as a prohibited area.

[Merchant Shipping Act 1995 (UK), s. 100A]

99. Temporary exclusion zones: offences

(1) If an order establishing a temporary exclusion zone contains a statement of a description mentioned in subsection (2), then, subject to subsection (4), no ship is permitted to enter or remain in the zone.

(2) The statement referred to under subsection (1) is one to the effect that the direction is given for the purpose of preventing or reducing significant pollution, or the risk of significant pollution, in the Falkland Islands, in Falkland Islands waters or in a part of the sea specified by virtue of section 129(2)(b) of the Act.

(3) If an order establishing a temporary exclusion zone does not contain a statement of a description mentioned in subsection (2), then, subject to subsections (4) and (5) —

(a) no ship is permitted to enter or remain in any part of the zone that is in Falkland Islands waters; and

(b) no ship registered in the Falkland Islands is permitted to enter or remain in any part of the zone that is in a part of the sea specified by virtue of section 129(2)(b) of the Act.

(4) A ship may enter or remain in a temporary exclusion zone or a part of such a zone if it does so —

(a) in accordance with the order establishing the zone;

(b) with the consent of the Governor; or

(c) in accordance with regulations made by the Governor for the purposes of this section.

(5) A qualifying foreign ship may enter a temporary exclusion zone or a part of the zone if in doing so it is exercising the right of transit passage through straits used for international navigation.

(6) If a ship enters or remains in a temporary exclusion zone or a part of such a zone in contravention of subsection (1) or (3) then, subject to subsection (7), its owner and its master each commits an offence and is liable on conviction, to a fine not exceeding level 11 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years, or to both.

(7) It is a defence for a person charged with an offence under this section to prove that the existence or area of the temporary exclusion zone was not, and would not on reasonable enquiry have become, known to the master or the owner.

[Merchant Shipping Act 1995 (UK), s. 100B]

Power to require ships to be moved

100. Power to require ships to be moved

(1) The powers conferred by this section are exercisable where a ship in Falkland Islands waters—

(a) is not a qualifying foreign ship; or

(b) is a qualifying foreign ship but appears to the Governor to be exercising neither of the following rights —

(i) the right of innocent passage; and

(ii) the right of transit passage through straits used for international navigation.

(2) Subject to subsection (3), the Governor may, for any one or more of the purposes specified in subsection (4), give directions to any of the persons specified in subsection (5) requiring —

(a) that the ship is to be moved, or is to be removed from a specified area or locality or from Falkland Islands waters; or

(b) that the ship is not to be moved to a specified place or area within Falkland Islands waters, or over a specified route within Falkland Islands waters.

(3) The power of the Governor under subsection (2)(a) to require a ship to be removed from Falkland Islands waters is not exercisable in relation to a ship registered in the Falkland Islands.

(4) The purposes referred to in subsection (2) are —

(a) the purpose of securing the safety of the ship or of other ships, of persons on the ship or other ships, or of any other persons or property, or of preventing or reducing any risk to such safety; and

(b) the purpose of preventing or reducing pollution in the Falkland Islands, in Falkland Islands waters or in a part of the sea specified by virtue of section 129(2)(b) of the Act, or of preventing or reducing any risk of such pollution.

(5) The persons referred to in subsection (2) are —

(a) the owner of the ship or any person in possession of the ship; or

(b) the master of the ship.

(6) If in the opinion of the Governor the powers conferred by subsection (2) are, or have proved to be, inadequate for any of the purposes specified in subsection (4), the Governor may for that purpose take any such action as he or she has power to require to be taken by a direction under this section.

(7) The powers of the Governor under subsection (6) are also exercisable by such persons as may be authorised for the purpose by the Governor.

(8) Every person concerned with compliance with directions given, or with action taken, under this section must use his or her best endeavours to avoid any risk to human life.

(9) Any action taken as respects a ship which is under arrest or as respects the cargo of the ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under subsection (6) or (7) —

(a) does not constitute contempt of court; and

(b) does not in any circumstances make the Admiralty Marshal liable in any civil proceedings.

(10) In this section unless a contrary intention appears, “specified” in relation to a direction under this section, means specified by the direction.

[Merchant Shipping Act 1995 (UK), s. 100C]

101. Offences in relation to section 100

(1) If the person to whom a direction is given under section 101 contravenes, or fails to comply with, any requirement of the direction, he or she commits an offence.

- (2) If a person intentionally obstructs any person who is —
- (a) acting on behalf of the Governor in connection with the giving or service of a direction under section 100;
 - (b) acting in compliance with a direction under that section; or
 - (c) acting under section 100(6) or (7),

he or she commits an offence.

(3) In proceedings for an offence under subsection (1), it is a defence for the accused to prove that he or she has used all due diligence to ensure compliance with the direction, or that he or she had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

(4) A person convicted of an offence under this section is liable on conviction, to a fine not exceeding level 10 on the scale set out in Schedule 7;
[Merchant Shipping Act 1995 (UK), s. 100D]

102. Service of directions under section 100

(1) If the Governor is satisfied that a company or other body is not one to which section 437 of the Companies Act 1948 or section 5 of the Company Law and Partnership Ordinance applies so as to authorise the service of a direction on that body under either of those sections, the Governor may give a direction under section 100 to that body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship.

(2) For the purpose of giving or serving a direction under section 101 to or on any person on a ship, a person acting on behalf of the Governor has the right to go on board the ship.
[Merchant Shipping Act 1995 (UK), s. 100E]

103. Requirements to be met by ships in respect of which trans-shipment licences in force

(1) In this section and section 104 “trans-shipment licence” has the same meaning as in the Fisheries (Conservation and Management) Ordinance (No. 14 of 2005).

(2) The Governor may, —

- (a) for all or any of the purposes specified in subsection (3); and
- (b) on being advised by the Director of Fisheries in exercise of that Director’s powers under section 46(4) of the Fisheries (Conservation and Management) Ordinance,

by regulations prescribe requirements to be met by ships in respect of which trans-shipment licences are in force.

(3) The purposes referred to under subsection (2) are —

- (a) securing the safety of ships in respect of which trans-shipment licences are in force and persons on them;
- (b) protecting the health of persons on such ships;
- (c) securing the safety of any other persons or property;
- (d) preventing or reducing pollution; and
- (e) securing employment and providing for the terms and conditions of employment of Falkland Islands status holders in the provision of trans-shipment services.

(4) The matters with respect to which requirements may be prescribed under subsection (2) include, in particular, the construction and equipment of ships, the manning of ships, and operational matters.

(5) Without prejudice to the generality of subsection (2), regulations under that subsection may apply, in relation to a ship in respect of which a trans-shipment licence is in force, any requirements contained in —

- (a) safety regulations;
- (b) regulations under section 133; or
- (c) any international agreement,

whether or not those requirements would otherwise apply in relation to that ship.

[Merchant Shipping Act 1995 (UK), s. 100F]

104. Failure to comply with prescribed standards in respect of ship in respect of which trans-shipment licence is in force

(1) If it appears to the Governor that any requirement of regulations under section 103(2) or regulations under section 202 is being contravened in respect of a ship in respect of which a trans-shipment licence is in force, he or she may serve on the master a notice under subsection (2).

(2) A notice under this subsection must specify the contravention by reason of which it is given and must prohibit —

- (a) the receiving by the ship of fish trans-shipped from another ship;
- (b) the processing of fish on the ship; or
- (c) both such receiving and such processing.

(3) The Governor must revoke a notice under subsection (2) if the Governor is satisfied that the contravention specified in it has been remedied.

(4) If a trans-shipment licence ceases to be in force in respect of a ship to which a notice under subsection (2) relates, the notice is revoked by virtue of this subsection.

(5) If without reasonable excuse the master of a ship causes or permits any prohibition imposed by a notice under subsection (2) to be contravened in respect of the ship, he or she is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

(6) The obligation imposed by regulations under section 103(2) is not enforceable except in accordance with this section, but this subsection does not limit the powers conferred by section 239.

[Merchant Shipping Act 1995 (UK), s. 100G]

Control of, and returns as to, persons on ships

105. Offences in connection with passenger ships

(1) A person commits an offence if, in relation to a ship to which this section applies, the person does any of the following things, that is to say, if —

(a) being drunk or disorderly, the person has been on that account refused admission to the ship by the owner or any person in his or her employment, and, after having the amount of his or her fare (if the person has paid it) returned or tendered to him or her, nevertheless persists in attempting to enter the ship;

(b) being drunk or disorderly on board the ship, the person is requested by the owner or any person in the owner's employment to leave the ship at any place in the Falkland Islands at which the person can conveniently do so, and, after having the amount of his or her fare (if the person has paid it) returned or tendered to him or her, does not comply with the request;

(c) on board the ship, after warning by the master or other officer in the ship, he or she molests or continues to molest any passenger;

(d) after having been refused admission to the ship by the owner or any person in his or her employment on account of the ship being full, and having had the amount of his or her fare (if the person has paid it) returned or tendered to him or her, the person nevertheless persists in attempting to enter the ship;

(e) having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his or her employment to leave the ship before it has left that place, and having had the amount of his or her fare (if the person has paid it) returned or tendered to him or her, the person does not comply with that request;

(f) on arriving in the ship at a point to which the person has paid his or her fare, the person knowingly and intentionally refuses or neglects to leave the ship; or

(g) on board the ship the person fails, when requested by the master or other officer in the ship, either to pay his or her fare or show such ticket or other receipt, if any, showing the payment of his or her fare, as is usually given to persons travelling by and paying their fare for the ship,

but the person's liability in respect of any such offence does not prejudice the recovery of any fare payable by him or her.

(2) A person commits an offence if, on board any ship to which this section applies he or she intentionally does or causes to be done anything in such a manner as to —

(a) obstruct or damage any part of the machinery or equipment of the ship, or

(b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.

(3) The master or other officer of any ship to which this section applies, and all persons called by the master or other officer to his or her assistance, may, without any warrant, detain any person who commits any offence against subsection (1) or (2) and whose name and address are unknown to the master or officer, and deliver that person to a constable.

(4) A person convicted of an offence against subsection (1) or (2) is liable, on conviction, to a fine not exceeding level 2 on the scale set out in Schedule 7.

(5) If any person commits an offence against subsection (1) or (2) and on the application of the master of the ship, or any other person in the employment of the owner of the ship, refuses to give his or her name and address, or gives a false name or address, that person is liable, on conviction, to a fine not exceeding level 2 on the scale set out in Schedule 7.

(6) This section applies to a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by safety regulations.
[Merchant Shipping Act 1995 (UK), s. 101]

106. Power to exclude drunken passengers from certain passenger ships

(1) The master of any ship to which this section applies may refuse to receive on board any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself or herself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him or her on shore at any convenient place.

(2) A person so refused admittance or put on shore is not entitled to the return of any fare he or she has paid.

(3) This section applies to a ship (whether or not a ship registered in the Falkland Islands) carrying more than 12 passengers and employed in carrying passengers between places for the time being defined in regulations made under section 50 by the Governor.

[Merchant Shipping Act 1995 (UK), s. 102]

107. Stowaways

(1) If a person, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a ship registered in the Falkland Islands, he or she is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

(2) Nothing in section 267 is to be taken to limit the jurisdiction of any court in the Falkland Islands to deal with an offence under this section which has been committed in a country outside the Falkland Islands by a person who is not from the Falkland Islands.

[Merchant Shipping Act 1995 (UK), s. 103]

108. Unauthorised presence on board ship

Where a ship registered in the Falkland Islands or in any other country is in a port in the Falkland Islands and a person who is neither in Her Majesty's service nor authorised by law to do so —

(a) goes on board the ship without the consent of the master or of any other person authorised to give it; or

(b) remains on board the ship after being requested to leave by the master, a police officer, an officer authorised by the Governor or a customs officer,

he or she is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 104]

109. Master's power of arrest

The master of any ship registered in the Falkland Islands may cause any person on board the ship to be put under restraint if and for so long as it appears to the master necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

[Merchant Shipping Act 1995 (UK), s. 105]

110. Unauthorised persons: offences relating to safety

(1) Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of section 75(5)(b), sections 61 and 62 apply as if the person were a seafarer employed in the ship.

(2) Subsection (1), in its application to section 61 so far as that section applies to ships which are not sea-going ships, has effect —

(a) with the omission of the words “goes to sea in a ship”; and

(b) with the insertion, after the words “to give it”, of the words “ is on board a ship while it is on a voyage or excursion ”.

(3) This section does not apply to fishing vessels.

[Merchant Shipping Act 1995 (UK), s. 106]

111. Return to be furnished by masters of ships as to passengers

(1) The master of every ship, whether or not the ship is registered in the Falkland Islands, which carries any passenger to a place in the Falkland Islands from any place out of the Falkland Islands, or from any place in the Falkland Islands to any place out of the Falkland Islands, must furnish to such person and in such manner as the Governor directs a return —

(a) giving the total number of any passengers so carried;

(b) distinguishing, if so directed by the Governor, the total number of any class of passengers so carried; and

(c) giving, if the Governor so directs, such particulars with respect to passengers as may be for the time being required by the Governor.

(2) A passenger must furnish the master of the ship with any information required by the master for the purpose of the return.

(3) If —

(a) the master of a ship fails to make a return as required by this section, or makes a false return; or

(b) any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which he or she knows to be false or recklessly gives to the master information which is false,

the master or (as the case may be) passenger is liable on conviction to a fine not exceeding level 2 on the scale set out in Schedule 7 in the case of a failure or refusal and level 3 on the scale set out in Schedule 7 in the case of a false return or false information.

[Merchant Shipping Act 1995 (UK), s. 107]

112. Returns of births and deaths in ships, etc.

(1) The Governor may make regulations under the following provisions of this section in relation to births and deaths in the circumstances specified in those provisions.

(2) Regulations under this section may require the master of any ship registered in the Falkland Islands to make a return to a superintendent or proper officer of —

(a) the birth or death of any person occurring in the ship; and

(b) the death of any person employed in the ship, wherever occurring outside the Falkland Islands,

and to notify any such death to such person (if any) as the deceased may have named to the superintendent or proper officer as the deceased's next of kin.

(3) Regulations under this section may require the master of any ship not registered in the Falkland Islands which calls at a port in the Falkland Islands in the course of or at the end of a voyage to make a return to a marine superintendent of any birth or death of a British citizen, a British Overseas Territories citizen or a British Overseas citizen which has occurred in the ship during the voyage.

(4) The returns referred to in subsections (2) and (3) must be transmitted to the Registrar General of Shipping.

(5) Regulations under this section may require the Registrar General of Shipping to record information as may be specified in the regulations about a death referred to in subsection (2) in a case where —

(a) it appears to the Registrar General of Shipping that the master of the ship cannot perform his or her duty under that subsection because the master has died or is incapacitated or missing; and

(b) any of the circumstances specified in subsection (6) exists.

(6) Those circumstances are that —

(a) the death in question has been the subject of —

(i) an inquest held by a coroner; or

(ii) an inquiry held in pursuance of section 253;

and the findings of the inquest or inquiry include a finding that the death occurred; or

(b) the deceased's body has been the subject of a post-mortem examination in the Falkland Islands and in consequence the coroner is satisfied that an inquest is unnecessary.

(7) Regulations under this section may require the Registrar General of Shipping to send a certified copy of any return or record to the Registrar General.

(8) The Registrar General, on receipt of certified copies referred to under subsection (7) —

(a) must record the information contained in the copies in the marine register; and

(b) may record in the marine register, any additional information as appears to him or her desirable for the purpose of ensuring the completeness and correctness of the register,

and the Registration Ordinance 1949 has effect as if the marine register is a register of births (other than stillbirths) or deaths or certified copies of entries in such a register has been transmitted to the Registrar General in accordance with the Registration Ordinance .

(9) Contravention of any provisions of regulations made under this section is an offence punishable on conviction with a fine not exceeding level 2 on the scale set out in Schedule 7.

(10) Regulations under this section may contain provisions authorising the registration of the following births and deaths occurring outside the Falkland Islands in circumstances where no return is required to be made under subsections (1) to (9) of this section —

(a) any birth or death of a British citizen, a British Overseas Territories citizen or a British Overseas citizen which occurs in a ship not registered in the Falkland Islands;

(b) any death of any such citizen who has been employed in a ship not registered in the Falkland Islands which occurs elsewhere than in the ship; and

(c) any death of a person who has been employed in a ship registered in the Falkland Islands which occurs elsewhere than in the ship.

(11) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

[Merchant Shipping Act 1995 (UK), s. 108]

PART 6 – FISHING VESSELS

Chapter I: Skipper and Seafarers

Engagement and discharge of crews

113. Regulations relating to crew agreements

(1) The Governor may make regulations —

(a) prescribing the procedure to be followed in connection with the making of crew agreements between persons employed in fishing vessels registered in the Falkland Islands and persons employing them; and

(b) prescribing the places where such crew agreements are to be made or where an agreement with any person may be added to those contained in such a crew agreement.

(2) Contravention of any provision of regulations made under this section is an offence punishable on conviction with a fine not exceeding level 3 on the scale set out in Schedule 7 or such less amount as may be specified in the regulations.

[Merchant Shipping Act 1995 [UK], s. 109]

Wages

114. Payments of seafarers' wages

Except as provided for under Part 4 or any other enactment, the wages due to a seafarer under a crew agreement relating to a fishing vessel registered in the Falkland Islands must be paid to the seafarer in full.

[Merchant Shipping Act 1995 (UK), s. 110]

115. Regulations relating to wages: deductions

The power to make regulations conferred by section 35 includes power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment in a fishing vessel is to be determined by a body established or approved by the Governor in pursuance of regulations made under section 63.

[Merchant Shipping Act 1995 (UK), s. 111]

116. Accounts of wages and catch

(1) Subject to regulations made under section 35 or 83, the persons employing any seafarer under a crew agreement relating to a fishing vessel registered in the Falkland Islands must deliver to the seafarer at a time prescribed by regulations made under this section an account of the wages due to the seafarer under that crew agreement and of the deductions subject to which the wages are payable.

(2) Where the wages of any person employed in a fishing vessel registered in the Falkland Islands are in any manner related to the catch, the persons employing the seafarer must —

(a) deliver to the master an account (or, if the master is the person employing him or her, make out an account) showing how those wages (or any part of the wages related to the catch) are arrived at; and

(b) make the account available to the crew in such manner as may be prescribed by the regulations,

at a time prescribed by regulations made under this section.

(3) Where there is a partnership between the master and any members of the crew of a fishing vessel registered in the Falkland Islands the owner of the vessel must at a time prescribed by regulations made under this section make out an account showing the sums due to each partner in respect of his or her share and must make the account available to the partners.

(4) The Governor may make regulations prescribing the time at which any account required by this section is to be delivered or made out and the manner in which the account required by subsections (2) and (3) is to be made available.

(5) If a person fails without reasonable excuse to comply with this section, the person is liable on conviction to a fine not exceeding level 2 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 112]

117. Restriction on assignment of and charge upon wages

Nothing in section 37 affects the operation of any written law of the Falkland Islands providing for the attachment of earnings in relation to wages due to a person employed in a fishing vessel.

[Merchant Shipping Act 1995 (UK), s. 113]

118. Right, or loss of right, to wages in certain circumstances

Section 41 does not apply to so much of the wages of a seafarer employed in a fishing vessel as is in any manner related to the catch.

[Merchant Shipping Act 1995 (UK), s. 114]

Safety, health and welfare

119. Hours of work

(1) The Governor may make regulations prescribing maximum periods of duty and minimum periods of rest for seafarers employed in fishing vessels registered in the Falkland Islands, and the regulations may make different provision for different descriptions of fishing vessels or seafarers employed in them or for fishing vessels and seafarers of the same description in different circumstances.

(2) If any provision of regulations made under this section is contravened in the case of any seafarer employed in a fishing vessel the persons employing the seafarer and the master are each liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7.

(Merchant Shipping Act 1995 (UK), s. 115)

Manning and qualifications

120. Production of crew certificates and other documents of qualification

(1) Any person serving or engaged to serve in a fishing vessel registered in the Falkland Islands who holds any certificate or other document which is evidence that the person is qualified for the purposes of section 50 must on demand, produce it to a fishery officer.

(2) If the person fails without reasonable excuse to produce any certificate or other document required under subsection (1), he or she is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

(3) In this section “fishery officer” has the same meaning as under sections 2 and 4 of the Fisheries (Conservation and Management) Ordinance (No. 14 of 2005).

[Merchant Shipping Act 1995 (UK), s. 116]

Offences by seafarers

121. Drunkenness on duty

(1) Subject to subsection (2) if the skipper of or a seafarer employed or engaged in a fishing vessel registered in the Falkland Islands is, while on board the vessel, under the influence of drink or a drug to such an extent that his or her capacity to fulfil his or her responsibility for the vessel or, as the case may be, carry out the duties of his or her employment or engagement is impaired, he or she is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

(2) In proceedings for an offence under this section it is a defence to prove that at the time of the act or omission alleged against the accused he or she was under the influence of a drug taken by

the accused for medical purposes and either that the accused took it on medical advice and complied with any directions given as part of that advice or that the accused had no reason to believe that the drug might have the influence it had.

[Merchant Shipping Act 1995 (UK), s. 117]

122. Unauthorised liquor

(1) A person who, in the Falkland Islands or elsewhere —

- (a) takes any unauthorised liquor on board a fishing vessel registered in the Falkland Islands;
- (b) has any unauthorised liquor in his or her possession on board such a vessel;
- (c) permits another person to take on board such a vessel, or to have in his or her possession on board such a vessel, any unauthorised liquor; or
- (d) intentionally obstructs another person in the exercise of powers conferred on the other person by subsection (5),

commits an offence, subject to subsections (3) and (4).

(2) A person convicted of an offence under subsection (1) is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

(3) It is a defence in proceedings for an offence under subsection (1)(a) or (b) to prove that the accused —

- (a) believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he or she had reasonable grounds for the belief; or
- (b) did not know that the liquor in question was in his or her possession.

(4) It is a defence in proceedings for an offence under subsection (1)(c) to prove that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he or she had reasonable grounds for the belief.

(5) If an authorised person has reason to believe that an offence under subsection (1)(a) or (b) has been committed by another person in connection with a fishing vessel, the authorised person—

- (a) may go on board the vessel and search it and any property on it and may, if the other person is on board the vessel, search him or her in an authorised manner; and
- (b) may take possession of any liquor which he or she finds on the vessel and has reason to believe is unauthorised liquor and may detain the liquor for the period needed to ensure that the liquor is available as evidence in proceedings for the offence.

(6) In this section —

“an authorised manner” means a manner authorised by regulations made by the Governor;

“authorised person”, in relation to a vessel, means —

- (a) a superintendent;
- (b) a proper officer;
- (c) a person appointed in pursuance of section 240(1)(c);
- (d) the master of the vessel in question;
- (e) the owner of the vessel in question; or
- (f) a person instructed by the master or owner to discharge the functions under subsection (5) and prevent the commission of offences under subsection (1) in relation to the vessel;

“liquor” means spirits, wine, beer, cider, perry and any other fermented, distilled or spirituous liquor; and

“unauthorised liquor” means, in relation to a vessel, liquor as to which permission to take it on board the vessel has not been given by the master, the owner of the vessel or by a person authorised by the owner of the vessel to give such permission.

(7) Any reference in subsection (6) to the owner of a vessel must be construed —

- (a) as excluding any member of the crew of the vessel; and
- (b) subject to that, as a reference to the person or all the persons who, in the certificate of registration of the vessel, is or are stated to be the registered owner or owners of the vessel.

[Merchant Shipping Act 1995 (UK), s. 118]

123. Disciplinary offences

(1) Section 62(1)(a) and (b) do not apply to fishing vessels and persons serving in them.

(2) The Governor may make regulations to provide for the hearing on shore in the Falkland Islands, by a disciplinary body, of a complaint by the master or owner of a fishing vessel against a seafarer alleging that during his or her employment in the vessel, the seafarer contravened a local industrial agreement relating to his or her employment on the vessel and for requiring the disciplinary body to have regard to the agreement in determining whether the allegation is proved.

(3) The alleged contravention referred to under subsection (3) may be one on or off the ship and in the Falkland Islands or elsewhere.

(4) Regulations under section 63 may include provision authorising persons to determine, for the purposes of that section in its application to fishing vessels registered in the Falkland Islands, what agreements are or were local industrial agreements and which local industrial agreement relates or related to a person's employment in a particular vessel.

[Merchant Shipping Act 1995 (UK), s. 119]

Exemptions

124. Power to grant exemptions from this Chapter

The Governor may grant exemptions from any requirements of Part 4 or this Chapter or of any regulations —

(a) with respect to any fishing vessel or to a fishing vessel of any description; or

(b) with respect to any person or a person of any description serving in a fishing vessel or in a fishing vessel of any description,

and nothing in any other provision of Part 4 or this Chapter conferring a power to provide for or grant exemptions must be taken to restrict the power conferred by this section.

[Merchant Shipping Act 1995 (UK), s. 120]

Chapter II – Safety

125. Fishing vessel construction rules

(1) The Governor may make rules (in this Chapter referred to as “fishing vessel construction rules”) prescribing requirements for the hull, equipment and machinery of fishing vessels registered in the Falkland Islands of any description (including any description framed by reference to the areas in which the vessels operate or the dates on which they were first registered in the Falkland Islands or on which their construction was begun).

(2) The Governor may exempt any fishing vessel or description of fishing vessel from any requirement of the fishing vessel construction rules.

(3) The Governor may make an exemption under subsection (2) generally or for a specified time or with respect to a specified voyage or to voyages in a specified area, and may impose any specified conditions.

(4) A surveyor of ships may inspect any fishing vessel for the purpose of making sure that it complies with the fishing vessel construction rules.

(5) If —

(a) the fishing vessel construction rules are contravened with respect to any vessel; or

(b) a vessel is, under subsection (2), exempted from any requirement subject to a condition and the condition is not complied with;

the owner or master of the vessel is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 121]

126. Fishing vessel survey rules

(1) The Governor may make rules (in this Chapter referred to as “fishing vessel survey rules”) for the surveying and periodical inspection of fishing vessels registered in the Falkland Islands or any description of such fishing vessels, for the purpose of ensuring their compliance with the requirements of the fishing vessel construction and equipment provisions.

(2) In this Chapter “the fishing vessel construction and equipment provisions” means fishing vessel construction rules and rules or safety regulations relating to life-saving, radio and navigational equipment for fishing vessels.

[Merchant Shipping Act 1995 (UK), s. 122]

127. Fishing vessel certificates

(1) If the Governor or any person authorised by him or her for the purpose is satisfied, on receipt of a declaration of survey in respect of a fishing vessel surveyed under the fishing vessel survey rules, that the vessel complies with the requirements of the fishing vessel construction and equipment provisions as are or will be applicable to the vessel, then, subject to subsection (2), the Governor or person must, on the application of the owner, issue a certificate (in this and the following sections referred to as a “fishing vessel certificate”) showing that the vessel complies with those requirements; and for this purpose any requirement from which the vessel has been exempted under section 125(2) or any other provision of this Ordinance must be deemed not to be applicable to it.

(2) Fishing vessel survey rules may require that the Governor or person authorised by the Governor to issue a fishing vessel certificate must not issue the certificate unless the Governor or the person is satisfied that the vessel in respect of which it is to be issued is provided with the lights, shapes and means of making fog signals required by safety regulations for the prevention of collisions.

(3) The fishing vessel rules may —

(a) prescribe the form of the fishing vessel certificate; and

(b) make provision for —

(i) the duration, extension or cancellation of any certificate;

(ii) the endorsement on the certificate of information relating to the inspection of the vessel to which it relates and of any extension of the period for which the certificate was issued.

[Merchant Shipping Act 1995 (UK), s. 123]

128. Provisions supplementary to section 127

(1) The Governor may require a fishing vessel certificate which has expired or been cancelled, to be delivered up as the Governor directs.

(2) If the owner or skipper of the fishing vessel fails without reasonable excuse to comply with a requirement made under subsection (1), he or she is liable on conviction to a fine not exceeding level 2 on the scale set out in Schedule 7.

(3) The owner or skipper of a fishing vessel to whom a fishing vessel certificate is issued must immediately, on receipt of the certificate by him or her (or his or her agent), cause a copy of it to be put up in some conspicuous place on board the vessel, so as to be legible to all persons on board, and to be kept so put up and legible while the certificate remains in force and the vessel is in use.

(4) If the owner or skipper of a fishing vessel fails without reasonable excuse to comply with subsection (3), he or she is liable, on conviction, to a fine not exceeding level 2 on the scale set out in Schedule 7.

(5) If any person intentionally makes, or assists in making, or procures to be made, a false or fraudulent fishing vessel certificate, he or she is liable on conviction, to a fine not exceeding level 3 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding six months or both;

(6) A fishing vessel certificate is admissible in evidence.

[Merchant Shipping Act 1995 (UK), s. 124]

129. Prohibition on going to sea without appropriate certificate

(1) No fishing vessel required to be surveyed under the fishing vessel survey rules is permitted to go to sea unless there are in force fishing vessel certificates showing that the vessel complies with the requirements of the fishing vessel construction and equipment provisions that are applicable to the vessel.

(2) If a fishing vessel goes to sea in contravention of subsection (1), the owner or skipper of the vessel is liable on conviction, to a fine not exceeding level 3 on the scale set out in Schedule 7.

(3) The skipper of any fishing vessel registered in the Falkland Islands must on demand produce to any customs officer any certificate required under this Chapter; and the fishing vessel, if in Falkland Islands waters, may be detained until the certificate is produced.

[Merchant Shipping Act 1995 (UK), s. 125]

130. Notice of alterations

(1) Where a fishing vessel certificate is in force in respect of a fishing vessel and —

(a) the certificate complies with requirements of the fishing vessel construction rules and an alteration is made in the vessel's hull, equipment or machinery which affects the efficiency or the seaworthiness of the vessel; or

(b) the certificate complies with requirements of the fishing vessel equipment provisions and an alteration is made affecting the efficiency or completeness of the appliances or equipment which the vessel is required to carry by the fishing vessel equipment provisions,

the owner or skipper must, as soon as possible after the alteration is made, give written notice containing full particulars of it to the Governor or, if the certificate was issued by another person, to that person.

(2) If the notice required by subsection (1) is not given as required by that subsection the owner or skipper is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

(3) In this section —

“alteration” includes the renewal of any part of the thing to which it refers;

“the fishing vessel equipment provisions” means the provisions of the fishing vessel construction and equipment provisions other than the fishing vessel construction rules, which other provisions may be made by the Governor by order on the advice of the Authority.

[Merchant Shipping Act 1995 (UK), s. 126]

PART 7 – PREVENTION OF POLLUTION

Chapter I – Pollution Generally

131. Prevention of pollution from ships etc.

The provisions of an Order in Council made under section 128 of the Act (to give effect to any of the provisions of the international treaties and conventions mentioned in that section) that has been extended to the Falkland Islands under section 128(3)(e) of the Act must be read together with this Part.

[Merchant Shipping Act 1995 (UK), s. 128]

132. Further provision for prevention of pollution from ships

The provisions of an Order in Council made under section 129 of the Act (to give effect to any of the provisions of the United Nations Convention on the Law of the Sea) that specifies an area relating to the Falkland Islands under section 129(2)(b) of the Act as a marine environment that requires protection and preservation applies and must be read together with this Part.

[Merchant Shipping Act 1995 (UK), s. 129]

133. Regulation of transfers between ships in territorial waters

(1) The Governor may make regulations in relation to the transfer of cargo, stores, bunker fuel or ballast between ships while within Falkland Islands waters and the regulations may make provisions as the Governor considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.

(2) Regulations under this section may, in particular, do any of the following things —

(a) prohibit transfers of any specified description or prohibit transfers if, or unless, carried out in specified areas, circumstances or ways;

(b) make provision about —

(i) the design of, and standards to be met by, ships and equipment,

(ii) the manning of ships, including the qualifications and experience to be possessed by persons of any specified description employed on board; and

(iii) the qualifications and experience to be possessed by persons (whether masters or not) controlling the carrying out of transfers or operations ancillary to them;

(c) provide for proposed transfers to be notified to and approved by persons appointed by the Governor or another person, and for the supervision of transfers, and the inspection of ships and equipment, by persons so appointed;

(d) provide for —

(i) the procedure to be followed in relation to the approval of transfers to be such as may be prescribed by any document specified in the regulations, and

(ii) references in the regulations to any document so specified to operate as references to that document as revised or re-issued from time to time;

(e) provide for the making and keeping of records about ships and equipment, the issuing of certificates, and the furnishing of information;

(f) provide for the granting by the Governor or another person of exemptions from specified provisions of the regulations, on such terms (if any) as the Governor or that other person may specify, and for altering or cancelling exemptions; and

(g) limit any provision of the regulations to specified cases or kinds of case.

(3) Regulations under this section may provide that a contravention of the regulations is an offence punishable on conviction by a fine not exceeding level 11 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years, or both;

(4) Regulations under this section may —

(a) make different provision for different classes or descriptions of ships and for different circumstances; and

(b) make such transitional, incidental or supplementary provision as appears to the Governor to be necessary or expedient.

[Merchant Shipping Act 1995 (UK), s. 130]

Chapter II – Waste reception facilities at harbours

134. Interpretation of Chapter II

In this Chapter —

“ship, passenger and goods dues” means, in relation to a harbour, charges of any of the following kinds —

- (a) charges in respect of any ship for entering, using or leaving the harbour, including charges made on the ship in respect of marking or lighting the harbour;
- (b) charges for any passengers embarking or disembarking at the harbour (but not including charges in respect of any services rendered or facilities provided for them); and
- (c) charges in respect of goods brought into, taken out of, or carried through the harbour by ship (but not including charges in respect of work performed, services rendered or facilities provided in respect of goods so brought, taken or carried);

“waste reception facilities” has the meaning given by section 135(1).

[Merchant Shipping Act 1995 (UK), s. 130E]

135. General

(1) The Governor may by regulations make such provision as he or she considers appropriate in relation to —

- (a) the provision at harbours in the Falkland Islands of facilities for the reception of waste from ships (in this Chapter referred to as “waste reception facilities”); and
- (b) the use of waste reception facilities provided at such harbours.

(2) In making the regulations, the Governor must take into account the need to give effect to provisions which —

- (a) are contained in any international agreement mentioned in section 128(1) of the Act which has been extended to the Falkland Islands; and
- (b) relate to waste reception facilities.

(3) Sections 136 to 138 make further provision with respect to the regulations that may be made under this section.

[Merchant Shipping Act 1995 (UK), s. 130A]

136. Waste management plans

(1) The regulations referred to under section 135 may require the Authority —

- (a) in such circumstances as may be prescribed, to prepare a plan with respect to the provision and use of waste reception facilities at the harbour; and
 - (b) to submit the plan to the Governor for approval.
- (2) The regulations may make provision requiring a person —
 - (a) if directed to do so by the Governor, to prepare a plan with respect to the provision and use of waste reception facilities at any terminals operated by the person within a harbour which is in the Falkland Islands and is specified in the direction; and
 - (b) to submit the plan to the Governor for approval.
- (3) For the purposes of this Chapter —
 - (a) “terminal” means any terminal, jetty, pier, floating structure or other works within a harbour at which ships can obtain shelter or ship and unship goods or passengers; and
 - (b) a person operates a terminal if activities at the terminal are under his or her control.
- (4) In this section, “waste management plan” means a plan of a description mentioned in subsection (1) or (2).
- (5) The regulations may make provision with respect to the form and content of waste management plans and may in particular require such plans to include —
 - (a) proposals as to the information to be provided about waste reception facilities to those who are expected to use them;
 - (b) proposals designed to ensure that adequate provision will be made for the disposal of waste deposited in waste reception facilities; and
 - (c) proposals about how costs incurred in establishing and running waste reception facilities will be recovered.
- (6) The regulations may require a person preparing a waste management plan to have regard to such matters as the Governor may prescribe or in a particular case direct.
- (7) The regulations may make provision as to the procedures to be followed in connection with waste management plans and may in particular —
 - (a) require a person preparing a waste management plan to consult such persons as the Governor may prescribe or in a particular case direct;
 - (b) enable the Governor to approve waste management plans with or without modification or to reject such plans;

(c) enable the Governor, if he or she is satisfied that a person who is required to prepare a waste management plan is not taking any steps necessary in connection with the preparation of the plan, to prepare such a plan;

(d) require the Authority and persons operating terminals to implement waste management plans once approved, or to take such steps as the Governor may in a particular case direct for the purpose of securing that approved plans are implemented; or

(e) enable waste management plans, in such circumstances as may be prescribed, to be withdrawn, altered or replaced.

[Merchant Shipping Act 1995 (UK), s. 130B]

137. Charges for and use of waste reception facilities

(1) The regulations referred to under section 135 may make provision to enable the Authority, on levying ship, passenger and goods dues, to impose charges for the purpose of recovering the whole or a part of the costs of the provision by or on behalf of the Authority of waste reception facilities at the harbour.

(2) The regulations may make provision requiring the master of a ship —

(a) if reasonably required to do so by an officer from the Authority; or

(b) in such other circumstances as may be prescribed,

to deposit any waste carried by the ship, or any prescribed description of such waste, in waste reception facilities provided at a harbour in the Falkland Islands.

(3) The regulations may make provision for —

(a) the reference to arbitration of questions as to whether requirements made under regulations made in pursuance of subsection (2)(a) were reasonable; and

(b) compensation to be payable where a requirement is found to have been unreasonable.

(4) The regulations may make —

(a) provision prohibiting the imposition by persons providing waste reception facilities at harbours in the Falkland Islands of charges for the depositing of waste, or any prescribed description of waste, in the facilities; or

(b) provision authorising the imposition by such persons of such charges subject to such restrictions as may be prescribed.

(5) The regulations may provide for charges to be imposed by virtue of subsection (4)(b) —

(a) even though the charges are for the depositing of waste in compliance with a requirement imposed by virtue of subsection (2); and

(b) even though charges are also imposed by virtue of subsection (1).

(6) Subsections (7) to (9) apply if the regulations make provision enabling the Authority to impose charges of a description mentioned in subsection (1).

(7) The regulations may require information about the charges to be published in a way that is designed to bring the charges to the notice of persons likely to be affected.

(8) The regulations may provide for the charges to be reduced at the instance of the Governor following the making of an objection by a person of a prescribed description.

(9) The regulations may make provision as to the recovery of any charges imposed by virtue of this section.

[Merchant Shipping Act 1995 (UK), s. 130C]

138. Supplementary

(1) Contravention of any provision of the regulations made under this Chapter is an offence and a person who contravenes the regulations is liable on conviction to a fine not exceeding level 11 on the scale set out in Schedule 7, or to imprisonment for a term not exceeding two years, or to both.

(2) The regulations may —

(a) provide for exemptions from any provision of the regulations;

(b) provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time;

(c) make different provision for different cases;

(d) include such incidental, supplemental and transitional provision as appears to the Governor to be expedient.

(3) Regulations under section 135 which contain any provision of a description mentioned in section 137 (whether or not they also contain other provision) must not be made unless a draft of the regulations has been laid before and approved by a resolution of the Legislative Assembly.

(4) Regulations made under section 135 to which subsection (3) does not apply (including regulations which revoke provision of a description mentioned in section 137 but do not contain any other provision made by virtue of section 137) are subject to annulment in pursuance of a resolution of the Legislative Assembly.

[Merchant Shipping Act 1995 (UK), s. 130D]

Chapter III – Oil Pollution
General provisions for preventing pollution

139. Interpretation

(1) In this Chapter —

“harbour” has the same meaning assigned to it under the Harbours and Ports Bill 2017;

“oil” means oil of any description and includes spirit produced from oil of any description, and also includes coal tar;

“oil residues” means any waste consisting of, or arising from, oil or a mixture containing oil;

“place on land” has the meaning given in section 140;

“transfer”, in relation to oil, means transfer in bulk.

(2) For the purposes of the definition of “harbour in the Falkland Islands”, “charges in respect of navigational aids” means general light dues, local light dues and any other charges payable in respect of lighthouses, buoys or beacons.

(3) Any reference in any provision of this Chapter to a mixture containing oil must be construed as a reference to any mixture of oil (or, as the case may be, of oil of a description referred to in that provision) with water or with any other substance.

(4) Any reference in this Chapter, other than in section 145, to the discharge of oil or a mixture containing oil, or to its being discharged, from a ship, place or thing, except where the reference is to its being discharged for a specific purpose, includes a reference to the escape of oil or mixture, or (as the case may be) to its escaping, from that ship, place or thing.

(5) For the purposes of any provision of this Chapter relating to the discharge of oil or a mixture containing oil from a ship, any floating craft (other than a ship) which is attached to a ship will be treated as part of the ship.

(6) Any power conferred by section 241 in its application to this Chapter to test any equipment on board a ship must be construed as including a power to require persons on board the ship to carry out such work as may be requisite for the purpose of testing the equipment; and any provision of that section as to submitting equipment for testing must be construed accordingly.

(7) Subject to sections 8 and 9 of the Crimes Ordinance nothing in this Chapter —

(a) affects any restriction imposed by or under any other written law of the Falkland Islands;
or

(b) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Chapter.

[Merchant Shipping Act 1995 (UK), s. 151]

140. Discharge of oil from ships into certain Falkland Islands waters

(1) If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into Falkland Islands national waters which are navigable by sea-going ships, then, subject to the following provisions of this Chapter, the following commits an offence, that is to say —

(a) where the discharge is from a ship, the owner or master of the ship, unless he or she proves that the discharge took place and was caused as mentioned in paragraph (b);

(b) where the discharge is from a ship but takes place in the course of a transfer of oil to or from another ship or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other ship or that place, the owner or master of that other ship or, as the case may be, the occupier of that place.

(2) Subsection (1) does not apply to any discharge which is —

(a) made into the sea; and

(b) of a kind or is made in circumstances for the time being prescribed by regulations made by the Governor.

(3) A person convicted of an offence under this section is liable on conviction, to a fine not exceeding level 10 on the scale set out in Schedule 7.

(4) In this section “sea” includes any estuary or arm of the sea.

(5) In this section “place on land” includes anything resting on the bed or shore of the sea, or of any other waters included in Falkland Islands national waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of the sea or any such waters.

(6) In this section “occupier”, in relation to any such thing as is mentioned in subsection (5), if it has no occupier, means the owner of that thing .

[Merchant Shipping Act 1995 (UK). s. 131; Oil in Territorial Waters Ordinance 1960]

141. Defences of owner or master charged with offence under section 140

(1) Where a person is charged with an offence under section 140 as the owner or master of a ship, it is a defence to prove that the oil or mixture was discharged for the purpose of —

(a) securing the safety of any ship;

(b) preventing damage to any ship or cargo; or

(c) saving life,

unless the court is satisfied that the discharge of the oil or mixture was not necessary for that purpose or was not a reasonable step to take in the circumstances.

(2) Where a person is charged with an offence under section 140 as the owner or master of a ship, it is also a defence to prove —

(a) that the oil or mixture escaped in consequence of damage to the ship, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or

(b) that the oil or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

[Merchant Shipping Act 1995 (UK), s. 132]

142. Defences of occupier charged with offence under section 140

Where a person is charged, in respect of the escape of any oil or mixture containing oil, with an offence under section 140 as the occupier of a place on land, it is a defence to prove that neither the escape nor any delay in discovering it was due to any want of reasonable care and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

[Merchant Shipping Act 1995 (UK), s. 133]

143. Protection for acts done in exercise of certain powers of the Authority

(1) Where any oil, or mixture containing oil, is discharged in consequence of the exercise —

(a) of any power conferred by section 237; or

(b) for the purpose of preventing obstruction or danger to navigation, of any power to dispose of sunk, stranded or abandoned ships which is exercisable by the Authority under the Protection of Wrecks Ordinance 1977,

and apart from this subsection the Authority, would have committed an offence under section 140 in respect of that discharge, the Authority or person must not be convicted unless it is shown that the authority or the person failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.

(2) Subsection (1) applies to the exercise of any power conferred by the Harbours and Ports Ordinance 2017 (section 24 removal of vessels within harbour, dock or pier) as it applies to the exercise of the powers under sections 237.

[Merchant Shipping Act 1995 (UK), s. 134]

144. Restrictions on transfer of oil at night

(1) No oil is permitted to be transferred between sunset and sunrise to or from a ship in any harbour in the Falkland Islands unless the requisite notice has been given in accordance with this section or the transfer is for the purposes of a fire brigade.

(2) A general notice may be given to the harbour master that transfers of oil between sunset and sunrise will be frequently carried out at a place in the harbour within such period, not ending later than twelve months after the date on which the notice is given, as is specified in the notice; and if such a notice is given it must be the requisite notice for the purposes of this section as regards transfers of oil at that place within the period specified in the notice.

(3) Subject to subsection (2), the requisite notice for the purposes of this section must be a notice given to the harbour master not less than three hours or more than 96 hours before the transfer of oil begins.

(4) If any oil is transferred to or from a ship in contravention of this section, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 135]

145. Duty to report discharge of oil into waters of harbours

(1) If any oil or mixture containing oil is —

(a) discharged from a ship into the waters of a harbour in the Falkland Islands; or

(b) found to be escaping or to have escaped from a ship into any such waters,

the owner or master of the ship must immediately report the occurrence to the Authority.

(2) A report made under subsection (1) must state whether the occurrence falls within subsection (1)(a) or (b).

(3) If a person fails to make a report as required by this section, he or she is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 136]

146. Discharges etc. authorised under other enactments

The provisions of sections 140(1) and 145(1) do not apply to any discharge which is made under, and the provisions of section 145(1) do not apply to any escape which is authorised by, or under any other enactment that provides for this.

[Merchant Shipping Act 1995 (UK), s. 136A]

Shipping casualties

147. Shipping casualties

(1) The powers conferred by this section are exercisable where —

(a) an accident has occurred to or in a ship;

(b) in the opinion of the Governor oil from the ship will or may cause significant pollution in the Falkland Islands, Falkland Islands waters or a part of the sea specified by virtue of section 129(2)(b) of the Act; and

(c) in the opinion of the Governor the use of the powers conferred by this section is urgently needed,

but those powers are subject to the limitations contained in subsections (6) and (7).

(2) For the purpose of preventing or reducing oil pollution, or the risk of oil pollution, the Governor may give directions as respects the ship or its cargo —

(a) to the owner of the ship, or to any person in possession of the ship;

(b) to the master of the ship;

(c) to any pilot of the ship;

(d) to any salvor in possession of the ship, or to any person who is the servant or agent of any salvor in possession of the ship, and who is in charge of the salvage operation; or

(e) where the ship is in waters which are regulated or managed by the Authority —

(i) to the harbour master; or

(ii) to the Authority.

(3) Directions under subsection (2) may require the person to whom they are given to take, or refrain from taking, any action of any kind whatsoever, and without prejudice to the generality of subsection (2) the directions may require —

(a) that the ship is to be, or is not to be, moved, or is to be moved to a specified place, or is to be removed from a specified area or locality;

(b) that the ship is not to be moved to a specified place or area, or over a specified route;

(c) that any oil or other cargo is to be, or is not to be, unloaded or discharged; or

(d) that specified salvage measures are to be, or are not to be, taken.

(4) If in the opinion of the Governor the powers conferred by subsection (2) are, or have proved to be, inadequate for the purpose, the Governor may, for the purpose of preventing or reducing oil pollution, or the risk of oil pollution, take, as respects the ship or its cargo, any action of any kind whatsoever, and without prejudice to the generality of subsection (2) the Governor may —

(a) take any such action as he or she has power to require to be taken by a direction under this section;

(b) undertake operations for the sinking or destruction of the ship, or any part of it, of a kind which is not within the means of any person to whom he or she can give directions; or

(c) undertake operations which involve the taking over of control of the ship.

(5) The powers of the Governor under subsection (4) are also exercisable by such persons as may be authorised for the purpose by the Governor.

(6) Every person concerned with compliance with directions given, or with action taken, under this section must use his or her best endeavours to avoid any risk to human life.

(7) For the avoidance of doubt any action taken as respects a ship which is under arrest or as respects the cargo of that ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under subsection (4) or (5) —

(a) does not constitute contempt of court; and

(b) does not in any circumstances make the Admiralty Marshal liable in any civil proceedings.

(8) In this section, unless the context otherwise requires —

“accident” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;

“owner”, in relation to the ship to or in which an accident has occurred, includes its owner at the time of the accident; and

“pilot” means any person (not belonging to a ship) who has the conduct of the ship;

“specified”, in relation to a direction under this section, means specified by the direction.

[Merchant Shipping Act 1995 (UK), s. 137]

148. Right to recover in respect of unreasonable loss or damage

(1) If any action duly taken by a person in pursuance of a direction given to the person under section 147, or any action taken under section 147(4) or (5) —

(a) was not reasonably necessary to prevent or reduce oil pollution, or risk of oil pollution; or

(b) was such that the good it did or was likely to do was disproportionately less than the expense incurred, or damage suffered, as a result of the action,

a person incurring expense or suffering damage as a result of, or personally taking, the action is entitled to recover compensation from the Governor.

(2) In considering whether subsection (1) applies, account must be taken of —

- (a) the extent and risk of oil pollution if the action had not been taken;
- (b) the likelihood of the action being effective; and
- (c) the extent of the damage which has been caused by the action.

(3) Any reference in this section to the taking of any action includes a reference to a compliance with a direction not to take some specified action.

[Merchant Shipping Act 1995 (UK), s. 138]

149. Application of sections 147 and 148 to pollution by substances other than oil

(1) In sections 147 and 148, any reference to oil pollution includes a reference to pollution by any other substance which —

- (a) is prescribed by the Governor by order for the purposes of this section; or
- (b) although not prescribed, is liable or likely to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

(2) Any reference in sections 147 and 148 to oil includes a reference to any substance falling within subsection (1)(a) or (b).

[Merchant Shipping Act 1995 (UK), s. 138A]

150. Offences in relation to section 147

(1) If the person to whom a direction is duly given under section 147 contravenes, or fails to comply with, any requirement of the direction, he or she commits an offence.

(2) If a person intentionally obstructs any person who is —

- (a) acting on behalf of the Governor in connection with the giving or service of a direction under section 147;
- (b) acting in compliance with a direction under that section; or
- (c) acting under section 147(4) or (5),

he or she commits an offence.

(3) In proceedings for an offence under subsection (1), it is a defence for the accused to prove that he or she has used all due diligence to ensure compliance with the direction, or that the

person had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

(4) A person convicted of an offence under this section is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 139]

151. Service of directions under section 147

(1) If the Governor is satisfied that a company or other body is not one to whom section 437 of the Companies Act 1948 (in its application to the Falkland Islands) and section 5 of the Companies and Private Partnerships Ordinance applies so as to authorise the service of a direction on that body under either of those sections, the Governor may give a direction under section 147 of this Ordinance to that body —

(a) as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship; or

(b) as a salvor, by serving the direction on the person in charge of the salvage operations.

(2) For the purpose of giving or serving a direction under section 147 to or on any person on a ship, a person acting on behalf of the Governor has the right to go on board the ship.

[Merchant Shipping Act 1995 (UK), s. 140]

152. Application of sections 147 to 151 to certain foreign and other ships

Subject to an Order in Council made under section 141 of the Act relating to a foreign or other ship (as may be specified in that Order in Council) which is in the Falkland Islands or in any part of a zone (relating to the Falkland Islands) that is in a part of the sea specified by virtue of section 129(2)(b) of the Act sections 147 to 151 applies.

[Merchant Shipping Act 1995 (UK), s. 141]

Enforcement

153. Oil records

(1) The Governor may make regulations requiring oil record books to be carried in ships registered in the Falkland Islands and requiring the master of any such ship to record in the oil record book carried by it —

(a) the carrying out, on board or in connection with the ship, of any of the following operations as may be prescribed relating to —

(i) the loading of oil cargo;

(ii) the transfer of oil cargo during a voyage;

(iii) the discharge of oil cargo;

(iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks;

(v) the separation of oil from water, or from other substances, in any mixture containing oil;

(vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in (i) to (v); or

(vii) the disposal of any other oil residues;

(b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any ship, or of preventing damage to any ship or cargo, or of saving life; and

(c) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from the ship in consequence of damage to the ship, or by reason of leakage.

(2) The Governor may make regulations requiring the keeping of records relating to the transfer of oil to and from ships while they are within Falkland Islands waters; and the requirements of any regulations made under this subsection are in addition to the requirements of any regulations made under subsection (1).

(3) Any records required to be kept by regulations made under subsection (2) must, unless the ship is a barge, be kept by the master of the ship, and must, if the ship is a barge, be kept, in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.

(4) Regulations under this section requiring the carrying of oil record books or the keeping of records may —

(a) prescribe the form of the oil record books or records and the nature of the entries to be made in them;

(b) require the person providing or keeping the books or records to retain them for a prescribed period;

(c) require that person, at the end of the prescribed period, to transmit the books or records to a place or person determined by or under the regulations;

(d) provide for the custody or disposal of the books or records after their transmission to such a place or person.

(5) Regulations under this section may —

(a) be made with respect to all or with respect to any one or more of the classes of ship or other matters to which this section relates;

(b) make different provision for different classes of ship or otherwise for different classes of case or different circumstances.

(6) If any ship fails to carry such an oil record book as it is required to carry under this section the owner or master is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

(7) If any person fails to comply with any requirements imposed on him or her by or under this section, the person is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

(8) If any person makes an entry in any oil record book carried or record kept under this section which is to his knowledge false or misleading in any material particular, the person is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7, or imprisonment for a term not exceeding six months, or to both.

(9) In any proceedings under this Chapter —

(a) any oil record book carried or record kept in pursuance of regulations made under this section is admissible as evidence of the facts stated in it;

(b) any copy of an entry in such an oil record book or record which is certified by the master of the ship in which the book is carried or by the person by whom the record is required to be kept to be a true copy of the entry is admissible as evidence of the facts stated in the entry;

(c) any document purporting to be an oil record book carried or record kept in pursuance of regulations made under this section, or purporting to be such a certified copy as is mentioned in paragraph (b), is, unless the contrary is proved, presumed to be such a book, record or copy, as the case may be.

(10) In this section “barge” includes a lighter and any similar vessel.

[Merchant Shipping Act 1995 (UK), s. 142]

154. Prosecutions and enforcement of fines

(1) This subsection applies to the following offences —

(a) any offence under section 140 which is alleged to have been committed by the discharge of oil, or a mixture containing oil, into the waters of a harbour in the Falkland Islands;

(b) any offence in relation to a harbour in the Falkland Islands under section 144 or 145; and

(c) any offence under section 153 relating to the keeping of records of the transfer of oil within such a harbour.

(2) Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under section 140 alleged to have been committed by the company as the owner of the ship must be treated as duly served on that company if the document is served on the master of the ship.

(3) In this subsection “foreign company” means a company or body which is not one to which section 437 of the Companies Act 1948 (in its application to the Falkland Islands) applies so as to authorise the service of the document in question under that provision.

(4) Any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Chapter has, for that purpose, the right to go on board the ship in question.

[Merchant Shipping Act 1995 (UK), s. 143]

155. Power to detain ships for section 140 offences

(1) Where a harbour master has reason to believe that the master or owner of a ship has committed an offence under section 140 by the discharge from the ship of oil, or a mixture containing oil, into the waters of the harbour, the harbour master may detain the ship.

(2) Section 270, in its application to the detention of a ship under this section, has effect with the omission of subsections (1), (6) and (7) and as if —

(a) in subsection (2), the reference to competent authority were a reference to the Authority;
and

(b) in subsection (4), the persons in relation to whom that subsection applies were the harbour master or any person acting on his or her behalf.

(3) Where a harbour master detains a ship other than a ship registered in the Falkland Islands under this section he or she must immediately notify the Governor, who must then inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.

(4) In this subsection “ship registered in the Falkland Islands” has the same meaning as in section 84.

(5) A harbour master who detains a ship under this section must immediately release the ship —

(a) if no proceedings for the offence are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for the offence, having been instituted within that period, are concluded without the master or owner being convicted;

(c) if either —

(i) the sum of £255,000 is paid to the Authority by way of security; or

(ii) security which, in the opinion of the Authority, is satisfactory and is for an amount not less than £255,000 is given to the Authority, by or on behalf of the master or owner; or

(d) where the master or owner is convicted of the offence, if any costs or expenses ordered to be paid by him or her, and any fine imposed on him or her, have been paid.

(6) The Authority must repay any sum paid in pursuance of subsection (5)(c) or release any security so given —

(a) if no proceedings for the offence are instituted within the period of seven days beginning with the day on which the sum is paid; or

(b) if proceedings for the offence, having been instituted within that period, are concluded without the master or owner being convicted.

(7) Where a sum has been paid, or security has been given, by any person in pursuance of subsection (5)(c) and the master or owner is convicted of the offence, the sum so paid or the amount made available under the security must be applied as follows —

(a) first in payment of any costs or expenses ordered by the court to be paid by the master or owner; and

(b) next in payment of any fine imposed by the court,

and any balance must be repaid to the first-mentioned person.

(8) This section does not apply in relation to a ship of Her Majesty's navy or any Government ship within the Falkland Islands or in any part of a zone (relating to the Falkland Islands) that is in a part of the sea specified by virtue of section 129(2)(b) of the Act.

[Merchant Shipping Act 1995 (UK), s. 144]

156. Interpretation of section 155

(1) This section has effect for the interpretation of the references in section 155 to the institution of proceedings or their conclusion without the master or owner of a ship being convicted of an offence under section 140.

(2) For the purposes of section 155 —

(a) proceedings for an offence under section 140 are instituted —

(i) when a justice of the peace issues a summons or warrant under the Administration of Justice Ordinance 1949 in respect of the offence;

(ii) when a person is charged with the offence after being taken into custody without a warrant;

(b) proceedings for the offence are concluded without the master or owner being convicted on the occurrence of one of the following events —

(i) the discontinuance of the proceedings;

(ii) the acquittal of the master or owner;

(iii) the quashing of the master's or owner's conviction of the offence;

(iv) the grant of Her Majesty's pardon in respect of the master's or owner's conviction of the offence.

(3) Where the application of subsection (2)(a) or (3)(a) would result in there being more than one time for the institution of proceedings, they must be taken to have been instituted at the earliest of those times.

[Merchant Shipping Act 1995 (UK), s. 145]

157. Enforcement and application of fines

(1) Where a fine imposed by a court in proceedings against the owner or master of a ship for an offence under this Chapter is not paid, or any costs or expenses ordered to be paid by the owner or master are not paid, at the time ordered by the court, the court, in addition to any other powers of enforcing payment, has power to direct the amount remaining unpaid to be levied by distress of the ship and its equipment.

(2) Where a person is convicted of an offence under section 140, and the court imposes a fine in respect of the offence, then, if it appears to the court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is attributable to the offence, the court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

[Merchant Shipping Act 1995 (UK), s. 146]

158. Enforcement of Conventions relating to oil pollution

(1) Any person or authority in the Falkland Islands designated under the provisions of an Order in Council made under section 147 of the Act to go on board any Convention ship while the ship is within a harbour in the Falkland Islands may go on board that ship to require the production of any oil record book required to be carried in accordance with the Convention.

(2) In this section —

“the Convention” means any Convention accepted by Her Majesty’s Government in the United Kingdom in so far as it relates to the prevention of pollution of the sea by oil which has also been extended to the Falkland Islands; and

“Convention ship” means a ship registered in —

(a) a country the government of which has been declared by an Order in Council made under section 147(3) of the Act to have accepted the Convention, and has not been declared to have denounced it; or

(b) a territory to which it has been declared that the Convention extends by an Order in Council made under section 147(3) of the Act, not being a territory to which it has been declared that the Convention has ceased to extend.

[Merchant Shipping Act 1995 (UK), s. 147]

Miscellaneous and supplementary

159. Power of Governor to grant exemptions

(1) The Governor may exempt any ship or classes of ships from being subject to any of the provisions of this Chapter or of any regulations made under it, either absolutely or subject to such conditions as the Governor thinks fit.

(2) The Governor may exempt any discharge of, or of a mixture containing, oil from being subject to any of the provisions of this Chapter or of any regulations made under it, either absolutely or subject to such conditions as the Governor thinks fit.

[Merchant Shipping Act 1995 (UK), s. 148]

160. Application to Government ships

The provisions of this Chapter do not apply to ships of Her Majesty’s navy, nor to Government ships in the service of the Secretary of State while employed for the purposes of Her Majesty’s navy within the Falkland Islands or in any part of a zone (relating to the Falkland Islands) that is in a part of the sea specified by virtue of section 129(2)(b) of the Act. *[Merchant Shipping Act 1995 (UK), s. 149]*

161. Annual Report

(1) The Director of Natural Resources must, as soon as possible after the end of each calendar year, make a report to the Governor on the exercise and performance of —

(a) the Authority;

(b) the harbour master; and

(c) any officer of the Authority,

under this Chapter during that year.

(2) Every report made under subsection (1) must include such observations as the Director may think fit to make on the operation of the Authority during that year and of any Convention accepted by Her Majesty's Government in the United Kingdom and extended to the Falkland Islands in so far as it relates to the prevention of pollution of the sea by oil.

(3) The Governor must lay a copy of the report before the Legislative Assembly.
[Merchant Shipping Act 1995 (UK), s. 150]

Chapter IV – Liability for Oil Pollution *Preliminary*

162. Interpretation

(1) In this Chapter —

“court” means the Supreme Court of the Falkland Islands;

“damage” includes loss;

“Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1992;

“Liability Convention country” means a country in respect of which the Liability Convention is in force, and includes the United Kingdom, the Falkland Islands and any relevant British possession to which the Liability Convention has been extended; and

“Liability Convention State” means a State which is a party to the Convention and any other State which has been declared by an Order in Council made under section 152(2) of the Act as such.

“oil” means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship's operator, it means the person registered as its operator;

“relevant threat of contamination” must be construed in accordance with section 163(2) or 164(2); and

“ship” (subject to section 164(5)) means any sea-going vessel or sea-borne craft of any type whatsoever.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.

(3) References in this Chapter to the territory of any country include the territorial sea of that country and —

(a) in the case of the Falkland Islands, any area within the Falkland Islands Pollution Control Zone; and

(b) in the case of any other Liability Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.

(4) In subsection (3), “Falkland Islands Pollution Control Zone” means an area co-extensive with the fishing waters of the Falkland Islands as defined in section 3 of the Fishing (Conservation and Management) Ordinance 1986 so far as those fishing waters lie beyond the territorial sea.

[Merchant Shipping Act 1995 (UK), s. 170; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

Liability

163. Liability for oil pollution in case of tankers

(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the owner of the ship is liable —

(a) for any damage caused outside the ship in the territory of the Falkland Islands by contamination resulting from the discharge or escape;

(b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Falkland Islands by contamination resulting from the discharge or escape; and

(c) for any damage caused in the territory of the Falkland Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship is liable —

(a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Falkland Islands; and

(b) for any damage caused outside the ship in the territory of the Falkland Islands by any measures so taken,

and in this Chapter any such threat is referred to as a relevant threat of contamination.

(3) Subject to subsection (4), this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section applies to any such ship —

(a) while it is carrying oil in bulk as cargo; and

(b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where a person incurs a liability under subsection (1) or (2) the person is also liable for any damage or cost for which he or she would be liable under that subsection if the references in it to the territory of the Falkland Islands included the territory of any other Liability Convention country.

(6) Where —

(a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but

(b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners is liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(7) For the purposes of this Chapter —

(a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;

(b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they must be treated as one, but any measures taken after the first of them will be deemed to have been taken after the discharge or escape; and

(c) where a relevant threat of contamination results from a series of occurrences having the same origin, they must be treated as a single occurrence.

(8) The Law Reform (Contributory Negligence) Act 1945 (in its application to the Falkland Islands) applies in relation to any damage or cost for which a person is liable under this section, but which is not due to the person's fault, as if it were due to the person's fault.

[*Merchant Shipping Act 1995 (UK), s. 153; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule*]

164. Liability for oil pollution in case of other ships

(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship other than a ship to which section 163 applies, then (except as otherwise provided by this Chapter) the owner of the ship is liable —

(a) for any damage caused outside the ship in the territory of the Falkland Islands by contamination resulting from the discharge or escape; and

(b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Falkland Islands by contamination resulting from the discharge or escape; and

(c) for any damage so caused in the territory of the Falkland Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 164 applies by the contamination which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship is liable —

(a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Falkland Islands; and

(b) for any damage caused outside the ship in the territory of the Falkland Islands by any measures so taken,

and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.

(3) Where —

(a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships; but

(b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners is liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) The Law Reform (Contributory Negligence) Act 1945 (in its application to the Falkland Islands) applies in relation to any damage or cost for which a person is liable under this section, but which is not due to his or her fault, as if it were due to his or her fault.

(5) In this section “ship” includes a vessel which is not seagoing.

[Merchant Shipping Act 1995 (UK), s. 154; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

165. Exceptions from liability under sections 163 and 164

No liability will be incurred by the owner of a ship under section 163 or 164 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if the owner proves that the discharge or escape, or (as the case may be) the threat of contamination—

(a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or

(b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or

(c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance or which it was responsible.

[Merchant Shipping Act 1995 (UK), s. 155; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

166. Restriction of liability for oil pollution

(1) Where, as a result of any occurrence —

(a) any oil discharged or escapes from a ship (whether one to which section 163 or one to which section 164 applies); or

(b) there arises a relevant threat of contamination.

then, whether or not the owner of the ship in question incurs a liability under section 163 or 164—

(i) the owner is not liable otherwise than under that section for any such damage or cost as is mentioned in it; and

(ii) no person to whom this paragraph applies is liable for any such damage or cost unless it resulted from anything done or omitted to be done by the person either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(ii) applies to —

- (a) any servant or agent of the owner of the ship;
- (b) any person not falling within paragraph (a) but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 163 or 164;
- (f) any servant or agent of a person falling within paragraph (c), (d) or (e).

(3) The liability of the owner of a ship under section 163 or 164 for any impairment of the environment must be taken to be a liability only in respect of —

(a) any resulting loss of profits; and

(b) the cost of any reasonable measures of reinstatement actually taken or to be taken.
[Merchant Shipping Act 1995 (UK), s. 156; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

Limitation of liability

167. Limitation of liability under section 163

(1) Where, as a result of any occurrence, the owner of a ship incurs liability under section 163 by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3)) —

(a) the owner may limit that liability in accordance with the provisions of this Chapter; and

(b) if the master does so, his or her liability (being the aggregate of his liabilities under section 163 resulting from the occurrence) will not exceed the relevant amount.

(2) In subsection (1), “the relevant amount” means —

(a) in relation to a ship not exceeding 5,000 tons, 4.51 million special drawing rights;

(b) in relation to a ship exceeding 5,000 tons, 4.51 million special drawing rights together with an additional 631 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 89.77 million special drawing rights,

but the Governor may by order make such amendments of paragraphs (a) and (b) as appear to the Governor to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

(3) Subsection (1) does not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 163 or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section a ship's tonnage is its gross tonnage calculated in such manner as may be prescribed by an order made by the Governor.

[Merchant Shipping Act 1995 (UK), s. 157; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule, Merchant Shipping (Oil Pollution Compensation Limits) Order 2003]

168. Limitation actions

(1) Where the owner of a ship has or is alleged to have incurred a liability under section 163 he or she may apply to the court for the limitation of that liability to an amount determined in accordance with section 167.

(2) If on such an application the court finds that the applicant has incurred that liability but has not found that he or she is not entitled to limit it, the court must, after determining the limit which would apply to the applicant's liability if he or she were entitled to limit it and directing payment into court of the amount of that limit —

(a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and

(b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims,

subject to the following provisions of this section.

(3) Where —

(a) a distribution is made under subsection (2)(b) without the court having found that the applicant is entitled to limit his or her liability; and

(b) the court subsequently finds that the applicant is not so entitled,

the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

(4) A payment into court of the amount of a limit determined in pursuance of this section must be made in sterling; and —

(a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right must be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for —

(i) the day on which the determination is made; or

(ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(b) a certificate given by or on behalf of the Financial Secretary stating —

(i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or

(ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

is conclusive evidence of those matters for the purposes of this Chapter;

(c) a document purporting to be such a certificate will, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(5) No claim can be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

(6) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends —

(a) by the owner or the persons referred to in section 175 as “the insurer”; or

(b) by a person who has or is alleged to have incurred a liability, otherwise than under section 164, for the damage or cost and who is entitled to limit his or her liability in connection with the ship by virtue of section 198 or 199 (185 or 186 of the Act,

the person who paid the sum is, to the extent of that sum, in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(7) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended, the person is in the same position with respect to any distribution made

in proceedings under this section as if he or she had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(8) The court may, if it thinks fit, postpone the distribution of a part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the Falkland Islands.

(9) No lien or other right in respect of any ship or other property affects the proportions in which any amount is distributed in accordance with subsection (2)(b).

[Merchant Shipping Act 1995 (UK), s. 158; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule;]

169. Restriction on enforcement after establishment of limitation fund

(1) Where the court has found that a person who has incurred a liability under section 163 is entitled to limit that liability to any amount and he or she has paid into court a sum not less than that amount —

(a) the court must order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and

(b) no judgment or decree for any such claim can be enforced, except so far as it is for costs,

if the sum paid into court, or such part thereof as corresponds to the claim, would be actually available to the claimant or would have been available to the claimant if the proper steps in the proceedings under section 168 had been taken.

[Merchant Shipping Act 1995 (UK), s. 159; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

170. Concurrent liabilities of owners and others

Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 163 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if —

(a) the owner has been found, in proceedings under section 168 to be entitled to limit his or her liability to any amount and has paid into court a sum not less than that amount; and

(b) the other person is entitled to limit liability in connection with the ship by virtue of section 184 or 185,

no proceedings can be taken against the other person in respect of his or her liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps can be taken in the proceedings except in relation to costs.

[Merchant Shipping Act 1995 (UK), s. 160; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

171. Establishment of limitation fund outside Falkland Islands

Where the events resulting in the liability of any person under section 163 also resulted in a corresponding liability under the law of another Liability Convention country sections 169 and 170 apply as if the references to sections 163 and 168 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

[Merchant Shipping Act 1995 (UK), s. 161; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

172. Extinguishment of claims

No action to enforce a claim in respect of a liability incurred under section 163 or 164 will be entertained by any court in the Falkland Islands unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

[Merchant Shipping Act 1995 (UK), s. 162; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

Compulsory insurance

173. Compulsory insurance against liability for pollution

(1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) applies to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Governor.

(2) The ship must not enter or leave a port in the Falkland Islands or arrive at or leave a terminal in the territorial sea of the Falkland Islands or, if the ship is registered in the Falkland Islands, enter, arrive at or leave a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).

(3) The certificate must be —

(a) if the ship is registered in the Falkland Islands, a certificate issued by the Governor;

(b) if the ship is registered in a Liability Convention country other than the Falkland Islands, a certificate issued by or under the authority of the government of the other Liability Convention country; and

(c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Governor or by or under the authority of the government of any Liability Convention country other than the Falkland Islands.

(4) Any certificate required by this section to be in force in respect of a ship must be carried in the ship and must, on demand, be produced by the master to any customs officer and, if the ship is registered in the Falkland Islands, to any proper officer.

(5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2), the master or owner is liable on conviction to a fine not exceeding level 7 on the scale set out in Schedule 7.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4), the master is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7.

(7) If a ship attempts to leave a port in the Falkland Islands in contravention of this section the ship may be detained.

[Merchant Shipping Act 1995 (UK), s. 163; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

174. Issue of certificate by Governor

(1) Subject to subsection (2), if the Governor is satisfied, on the application for such a certificate as is mentioned in section 173 in respect of a ship registered in the Falkland Islands or in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Governor must issue such a certificate to the owner.

(2) If the Governor is of the opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his or her obligations, or whether the insurance or other security will cover the owner's liability under section 163 in all circumstances, the Governor may refuse the certificate.

(3) The Governor may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under subsection (3) to deliver up a certificate fails to do so the person is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7.

(5) The Governor must send a copy of any certificate issued by him or her under this section in respect of a ship registered in the Falkland Islands to the Registrar and the Registrar must make the copy available for public inspection.

[Merchant Shipping Act 1995 (UK), s. 164; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

175. Rights of third parties against insurers

(1) Where it is alleged that the owner of a ship has incurred a liability under section 163 as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of

contamination arising, while there was in force a contract of insurance or other security to which a certificate mentioned in section 173 relates, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as “the insurer”).

(2) In any proceedings brought against the insurer by virtue of this section it is a defence (in addition to any defence affecting the owner’s liability), to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the owner.

(3) The insurer may limit his or her liability in respect of claims made against him or her by virtue of this section in like manner and to the same extent as the owner may limit his or her liability but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 167(3).

(4) Where the owner and the insurer each apply to the court for the limitation of liability any sum paid into court in pursuance of either application must be treated as paid also in pursuance of the other.

[Merchant Shipping Act 1995 (UK), s. 165; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

Supplementary

176. Jurisdiction of Falkland Islands courts and registration of foreign judgments

(1) Where —

(a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of the Falkland Islands and no measures are reasonably taken to prevent or minimise such damage in that territory, or

(b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the Falkland Islands,

no court in the Falkland Islands can entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost —

(i) against the owner of the ship, or

(ii) against any person to whom section 166(1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(2) In subsection (1), “relevant damage or cost” means—

(a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention country by

contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country;

(b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b),

and section 166(2)(e) has effect for the purposes of subsection (1)(ii) as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b).

(4) The Foreign Judgments (Reciprocal Enforcement) Ordinance 1959 applies, whether or not it would so apply apart from this section, to any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 163; and in its application to such a judgment that Ordinance has effect with the omission of subsections (2) and (3) of section 9.

[Merchant Shipping Act 1995 (UK), s. 166; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

177. Government ships

(1) Nothing in this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for anything other than commercial purposes.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes it is a sufficient compliance with section 173(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.

(3) Every Liability Convention State will, for the purposes of any proceedings brought in a court in the Falkland Islands to enforce a claim in respect of a liability incurred under section 153, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection authorises the issue of execution against the property of any State.

[Merchant Shipping Act 1995 (UK), s. 167; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

178. Limitation of liability under section 164

For the purposes of section 179 any liability incurred under section 164 will be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1(a) of Article 2 of the Convention on Limitation of Liability for Maritime Claims 1976, set out in Schedule 5.

[Merchant Shipping Act 1995 (UK), s. 168; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

179. Saving for recourse actions

Nothing in this Chapter prejudices any claim, or the enforcement of any claim a person incurring any liability under this Chapter may have against another person in respect of that liability.

[Merchant Shipping Act 1995 (UK), s. 169; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

Chapter V – International Oil Pollution Compensation Fund

Preliminary

180. Interpretation

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

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 173;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“oil”, except in sections 182 and 183, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means —

(a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;

(b) the cost of preventive measures; and

(c) further damage caused by preventive measures,

but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of —

(i) any loss of profits; or

(ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken —

(a) after an incident has occurred; or

(b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and

“ship” means any ship (within the meaning of Chapter III of this Part) to which section 163 applies.

(2) For the purposes of this Chapter —

(a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and

(b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they must be treated as one.

(3) References in this Chapter to the territory of any country must be construed in accordance with section 169(4) reading the reference to a Liability Convention country as a reference to a Fund Convention country.

[Merchant Shipping Act 1995 (UK), s. 181; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

181. Meaning of the “Liability Convention”, “the Fund Convention” and related expressions

(1) In this Chapter—

“the Liability Convention” has the same meaning as in Chapter IV of this Part;

“the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;

“the Fund” means the International Fund established by the Fund Convention;

“Fund Convention country” means a country in respect of which the Fund Convention is in force, and includes the United Kingdom and any relevant British possession to which the Fund Convention has been extended.

(2) If Her Majesty by Order in Council made under section 172 of the Act declares that any State specified in the Order is a party to the Fund Convention in respect of any country so

specified, the Order, while in force, is conclusive evidence that that State is a party to that Convention in respect of that country.

[Merchant Shipping Act 1995 (UK), s. 172; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

Contributions to Fund

182. Contributions by importers of oil and others

(1) Contributions are payable to the Fund in respect of oil carried by sea to ports or terminal installations in the Falkland Islands otherwise than on a voyage only within waters landward of the baselines for measuring the breadth of the territorial sea of the Falkland Islands.

(2) Subsection (1) applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions are also payable to the Fund in respect of oil when first received in any installation in the Falkland Islands after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions is —

(a) in the case of oil which is being imported into the Falkland Islands, the importer, and

(b) otherwise, the person by whom the oil is received.

(5) A person is not liable to make contributions in respect of the oil imported or received by the person in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.

(6) For the purpose of subsection (5) —

(a) all the members of a group of companies be treated as a single person; and

(b) any two or more companies which have been amalgamated into a single company will be treated as the same person as that single company.

(7) The contributions payable by a person for any year will —

(a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;

(b) be payable in such instalments, becoming due at such times, as may be so notified to the person,

and if any amount due from the person remains unpaid after the date on which it became due, it will from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Governor may by regulations impose on persons who are or may be likely to pay contributions under this section obligations to give security for payment to the Governor, or the Fund.

(9) Regulations under sub-subsection (8) —

(a) may contain such supplemental or incidental provisions as appear to the Governor expedient; or

(b) may impose penalties for contravention of the regulations punishable on conviction by a fine not exceeding level 5 on the scale set out in Schedule 7, or such lower limit as may be specified in the regulations.

(10) In this section and in section 183, unless the context otherwise requires —

“company” means a body incorporated under the law of the Falkland Islands, or of any other country;

“group” in relation to companies, means a holding company and its subsidiaries as defined by section 165 of the Companies Act 1948 (as it applies in the Falkland Islands) subject, in the case of a company incorporated outside the Falkland Islands, to any necessary modifications of those definitions;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” will be construed accordingly;

“oil” means crude oil and fuel oil, and —

(a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes —

(i) crude oils from which distillate fractions have been removed; and

(ii) crude oils to which distillate fractions have been added;

(b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D396-69)”, or heavier,

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

[Merchant Shipping Act 1995 (UK), s. 173; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

183. Power to obtain information

(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 182 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Governor may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 182(6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 182, particulars contained in any list transmitted by the Governor to the Fund are, so far as those particulars are based on information obtained under this section, admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars must be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him or her under this section, or in connection with the execution of this section, then, unless the disclosure is made —

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the execution of this section; or

(c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

the person is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

(6) A person who —

(a) refuses or wilfully neglects to comply with a notice under this section; or

(b) in furnishing any information in compliance with a notice under this section makes any statement which the person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

is liable on conviction, to a fine not exceeding level 4 on the scale set out in Schedule 7 in the case of an offence under paragraph (a) and not exceeding level 7 on the scale set out in Schedule 7 in the case of an offence under paragraph (b);

[Merchant Shipping Act 1995 (UK), s. 174; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

Compensation for persons suffering pollution damage

184. Liability of the Fund

(1) The Fund is liable for pollution damage in the territory of the Falkland Islands if the person suffering the damage has been unable to obtain full compensation under section 163 —

(a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused —

(i) resulted from an exceptional, inevitable and irresistible phenomenon; or

(ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage; or

(iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible, (and because liability is accordingly wholly displaced by section 165); or

(b) because the owner or guarantor liable for the damage cannot meet his or her obligations in full; or

(c) because the damage exceeds the liability under section 163 as limited by section 167.

(2) Subsection (1) applies with the substitution for the words “Falkland Islands” of the words “a Fund Convention country” where the incident has caused pollution damage in the territory of the Falkland Islands and of another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the Falkland Islands.

(3) Where the incident has caused pollution damage in the territory of the Falkland Islands and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter IV of this Part includes references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(5) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage must be treated as pollution damage for the purposes of this section, and accordingly the owner will be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 164.

(6) The Fund incurs no obligation under this section if —

(a) it proves that the pollution damage —

(i) resulted from an act of war, hostilities, civil war or insurrection, or

(ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service, or

(b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by the claimant, or involving two or more ships one of which is identified by the claimant.

(7) If the Fund proves that the pollution damage resulted wholly or partly —

(a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or

(b) from the negligence of that person,

the Fund may (subject to subsection (9)) be exonerated wholly or partly from its obligations to pay compensation to that person.

(8) Where the liability under section 163 in respect of the pollution damage is limited to any extent by subsection (7) of that section, the Fund will (subject to subsection (9)) be exonerated to the same extent.

(9) Subsections (7) and (8) do not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

[Merchant Shipping Act 1995 (UK), s. 175; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

185. Limitation of Fund's liability under section 184

(1) The Fund's liability under section 184 is subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Schedule 2, and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Chapter.

(2) A certificate given by the Director of the Fund stating that subparagraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 185 is conclusive evidence for the purposes of this Chapter that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention, a court giving judgment against the Fund in proceedings under section 185 must notify the Fund, and —

(a) no steps can be taken to enforce the judgment unless and until the court gives leave to enforce it;

(b) that leave cannot be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount; and

(c) in the latter case the judgment is enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) must be steps to obtain payment in sterling; and —

(a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right must be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for —

(i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident; or

(ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and

(b) a certificate given by or on behalf of the Financial Secretary stating —

(i) that a particular sum in sterling has been so fixed for the relevant day; or

(ii) that no sum has been so fixed for the relevant day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant day,

is conclusive evidence of those matters for the purposes of this Chapter.

(5) Where the Secretary of State makes an order under section 176(5) of the Act, the Governor must by order make such amendments of this section and Part I of Schedule 2 for the purpose of giving effect to the order made by the Secretary of State.

(6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) will, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

[Merchant Shipping Act 1995 (UK), s. 176; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

Supplemental

186. Jurisdiction and effect of judgments

(1) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 163, any judgment given in the proceedings will, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(2) Where a person incurs a liability under the law of a Fund Convention country corresponding to Chapter III of this Part for damage which is partly in the territory of the Falkland Islands, subsection (1), for the purpose of proceedings under this Chapter, applies with any necessary modifications to a judgment in proceedings under that law of the said country.

(3) Subject to subsection (4), the Foreign Judgments (Reciprocal Enforcement) Ordinance 1959 applies, whether or not it would so apply apart from this subsection, to any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 184; and in its application to such a judgment the said Ordinance has effect with the omission of subsections (2) and (3) of section 6.

(4) No steps can be taken to enforce such a judgment unless and until the court in which it is registered under the 1959 Ordinance gives leave to enforce it and —

(a) that leave cannot be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph (d) of Article 4 of the Fund Convention (as set out in Schedule 2) or that it is to be reduced to a specified amount; and

(b) in the latter case, the judgment is enforceable only for the reduced amount.

[Merchant Shipping Act 1995 (UK), s. 177; Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, Schedule]

187. Extinguishment of claims

(1) No action to enforce a claim against the Fund under this Chapter can be entertained by a court in the Falkland Islands unless —

(a) the action is commenced; or

(b) a third party notice of an action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,

not later than three years after the claim against the Fund arose.

(2) In subsection (1), “third party notice” means a notice of the kind described in section 202(2) and (3).

(3) No action to enforce a claim against the Fund under this Chapter can be entertained by a court in the Falkland Islands unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund arose.
[Merchant Shipping Act 1995 (UK), s. 178]

188. Subrogation

(1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund will acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.

(2) In respect of any sum paid by a public authority in the Falkland Islands as compensation for pollution damage, the authority will acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

[Merchant Shipping Act 1995 (UK), s. 179]

189 Supplementary provisions as to proceedings involving the Fund

(1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy must, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

[Merchant Shipping Act 1995 (UK), s. 180]

Chapter VI – Carriage of hazardous and noxious substances

190. Introductory

(1) In this Chapter, unless the context otherwise requires, “the Convention” means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996.

(2) The provisions and the text of the Convention, excluding the annexes, is set out in Schedule 3.

(3) In interpreting the definition of “hazardous and noxious substances” in Article 1, paragraph 5 of the Convention, any reference in that paragraph to a particular convention or code as amended must be taken to be a reference to that convention or code as amended from time to time (whether before or after the commencement of this Chapter).

[Merchant Shipping Act 1995 (UK), s. 182A]

191. Power to give effect to Convention

(1) Where an Order in Council made under section 182B of the Act extends the Convention to the Falkland Islands, the Governor must make an order giving effect to the Convention.

(2) The order under subsection (1) may —

- (a) make different provision for different circumstances;
- (b) make provision for references in the Order in Council to any specified document to operate as references to that document as revised or re-issued from time to time;
- (c) provide for the delegation of functions exercisable by virtue of the Order in Council;
- (d) include such incidental, supplemental and transitional provisions as may be expedient for the purposes of the Order in Council; and
- (e) make amendments to this Chapter for the purposes of giving effect to the Order in Council.

[Merchant Shipping Act 1995 (UK), s. 182B]

192. Power of Governor to make order amending Convention in relation to article 48

(1) Where an Order in Council made under section 182B(1) of the Act extends the Convention to the Falkland Islands, the Governor may by order make such amendments to Schedule 3 as appear to the Governor to be appropriate for the purpose of giving effect to any amendment of a relevant limit which is adopted in accordance with article 48 of the Convention.

(2) In subsection (1), “a relevant limit” means any of the limits for the time being specified in article 9, paragraph 1 and article 14, paragraph 5 of the Convention.

[Merchant Shipping Act 1995 (UK), s. 182C]

PART 8 – LIABILITY OF SHIPOWNERS AND OTHERS

Carriage of passengers and luggage by sea

193. Scheduled convention to have force of law

(1) The provisions of the Convention relating to the Carriage of Passengers and their Luggage by Sea as set out in Part I of Schedule 4 (in this section and in Part II of that Schedule referred to as “the Convention”) have the force of law in the Falkland Islands.

(2) The provisions of Part II of Schedule 4 have effect in connection with the Convention and subsection (1) has effect subject to the provisions of that Part.

(3) Where an Order in Council has been made under section 183 of the Act to address a conflict between the provisions of this section or of Part I or II of Schedule 4 and any provisions relating to the carriage of passengers or luggage for reward by land, sea or air in any enactment in the Falkland Islands giving effect to the Convention, the Governor may make such modifications of this section or of the Schedule or any such enactment as he or she considers appropriate for resolving the conflict.

[Merchant Shipping Act 1995 (UK), s. 183, Carriage of Passengers and their Luggage by Sea (Parties to Convention) Order 1987]

Limitation of liability of shipowners, etc. and salvors for maritime claims

194. Limitation of liability for maritime claims

(1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 (as amended by the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims of 19 November 1976) as set out in Part I of Schedule 5 (in this section and Part II of that Schedule referred to as “the Convention”) continues to have the force of law in the Falkland Islands.

[The Limitation of Liability for Maritime Claims (Parties to Convention) Order 1986]

(2) The provisions of Part II of that Schedule has effect in connection with the Convention, and subsection (1) has effect subject to the provisions of that Part.

(3) Where an Order in Council is made under —

(a) section 185(2A) of the Act modifying Parts I and II of the Convention in consequence of the revision of the Convention by the Protocol of 1996 amending the Convention, or

(b) section 185(2B) of the Act as a result of any further revisions to the Convention or to article 8 of the 1996 Protocol,

the Governor may make such revisions as he or she considers appropriate to the relevant parts of Schedule 5 to give effect to those modifications.

(4) The Governor may by order make such amendments of Parts I and II of Schedule 5 as appear to the Governor to be appropriate for the purpose of giving effect to any amendment of a relevant limit which is adopted in accordance with article 8 of the 1996 Protocol.

(5) The provisions having the force of law under this section do not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if —

(a) he or she is so on board or employed under a contract of service governed by the law of the Falkland Islands; and

(b) the liability arises from an occurrence which took place after the commencement of this Ordinance.

(6) In this section —

“relevant limit” means any of the limits for the time being specified in either of the following provisions of the Convention —

(a) article 6, paragraph 1, and

(b) article 7, paragraph 1.

“ship” and “salvage operations” have the same meaning as in the Convention.

[Merchant Shipping Act 1995 (UK), s. 185; Merchant Shipping Act 1995 (Adoption) (Limitation of Liability for Maritime Claims) Order 1996, Limitation of Liability for Maritime Claims (Parties to Convention) Order 1986]

195. Exclusion of liability

(1) Subject to subsection (3), the owner of a ship registered in the Falkland Islands is not liable for any loss or damage in the following cases, namely —

(a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or

(b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3), where the loss or damage arises from anything done or omitted by any person in his or her capacity as master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) also excludes the liability of —

(a) the master, member of the crew or servant; and

(b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he or she is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of the person as is mentioned in Article 4 of the Convention set out in Schedule 5.

(4) This section applies in relation to Her Majesty’s ships while they are in Falkland Islands waters as it applies in relation to other ships.

(5) In this section “owner”, in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

[Merchant Shipping Act 1995 (UK), s. 186; Merchant Shipping Act 1995 (Adoption) (Limitation of Liability for Maritime Claims) Order 1996]

Multiple fault: apportionment, liability and contribution

196. Damage or loss: apportionment of liability

(1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss is in proportion to the degree in which each ship was at fault.

(2) If, in any such case, having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability is apportioned equally.

(3) This section applies to persons other than the owners of a ship who are responsible for the fault of the ships, as well as to the owners of a ship and where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship, this section applies to the charterers or other persons for the time being so responsible instead of the owners.

(4) Nothing in this section operates so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.

(5) Nothing in this section affects the liability of any person under a contract of carriage or any contract, or will be construed as imposing any liability upon any person from which he or she is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his or her liability in the manner provided by law.

(6) In this section “freight” includes passage money and hire.

(7) In this section references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

[Merchant Shipping Act 1995 (UK), s. 187]

197. Loss of life or personal injuries: joint and several liability

(1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships is joint and several.

(2) Subsection (3) of section 196 applies also to this section.

(3) Nothing in this section will be construed as depriving any person of any right of defence on which, apart from this section, he or she might have relied in an action brought against him or her by the person injured, or any person or persons entitled to sue in respect of such loss of life, or affects the right of any person to limit his liability in the manner provided by law.

(4) Subsection (7) of section 196 applies also for the interpretation of this section.

[Merchant Shipping Act 1995 (UK), s. 188]

198. Loss of life or personal injuries: right of contribution

(1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.

(2) Subsection (3) of section 197 applies also to this section.

(3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue.

(4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section have, for the purposes of recovering it, the same rights and powers as the persons entitled to sue for damages in the first instance.

[Merchant Shipping Act 1995 (UK), s. 189]

Time limit for proceedings against owners or ship

199. Time limit for proceedings against owners or ship

(1) This section applies to any proceedings to enforce any claim or lien against a ship or her owners —

(a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or

(b) for damages for loss of life or personal injury caused by the fault of that ship to any person on board another ship.

(2) The extent of the fault is immaterial for the purposes of this section.

(3) Subject to subsections (5) and (6), no proceedings to which this section applies can be brought after the period of two years from the date when —

(a) the damage or loss was caused; or

(b) the loss of life or injury was suffered.

(4) Subject to subsections (5) and (6), no proceedings under any of sections 196 to 198 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury can be brought after the period of one year from the date of payment.

(5) Any court having jurisdiction in such proceedings may, in accordance with rules of court, extend the period allowed for bringing proceedings to such extent and on such conditions as it thinks fit.

(6) Any such court, if satisfied that there has not been during any period allowed for bringing proceedings any reasonable opportunity of arresting the defendant ship within —

(a) the jurisdiction of the court; or

(b) the territorial sea of the country to which the plaintiff's ship belongs or in which the plaintiff resides or has his or her principal place of business,

must extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity of so arresting the ship.

[Merchant Shipping Act 1995 (UK), s. 190]

Limitation of liability of the Authority

200. Limitation of liability: Authority

(1) The Authority's liability for any loss or damage caused to any ship, or to any goods, merchandise or other things whatsoever on board any ship is limited in accordance with subsection (4) by reference to the tonnage of the largest ship registered in the Falkland Islands which, at the time of the loss or damage is, or within the preceding five years has been, within the area over which the Authority or person discharges any functions.

(2) The limitation of liability under this section relates to the whole of any losses and damages which may arise on any one distinct occasion, although such losses and damages may be sustained by more than one person, and applies whether the liability arises at common law or under any general or local or private enactment, and notwithstanding anything contained in such an enactment.

(3) This section does not exclude the liability of the Authority for any loss or damage resulting from any such act or omission of the Authority as is mentioned in Article 4 of the Convention set out in Schedule 5.

(4) The limit of liability must be ascertained by applying to the ship by reference to which the liability is to be determined the method of calculation specified in paragraph 1(b) of Article 6 of the Convention set out in Schedule 5.

(5) For the purposes of subsection (1) a ship must not be treated as having been within the area over which the Authority discharges any functions by reason only that it has been built or fitted out within the area, or that it has taken shelter within or passed through the area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mails or passengers within the area.

(6) Nothing in this section imposes any liability for any loss or damage where no liability exists apart from this section.

(7) In this section —

“dock” includes wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, gridirons, slips, quays, wharves, piers, stages, landing places and jetties; and

“owners of any dock or canal” includes any authority or person having the control and management of any dock or canal, as the case may be.

[Merchant Shipping Act 1995 (UK), s. 191]

Application to Crown and its ships

201. Application to Crown and its ships

(1) Sections 194, 195, 196, 197 and 198 (except subsection (6)) apply in the case of Her Majesty’s ships as they apply in relation to other ships and section 200 applies to the Crown in its capacity as an authority or person specified in this subsection.

(2) In this section “Her Majesty’s ships” means —

(a) ships of which beneficial interest is vested in Her Majesty while they are within Falkland Islands waters;

(b) ships which are registered Government ships in the United Kingdom while they are within Falkland Islands waters;

(c) ships which are for the time being demised or sub-demised to or in the exclusive possession of the Crown,

where Her Majesty is interested in any such ship in right of Her Government in the Falkland Islands.

[Merchant Shipping Act 1995, s. 192]

Regulations requiring insurance or security

202. Compulsory insurance or security

(1) Subject to subsections (2) and (3), the Governor may make regulations requiring that, in such cases as may be prescribed by the regulations, while a ship is in Falkland Islands waters, there must be in force in respect of the ship —

(a) a contract of insurance insuring such person or persons as may be specified by the regulations against such liabilities as may be so specified and satisfying such other requirements as may be so specified; or

(b) such other security relating to those liabilities as satisfies requirements specified by or under the regulations.

(2) Regulations under this section do not apply in relation to —

(a) a qualifying foreign ship while it is exercising —

(i) the right of innocent passage; or

(ii) the right of transit passage through straits used for international navigation;

(b) any warship; or

(c) any ship for the time being used by the government of any State for other than commercial purposes.

(3) Regulations under this section may not require insurance or security to be maintained in respect of a ship in relation to any liability in any case where an obligation to maintain insurance or security in respect of that ship in relation to that liability is imposed by section 173 or by or under an Order in Council made under section 182B of the Act.

(4) Regulations under this section may require that, where a person is obliged to have in force in respect of a ship a contract of insurance or other security, such documentary evidence as may be specified by or under the regulations of the existence of the contract of insurance or other security must be carried in the ship and produced on demand, by such persons as may be specified in the regulations, to such persons as may be so specified.

(5) Regulations under this section may provide —

(a) that in such cases as are prescribed a ship which contravenes the regulations is liable to be detained and that section 270 has effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship;

(b) that a contravention of the regulations is an offence punishable on conviction by a fine of an amount not exceeding level 5 on the scale set out in Schedule 7, or such less amount as is prescribed by the regulations, and on conviction on indictment by a fine; and

(c) that any such contravention is an offence punishable only on conviction by a fine of an amount not exceeding level 5 on the scale set out in Schedule 7, or such less amount as is prescribed by the regulations.

(6) Regulations under this section may —

(a) make different provision for different cases;

(b) make provision in terms of any document which the Governor or any person considers relevant from time to time; and

(c) include such incidental, supplemental and transitional provision as appears to the Governor to be expedient for the purposes of the regulations.

[Merchant Shipping Act 1995 (UK), s. 192A]

203. Establishment and management of aids

(1) The Governor or any department as the Governor may appoint must establish within the coastal areas of the Falkland Islands such aids to navigation as may be necessary to facilitate safe navigation.

(2) If it is proposed to establish or discontinue an aid, or alter the lighting characteristics or any other distinguishing features of an aid, the Authority must be consulted before any such proposal is carried into effect.

(3) For the purposes of this section and sections 204 to 207 —

“aids to navigation” and “aids” means all lighthouses, buoys beacons, radio aids, or any other light, signal or mark established to aid marine navigation and includes all buildings, moorings and other works associated therewith; and

“coastal area” includes the coast of the Falkland Islands and all Falkland Islands waters.

(4) This section and sections 204 to 207 apply to the coastal areas of the Falkland Islands.
[*Merchant Shipping Act 2001 (British Virgin Islands), s. 165*]

204. Nautical publications, charts and other information

(1) The harbour master may cause the publication and updating of information on aids to navigation and declare such publications and any other publications, to be approved nautical publications.

(2) In any legal proceedings, the production of an approved nautical publication authenticated by the harbour master is *prima facie* evidence of the matters appearing therein.

(3) The Governor may make regulations specifying such charts, directions or information as appear to the Governor to be necessary or expedient for the safe operation of ships.

(4) Regulations made pursuant to this section may require ships registered in the Falkland Islands or such descriptions of ships as may be specified in the regulations to carry and use, either at all times or on such voyages as may be specified in the regulations, the charts, copies of directions or information so specified.

(5) If a ship goes to sea or attempts to go to sea without carrying the charts, copies of direction or information which it is required to carry according to the regulations made under this section, the master and owner each commits an offence and is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

[*Merchant Shipping Act 2001 (British Virgin Islands), s. 166*]

205. Prosecution of offences relating to aids

Any person who —

- (a) contravenes subsections (1) and (2) of section 203;
- (b) wilfully or negligently damages, destroys or allows a ship to foul an aid;
- (c) wilfully or negligently does anything which causes the view of an aid to be obstructed in such a manner as to lessen its efficiency;
- (d) wilfully, negligently or without lawful authority does anything which interferes with an aid so as to hinder the effective use of the aid;
- (e) trespasses on or without lawful excuse, is found in or on an aid, or on any land upon which an aid is situated,

commits an offence and, in addition to the expenses of making good any damage so occasioned, is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

[Merchant Shipping Act 2001 (British Virgin Islands), s. 167]

206. Detention of ships

Where a ship damages, destroys or fouls an aid, the Authority may detain the ship until the cost of repairing or replacing the aid or rendering the aid effective again is paid.

[Merchant Shipping Act 2001 (British Virgin Islands), s. 168]

207. Fire or lights detrimental to navigation

(1) A person must not show a light, including light from a fire, in such a place or manner as to mislead ships navigating in the coastal areas of the Falkland Islands.

(2) Any person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding level 6 on the scale set out in Schedule 7.

(3) The harbour master may cause to be extinguished any fire or light in respect of which notice is given under this section where the person to whom the notice has been given fails to comply within the time specified in the notice.

(4) For the purpose of extinguishing false or unauthorised lights, an officer authorised by the harbour master may enter the place where the light is situated and forthwith extinguish the same without causing unnecessary damage.

[Merchant Shipping Act 2001 (British Virgin Islands), s. 169]

PART 9 – WRECK AND SALVAGE

Interpretation

208. Interpretation

(1) In this Part —

“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;

“salvor” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of the ship;

“vessel” includes any ship or boat, or any other description of vessel used in navigation; and

“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

(2) Fishing boats or fishing gear lost or abandoned at sea and either —

(a) found or taken possession of within Falkland Islands waters; or

(b) found or taken possession of beyond those waters and brought within those waters,

must be treated as wreck for the purposes of this Part.

[Merchant Shipping Act 1995 (UK), s. 255, Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997, Schedule 2 S.I. 1997/2586]

Chapter I – Salvage

209. Salvage Convention 1989 to have force of law

(1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 6 (in this Chapter referred to as “the Salvage Convention”) continue to have the force of law in the Falkland Islands.

(2) The provisions of Part II of the Salvage Convention, and subsection (1) has effect subject to the provisions of the Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997.

(3) Nothing in subsection (1) or (2) affects any rights or liabilities arising out of any salvage operations started or other acts done before 30th November 1997.

[Merchant Shipping Act 1995 (UK), s. 224; Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997, Schedule 2]

210. Valuation of property by receiver

(1) Where any dispute as to salvage arises, the receiver may, on the application of either party, appoint a valuer to value the property.

(2) When the valuation has been made the receiver must give copies of it to both parties.

(3) A copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, is admissible as evidence in any subsequent proceedings.

(4) There must be paid in respect of the valuation by the person applying for it such fee as the Governor may direct.

[Merchant Shipping Act 1995 (UK), s. 225]

211. Detention of property liable for salvage by receiver

(1) Where salvage is due to any person under this Chapter, the receiver must —

(a) if the salvage is due in respect of services rendered —

(i) in assisting a vessel;

(ii) in saving life from a vessel; or

(iii) in saving the cargo and equipment of a vessel, detain the vessel and cargo or equipment; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Chapter, detain the wreck.

(2) Subject to subsection (3), the receiver must detain the vessel and the cargo and equipment, or the wreck, as the case may be, until payment is made for salvage, or process is issued for the arrest or detention of the property by the court.

(3) The receiver may release any property detained under subsection (2) if security is given —

(a) to his or her satisfaction; or

(b) where —

(i) the claim for salvage exceeds £5,000; and

(ii) any question is raised as to the sufficiency of the security,

to the satisfaction of the court.

(4) Any security given for salvage under this section to an amount exceeding £5,000 may be enforced by the court in the same manner as if bail had been given in that court.

[Merchant Shipping Act 1995 (UK), s. 226]

212. Sale of detained property by receiver

(1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases.

(2) Those cases are where the amount —

(a) is not disputed, and payment of the amount due is not made within twenty days after the amount is due;

(b) is disputed, but no appeal lies from the first court to which the dispute is referred, and payment is not made within twenty days after the decision of the first court; or

(c) is disputed and an appeal lies from the decision of the first court to some other court, and within twenty days of the decision of the first court neither payment of the sum due is made nor proceedings are commenced for an appeal.

(3) The proceeds of sale of detained property must, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees and salvage and any excess must be paid to the owners of the property or any other persons entitled to it.

(4) In this section “detained property” means property detained by the receiver under section 211(2).

[Merchant Shipping Act 1995 (UK), s. 227]

213. Apportionment of salvage under £5,000 by the receiver

(1) Where —

(a) the aggregate amount of salvage payable in respect of salvage services rendered in Falkland Islands waters has been finally determined and does not exceed £5,000; but

(b) a dispute arises as to the apportionment of the amount among several claimants,

the person liable to pay the amount may apply to the receiver for leave to pay it to the receiver.

(2) The receiver must, if he thinks fit, receive the amount and, if the receiver does, he or she must give the person paying it a certificate stating the amount paid and the services in respect of which it is paid.

(3) A certificate under subsection (2) is a full discharge and indemnity to the person by whom it was paid, and to his vessel, cargo, equipment and effects against the claims of all persons in respect of the services mentioned in the certificate.

(4) The receiver must with all convenient speed distribute any amount received by him or her under this section among the persons entitled to it, on such evidence, and in such shares and proportions, as he or she thinks fit.

(5) Any decision by the receiver under subsection (4) must be made on the basis of the criteria contained in Article 13 of the Salvage Convention.

(6) The receiver may retain any money which appears to the receiver to be payable to any person who is absent.

(7) A distribution made by a receiver under this section is final and conclusive as against all persons claiming to be entitled to any part of the amount distributed.

[Merchant Shipping Act 1995 (UK), s. 228]

214. Apportionment of salvage by the court

(1) Where —

(a) the aggregate amount of salvage payable in respect of salvage services rendered in Falkland Islands waters has been finally determined and exceeds £5,000; or

(b) the aggregate amount of salvage payable in respect of salvage services rendered outside Falkland Islands waters (of whatever amount) has been finally determined; but

(c) in either case, any delay or dispute arises as to the apportionment of the amount,

the court may cause the amount of salvage to be apportioned among the persons entitled to it in such manner as it thinks just.

(2) Any decision of the court under this section must be made on the basis of the criteria contained in Article 13 of the Salvage Convention.

(3) For the purpose of making that apportionment, the court may —

(a) appoint any person to carry that apportionment into effect;

(b) compel any person in whose hands or under whose control the amount may be to distribute it or to pay it into court to be dealt with as the court directs; and

(c) issue such process as it thinks fit.

[Merchant Shipping Act 1995 (UK), s. 229]

215. Salvage claims against the Crown and Crown rights of salvage and regulation of salvage claims

(1) Subject to section 29 of the Crown Proceedings Act 1947 in its application to the Falkland Islands (exclusion of proceedings in rem against the Crown) (so far as consistent with the Salvage Convention), the law relating to civil salvage, whether of life or property, except sections 210, 211 and 212, applies in relation to salvage services in assisting any of Her Majesty's ships in Falkland Islands waters, or in saving life from Her Majesty's ships, or in saving any cargo or equipment belonging to Her Majesty in right of Her Government in the

Falkland Islands, in the same manner as if the ship, cargo or equipment belonged to a private person.

(2) Where salvage services are rendered by or on behalf of Her Majesty in right of Her Government in the Falkland Islands, Her Majesty is entitled to claim salvage in respect of those services to the same extent as any other salvor, and has the same rights and remedies of those services as any other salvor.

(3) No claim for salvage services by the commander or crew, or part of the crew, of any of Her Majesty's ships can be finally adjudicated upon in the Falkland Islands without the consent of the Attorney General to the prosecution of the claim.

(4) Any document purporting to give the consent of and to be signed by the Attorney General for the purposes of subsection (3) is evidence of that consent.

(5) "Her Majesty's ships" has the same meaning in this section as in section 201(2).
[*Merchant Shipping Act 1995 (UK), s.230*]

Chapter II – Wreck *Vessels in distress*

216. Application of, and discharge of functions under, sections 217, 218, 219, and 220

(1) Sections 217, 218, 219 and 220 apply in circumstances where a vessel registered in the Falkland Islands or a foreign vessel is wrecked, stranded, or in distress at any place on or near the coasts of the Falkland Islands or any tidal water within Falkland Islands waters.

(2) Where any function is conferred on the receiver by any of those sections, that function may be discharged by any customs officer or any officer designated by the Governor to discharge that function.

(3) An officer discharging any functions of the receiver under this section must, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by any provision of this Chapter, be treated as the agent of the receiver.

(4) Notwithstanding subsection (3), an officer discharging such functions is not —

(a) entitled to any fees payable to receivers; or

(b) to be deprived of any right to salvage to which he or she would otherwise be entitled.

(5) In any of those sections "shipwrecked persons", in relation to a vessel, means persons belonging to the vessel.

[*Merchant Shipping Act 1995 (UK), s. 231*]

217. Duty of receiver where vessel in distress

(1) In circumstances in which this section applies by virtue of section 216 in relation to any vessel the receiver must, on being informed of the circumstances, discharge the following functions.

(2) Subject to subsection (3), the receiver must —

(a) immediately proceed to the place where the vessel is;

(b) take command of all persons present; and

(c) assign such duties and give such directions to each person as he or she thinks fit for the preservation of the vessel and of the lives of the shipwrecked persons.

(3) The receiver must not interfere between the master and crew of the vessel in reference to the management of the vessel unless he or she is requested to do so by the master.

(4) Subject to subsection (3), if any person intentionally disobeys the direction of the receiver that person is liable, on conviction, to a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 232]

218. Powers of receiver in case of vessel in distress

(1) In circumstances where this section applies by virtue of section 189 in relation to any vessel the receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment —

(a) require such persons as the receiver thinks necessary to assist him or her;

(b) require the master, or other person having the charge, of any vessel near at hand to give such assistance with his or her crew, or vessel, as may be in his or her power; and

(c) require the use of any vehicle that may be near at hand.

(2) If any person refuses, without reasonable excuse, to comply with any requirement made under subsection (1) the person commits an offence and is liable, on conviction, to a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 233]

219. Power to pass over adjoining land

(1) In circumstances where this section applies by virtue of section 216 in relation to any vessel, all persons may, subject to subsections (3) and (4), for the purpose of —

(a) rendering assistance to the vessel;

(b) saving the lives of shipwrecked persons; or

(c) saving the cargo or equipment of the vessel,

pass and repass over any adjoining land without being subject to interruption by the owner or occupier and deposit on the land any cargo or other article recovered from the vessel.

(2) The right of passage conferred by subsection (1) is a right of passage with or without vehicles.

(3) No right of passage is conferred by subsection (1) where there is some public road equally convenient.

(4) The rights conferred by subsection (1) must be so exercised as to do as little damage as possible.

(5) Any damage sustained by an owner or occupier of land in consequence of the exercise of the rights conferred by this section is a charge on the vessel, cargo or articles in respect of or by which the damage is caused.

(6) Any amount payable in respect of such damage must, in case of dispute, be determined and is, in default of payment, recoverable in the same manner as the amount of salvage is determined and recoverable under this Part.

(7) If the owner or occupier of any land —

(a) impedes or hinders any person in the exercise of the rights conferred by this section;

(b) impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or

(c) prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit,

he or she commits an offence and is liable, on conviction, to a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 234]

220. Liability for damage in case of plundered vessel

(1) Where, in circumstances in which this section applies by virtue of section 216 in relation to any vessel, the vessel or any part of its cargo and equipment is plundered, damaged or destroyed by persons in circumstances in which those persons commit the offence of riot, compensation must be made to the owner of the vessel, cargo or equipment in accordance with regulations made under subsection (2).

(2) The Governor may make regulations setting out any provisions to govern the payment of compensation under this section.

[Merchant Shipping Act 1995 (UK), s. 235]

Dealing with wreck

221. Duties of finder etc. of wreck

(1) If any person finds or takes possession of any wreck in Falkland Islands waters or finds or takes possession of any wreck outside Falkland Islands waters and brings it within those waters, the person must —

(a) if the person is the owner of it, give notice to the receiver stating that he or she has found or taken possession of it and describing the marks by which it may be recognised; or

(b) if the person is not the owner of it, give notice to the receiver that he or she has found or taken possession of it and, as directed by the receiver, either hold it to the receiver's order or deliver it to the receiver.

(2) If any person fails, without reasonable excuse, to comply with subsection (1) that person commits an offence and is liable, on conviction, to a fine not exceeding level 4 on the scale set out in Schedule 7 and if the person is not the owner of the wreck he or she also —

(a) forfeits any claim to salvage; and

(b) is liable to pay twice the value of the wreck —

(i) if it is claimed, to the owner of it; or

(ii) if it is unclaimed, to the person entitled to the wreck.

(3) Any sum payable under subsection (2)(b) to the owner of the wreck or to the persons entitled to the wreck may be recovered summarily as a civil debt.

[Merchant Shipping Act 1995 (UK), s. 236]

222. Provisions as respects cargo, etc.

(1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of the Falkland Islands or any tidal water within Falkland Islands waters, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel must be delivered to the receiver.

(2) If any person (whether the owner or not) —

(a) conceals or keeps possession of any such cargo or article; or

(b) refuses to deliver any such cargo or article to the receiver or to any person authorised by the receiver to require delivery,

he or she commits an offence and is liable, on conviction, to a fine not exceeding level 4 on the scale set out in Schedule 7.

(3) The receiver or any person authorised by the receiver may take any such cargo or article (if necessary by force) from any person who refuses to deliver it.

[Merchant Shipping Act 1995 (UK), s. 237]

223. Receiver to give notice of wreck

(1) Where the receiver takes possession of any wreck he or she must, within 48 hours make a record describing the wreck and any marks by which it is distinguished.

(2) The record made by the receiver under subsection (1) must be kept by the receiver available for inspection by any person during reasonable hours without charge.

[Merchant Shipping Act 1995 (UK), s. 238]

224. Claims of owners to wreck

(1) The owner of any wreck in the possession of the receiver who establishes his or her claim to the wreck to the satisfaction of the receiver within one year from the time when the wreck came into the receiver's possession is, on paying the salvage, fees and expenses due, entitled to have the wreck delivered or the proceeds of sale paid to him or her.

(2) Where —

(a) a foreign ship has been wrecked on or near the coasts of the Falkland Islands; or

(b) any articles belonging to or forming part of, or of the cargo of, a foreign ship which has been wrecked on or near the coasts of the Falkland Islands are found on or near the coast or are brought into any port,

the appropriate consular officer must, in the absence of the owner and of the master or other agent of the owner, be treated as the agent of the owner for the purposes of the custody and disposal of the wreck and such articles.

(3) In subsection (2) “the appropriate consular officer”, in relation to a foreign ship, means the consul general of the country to which the ship or, as the case may be, the owners of the cargo may have belonged or any consular officer of that country authorised for the purpose by any treaty or arrangement with that country.

[Merchant Shipping Act 1995 (UK), s. 239]

225. Immediate sale of wreck in certain cases

(1) The receiver may at any time sell any wreck in his possession if, in the receiver's opinion —

(a) it is under the value of £5,000;

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept;
or

(c) it is not of sufficient value to pay for storage.

(2) The receiver may also sell any wreck in his or her possession before the end of the year referred to in section 224(1) if —

(a) in the receiver's opinion it is unlikely that any owner will establish a claim to the wreck within that year; and

(b) no statement has been given to the receiver under section 227(1) in relation to the place where the wreck was found.

(3) Subject to subsection (4), the proceeds of sale must, after defraying the expenses of the sale, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

(4) Where the receiver sells any wreck in a case falling within subsection (2), he or she may make to the salvors an advance payment, of such amount as the receiver thinks fit and subject to such conditions as he or she thinks fit, on account of any salvage that may become payable to them in accordance with section 228(5).

[Merchant Shipping Act 1995 (UK) s. 240]

Unclaimed wreck

226. Right of Crown to unclaimed wreck

Her Majesty's Government in right of the Falkland Islands is entitled to all unclaimed wreck found in the Falkland Islands or in Falkland Islands waters except in places where said Government has granted the right to any other person.

[Merchant Shipping Act 1995 (UK), s. 241]

227. Notice of unclaimed wreck to be given to persons entitled

(1) Any person who is entitled to unclaimed wreck found at any place in the Falkland Islands or in Falkland Islands waters must give the receiver a statement containing the particulars of his or her entitlement and specifying an address to which notices may be sent.

(2) Where a statement has been given to the receiver under subsection (1) and the entitlement is proved to the satisfaction of the receiver, the receiver must, on taking possession of any wreck found at a place to which the statement refers, within 48 hours, send to the specified address a description of the wreck and of any marks distinguishing it.

[Merchant Shipping Act 1995 (UK), s. 242]

228. Disposal of unclaimed wreck

(1) Where, as respects any wreck found in the Falkland Islands or in Falkland Islands waters and in the possession of the receiver, no owner establishes a claim to it within one year after it came into the receiver's possession, the wreck must be dealt with in accordance with the provisions of this section.

(2) If the wreck is claimed by any person who has delivered the statement required by section 198 and has proved to the satisfaction of the receiver his or her entitlement to receive unclaimed wreck found at the place where the wreck was found, the wreck must, on payment of all expenses, costs, fees and salvage due in respect of it, be delivered to that person.

(3) If the wreck is not claimed by any person in accordance with section 227, the receiver must sell the wreck and pay the proceeds as directed by subsection (6), after making the deductions required by subsection (4) and paying to the salvors the amount of salvage determined under subsection (5).

(4) The amounts to be deducted by the receiver are —

- (a) the expenses of the sale;
- (b) any other expenses incurred by him or her; and
- (c) the receiver's fees.

(5) The amount of salvage to be paid by the receiver to the salvors is such amount as the Governor directs generally or in the particular case.

(6) The proceeds of sale (after making those deductions and salvage payments) must be paid by the receiver into the Consolidated Fund.

[Merchant Shipping Act 1995 (UK), s. 243]

229. Effect of delivery of wreck etc. under this Part

(1) Delivery of wreck or payment of the proceeds of sale of wreck by the receiver under this Chapter discharges the receiver from all liability in respect of the delivery or payment.

(2) Delivery of wreck by the receiver under this Chapter does not, however, prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck or concerning the title to the soil of the place at which the wreck was found.

[Merchant Shipping Act 1995 (UK), s. 244]

Offences in respect of wreck

230. Taking wreck to foreign port

(1) A person commits an offence if he or she takes into any foreign port and sells —

- (a) any vessel stranded, derelict or otherwise in distress found on or near the coasts of the Falkland Islands or any tidal water within Falkland Islands waters;
- (b) any part of the cargo or equipment of, or anything belonging to, such a vessel; or
- (c) any wreck found within those waters.

(2) A person convicted of an offence under this section is liable, on conviction to imprisonment for a term not exceeding five years.

[Merchant Shipping Act 1995 (UK), s. 245]

231. Interfering with wrecked vessel or wreck

(1) Subject to subsection (2), a person commits an offence if, without the permission of the master, the person boards or attempts to board any vessel which is wrecked, stranded or in distress.

(2) No offence is committed under subsection (1) if the person is the receiver or a person lawfully acting as the receiver or if the person acts by command of the receiver or a person so acting.

(3) A person commits an offence if he or she —

(a) impedes or hinders or attempts to impede or hinder the saving of —

(i) any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water; or

(ii) any part of the cargo or equipment of any such vessel; or

(iii) any wreck;

(b) conceals any wreck;

(c) defaces or obliterates any mark on a vessel; or

(d) wrongfully carries away or removes —

(i) any part of any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;

(ii) any part of the cargo or equipment of any such vessel; or

(iii) any wreck.

(4) The master of a vessel may forcibly repel any person committing or attempting to commit an offence under subsection (1).

(5) A person convicted of an offence under this section is liable, on conviction —

(a) in the case of an offence under subsection (1), to a fine not exceeding level 3 on the scale set out in Schedule 7;

(b) in the case of an offence under subsection (3), to a fine not exceeding level 4 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 246]

232. Powers of entry, etc.

(1) Where the receiver has reason to believe that —

(a) any wreck is being concealed by or is in the possession of some person who is not the owner of it; or

(b) any wreck is being otherwise improperly dealt with,

the receiver may apply to a justice of the peace for a search warrant.

(2) Where a search warrant is granted under subsection (1) to the receiver, the receiver may, by virtue of the warrant —

(a) enter any house, or other place (wherever situated) or any vessel; and

(b) search for, seize and detain any wreck found there.

(3) If any seizure of wreck is made under this section in consequence of information given by any person to the receiver, the person giving the information is entitled, by way of salvage, to such sum, not exceeding £100, as the receiver may allow.

[Merchant Shipping Act 1995 (UK), s. 247]

Chapter III – Supplemental Administration

233. Functions of the Governor as to wreck

(1) The Governor has the general superintendence throughout the Falkland Islands of all matters relating to wreck.

(2) The Chief Executive may appoint one or more persons to be receiver of wreck for the purposes of this Part and a receiver so appointed must discharge such functions as are assigned to him or her by the Chief Executive.

(3) The appointment of any person to the office of receiver must be published in a notice in the *Gazette*.

[Merchant Shipping Act 1995 (UK), s. 248]

234. Expenses and fees of receivers

(1) There must be paid to the receiver the expenses properly incurred by him or her in the discharge of his or her functions and also, in respect of such matters as may be prescribed by regulations made by the Governor, such fees as may be so prescribed.

(2) The receiver is not entitled to any other remuneration.

(3) The receiver, in addition to all other rights and remedies for the recovery of those expenses and fees, has the same rights and remedies in respect of those expenses and fees as a salvor has in respect of salvage due to him or her.

(4) Whenever any dispute arises as to the amount payable to the receiver in respect of expenses or fees, that dispute must be determined by the Governor, whose decision is final.

[Merchant Shipping Act 1995 (UK), s. 249]

Coastguard services

235. Remuneration for services of coastguard

(1) Subject to subsection (2), where services are rendered by any officers of the coastguard service in watching or protecting shipwrecked property the owner of the property must pay in respect of those services remuneration according to a scale fixed by the Governor.

(2) No liability in respect of those services arises under subsection (1) where —

(a) the services have been declined by the owner of the property or his or her agent at the time they were tendered; or

(b) salvage has been claimed and awarded for the services.

(3) Remuneration under this section is —

(a) recoverable by the same means;

(b) paid to the same persons; and

(c) accounted for and applied in the same manner,

as fees received by the receiver under section 234.

(4) The scale fixed by the Governor must not exceed the scale by which remuneration to officers of the coastguard for extra duties in the ordinary service of the Collector of Customs is for the time being regulated.

[Merchant Shipping Act 1995 (UK), s. 250]

Release from customs and excise control

236. Release of goods from customs and excise control

(1) The Collector of Customs must, subject to taking security for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination.

(2) The Collector of Customs must, subject to taking such security, permit all goods saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped.

(3) In this section “goods” includes wares and merchandise.
[Merchant Shipping Act 1995 (UK), s. 251]

Removal of wrecks

237. Powers of Authority in relation to wrecks

(1) Where any vessel is sunk, stranded or abandoned in, or in or near any approach to, any harbour or tidal water under the control of the Authority in such a manner as, in the opinion of the Authority, to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that harbour or water or approach to the harbour or water, the Authority may exercise any of the following powers.

(2) Those powers are —

(a) to take possession of, and raise, remove or destroy the whole or any part of the vessel and any other property to which the power extends;

(b) to light or buoy the vessel or part of the vessel and any such other property until it is raised, removed or destroyed; and

(c) subject to subsections (5) and (6), to sell, in such manner as the Authority think fit, the vessel or part of the vessel so raised or removed and any other property recovered in the exercise of the powers conferred by paragraph (a) or (b);

(d) to reimburse themselves, out of the proceeds of the sale, for the expenses incurred by them in relation to the sale.

(3) The other property to which the powers conferred by subsection (2) extend is every article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of the vessel.

(4) Any surplus of the proceeds of a sale under subsection (2)(c) must be held by the Authority on trust for the persons entitled to it.

(5) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, no sale can be made under subsection (2)(c) until at least seven days’ notice of the intended sale has been given by advertisement in a local newspaper in wide circulation in the Falkland Islands.

(6) At any time before any property is sold under subsection (2)(c), the owner of the property is entitled to have it delivered to him or her on payment of its fair market value.

(7) The market value of property for the purposes of subsection (6) is that agreed on between the Authority and the owner or, failing agreement, that determined by a person appointed for the purpose by the Governor.

(8) The sum paid to the Authority in respect of any property under subsection (6) must, for the purposes of this section, be treated as the proceeds of sale of the property.

(9) Any proceeds of sale arising under subsection (2)(c) from the sale of a vessel and any other property recovered from the vessel must be treated as a common fund.

(10) This section is without prejudice to any other powers of the Authority.

[Merchant Shipping Act 1995 (UK) s. 252]

PART 10 – ENFORCEMENT OFFICERS AND POWERS

Enforcement Officers

238. Appointment of inspectors and surveyors

(1) The Governor may, if he or she thinks fit, appoint any person as an inspector to report to the Governor —

(a) upon the nature and causes of any accident or damage which any ship has or is alleged to have sustained or caused;

(b) whether any requirements, restrictions or prohibitions imposed by or under this Ordinance have been complied with or (as the case may be) contravened;

(c) whether the hull and machinery of a ship are sufficient and in good condition; or

(d) what measures have been taken to prevent the escape of oil or mixtures containing oil.

(2) The Governor may, at such ports as he or she thinks fit, appoint persons to be surveyors of ships for the purposes of this Ordinance and may remove any person so appointed.

(3) A surveyor of ships may be appointed either as a ship surveyor or as an engineer surveyor or as both.

(4) Surveyor of ships may be appointed either generally or for any particular case or purpose.

(5) The Governor may also appoint a surveyor general of ships for the Falkland Islands and such other officers in connection with the survey of ships and other matters relating to the survey of ships as the Governor thinks fit.

(6) The Governor may appoint persons to be inspectors for the purposes of sections 243 to 248.

(7) An inspector appointed under subsection (1) must be treated as appointed under subsection (6).

(8) Every surveyor of ships must be treated as a person appointed generally under subsection (1) to report to the Governor in every kind of case falling within paragraphs (b) and (d) of that subsection in relation to Chapter II of Part 7.

(9) In this Ordinance —

“Departmental inspector” means an inspector appointed under subsection (1);

“Departmental officer” means any public officer discharging functions for the purposes of this Ordinance;

“surveyor of ships” means a surveyor appointed under subsection (2),

and the reference to requirements, restrictions or prohibitions under this Ordinance includes any such requirements, restrictions or prohibitions constituting the terms of any approval, licence, consent or exemption given in any document issued under this Ordinance.

[Merchant Shipping Act 1995 (UK), s. 256]

Inspection etc. powers

239. Powers to require production of ships’ documents

(1) The powers conferred by this section are conferred in relation to ships registered in the Falkland Islands and can be discharged by any of the following officers —

- (a) any Departmental officer;
- (b) any marine officer;
- (c) the Registrar General of Shipping or any person discharging his or her functions;
- (d) the Collector of Customs; or
- (e) any superintendent,

whenever the officer has reason to suspect that this Ordinance or any law for the time being in force relating to merchant seafarers or navigation is not complied with.

(2) Those powers are —

- (a) to require the owner, master, or any of the crew to produce any official log-books or other documents relating to the crew or any member of the crew in their possession or control;

(b) to require the master to produce a list of all persons on board his ship, and take copies of or extracts from the official log-books or other such documents;

(c) to muster the crew; and

(d) to require the master to appear and give any explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.

(3) If any person, on being duly required by an officer under this section to produce a log-book or any document, fails without reasonable excuse to produce the log-book or document, the person commits an offence and is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

(4) If any person, on being duly required by any officer under this section —

(a) to produce a log-book or document, refuses to allow the log-book or document to be inspected or copied;

(b) to muster the crew, impedes the muster; or

(c) to give any explanation, refuses or neglects to give the explanation or knowingly misleads or deceives the officer,

he or she commits an offence and is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 257]

240. Powers to inspect ships and their equipment, etc.

(1) For the purposes of ensuring that the provisions of this Ordinance other than sections 139 to 152 and sections 153 to 161 and the provisions of regulations and rules made under this Ordinance (other than those sections) are complied with or that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations are duly complied with, the following persons, namely —

(a) a surveyor of ships;

(b) a superintendent; or

(c) any person appointed by the Governor, either generally or in a particular case, to exercise powers under this section,

may at all reasonable times go on board a ship in the Falkland Islands or in Falkland Islands waters and inspect the ship and its equipment or any part thereof, any articles on board and any document carried in the ship in pursuance of this Ordinance or in pursuance of regulations or rules under this Ordinance.

(2) The powers conferred by subsection (1) are not exercisable in relation to a qualifying foreign ship while the ship is exercising —

(a) the right of innocent passage; or

(b) the right of transit passage through straits used for international navigation.

(3) The powers conferred by subsection (1) are, if the ship is a ship registered in the Falkland Islands, also exercisable outside Falkland Islands waters and may be so exercised by a proper officer as well as the persons mentioned in that subsection.

(4) A person exercising powers under this section must not unnecessarily detain or delay a ship but may, if he or she considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(5) Where any such person as is mentioned in subsection (1) has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a ship registered in the Falkland Islands which, if provided on the ship, would not be in accordance with safety regulations containing requirements as to provisions and water to be provided on ships the person may enter the premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with the regulations.

(6) If any person obstructs a person in the exercise of his powers under this section, or fails to comply with a requirement made under subsection (4), the person commits an offence and is liable, on conviction, to a fine not exceeding level 5 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 258]

241. Powers of inspectors in relation to premises and ships

(1) The powers conferred by this section are conferred in relation to —

(a) any premises in the Falkland Islands; or

(b) any ship registered in the Falkland Islands wherever it may be and any other ship which is present in the Falkland Islands or in Falkland Islands waters,

and are available to any Departmental inspector, or any inspector appointed under section 238(6), for the purpose of performing his functions.

(2) Such an inspector may —

(a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) —

(i) enter any premises; or

(ii) board any ship,

if he or she has reason to believe that it is necessary for him or her to do so;

(b) on entering any premises by virtue of paragraph (a) or on boarding a ship by virtue of that paragraph, take with him or her any other person authorised for the purpose by the Governor and any equipment or materials he or she requires;

(c) make such examination and investigation as the inspector considers necessary;

(d) give a direction requiring that the premises or ship or any part of the premises or ship or anything in the premises or ship or such a part must be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c);

(e) take such measurements and photographs and make such recordings as the inspector considers necessary for the purpose of any examination or investigation under paragraph (c);

(f) take samples of any articles or substances found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;

(g) in the case of any article or substance which the inspector finds in the premises or ship and which appears to the inspector to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that is in the circumstances necessary);

(h) in the case of any such article or substance as is mentioned in paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely —

(i) to examine it and do to it anything which the inspector has power to do under that paragraph;

(ii) to ensure that it is not tampered with before the inspector's examination of it is completed;

(iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Ordinance or any instrument made under it;

(i) require any person who the inspector has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c) —

(i) to attend at a place and time specified by the inspector; and

(ii) to answer (in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector thinks fit to ask; and

(iii) to sign a declaration of the truth of his or her answers;

(j) require the production of, and inspect and take copies of or of any entry in —

(i) any books or documents which by virtue of any provision of this Ordinance are required to be kept; and

(ii) any other books or documents which the inspector considers it necessary for him or her to see for the purposes of any examination or investigation under paragraph (c); or

(k) require any person to afford him or her such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable the person to exercise any of the powers conferred on the inspector by this subsection.

(3) The powers conferred by subsection (2) to require the production of any document and copy it include, in relation to oil record books required to be carried under section 153, power to require the master to certify the copy as a true copy.

(4) The powers conferred by subsection (2) to inspect premises are also exercisable, for the purpose of Chapter II of Part 7, in relation to any apparatus used for transferring oil.

(5) The powers conferred by subsection (2)(a), (c) and (j) are also exercisable, in relation to a ship in a harbour in the Falkland Islands, by the harbour master or other persons appointed by the Governor for the purpose, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the ship into the harbour.

(6) Nothing in subsections (1) to (5) authorises a person unnecessarily to prevent a ship from proceeding on a voyage.

(7) The Governor may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (2)(f) and subsection (10) and provision as to the way in which samples that have been so taken are to be dealt with.

(8) Where an inspector proposes to exercise the power conferred by subsection (2)(g) in the case of an article or substance found in any premises or ship, the inspector must, if so requested by a person who at the time is present in and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of that person.

(9) Before exercising the power conferred by subsection (2)(g), an inspector must consult such persons as appear to him or her appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which the inspector proposes to do under that power.

(10) Where under the power conferred by subsection (2)(h) an inspector takes possession of any article or substance found in any premises or ship, the inspector must leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving

particulars of that article or substance sufficient to identify it and stating that the inspector has taken possession of it under that power; and before taking possession of any such substance under that power an inspector must, if it is practicable for him or her to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.

(11) No answer given by a person in pursuance of a requirement imposed under subsection (2)(i) is admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings in pursuance of subsection (1)(c) of section 242 in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in the said subsection (2)(i) is entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him or her.

[Merchant Shipping Act 1995 (UK), s. 259]

242. Provisions supplementary to section 241

(1) A person who —

(a) intentionally obstructs an inspector in the exercise of any power available to him or her under section 241;

(b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 241 or prevents another person from complying with such a requirement; or

(c) without prejudice to the generality of paragraph (b), makes a statement or signs a declaration which the person knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (2)(i) of section 241,

is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

(2) Nothing in section 241 is to be taken to compel the production by any person of a document of which he or she would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the Supreme Court or, as the case may be, on an order for the production of documents in an action in the Supreme Court.

(3) A person who complies with a requirement imposed on him or her in pursuance of paragraph (i) or (k) of subsection (2) of section 241 is entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as are prescribed by regulations made by the Governor.

(4) Regulations under subsection (3) may make different provision for different circumstances.

[Merchant Shipping Act 1995 (UK), s. 260]

Improvement notices and prohibition notices

243. Improvement notices

(1) If an inspector appointed under section 238(6) is of the opinion that a person —

(a) is contravening one or more of the relevant statutory provisions; or

(b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

the inspector may serve on that person a notice under this section, (referred to in the following sections of this Part as an improvement notice).

(2) An improvement notice must —

(a) state that the inspector is of the said opinion, specify the provision or provisions as to which the inspector is of that opinion, and give particulars of the reasons why he or she is of that opinion; and

(b) require the person on whom the notice is served to remedy the contravention in question or (as the case may be) the matters occasioning it within such period as may be specified in the notice.

(3) The period specified in pursuance of subsection (2)(b) will not expire before the end of the period within which a notice can be given under section 249 requiring questions relating to the improvement notice to be referred to arbitration.

(4) In this and the following sections of this Part “the relevant statutory provisions” means —

(a) sections 46, 47, 49 to 58, 84, 85, and 87 (and Schedule 2), 96, 113, 119, 120, 125 to 135, 139 to 161 and 254; and

(b) the provisions of any instrument of a legislative character having effect under any of those provisions.

[Merchant Shipping Act 1995 (UK), s. 261]

244. Prohibition notices

(1) If, as regards any relevant activities which are being or are likely to be carried on board any ship by or under the control of any person, an inspector appointed under section 238(6) is of the opinion that, as so carried on or as likely to be so carried on, the activities involve or (as the case may be) will involve the risk of —

(a) serious personal injury to any person (whether on board the ship or not); or

(b) serious pollution of any navigable waters,

the inspector may serve on the first-mentioned person a notice under this section (referred to in the following sections of this Part as a “prohibition notice”).

(2) In subsection (1) “relevant activities” means activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are carried on as mentioned in that subsection, apply.

(3) A prohibition notice must —

(a) state that the inspector is of the said opinion;

(b) specify the matters which in the inspector’s opinion give or (as the case may be) will give rise to the said risk;

(c) where in the inspector’s opinion any of those matters involves or (as the case may be) will involve a contravention of any of the relevant statutory provisions, state that the inspector is of that opinion, specify the provision or provisions as to which the inspector is of that opinion, and give particulars of the reasons why the inspector is of that opinion; and

(d) direct —

(i) that the activities to which the notice relates must not be carried on by or under the control of the person on whom the notice is served; or

(ii) that the ship must not go to sea,

(or both of those things) unless the matters specified in the notice in pursuance of paragraph (b), and any associated contraventions of any provision so specified in pursuance of paragraph (c), have been remedied.

(4) A direction contained in a prohibition notice in pursuance of subsection (3)(d) takes effect —

(a) at the end of a period specified in the notice; or

(b) if the direction is given in pursuance of subsection (3)(d)(ii) or the notice so declares, immediately.

[Merchant Shipping Act 1995 (UK), s. 262]

245. Provisions supplementary to sections 243 and 244

(1) An improvement notice or a prohibition notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

(2) An improvement notice or a prohibition notice must not direct any measures to be taken to remedy the contravention of any of the relevant statutory provisions that are more onerous than those necessary to secure compliance with that provision.

(3) Where an improvement notice or a prohibition notice that is not to take immediate effect has been served —

(a) the notice may be withdrawn by an inspector at any time before the end of the period specified in it in pursuance of section 243(2)(b) or (as the case may be) section 244(4); and

(b) the period so specified may be extended or further extended by an inspector at any time when a reference to arbitration in respect of the notice is not pending under section 246.

[Merchant Shipping Act 1995 (UK), s. 263]

246. References of notices to arbitration

(1) Any question —

(a) as to whether any of the reasons or matters specified in an improvement notice or a prohibition notice in pursuance of section 243(2)(a) or 244(3)(b) or (c) in connection with any opinion formed by the inspector constituted a valid basis for that opinion; or

(b) as to whether any directions included in the notice in pursuance of section 245(1) were reasonable,

must, if the person on whom the notice was served so requires by a notice given to the inspector within 21 days from the service of the notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him or her.

(2) Where a notice is given by a person in accordance with subsection (1), then —

(a) in the case of an improvement notice, the giving of the notice has the effect of suspending the operation of the improvement notice until the decision of the arbitrator is published to the parties or the reference is abandoned by that person;

(b) in the case of a prohibition notice, the giving of the notice has the effect of so suspending the operation of the prohibition notice if, but only if, on the application of that person the arbitrator so directs (and then only from the giving of the direction).

(3) Where on a reference under this section the arbitrator decides as respects any reason, matter or direction to which the reference relates, that in all the circumstances —

(a) the reason or matter did not constitute a valid basis for the inspector's opinion; or

(b) the direction was unreasonable,

the arbitrator must either cancel the notice or affirm it with such modifications as he or she may in the circumstances think fit; and in any other case the arbitrator must affirm the notice in its original form.

(4) Where any reference under this section involves the consideration by the arbitrator of the effects of any particular activities or state of affairs on the health or safety of any persons, the arbitrator must not on that reference make any decision such as is mentioned in subsection (3)(a) or (b) except after —

(a) in the case of an improvement notice, affording an opportunity of making oral representations to the arbitrator with respect to those effects to a member of any such panel of representatives of maritime trade unions as may be appointed by the Governor for the purposes of this subsection; or

(b) in the case of a prohibition notice, affording an opportunity of making such representations to the arbitrator to either —

(i) a representative of a trade union representing persons whose interests it appears to the arbitrator that the notice was designed to safeguard; or

(ii) a member of any such panel as is referred to in paragraph (a),

as the arbitrator thinks appropriate; and

(c) (in either case) considering any representations made to the arbitrator in pursuance of paragraph (a) or (b).

(5) A person is not qualified for appointment as an arbitrator under this section unless the person is —

(a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1 (issued by the appropriate authority in, and in accordance with the relevant laws of, the United Kingdom), or a person holding a certificate equivalent to any such certificate;

(b) a naval architect;

(c) a person falling within section 93(7); or

(d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.

(6) In connection with his or her functions under this section an arbitrator has the powers conferred on an inspector by section 241 other than subsections (3), (4) and (6).

[Merchant Shipping Act 1995 (UK), s. 264]

247. Compensation in connection with invalid prohibition notices

(1) If on a reference under section 246 relating to a prohibition notice —

(a) the arbitrator decides that any reason or matter did not constitute a valid basis for the inspector's opinion; and

(b) it appears to the arbitrator that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by the person in consequence of the service of the notice as the arbitrator thinks fit.

(2) If on any such reference the arbitrator decides that any direction included in the notice was unreasonable, the arbitrator may, subject to subsection (3), award the person on whom the notice was served such compensation in respect of any loss suffered by the person in consequence of the direction as the arbitrator thinks fit.

(3) An arbitrator must not award any compensation under subsection (1) or (2) in the case of any prohibition notice unless —

(a) it appears to the arbitrator that the direction given in pursuance of section 244(3)(d) contained any such requirement as is mentioned in subparagraph (ii) of that provision; or

(b) it appears to the arbitrator that —

(i) the inspector was of the opinion that there would be such a risk of injury or pollution as is referred to in the notice if the ship went to sea; and

(ii) the effect of the direction given in pursuance of section 244(3)(d) was to prohibit the departure of the ship unless the matters, or (as the case may be) the matters and contraventions, referred to in the direction were remedied.

(4) Any compensation awarded under this section is payable out of the Consolidated Fund.

[Merchant Shipping Act 1995 (UK), s. 265]

248. Offences

(1) Any person who contravenes any requirement imposed by an improvement notice commits an offence and is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

(2) Any person who contravenes any prohibition imposed by a prohibition notice commits an offence and is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7.

(3) It is a defence for a person charged with an offence under this section to prove that he or she exercised all due diligence to avoid a contravention of the requirement or prohibition in question.

(4) In this section any reference to an improvement notice or a prohibition notice includes a reference to any such notice as modified under section 246(3).

[Merchant Shipping Act 1995 (UK), s. 266]

PART 11 – ACCIDENT INVESTIGATIONS AND INQUIRIES

Marine accident investigations

249. Investigation of marine accidents

(1) The Governor must, for the purpose of the investigation of any accidents mentioned in subsection (2), appoint such number of persons as the Governor may determine to be inspectors of marine accidents, and the Governor must appoint one of those persons to be Chief Inspector of Marine Accidents.

(2) The accidents referred to in subsection (1) are —

(a) any accident involving a ship or ship's boat where, at the time of the accident —

(i) the ship is a Falkland Islands registered; or

(ii) the ship, or (in the case of an accident involving a ship's boat) that boat, is within Falkland Islands waters; and

(b) such other accidents involving ships or ships' boats as the Governor may determine.

(3) The Governor may by regulations make such provision as the Governor considers appropriate with respect to the investigation of any such accidents as are mentioned in subsection (2).

(4) The regulations referred to under subsection (3) may, in particular, make provision —

(a) with respect to the definition of "accident" for the purposes of this section and the regulations;

(b) imposing requirements as to the reporting of accidents;

(c) prohibiting, pending investigation, access to or interference with any ship or ship's boat involved in an accident;

(d) authorising any person, so far as may be necessary for the purpose of determining whether an investigation should be carried out, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such ship or boat or any other ship or ship's boat;

(e) specifying, with respect to the investigation of accidents, the functions of the Chief Inspector of Marine Accidents (which may include the function of determining whether, and if so by whom, particular accidents should be investigated), the functions of other inspectors of marine accidents, and the manner in which any such functions are to be discharged;

(f) for the appointment by the Chief Inspector of Marine Accidents, in such circumstances as may be specified in the regulations, of persons to carry out investigations under this section who are not inspectors of marine accidents;

(g) for the appointment of persons to review any findings or conclusions of a person carrying out an investigation under this section;

(h) for the procedure to be followed in connection with investigations or reviews under this section;

(i) for conferring on persons discharging functions under the regulations who are not inspectors of marine accidents all or any of the powers conferred on an inspector by section 241;

(j) for the submission to and the publication by the Governor of reports of investigations or reviews under this section;

(k) for the publication by the Chief Inspector of Marine Accidents of reports and other information relating to accidents.

(5) Regulations under this section may provide for any provisions of the regulations to apply to any specified class or description of incidents or situations which involve, or occur on board, ships or ships' boats but are not accidents for the purposes of the regulations, being a class or description framed by reference to any of the following, namely —

(a) the loss or destruction of or serious damage to any ship or structure;

(b) the death of or serious injury to any person; or

(c) environmental damage,

whether actually occurring or not, and (subject to such modifications as may be specified in the regulations) for those provisions to apply in relation to any such incidents or situations as they apply in relation to accidents.

(6) Regulations under this section may provide that a contravention of the regulations is an offence punishable on conviction by a fine not exceeding level 7 on the scale set out in Schedule 7.

(7) The Chief Inspector of Marine Accidents, or (as the case may be) inspectors of marine accidents generally, must discharge such functions in addition to those conferred by or under this section as the Governor may determine.

(8) Any inspector of marine accidents has, for the purpose of discharging any functions conferred on him or her by or under this section, the powers conferred on an inspector by section 241.

(9) Nothing in this section limits the powers of the Authority under sections 237.

(10) In this section —

(a) references to an accident involving a ship or ship's boat include references to an accident occurring on board a ship or ship's boat (and any reference to a ship or ship's boat involved in an accident must be construed accordingly); and

(b) "ship's boat" includes a life-raft.

[*Merchant Shipping Act 1995 (UK), s. 267*]

250. Formal investigation into marine accidents

(1) Where any accident has occurred, the Governor may (whether or not an investigation into it has been carried out under section 249) cause a formal investigation into the accident to be held, and in this section "accident" means any accident to which regulations under that section apply or any incident or situation to which any such regulations apply by virtue of subsection (5) of that section.

(2) The person conducting the investigation (*investigator*) must conduct it in accordance with rules under section 252(1); and those rules require the assistance of one or more assessors and, if any question as to the cancellation or suspension of an officer's certificate is likely, the assistance of not less than two assessors.

(3) Subsections (1), (3) and (4) of section 97 of the Magistrates' Courts Act 1980 (which apply to the Falkland Islands by virtue of section 29 of the Administration of Justice Ordinance 1949 and provide for the attendance of witnesses and the production of evidence) apply in relation to a formal investigation held by an investigator as if the investigator were a magistrates' court and the investigation a complaint; and the investigator has power to administer oaths for the purposes of the investigation.

(4) If as a result of the investigation the investigator is satisfied, with respect to any officer, of any of the matters mentioned in paragraphs (a) to (c) of section 64(1) and, if it is a matter mentioned in paragraph (a) or (b) of that section, is further satisfied that it caused or contributed to the accident, he or she may cancel or suspend any certificate issued to the officer under section 50 or censure the officer; and if the inspector cancels or suspends the certificate the officer must deliver it immediately to the inspector or to the Governor.

(5) If a person fails to deliver a certificate as required under subsection (4), the person commits an offence and is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

(6) Where a certificate has been cancelled or suspended under this section, the Governor, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

(7) The wreck commissioner may make such awards as he or she thinks just with regard to the costs (or, as the case may be, expenses) of the investigation and of any parties at the investigation, and with regard to the parties by whom those costs or expenses are to be paid; and any such award of the investigator may, on the application of any party named in it, be made an order of the Supreme Court.

(8) Any costs or expenses directed by an award to be paid is taxable in the Supreme Court.

(9) The investigator must make a report on the investigation to the Governor.

(10) In this Part “investigator” means the wreck commissioner or any person appointed to discharge the functions of a wreck commissioner under section 294.

[Merchant Shipping Act 1995 (UK), s. 268]

251. Re-hearing of and appeal from investigations

(1) Where a formal investigation has been held under section 250 the Governor may order the whole or part of the case to be re-heard, and must do so if —

(a) new and important evidence which could not be produced at the investigation has been discovered; or

(b) there appear to the Governor to be other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under subsection (1) may provide for the re-hearing to be by an investigator or by the Supreme Court.

(3) Any re-hearing under this section which is not held by the Supreme Court must be conducted in accordance with rules made under section 252(1); and section 252 applies in relation to a re-hearing of an investigation by an investigator as it applies in relation to the holding of an investigation.

(4) Where the investigator holding the investigation has decided to cancel or suspend the certificate of any person or has found any person at fault, then, if no application for an order under subsection (1) has been made or such an application has been refused, that person or any other person who, having an interest in the investigation, has appeared at the hearing and is affected by the decision or finding, may appeal to the Supreme Court.

(5) Section 250(7) applies for the purposes of this section as it applies for the purposes of that section.

[Merchant Shipping Act 1995 (UK), s. 269]

252. Rules as to investigations and appeals

(1) The Governor may make rules for the conduct of formal investigations under section 250 and for the conduct of any re-hearing under section 251 which is not held by the Supreme Court.

(2) Without prejudice to the generality of subsection (1), rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.

(3) Rules of court made for the purpose of re-hearings under section 251 which are held by the Supreme Court, or of appeals to the Supreme Court, may require the court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

[Merchant Shipping Act 1995 (UK), s. 270]

Inquiries into and reports on deaths and injuries

253. Inquiries into deaths of crew members and others

(1) Subject to subsection (6), where —

(a) any person dies in a ship registered in the Falkland Islands or in a boat or life-raft from such a ship; or

(b) the master of or a seafarer employed in such a ship dies in a country outside the Falkland Islands,

an inquiry into the cause of the death must be held by a superintendent or proper officer at the next port where the ship calls after the death and where there is a superintendent or proper officer, or at such other place as the Governor may direct.

(2) Subject to subsection (6), where it appears to the Governor that —

(a) in consequence of an injury sustained or a disease contracted by a person when the person was the master of or a seafarer employed in a ship registered in the Falkland Islands, he or she ceased to be employed in the ship and subsequently died; and

(b) the death occurred in a country outside the Falkland Islands during the period of one year beginning with the day on which he or she so ceased,

the Governor may arrange for an inquiry into the cause of the death to be held by a superintendent or proper officer.

(3) Subject to subsection (6), where it appears to the Governor that a person may —

(a) have died in a ship registered in the Falkland Islands or in a boat or life-raft from such a ship; or

(b) have been lost from such a ship, boat or life-raft and have died in consequence of being so lost,

the Governor may arrange for an inquiry to be held by a superintendent or proper officer into whether the person died as mentioned above and, if the superintendent or officer finds that the person did, into the cause of the death.

(4) The superintendent or proper officer holding the inquiry has, for the purpose of the inquiry, the powers conferred on an inspector by section 241.

(5) The person holding the inquiry must make a report of his or her findings to the Governor who must make the report available —

(a) if the person to whom the report relates was employed in the ship and a person was named as his or her next of kin in the crew agreement or list of the crew in which the name of the person to whom the report relates last appeared, to the person so named;

(b) in any case, to any person requesting it who appears to the Governor to be interested.

(6) No inquiry is to be held under this section where a coroner's inquest is to be held.

[Merchant Shipping Act 1995 (UK), s. 271]

254. Reports of and inquiries into injuries

(1) Where the master or a member of the crew of a fishing vessel registered in the Falkland Islands is injured during a voyage, an inquiry into the cause and nature of the injury may be held by a superintendent or proper officer.

(2) The superintendent or proper officer holding an inquiry under this section has, for the purposes of the inquiry, the powers conferred on a Departmental inspector by section 241 and must make a report of his or her findings to the Governor.

[Merchant Shipping Act 1995 (UK), s. 272]

255. Transmission of particulars of certain deaths on ships

Where —

(a) an inquest is held into a death or a post mortem examination is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary; and

(b) it appears to the coroner that the death in question is such as is mentioned in section 112(2) or in that subsection as extended (with or without amendments) by virtue of section 305,

it is the duty of the coroner to send to the Registrar General of Shipping particulars in respect of the deceased of a kind prescribed by regulations made by the Governor.

[Merchant Shipping Act 1995 (UK), s. 273]

PART 12 – ADMIRALTY JURISDICTION

256. Admiralty jurisdiction of Supreme Court

(1) The Admiralty jurisdiction of the Supreme Court is as follows —

- (a) jurisdiction to hear and determine any of the questions and claims mentioned in subsection (2);
- (b) jurisdiction in relation to any of the proceedings mentioned in subsection (3);
- (c) any other Admiralty jurisdiction which it had immediately before the commencement of this Ordinance;
- (d) any jurisdiction connected with ships or aircraft which is vested in the Supreme Court apart from this section.

(2) The questions and claims referred to in subsection (1)(a) are —

- (a) any claim to the possession or ownership of a ship or to the ownership of any share therein;
- (b) any question arising between the co-owners of a ship as to possession, employment or earnings of that ship;
- (c) any claim in respect of a mortgage of or charge on a ship or any share therein;
- (d) any claim for damage received by a ship;
- (e) any claim for damage done by a ship;
- (f) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or in consequence of the wrongful act, neglect or default of —
 - (i) the owners, charterers or persons in possession or control of a ship; or
 - (ii) the master or crew of a ship, or any other person for whose wrongful acts,

neglect or defaults the owners, charterers or persons in possession or control of a ship are responsible, being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage or disembarkation of persons on, in or from the ship;

- (g) any claim for loss of or damage to goods carried in a ship;
 - (h) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
 - (i) any claim in the nature of salvage (including any claim arising by virtue of the application, by or under section 51 of the Civil Aviation Act 1949 (which Act applies to the Falkland Islands by virtue of the Civil Aviation Act 1949 (Overseas Territories) Order 1969, Statutory Instrument No. 592), of the law relating to salvage to aircraft and their apparel and cargo);
 - (j) any claim in the nature of towage in respect of a ship or an aircraft;
 - (k) any claim in the nature of pilotage in respect of a ship or an aircraft;
 - (l) any claim in respect of goods or materials supplied to a ship for her operation or maintenance;
 - (m) any claim in respect of the construction, repair or equipment of a ship or in respect of dock charges or dues;
 - (n) any claim by a master or member of the crew of a ship for wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages);
 - (o) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;
 - (p) any claims arising out of an act which is or is claimed to be a general average act;
 - (q) any claim arising out of bottomry;
 - (r) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of Admiralty.
- (3) The proceedings referred to in subsection (1)(b) are —
- (a) any application to the Supreme Court under this Ordinance;
 - (b) any action to enforce a claim for damage, loss of life or personal injury arising out of —
 - (i) a collision between ships; or
 - (ii) the carrying out of or omission to carry out a manoeuvre in the case of one or more of two ships; or

(iii) non-compliance, on the part of one or more of two or more ships, with the collision regulations;

(c) any action by shipowners or other persons under this Ordinance for the limitation of the amount of their liability in connection with a ship or other property.

(4) The jurisdiction of the Supreme Court under subsection (2)(b) includes power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, be sold, and to make such other order as the court thinks fit.

(5) The reference in subsection (2)(j) to claims in the nature of salvage includes a reference to such claims for services rendered in saving life from a ship or an aircraft or in preserving cargo, apparel or wreck as, under this Ordinance or any Order in Council made under section 51 of the Civil Aviation Act 1949, are authorised to be made in connection with a ship or an aircraft.

(6) This section applies —

(a) in relation to all ships or aircraft, whether British or not and whether registered or not and wherever the residence or domicile of their owners may be;

(b) in relation to all claims, wherever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land); and

(c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not and whether legal or equitable, including mortgages and charges created under foreign law.

[Supreme Court Act 1981 [UK], s. 20, Admiralty Jurisdiction (Falkland Islands) Order 1966]

257. Mode of exercising Admiralty jurisdiction

(1) Subject to section 258, an action in personam may be brought in the Supreme Court in all cases within the Admiralty jurisdiction of that court.

(2) In the case of any such claim as is mentioned in section 256(2)(a) or (s) or any such question as is mentioned in section 256(2)(b), an action in rem may be brought in the Supreme Court against the ship or property in connection with which the claim or question arises.

(3) In any case in which there is a maritime lien or other charge on any ship, aircraft or other property for the amount claimed, an action in rem may be brought in the Supreme Court against that ship, aircraft or property.

(4) In the case of any such claim as is mentioned in section 256(2)(e) to (r), where —

(a) in a claim arises in connection with a ship; and

(b) the person who would be liable on the claim in an action in personam (“the relevant person”) was, when the cause arose, the owner or charterer of, or in possession or in control of, the ship,

an action in rem may (whether or not the claim gives rise to a maritime lien on that ship) be brought in the Supreme Court against —

(i) that ship, if at the time when the action is brought the relevant person is either the beneficial owner of that ship as respects all the shares in it or the charterer of it under a charter by demise; or

(ii) any other ship of which, at the time when the action is brought, the relevant person is the beneficial owner as respects all the shares in it.

(5) In the case of a claim in the nature of towage or pilotage in respect of an aircraft, an action in rem may be brought in the Supreme Court against that aircraft if, at the time when the action is brought, it is beneficially owned by the person who would be liable on the claim in an action in personam.

(6) Where, in the exercise of its Admiralty jurisdiction, the Supreme Court orders any ship, aircraft or other property to be sold, the court has jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.

(7) In determining for the purposes of subsections (4) and (5) whether a person would be liable on a claim in an action in personam it will be assumed that the person has his or her habitual residence or place of business in the Falkland Islands.

(8) Where, as regards any such claim as is mentioned in section 256(2) (e) to (r), a ship has been served with a writ or arrested in an action in rem brought to enforce that claim, no other ship may be served with a writ or arrested in that or any other action in rem brought to enforce that claim; but this subsection does not prevent the issue, in respect of any one such claim, of a writ naming more than one ship or of two or more writs each naming a different ship.

[Supreme Court Act 1981 [UK], s. 21]

258. Restriction on entertainment of actions in personam in collision and other similar cases

(1) This section applies to any claims for damages, loss of life or personal injury arising out of—

(a) a collision between ships; or

(b) the carrying out of, or omission to carry out, a manoeuvre in the case of one or more of two or more ships; or

(c) non-compliance, on the part of one or more of two or more ships, with the collision regulations.

(2) The Supreme Court must not entertain any action in personam to enforce a claim to which this section applies unless —

(a) the defendant has his or her habitual residence or a place of business within the Falkland Islands ; or

(b) the cause of action arose within inland waters of the Falkland Islands or within the limits of a port of the Falkland Islands; or

(c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court.

(3) In subsection (2) —

“inland waters” includes any part of the sea adjacent to the coast of the Falkland Islands certified by the Governor to be waters falling by international law to be treated as within the territorial sovereignty of Her Majesty apart from the operation of that law in relation to territorial waters;

“port” means any port, harbour, river, estuary, haven, dock, canal or other place so long as a person or body of person is empowered by or under an enactment to make charges in respect of ships entering it or using the facilities therein, and “limits of a port” means the limits as fixed by or under the enactment in question or, as the case may be, by the relevant charter or custom;

“charges” means any charges with the exception of light dues, local light dues and any other charges in respect of lighthouses, buoys or beacons and of charges in respect of pilotage.

(4) The Supreme Court must not entertain any action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside the Falkland Islands against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.

(5) Subsections (2) and (4) apply to counterclaims (except counterclaims in proceedings arising out of the same incident or series of incidents) as they apply to actions, the references to the plaintiff and the defendant being for this purpose read as references to the plaintiff on the counterclaim and the defendant to the counterclaim respectively.

(6) Subsections (2) and (4) do not apply to any action or counterclaim if the defendant thereto submits or has agreed to the jurisdiction of the court.

(7) Subject to the provisions of subsection (4), the Supreme Court has jurisdiction to entertain an action in personam to enforce a claim to which this section applies whenever any of the conditions specified in subsection (2)(a) to (c) is satisfied, and the rules of court relating to the service of process outside the jurisdiction must make such provision as may appear to the rule-making authority to be appropriate having regard to the provisions of this subsection.

(8) Nothing in this section prevents an action which is brought in accordance with the provisions of this section in the Supreme Court being transferred, in accordance with the enactments in that behalf, to some other court.

(9) This section applies in relation to the jurisdiction of the Supreme Court not being admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction.

[Supreme Court Act 1981 [UK], s. 22]

259. Supreme Court not to have jurisdiction in cases within Rhine Convention

The Supreme Court does not have jurisdiction to determine any claim or question certified by the Governor to be a claim or question which, under the Rhine Convention, falls to be determined in accordance with provisions of that Convention; and any proceedings to enforce such a claim which are commenced in the Supreme Court must be set aside.

[Supreme Court Act 1981 [UK], s. 23]

260. Supplementary provisions as to Admiralty jurisdiction

(1) In sections 256 to 259 and this section, unless the context otherwise requires —

“goods” includes baggage;

“master” includes every person (except the pilot) having command or charge of a ship;

“The Rhine Navigation Convention” means the Convention of 7 October 1868 as revised by any subsequent Convention;

“towage” and “pilotage”, in relation to an aircraft, mean towage and pilotage while the aircraft is water-borne.

(2) Nothing in sections 256 to 259 is to —

(a) be construed as limiting the jurisdiction of the Supreme Court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a British ship;

(b) affect any provisions of this Ordinance regarding the power of the receiver of wreck to detain a ship in respect of a salvage claim; or

(c) authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty’s ships or Her Majesty’s aircraft, or a hovercraft;.

(3) In this section —

“Her Majesty’s aircraft” does not include aircraft belonging to Her Majesty otherwise than in the right of Her Government in the Falkland Islands;

“Her Majesty’s ships” means ships of which the beneficial interest is vested in Her Majesty or which are registered as Government ships for the purposes of the Act, or which are for the time being demised or subdemised to or in the exclusive possession of the Crown, except that the said expression does not include any ship in which Her Majesty is interested otherwise than in right of Her Government in the Falkland Islands unless that ship is for the time being demised or

subdemised to Her Majesty in right of Her said Government or in the exclusive possession of Her Majesty in that right;

“Her Majesty’s hovercraft” means hovercraft belonging to the Crown in right of Her Majesty’s Government in the Falkland Islands.

[Supreme Court Act 1981 [UK], s. 24]

PART 13 – LEGAL PROCEEDINGS

Prosecution of offences

261. Offences by officers of bodies corporate

(1) Where a body corporate is convicted of an offence under this Ordinance or any instrument made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in such a capacity, he or she as well as the body corporate commits that offence and each is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.

[Merchant Shipping Act 1995 (UK), s. 277]

262. Accessories and abettors

Any person who knowingly or wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Ordinance is liable to be dealt with, tried and punished as a principal offender.

[Merchant Shipping Act 1995 (UK), s. 277A]

Jurisdiction

263. Jurisdiction in relation to offences

(1) For the purpose of conferring jurisdiction, any offence under this Ordinance is deemed to have been committed in any place in the Falkland Islands where the offender may for the time being be.

(2) For the same purpose, any matter of complaint under this Ordinance is deemed to have arisen in any place in the Falkland Islands where the person complained against may for the time being be.

(3) The jurisdiction under subsections (1) and (2) is in addition to and not in derogation of any jurisdiction or power of a court under any other enactment.

[Merchant Shipping Act 1995 (UK), s. 279]

264. Jurisdiction over ships lying off coasts

(1) Where the area within which a court in the Falkland Islands has jurisdiction is situated on the coast of any sea or abuts on or projects into any bay, channel, lake, river or other navigable water, the court has jurisdiction as respects offences under this Ordinance over any vessel being on, or lying or passing off, that coast or being in or near that bay, channel, lake, river or navigable water and over all persons on board that vessel or for the time being belonging to it.

(2) The jurisdiction under subsection (1) is in addition to and not in derogation of any jurisdiction or power of a court under the Administration of Justice Ordinance 1949 and the Criminal Procedure and Evidence Ordinance 2014.

[Merchant Shipping Act 1995 (UK), s. 280]

265. Jurisdiction in case of offences on board ship

Where any person is charged with having committed any offence under this Ordinance then —

(a) if the person has Falkland Islands status and is charged with having committed the offence —

(i) on board any ship registered in the Falkland Islands whilst that ship was on the high seas;

(ii) in any foreign port or harbour; or

(iii) on board any foreign ship to which the person does not belong; or

(b) if the person does not have Falkland Island status and is charged with having committed it on board any ship registered in the Falkland Islands whilst that ship was on the high seas,

and the person is found within the jurisdiction of any court in the Falkland Islands which would have had jurisdiction in relation to the offence if it had been committed on board a ship registered in the Falkland Islands within the limits of its ordinary jurisdiction to try the offence, that court has jurisdiction to try the offence as if it had been so committed.

[Merchant Shipping Act 1995 (UK), s. 281]

266. Offences committed by Falkland Islands seafarers

(1) Any act in relation to property or a person done in or at any place (ashore or afloat) outside the Falkland Islands by any master or seafarer who at the time is employed in a ship registered in the Falkland Islands, which, if done in the Falkland Islands, would be an offence under the law of the Falkland Islands, is —

(a) an offence under that law; and

(b) to be treated for the purposes of jurisdiction and trial, as if it had been done within the Admiralty jurisdiction of the Supreme Court.

(2) Subsection (1) also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.

(3) Subsections (1) and (2) apply to omissions as they apply to acts.
[*Merchant Shipping Act 1995 (UK), s. 282*]

Return of offenders

267. Return of offenders

(1) The powers conferred on a proper officer by subsection (2) are exercisable in the event of any complaint being made to him or her that —

(a) any offence against property or persons has been committed at any place (ashore or afloat) outside the Falkland Islands by any master or seafarer who at the time when the offence was committed, or within three months before that time, was employed in a ship registered in the Falkland Islands; or

(b) any offence on the high seas has been committed by any master or seafarer belonging to any ship registered in the Falkland Islands.

(2) Those powers are —

(a) to inquire into the case upon oath; and

(b) if the case so requires, to take any steps in his power for the purpose of placing the offender under the necessary restraint and sending the offender by ship registered in the Falkland Islands as soon as practicable in safe custody to the Falkland Islands for proceedings to be taken against him or her.

(3) The proper officer may, subject to subsections (4) and (5), order the master of any ship registered in the Falkland Islands which is bound for the Falkland Islands to receive and carry the offender and the witnesses to the Falkland Islands; and the officer must endorse upon the agreement of the ship such particulars with respect to them as the Governor requires.

(4) A proper officer must not exercise the power conferred by subsection (3) unless no more convenient means of transport is available or it is available only at disproportionate expense.

(5) No master of a ship may be required under subsection (3) to receive more than one offender for every 100 tons of his or her ship's registered tonnage, or more than one witness for every 50 tons of his ship's registered tonnage.

(6) The master of any ship to whose charge an offender has been committed under subsection (3) must, on his or her ship's arrival in the Falkland Islands, give the offender into the custody of a police officer.

(7) If any master of a ship, when required under subsection (3) to receive and carry any offender or witness in his or her ship —

(a) fails to do so; or

(b) in the case of an offender, fails to deliver him or her as required by subsection (6),

he or she commits an offence and is liable on conviction to a fine not exceeding level 5 on the scale set out in Schedule 7.

(8) The expense of imprisoning any such offender and of carrying the offender and witnesses to the Falkland Islands otherwise than in the ship to which they respectively belong must be paid out of the Consolidated Fund.

(9) References in this section to carrying a person in a ship include affording the person subsistence during the voyage.

[Merchant Shipping Act 1995 (UK), s. 283]

Detention of ship and distress on ship

268. Enforcing detention of ship

(1) Where under this Ordinance a ship is to be or may be detained, any of the following officers may detain the ship —

(a) a commissioned naval or military officer;

(b) a customs officer;

(c) a proper officer;

(d) a departmental officer;

(e) an officer of the Authority.

(2) A notice of detention may —

(a) include a direction that the ship must —

(i) remain in a particular place; or

(ii) be moved to a particular anchorage or berth; and

(b) if it includes such a direction, may specify circumstances relating to safety or the prevention of pollution in which the master may move his or her ship from that place, anchorage or berth.

(3) If a ship as respects which notice of detention has been served on the master proceeds to sea, otherwise than in accordance with such a notice, before it is released by a competent authority, the master of the ship commits an offence.

(4) If a ship as respects which notice of detention has been served on the master fails to comply with a direction given under subsection (2)(a), the master of the ship commits an offence.

(5) A person convicted of an offence under subsection (3) or (4) is liable on conviction, to a fine not exceeding level 5 on the scale set out in Schedule 7; or

(6) The owner of a ship, and any person who sends to sea a ship, as respects which an offence is committed under subsection (3) or (4), if party or privy to the offence, also commits an offence under that subsection.

(7) Where a ship proceeding to sea in contravention of subsection (3), or failing to comply with a direction given under subsection (2)(a), carries away without his or her consent any of the following who is on board the ship in the execution of his duty, namely —

(a) an officer authorised by subsection (1) to detain the ship; or

(b) a surveyor of ships,

the owner and master of the ship are each —

(i) liable to pay all expenses of and incidental to the officer or surveyor being so carried away; and

(ii) commits an offence.

(8) A person convicted of an offence under subsection (7) is liable on conviction, to a fine not exceeding level 7 on the scale set out Schedule 7;

(9) Where under this Ordinance a ship —

(a) must be detained, a customs officer must; or

(b) may be detained, a customs officer may,

refuse to clear the ship outwards or grant a transire to the ship.

(10) When any provision of this Ordinance provides that a ship may be detained until any document is produced to the customs officer, the officer able to grant a clearance or transire of the ship is (unless the context otherwise requires) that officer.

(11) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea must be construed accordingly.

[Merchant Shipping Act 1995 (UK), s. 284]

269. Sums ordered to be paid leviable by distress on the ship

(1) Where any court has power to make an order directing payment to be made of any seafarer's wages, fines or other sums of money, then, if the person directed to pay is the master or owner of the ship and the money directed to be paid is not paid in accordance with the order, the court who made the order may direct the amount remaining unpaid to be levied by distress, or of the ship and its equipment.

(2) The remedy made available by this section is in addition to any other powers for compelling the payment of money ordered to be paid.

[Merchant Shipping Act 1995 (UK), s. 285]

Special evidential provisions

270. Depositions of persons abroad admissible

(1) If the evidence of any person is required in the course of any legal proceeding before a judge or magistrate in relation to the subject matter of the proceeding and it is proved that that person cannot be found in the Falkland Islands, any deposition that the person may have previously made at a place outside the Falkland Islands in relation to the same subject matter is, subject to subsection (2), admissible in evidence in those proceedings.

(2) For a deposition to be admissible under subsection (1) in any proceedings, the deposition must —

(a) have been taken on oath;

(b) have been taken before a justice or magistrate in any territory or a British consular officer in any other place;

(c) be authenticated by the signature of the justice, magistrate or officer taking it; and

(d) if the proceedings are criminal proceedings, have been taken in the presence of the accused,

and, in a case falling within paragraph (d), the deposition must be certified by the justice, magistrate or officer taking it to have been taken in the presence of the accused.

(3) No proof need be given of the signature or official character of the person appearing to have signed any such deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused is, unless the contrary is proved, evidence of that fact.

(4) This section also applies to proceedings before any person authorised by law or consent of the parties to receive evidence.

(5) Nothing in this section affects the admissibility in evidence of depositions under any other enactment or the practice of any court.

[Merchant Shipping Act 1995 (UK), s. 286]

271. Admissibility in evidence and inspection of certain documents

(1) The following documents are admissible in evidence and, when in the custody of the Registrar General of Shipping, must be open to public inspection —

(a) documents purporting to be submissions to or decisions by superintendents or proper officers under section 36;

(b) the official log book of any ship kept under section 78 and, without prejudice to section 270(2), any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;

(c) crew agreements, lists of crews made under section 78 and notices given under Part III of additions to or changes in crew agreements and lists of crews;

(d) returns or reports under section 113;

(e) documents transmitted to the Registrar General of Shipping under section 280.

(2) A certificate issued under section 48 is admissible in evidence.

[Merchant Shipping Act 1995 (UK), s. 287]

272. Admissibility of documents in evidence

(1) Where a document is by this Ordinance declared to be admissible in evidence the document is, on its production from proper custody —

(a) admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence; and

(b) subject to all just exceptions, evidence of the matters stated in the document.

(2) A copy of, or extract from, any document so made admissible in evidence is, subject to subsection (3), also admissible in evidence and evidence of the matters stated in the document.

(3) A copy of, or extract from, a document is not admissible by virtue of subsection (2) unless—

(a) it is proved to be an examined copy or extract; or

(b) it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted,

and that officer must furnish the certified copy or extract to any person who applies for it at a reasonable time and pays such reasonable price as the Governor determines.

(4) A person is, on payment of such reasonable price as the Governor determines, entitled to have a certified copy of any declaration or document a copy of which is made evidence by this Ordinance.

(5) If any officer having duties of certification under subsection (3) in relation to any document intentionally certifies any document as being a true copy or extract knowing that the copy or extract is not a true copy or extract, he or she commits an offence and is liable on conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 7 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 288]

273. Inspection and admissibility in evidence of copies of certain documents

(1) Where under any enactment a document is open to public inspection when in the custody of the Registrar General of Shipping —

(a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but

(b) the original must nevertheless be made available for public inspection if the copy or other reproduction is illegible.

(2) Where the Registrar General of Shipping destroys any document which has been sent to him or her under or by virtue of any enactment, and keeps a copy or other reproduction of that document, then —

(a) any enactment providing for that document to be admissible in evidence or open to public inspection; and

(b) in the case of a document falling within subsection (1), that subsection,

applies to the copy or other reproduction as if it were the original.

(3) For the purposes of this section, and of section 270(2) in its application to documents in the custody of the Registrar General of Shipping, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

[Merchant Shipping Act 1995 (UK), s. 289]

274. Proof, etc. of exemptions

(1) Where any exception, exemption, excuse or qualification applies in relation to an offence under this Ordinance —

(a) it may be proved by the defendant; but

(b) need not be specified or negated in any information or complaint,

and, if so specified or negated, must not require to be proved by the informant or complainant.

(2) This section applies in relation to an offence whether or not the exception, exemption, excuse or qualification is contained in the section creating the offence.

[Merchant Shipping Act 1995 (UK), s. 290]

Service of documents

275. Service of documents

(1) Any document authorised or required to be served on any person may be served on that person by —

- (a) delivering it to the person;
- (b) leaving it at the person's proper address; or
- (c) sending it by post to the person at his or her proper address.

(2) Any such document required to be served on the master of a ship may be served —

(a) where there is a master, by leaving it for him or her on board the ship with the person appearing to be in command or charge of the ship;

(b) where there is no master, on —

- (i) the managing owner of the ship; or
- (ii) if there is no managing owner, any agent of the owner; or
- (iii) where no such agent is known or can be found, by leaving a copy of the document firmly fixed to the mast of the ship.

(3) Any document authorised or required to be served on any person may —

- (a) in the case of a body corporate, be served on the secretary or clerk of that body; or
- (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.

(4) Any notice authorised or required by or under Part 3 to be served on the Governor may be served by post.

(5) Any notice authorised by section 243, 244, 245 or 246 to be given to an inspector may be given by delivering it to him or her or by leaving it at, or sending it by post to, his or her office.

(6) Any document authorised or required by or under any enactment to be served on the registered owner of a ship registered in the Falkland Islands will be treated as duly served on him

or her if served on such persons, in such circumstances and by such method, as may be specified in registration regulations.

(7) For the purposes of this section and of section 9 of the Interpretation and General Clauses Ordinance 1977 (service of documents by post) in its application to this section, the proper address of any person on whom any document is to be served must be the person's last known address, except that —

(a) in the case of a body corporate or their secretary or clerk it must be the address of the registered or principal office of that body;

(b) in the case of a partnership or a person having the control or management of the partnership business, it must be the principal office of the partnership,

and for the purposes of this subsection the principal office of a company registered outside the Falkland Islands or of a partnership carrying on business outside the Falkland Islands is their principal office in the Falkland Islands.

(8) If the person to be served with any notice has (whether in pursuance of registration regulations or otherwise) specified an address in the Falkland Islands other than the person's proper address within the meaning of subsection (7) as the one at which the person or someone on the person's behalf will accept notices of the same description as that notice, that address must also be treated for the purposes of this section and section 9 of the Interpretation Ordinance 1977 as the person's proper address.

(9) For the purposes of the said section 9 of the Interpretation and General Clauses Ordinance 1977 a letter containing —

(a) a notice to be served on any person in pursuance of subsection (6); or

(b) a notice authorised or required to be served under registration regulations on a representative person (within the meaning of those regulations),

will be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to the person in the register; and a letter containing any other notice under registration regulations will be deemed to be properly addressed if it is addressed to the last known address of the person to be served (whether of the person's residence or of a place where the person carries on business).

[Merchant Shipping Act 1995 (UK), s. 291]

PART 14 – DUMPING AND DEPOSITS AT SEA

276. Interpretation

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

“the 1985 Act” means the Food and Environment Protection Act 1985(1985 c.48 s. 24);

“the Convention” means the Convention on the Prevention of Maritime Pollution by the Dumping of Wastes and Other Matter concluded at London in December 1972;

“Convention State” means a state which is a party to the Convention;

“designated area of the continental shelf” has the same meaning as it has under section 2(1) of the Offshore Minerals Ordinance 1994;

“Falkland Islands controlled waters” means any part of the sea within the limits of any designated area of the continental shelf;

“Falkland Islands marine structure” means a marine structure within Falkland Islands waters or Falkland Islands controlled waters;

“Falkland Islands waters” means any part of the sea within the seaward limits of the Falkland Islands territorial sea;

“incineration” means any combustion of substances and materials for the purpose of their thermal destruction;

“licence” means a licence granted by the licensing authority;

“the licensing authority” means the person who, under the provisions of section 280(1), is for the time being the licensing authority;

“marine structure” means a platform or other man-made structure at sea, other than a pipe-line;

“scuttling” in relation to a vessel, means the deliberate sinking of that vessel by one or more members of the crew of that vessel or by or on behalf of any person having an interest in the ownership of that vessel, in a mortgage or charge of that vessel, in a demise of that vessel or in the proceeds of a policy of insurance effected in relation to that vessel;

“sea” includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river; and

“vessel” includes any ship or boat, or any other description of vessel used in navigation.

(2) Any reference in this Ordinance to the Convention is a reference to it as it has effect from time to time.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 2]

Requirement for licences

277. Requirement of licences for deposit of substances and articles in the sea.

Subject to the following provisions of this Part, a licence under this Part is needed for —

(a) the deposit of substances or articles within Falkland Islands waters or Falkland Islands controlled waters, either in the sea or under the sea-bed from —

(i) a vehicle, vessel, aircraft, hovercraft or marine structure;

(ii) a container floating in the sea;

(iii) a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea;

(b) the deposit of substances or articles anywhere in the sea or under the sea-bed from —

(i) a vessel, aircraft or hovercraft registered in the Falkland Islands, or a Falkland Islands marine structure; or

(ii) a container floating in the sea, if the deposit is controlled from a vessel, aircraft or hovercraft registered in the Falkland Islands, or a Falkland Islands marine structure;

(c) the scuttling of vessels —

(i) in Falkland Islands waters or Falkland Islands controlled waters;

(ii) anywhere at sea if the scuttling is controlled from a vessel, aircraft or hovercraft registered in the Falkland Islands, or a Falkland Islands marine structure;

(d) the loading of a vessel, aircraft, hovercraft, marine structure or floating container in the Falkland Islands or Falkland Islands waters with substances or articles for deposit anywhere in the sea or under the sea-bed;

(e) the loading of a vehicle in the Falkland Islands with substances or articles for deposit from that vehicle as mentioned in paragraph (a) or (b); and

(f) the towing or propelling from the Falkland Islands or Falkland Islands waters of a vessel for scuttling anywhere at sea.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 3]

278. Requirement of licences for incineration at sea, etc.

Subject to the following provisions of this Part, a licence is needed —

(a) for the incineration of substances or articles on a vessel or marine structure —

(i) in Falkland Islands waters or Falkland Islands controlled waters; or

(ii) anywhere at sea if the incineration takes place on a vessel registered in the Falkland Islands or a Falkland Islands marine structure; and

(b) for the loading of a vessel or marine structure in the Falkland Islands or Falkland Islands waters with substances or articles for incineration at sea.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 4]

279. Exemptions

(1) The Governor may by order specify operations for which —

(a) a licence is not required; or

(b) a licence is not required if the operations satisfy the conditions specified in the order.

(2) The conditions that an order under this section may be required to specify include conditions enabling the licensing authority to require a person to obtain the authority's approval before the person does anything for which a licence would be needed but for the order.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 5]

280. Licences

(1) The Governor may appoint a public officer to be the licensing authority for the purposes of this Part and may from time to time revoke any such appointment and appoint another public officer to be the licensing authority in his or her place.

(2) If no appointment of a public officer is for the time being in force under this subsection, the Governor will be the licensing authority.

(3) In determining whether to issue a licence, the licensing authority —

(a) must have regard to the need to —

(i) protect to the marine environment, the living resources which it supports, and human health;

(ii) prevent interference with legitimate uses of the sea; and

(b) may have regard to such other matters as the licensing authority considers relevant.

(4) Without prejudice to the generality of subsection (1), where it appears to the licensing authority that an applicant has applied for a licence with a view to the disposal of articles or substances to which it would relate, the authority, in determining whether to issue a licence, must have regard to the practical availability of any alternative methods of dealing with them.

(5) The licensing authority —

(a) must include such provisions in a licence as appear to the licensing authority to be necessary or expedient to —

(i) protect the marine environment, the living resources which it supports, and human health; and

(ii) prevent interference with legitimate uses of the sea; and

(b) may include in a licence such other provisions as the licensing authority considers appropriate.

(6) Without prejudice to the generality of subsection (3), the licensing authority —

(a) may include in a licence provisions requiring —

(i) that no operations authorised by the licence must be carried out until the licensing authority has given such further consent or approval of the operation as the licence may specify; and

(ii) the use of automatic equipment to record such information relating to the operation of any deposit, scuttling or incineration authorised by the licence; and

(b) may include in a licence which only authorises loading operations such as are mentioned in section 277(d) or section 278(b) provisions requiring that any operation of deposit, scuttling or incineration which is mentioned in it must take place at a specified site.

(7) The licensing authority may require an applicant for a licence to supply such information and permit such examinations and tests as in the opinion of the licensing authority may be necessary or expedient to enable the licensing authority to decide whether a licence should be issued to the applicant and the provisions which any licence that is issued to the applicant ought to contain.

(8) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of subsection (6)(a) of this section, any record produced by means of the equipment is, in any proceedings under this Part, evidence of the matters appearing from the record.

(9) The licensing authority may require an applicant for a licence, on making his or her application, to pay a reasonable fee towards the expense of —

(a) carrying out any examinations and tests which, in the opinion of the licensing authority, are necessary or expedient to enable the licensing authority to decide —

(i) whether to issue a licence to the applicant; and

(ii) the provisions which any licence issued to the applicant ought to include;

(b) checking the manner in which operations for which a licence is needed have been or are being conducted; and

(c) monitoring the effect of such operation.

(10) Fees under this section must be determined by the Governor.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 6]

281. Revocation or variation of licence

(1) The licensing authority may vary or revoke a licence if it appears to the licensing authority that the licence ought to be varied or revoked —

(a) because of a change in circumstances relating to the marine environment, the living resources it supports, or human health; or

(b) because of increased scientific knowledge relating to any of those matters; or

(c) for any other reason that appears to the licensing authority to be relevant.

(2) Schedule 8 has effect in relation to the right to make representations and other matters relating to licences.

Offences relating to the licensing system

282. Offences related to the licensing system

(1) Subject to subsections (3) to (7), a person commits an offence who —

(a) does anything for which a licence is needed —

(i) despite not being the holder of the licence needed; or

(ii) in a manner that is not in accordance with the terms of the required licence which the person holds; or

(b) causes or permits any other person to do any such thing except in pursuance of a licence and in accordance with its provisions.

(2) A person commits an offence who, for the purpose of procuring the issue of a licence or in purporting to carry out any duty imposed on the person by the provisions of a licence —

(a) makes a statement which the person knows to be false in a material particular;

(b) recklessly makes a statement which is false in a material particular; or

(c) intentionally fails to disclose any material particular.

(3) Subject to subsection (4), it is a defence for a person charged with an offence under subsection (1) in relation to any operation to prove that —

(a) the operation was carried out for the purposes of securing the safety of a vessel, aircraft, hovercraft or marine structure, or of saving life; and

(b) the person took steps within a reasonable time to inform the licensing authority of —

(i) the operation;

(ii) the locality and circumstances in which it took place; and

(iii) any substances or articles concerned.

(4) A person does not have the defence provided by subsection (3) if the court is satisfied that —

(a) the operation —

(i) was not necessary for any purpose mentioned in paragraph (a) of that subsection; or

(ii) was not a reasonable step in the circumstances; or

(b) it was necessary for one of those purposes but the necessity was due to the fault of the defendant.

(5) It is a defence for a person charged with an offence under subsection (1) in relation to any operation —

(a) which falls within section 277(b) or section 278(1)(a)(ii); and

(b) which was not conducted within either Falkland Islands waters or Falkland Islands controlled waters,

to prove that subsections (6) and (7) of this section are satisfied in respect of that operation.

(6) This subsection is satisfied in respect of an operation falling within —

(a) section 277(b) if the vessel, aircraft, hovercraft, marine structure or container (as the case may be) was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles deposited;

(b) section 277(c)(ii), if the vessel scuttled was towed or propelled from a Convention State to the place where the scuttling was carried out; or

(c) section 278(a)(ii), if the vessel or marine structure on which the incineration took place was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles incinerated.

(7) This subsection is satisfied in respect of an operation if the operation took place in pursuance of a licence issued by the responsible authority in the Convention State concerned and in accordance with the provisions of that licence.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 7]

283. Power to take remedial action

(1) The Governor may authorise the carrying out of any operation which appears to the Governor may be necessary or expedient for the purpose of —

(a) protecting the marine environment, the living resources which it supports, and human health; or

(b) preventing interference with the legitimate use of the sea,

in any case where anything for which a licence is needed appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.

(2) If any such operation as is provided for in subsection (1) is carried out, the Crown may recover any expenses reasonably incurred on the Governor's behalf in carrying it out from any person who has been convicted of an offence in consequence of the act or omission which made it appear to the Governor to be necessary or expedient for the operation to be carried out.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 8]

Enforcement

284. Power of officers

(1) The Governor may authorise any person, subject to such limitations as may be specified in the instrument authorising the person, to enforce this Part, and the following provisions of this Part must be construed, in reference to a person so authorised, as subject to any such limitation.

(2) Subject to the following provisions of this Ordinance, a person so authorised may enter —

(a) any land or vehicle in the Falkland Islands;

(b) foreign vessels, foreign aircraft, foreign hovercraft and foreign marine structures in the Falkland Islands or within Falkland Islands waters or Falkland Islands controlled waters; or

(c) any of the following, wherever they may be —

(i) vessels, aircraft or hovercraft registered in the Falkland Islands; or

(ii) Falkland Islands marine structures,

if the person has reasonable grounds for believing that any substances or articles intended to be deposited in the sea or under the sea-bed or incinerated on a vessel or marine structure at sea are or have been present there.

(3) A person so authorised may board —

(a) any vessel within Falkland Islands waters or Falkland Islands controlled waters; and

(b) any vessel registered in the Falkland Islands, wherever it may be,

if it appears to the person that it is intended to be scuttled.

(4) A person so authorised must not enter premises used only as a dwelling for the purpose of enforcing this Ordinance.

(5) Schedule 9 has effect with respect to persons authorised to enforce this Chapter.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 9]

285. Enforcement of Convention

(1) The Governor may by order —

(a) declare that any procedure which has been developed for the effective application of the Convention and is specified in the order is an agreed procedure; and

(b) specify that any of the powers conferred by this Ordinance for the purpose of enforcing this Part as a power that may be exercised, by such persons and in such circumstances and subject to such conditions or modifications as may be specified, for the purposes of enforcing that procedure.

(2) An order under subsection (1) may apply to the Falkland Islands, Falkland Islands waters and Falkland Islands controlled waters any statutory instrument made under section 12(1) of the 1985 Act and with such modifications and adaptations as the Governor may consider necessary or expedient.

(3) A person who exercises any powers by virtue of an order under this section has the same right and liabilities in relation to their exercise that a person authorised under section 284 would have in relation to the exercise of any powers for the purpose of enforcing of this Part.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 10]

Miscellaneous

286. Power of Governor to test and charge for testing

(1) At the request of any person, the Governor may conduct tests to ascertain the probable effect on the marine environment and the living resources which it supports of using for the purpose of treating oil on the surface of the sea any substance produced for that purpose.

(2) If the Governor causes tests to be conducted under this section, the Governor may recover from any person at whose request they were conducted any expenses reasonably incurred by the Governor in having them conducted.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 11]

287. Offences, penalties, etc.

(1) A person convicted of an offence under section 282(1) is liable to a fine or to imprisonment for a term not exceeding two years.

(2) A person convicted of an offence under section 282(2) is liable to a fine.

(3) A person convicted of an offence under Schedule 9 is liable to a fine not exceeding level 5 on the scale set out in Schedule 7.

(4) Where an offence under this Ordinance which has been committed by a body corporate is proved to have been committed with the consent or the connivance of, or attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, that person as well as the body corporate has committed that offence and is liable to be prosecuted accordingly.

(5) Where the affairs of a body corporate are managed by its members, subsection (4) applies in relation to the acts and defaults of a member in connection with his functions of management as if the member were a director of the body corporate.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 12]

288. General defence of due diligence

(1) In any proceedings for an offence under this Part it is a defence for the person charged to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) Without prejudice to the generality of subsection (1), a person is to be taken to have established the defence provided by that subsection if the person proves —

(a) that the person acted under instructions given to the person by his or her employer; or

(b) that the person acted in reliance on information supplied by another person without any reason to suppose that the information was false or misleading,

and, in either case, that the person took all such steps as were reasonably open to him or her to ensure that no offence would be committed.

(3) If in any case the defence provided by subsection (1) involves an allegation that the commission of the offence was due to an act or omission by another person, other than the giving of instructions to the person charged with the offence by that person's employer, or to reliance on information supplied by another person, the person charged is not, without the leave of the court, entitled to rely on that defence unless within a period ending seven clear days before the

hearing, the person charged has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in that person's possession.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 13]

PART 15 – GENERAL PROVISIONS

Administration

289. General functions of Governor

(1) The Governor continues to have the general superintendence of all matters relating to merchant shipping and seafarers and is authorised to carry into execution the provisions of this Ordinance and of all enactments relating to merchant shipping and seafarers for the time being in force, except where otherwise provided or so far as relating to revenue.

(2) The Attorney General may take any legal proceedings under this Ordinance.

[Merchant Shipping Act 1995 (UK), s. 292]

290. Functions of Governor in relation to marine pollution

(1) The Governor continues to have the functions of taking, or co-ordinating, measures to prevent, reduce and minimise the effects of, marine pollution.

(2) Without prejudice to the generality of subsection (1), the functions of the Governor under that subsection, or of such person or authority to whom the Governor may delegate any of those functions, include —

(a) the preparation, review and implementation of a national plan setting out arrangements for responding to incidents which cause or may cause marine pollution with a view to preventing such pollution or reducing or minimising its effects;

(b) the acquisition, maintenance, use and disposal of ships, aircraft, equipment and other property;

(c) the provision of services, including research, training and advice; and

(d) the giving of assistance to any other State or international institution under any international agreement relating to the prevention, reduction or control of marine pollution subject to approval by the Secretary of State.

(3) Assistance under subsection (2)(d) may be given only on such terms as will secure reimbursement of the cost of giving the assistance if and to the extent that reimbursement will be practicable in the circumstances.

(4) The Governor may make reasonable charges for the supply of goods or services.

(5) Where under subsection (1) the Governor agrees that another person must take any measures to prevent, reduce or minimise the effects of marine pollution, the Governor may agree to indemnify that other person in respect of liabilities incurred by that person in connection with the taking of the measures.

(6) In this section —

“marine pollution” means pollution caused by ships, offshore installations or submarine pipelines affecting or likely to affect the Falkland Islands or Falkland Islands waters or Falkland Islands controlled waters;

“offshore installation” has the same meaning as in section 35 of the Offshore Minerals Ordinance 1994;

“pipeline” has the same meaning as in section 38 of the Offshore Minerals Ordinance 1994;

“submarine” means in, under or over Falkland Islands waters or Falkland Islands controlled waters;

“Falkland Islands controlled waters” has the same meaning as “controlled waters” has in section 2(1) of the Offshore Minerals Ordinance 1994, but no restriction as to the seas to which functions under this section extend is implied as regards the functions mentioned in subsection (2)(c).

[Merchant Shipping Act 1995 (UK), s. 293]

291. General power to dispense

(1) The Governor may, if he or she thinks fit, and upon such conditions (if any) as he or she thinks fit to impose, exempt any ship from any specified requirement of, or prescribed under, this Ordinance other than Chapter II of Part 7 (Waste reception facilities at harbours), or dispense with the observance of any such requirement in the case of any ship, if he or she is satisfied, as respects that requirement, of the matters specified in subsection (2).

(2) Those matters are that —

(a) the requirement has been substantially complied with in the case of that ship or that compliance with it is unnecessary in the circumstances; and

(b) the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.

(3) The Governor must annually lay before the Legislative Assembly a special report stating —

(a) the cases in which the Governor has exercised his or her powers under this section during the preceding year; and

(b) the grounds upon which the Governor has acted in each case.

[Merchant Shipping Act 1995 (UK), s. 294]

292. Registrar General of Shipping

(1) This section establishes the office of Registrar General of Shipping, which is a public office.

(2) The Registrar General of Shipping is responsible for exercising such functions as are conferred on him or her by this Ordinance and for keeping such records and performing such other duties as the Governor may direct.

(3) The Governor may appoint and remove persons to perform on behalf of the Registrar General of Shipping such functions as the Governor or the Registrar General of Shipping may direct.

(4) Subsection (3) does not apply in relation to the functions of the Registrar General of Shipping as registrar under Part 2.

[Merchant Shipping Act 1995 (UK), s. 295]

293. Mercantile marine superintendents

(1) The Governor must appoint such number of public officers as the Governor thinks are appropriate as mercantile marine superintendents.

(2) Mercantile marine superintendents appointed under subsection (1) are responsible for exercising and discharging the functions conferred on marine superintendents by this Ordinance.

[Merchant Shipping Act 1995 (UK), s. 296]

294. Wreck commissioners, etc.

(1) The Governor may appoint such number of persons as he or she thinks fit to be —

(a) wreck commissioners to discharge the functions of wreck commissioners under this Ordinance or any other enactment which provides for wrecks;

(b) assessors for purposes of this Ordinance.

(2) There must be paid to any wreck commissioner such remuneration as the Governor may determine.

(3) There must be paid to any assessor appointed under this Ordinance such remuneration as the Governor may determine.

[Merchant Shipping Act 1995 (UK) s. 297]

295. Transmission of documents to Registrar General

(1) The following duties are imposed on all superintendents and all customs officers as respects all documents which are delivered or transmitted to or retained by them in pursuance of this Ordinance.

(2) The officers mentioned under subsection (1) must take charge of the documents and keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where the documents come into their hands, or for any other proper purpose.

(3) The officers mentioned under subsection (1) must, if required, produce them for any of the purposes referred to under subsection (2), and must then transmit them to the Registrar General of Shipping.

(4) The Registrar General of Shipping must retain documents transmitted to him or her under subsection (3) for such period as the Governor may direct.

[Merchant Shipping Act 1995 (UK), s. 298]

296. Returns, etc. to Governor

(1) All superintendents must make and send to the Governor such returns or reports on any matter relating to Falkland Islands merchant shipping or seafarers as the Governor may require.

(2) All superintendents must, when required by the Governor, produce to the Governor or to the Governor's officers all official log-books and other documents which are delivered to the superintendents under this Ordinance.

(3) All surveyors of ships must make such returns to the Governor as the Governor may require with respect to —

(a) the build, dimensions, draught, burden, speed and room for fuel of ships surveyed by them; and

(b) the nature and particulars of machinery and equipment of such ships.

(4) The owner, master and engineer of any ship being surveyed must, when required to do so, give to the surveyors all such information and assistance within his or her power as the surveyors require for the purpose of returns under subsection (3).

(5) If the owner, master or engineer, on being required under subsection (4) to give any information or assistance, fails, without reasonable excuse, to give the information or assistance, he or she commits an offence and is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 299]

297. Advisory committees

(1) The Governor may, if he or she thinks fit, appoint committees for the purpose of advising him or her when considering the making or alteration of any regulations, rules or scales for the purpose of this Ordinance other than Chapter II of Part 7.

(2) A committee appointed under this section must consist of persons representing the interests principally affected or having special knowledge of the subject matter.

(3) The Governor must pay to the members of any committee under this section such travelling and other allowances as the Governor determines after consulting the Financial Secretary.

(4) Committees may be appointed under this section to advise the Governor specially as regards any special regulations, rules or scales or generally as regards any class or classes of regulations, rules or scales which the Governor may assign to them.

[Merchant Shipping Act 1995 (UK), s. 301]

Financial provisions

298. Fees

(1) The Governor may make regulations prescribing fees to be charged in respect of —

(a) the issue or recording in pursuance of this Ordinance of any certificate, licence or other document; or

(b) the doing of anything in pursuance of this Ordinance.

(2) In the case of fees for the measurement of a ship's tonnage, the fees may be prescribed as maximum fees.

[Merchant Shipping Act 1995 (UK), s. 302]

299. Funding of maritime services

The funding of maritime services must be provided for in annual Appropriation Ordinances.

[Merchant Shipping Act 1995 (UK), s. 302A]

300. Expenses of Collector of Customs

(1) All expenses incurred by the Collector of Customs in the conduct of proceedings or otherwise in carrying into effect the provisions of this Ordinance must be treated as expenses relating to the revenue of customs and excise and must be paid accordingly.

(2) The Governor may, however, repay all or any part of such of the expenses paid in accordance with subsection (1) as are chargeable under this Ordinance on the Consolidated Fund.

[Merchant Shipping Act 1995 (UK), s. 303]

301. Expenses charged on money provided by the Crown in virtue of its Government in the Falkland Islands

The following expenses and other amounts are payable by the Crown in virtue of its Government in the Falkland Islands —

(a) the expenses incurred by the Governor under this Ordinance;

(b) the salaries, pensions, gratuities and allowances of surveyors of ships, Departmental inspectors and superintendents;

- (c) the expenses of obtaining depositions, reports and returns respecting wrecks and casualties;
- (d) such sums as the Governor may, in his or her discretion, think fit to pay in respect of claims on account of the proceeds of wreck;
- (e) the expenses incurred in respect of receivers of wreck and the performance of their duties;
- (f) such expenses as the Governor directs for —
 - (i) establishing and maintaining on the coasts of the Falkland Islands proper lifeboats with the necessary crews and equipment;
 - (ii) affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea; or
 - (iii) rewarding the preservation of life in such cases; and
- (g) any other amounts which are by virtue of any provision of this Ordinance as are so payable.

[Merchant Shipping Act 1995 (UK), s. 304]

302. Payments to be made into Consolidated Fund

(1) The following sums must be paid into the Consolidated Fund —

- (a) all fees, charges and expenses payable in respect of the survey and measurement of ships;
- (b) any fees received by receivers of wreck;
- (c) any sums received by the Governor under this Ordinance or which are, by any provision of it, required to be paid into the Consolidated Fund.

(2) All fees mentioned in this section must be paid at such time and in such manner as the Governor directs.

[Merchant Shipping Act 1995 (UK), s. 305]

Application of Ordinance to certain descriptions of ships, etc.

303. Application of Ordinance to ships not registered in the Falkland Islands

(1) The Governor may make regulations specifying any description of ships not registered in the Falkland Islands and also directing that the provisions of this Ordinance and of instruments under this Ordinance as may be specified in the regulations —

- (a) extend to ships not registered in the Falkland Islands, those ships description and to masters and seafarers employed in them; or

(b) extend in such circumstances as may be specified, with such modifications (if any) as may be specified.

(2) Regulations under this section may contain such transitional, supplementary and consequential provisions as appear to the Governor to be expedient.

[Merchant Shipping Act 1995 (UK), s. 307]

304. Application of Ordinance to government ships

(1) Subject to any other provision within this Ordinance, this Ordinance does not apply to ships belonging to Her Majesty.

(2) Part 2 of this Ordinance applies to Government ships where an Order in Council has been made under section 308 of the Act specifying the registration of Government ships in the Falkland Islands as British ships under Part 2 subject to any exceptions and modifications which may be made by the Order in Council, either generally or as respects any special class of Government ships.

(3) In this section “Government ships” means ships not forming part of Her Majesty’s Navy which belong to Her Majesty, or are held by any person on behalf of or for the benefit of the Crown (and for that reason cannot be registered under Part 3).

[Merchant Shipping Act 1995 (UK), s. 308]

305. Application of Ordinance to ships chartered by demise to the Crown

(1) This section applies to a ship if, for the time being —

(a) the ship is —

(i) registered in the Falkland Islands; and

(ii) in the service of the Falkland Islands government by reason of a charter by demise to the Crown; and

(b) there is in force under section 308(2) of the Act an Order in Council providing for the registration of Government ships in the service of the Falkland Islands government.

(2) Where this section applies to any ship, the following statutory provisions, namely —

(a) the provisions of the Order in Council referred to in subsection (1)(b) (excluding those relating to registration under the Order); and

(b) section 304 (as it applies by virtue of section 308(2) of the Act and that Order in Council),

have (subject to subsections (3) and (5)) the same effect in relation to that ship as they have in relation to a Government ship in the service of the Falkland Islands government (whether referred to as such, or a ship registered in pursuance of that Order in Council).

(3) Subject to subsection (5), Part 3 has effect in relation to a ship to which this section applies in like manner as if it were not, for the purposes of this Ordinance, a ship belonging to Her Majesty.

(4) In the application of any provision of this Ordinance (other than a provision of Part 3) in relation to a ship to which this section applies, any reference to the owner of the ship must be construed as a reference to the relevant Falkland Island government department.

(5) Subsections (2) and (3) apply subject to the provisions of an Order in Council made under section 309(4) of the Act.

[Merchant Shipping Act 1995 (UK), s. 309]

306. Application of Ordinance to certain structures, etc.

(1) The Governor may by order provide that a thing designed or adapted for use at sea and described in the order is or is not to be treated as a ship for the purposes of any specified provision of this Ordinance or of an instrument made under this Ordinance.

(2) An order under this section may —

(a) make different provision in relation to different occasions; and

(b) if it provides that a thing is to be treated as a ship for the purposes of a specified provision, provide that the provision has effect in relation to the thing with such modifications as are specified.

(3) In this section “specified” means specified in the order.

[Merchant Shipping Act 1995 (UK), s. 311]

Subordinate legislation

307. Regulations, rules and orders, etc.

(1) Before making the following regulations, rules or orders, namely —

(a) regulations under Part 3 or section 112 or 135;

(b) rules under Chapter II of Part 6;

(c) an order under section 308,

the Governor must consult with organisations in the Falkland Islands appearing to the Governor to be representative of persons who will be affected by the regulations, rules or orders.

(2) Any direction, notice, order or authorisation under this Ordinance given or made by the Governor must be in writing.

(3) Any power to give a direction includes power to vary or revoke the direction by a subsequent direction.

[Merchant Shipping Act 1995 (UK), s.306]

308. Regulations

(1) The Governor may make regulations for giving effect to the provisions of this Ordinance.

(2) The power conferred by this section (1) is in addition to the power to make regulations that is given to the Governor by any provision of this Ordinance.

(3) Without prejudice to subsection (2) or to the generality of subsection (1), the Governor may in particular make regulations —

(a) prescribing anything required by this Ordinance to be prescribed, including but not limited to any procedure for the doing by any person of anything authorised or permitted by this Ordinance;

(b) prescribing or changing fees for anything in relation to which, by this Ordinance, a fee is to be or has been prescribed;

(c) to provide for their operation anywhere outside the Falkland Islands and for their application to persons, whether or not Commonwealth citizens, and to companies, whether or not incorporated under the law of the Falkland Islands;

(d) to provide that in any proceedings for an offence under the regulations (other than proceedings to which sub-paragraph (c) applied) an averment in any process of the fact that anything was done or situated within Falkland Islands waters is, unless the contrary is proved, sufficient evidence of that fact as stated in the averment;

(e) to provide that in any proceedings for an offence under the regulations a statement in any complaint or indictment of any such fact as is mentioned in sub-paragraph (b) is, unless the contrary is proved, sufficient evidence of the fact as so stated;

(f) to provide that proceedings for an offence under the regulations may be taken, and the offence be treated for all incidental purposes as having been committed, in the Falkland Islands;

(g) to provide for any provisions relating to inquiries and investigations into marine accidents to apply (with such modifications as may be specified) in relation to accidents involving any submersible apparatus (section 87) which is not a ship as they apply to ships;

(h) to provide that specified provisions of any enactment (other than section 87) does not, in such circumstances as may be prescribed, have effect in relation to such class or description of, or to such particular, submersible or supporting apparatus as may be prescribed;

(i) to make different provision for different classes or descriptions of submersible or supporting apparatus and for different circumstances;

(j) contain such supplemental and incidental provisions as appear to the Governor to be expedient.

309. Forms

(1) The Governor must prescribe the form of any book, instrument or paper required under this Ordinance but may delegate this function to the Authority or the Director of Natural Resources, and where the Governor delegates this function, the Authority or the Director may alter such forms.

(2) The Governor must cause every form prescribed under subsection (1) to be marked with the distinguishing mark of the Authority or the Department responsible for maritime services and, before finally issuing any form or making any alteration in a form, must publish a notice about the forms or their alteration in such manner as he or she thinks requisite in order to avoid inconvenience.

(3) The Governor must cause the forms to be supplied at the Authority or the Department responsible for maritime services free of charge or at such reasonable prices as the Governor may fix, or the Governor may licence any persons to print and sell the forms.

(4) Every book, instrument or paper must be made in the form (if any) prescribed under this section, or as near as circumstances permit; and unless so made is not admissible in evidence in any civil proceedings on the part of the owner or master of any ship.

(5) Every book, instrument or paper, if made in a form purporting to be the proper form and to be marked in accordance with subsection (2), is deemed to be in the form required by this Ordinance, unless the contrary is proved.

(6) The foregoing provisions do not apply where special provision is made by this Ordinance.

(7) If any person prints, sells or uses any document purporting to be a form prescribed under this section knowing that the document is not the form approved for the time being or that the document has not been prepared or issued in a manner required under this section, that person commits an offence and is liable, on conviction, to a fine not exceeding level 2 on the scale set out in Schedule 7.

[Merchant Shipping Act 1995 (UK), s. 300]

Final provisions

310. Repeals and savings

(1) The Ordinances and statutory instruments listed in Part “A” of Schedule 10 (in this section referred to as the “repealed Falkland Islands legislation”) are repealed.

(2) With effect from the date of commencement of an Act made to amend the imperial enactments listed in Part “B” of Schedule 10 (in this section referred to as the “UK Acts”) being imperial enactments that apply to the Falkland Islands by their own force or by virtue of Orders in Council made by Her Majesty the Queen in Council so that those enactments no longer have force in the Falkland Islands, those UK Acts will no longer have force in the Falkland Islands.

(3) With effect from the date of commencement of an instrument made to revoke or amend the imperial enactments listed in Part “C” of Schedule 10 (in this Ordinance referred to as the “UK Statutory Instruments”) being imperial enactments that apply to the Falkland Islands by their own force so that those UK Statutory Instruments no longer have force in the Falkland Islands, those UK Statutory Instruments will no longer have force in the Falkland Islands.

(4) Subject to subsections (2) and (3) all items of subsidiary legislation made under any of the repealed Ordinances or UK Acts specified in Parts A and B of Schedule 10 continue in force (in so far as they are not inconsistent with this Ordinance) as if made under the corresponding provision of this Ordinance until amended or replaced under this Ordinance.

(5) If there is no corresponding provision of this Ordinance under which any item of subsidiary legislation referred to under subsection (4) is or could be made, the item is repealed or disappplied, as the case may be, except that it continues to have effect in relation to proceedings that had commenced before the repeal or disapplication.

SCHEDULE 1 (section 22 and 23(7))

PRIVATE LAW PROVISIONS FOR REGISTERED SHIPS

General

1.(1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship or of a share in a ship has power to dispose of it provided the disposal is made in accordance with this Schedule and registration regulations.

(2) Sub-paragraph (1) above does not imply that interests arising under contract or other equitable interests cannot subsist in relation to a ship or a share in a ship; and such interests may be enforced by or against owners and mortgagees of ships in respect of their interest in the ship or share in the same manner as in respect of any other personal property.

(3) The registered owner of a ship or of a share in a ship has power to give effectual receipts for any money paid or advanced by way of consideration on any disposal of the ship or share.

Transfers etc. of registered ships

2.(1) Any transfer of a registered ship, or a share in such a ship, must be effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in the ship ceasing to have a Falkland Islands connection.

(2) Where any such ship or share has been transferred in accordance with sub-paragraph (1) above, the transferee must not be registered as owner of the ship or share unless —

(a) the transferee has made the prescribed application to the registrar; and

(b) the registrar is satisfied that the ship retains a Falkland Islands connection and that he or she would not refuse to register the ship.

(3) If an application under sub-paragraph (2) above is granted by the registrar, the registrar must register the bill of sale in the prescribed manner.

(4) Bills of sale must be registered in the order in which they are produced to the registrar for the purposes of registration.

3.(1) Where a registered ship, or a share in a registered ship, is transmitted to any person by any lawful means other than a transfer under paragraph 2 above and the ship continues to have a Falkland Islands connection, that person must not be registered as owner of the ship or share unless —

(a) the person has made the prescribed application to the registrar; and

(b) the registrar is satisfied that the ship retains a Falkland Islands connection and that he or she would not refuse to register the ship.

(2) If an application under sub-paragraph (1) is granted by the registrar, the registrar must cause the applicant's name to be registered as owner of the ship or share.

4.(1) Where the property in a registered ship or share in a registered ship is transmitted to any person by any lawful means other than a transfer under paragraph 2 above, but as a result the ship no longer has a Falkland Islands connection, the Supreme Court may, on application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, must be paid to that person or otherwise as the court direct.

(2) The court may require any evidence in support of the application they think requisite, and may make the order on any terms and conditions they think just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) Every such application must be made within the period of 28 days beginning with the date of the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding one year) as the court may allow.

(4) If—

(a) such an application is not made within the time allowed by or under sub-paragraph (3) above; or

(b) the court refuse an order for sale,

the ship or share transmitted shall be liable to forfeiture.

5.(1) Where any court (whether under paragraph 4 above or otherwise) order the sale of any registered ship or share in a registered ship, the order of the court must contain a declaration vesting in some named person the right to transfer the ship or share.

(2) The person so named is entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner of the ship or share.

(3) The registrar must deal with any application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.

6.(1) The Supreme Court may, if it thinks fit (without prejudice to the exercise of any other power), on the application of any interested person, make an order prohibiting for a specified time any dealing with a registered ship or share in a registered ship.

(2) The court may make the order on any terms or conditions it thinks just, or may refuse to make the order, or may discharge the order when made (with or without costs or, in Scotland, expenses) and generally may act in the case as the justice of the case requires.

(3) The order, when a copy is served on the registrar, is binding on the registrar whether or not he or she was made a party to the proceedings.

Mortgages of registered ships

7.(1) A registered ship, or share in a registered ship, may be made a security for the repayment of a loan or the discharge of any other obligation.

(2) The instrument creating any such security (referred to in the following provisions of this Schedule as a “mortgage”) must be in the form prescribed by or approved under registration regulations.

(3) Where a mortgage executed in accordance with sub-paragraph (2) above is produced to the registrar, the registrar must register the mortgage in the prescribed manner.

(4) Mortgages must be registered in the order in which they are produced to the registrar for the purposes of registration.

Priority of registered mortgages

8.(1) Where two or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves must, subject to sub-paragraph (2) below, be determined by the order in which the mortgages were registered (and not by reference to any other matter).

(2) Registration regulations may provide for the giving to the registrar by intending mortgagees of “priority notices” in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

Registered mortgagee’s power of sale

9.(1) Subject to sub-paragraph (2) below, every registered mortgagee has power, if the mortgage money or any part of it is due, to sell the ship or share in respect of which he or she is registered, and to give effectual receipts for the purchase money.

(2) Where two or more mortgagees are registered in respect of the same ship or share, a subsequent mortgagee must not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Protection of registered mortgagees

10. Where a ship or share is subject to a registered mortgage then —

(a) except so far as is necessary for making the ship or share available as a security for the mortgage debt, the mortgagee must not by reason of the mortgage be treated as owner of the ship or share; and

(b) the mortgagor must be treated as not having ceased to be owner of the ship or share.

Transfer of registered mortgage

11.(1) A registered mortgage may be transferred by an instrument made in the form prescribed by or approved under registration regulations.

(2) Where any such instrument is produced to the registrar, the registrar must register the transferee in the prescribed manner.

Transmission of registered mortgage by operation of law

12. Where the interest of a mortgagee in a registered mortgage is transmitted to any person by any lawful means other than by a transfer under paragraph 11 above, the registrar must, on

production of the prescribed evidence, cause the name of that person to be entered in the register as mortgagee of the ship or share in question.

Discharge of registered mortgage

13. Where a registered mortgage has been discharged, the registrar must, on production of the mortgage deed and such evidence of the discharge of the mortgage as may be prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

Definitions

14. In this Schedule —

“mortgage” must be construed in accordance with paragraph 7(2) above;

“prescribed” means prescribed in registration regulations; and

“registered mortgage” means a mortgage registered under paragraph 7(3).

SCHEDULE 2

(sections 185(1), (5) and 186(4)(a))

(Section 176 of the 1995 Act as applied to the Falkland Islands by S.I. 1997/2584)

(Schedule 5 to the 1995 Act as applied to the Falkland Islands by S.I. 1997/2584)

OVERALL LIMIT ON LIABILITY OF FUND

PART I

PERMANENT PROVISION

Article 4-paragraphs 4 and 5

4. (a) Except as otherwise provided in sub paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 203 million units of account.

(b) Except as otherwise provided in sub paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 203 million units of account.

(c) The maximum amount of compensation referred to in sub-paragraphs (a) and (b) shall be 300.74 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.

(d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.

(e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

SCHEDULE 3

(sections , 190(2) and 192(1))

(SCHEDULE 5A to the 1995 Act – sections 182A to 182C)

TEXT OF INTERNATIONAL CONVENTION ON LIABILITY AND COMPENSATION FOR DAMAGE IN CONNECTION WITH THE CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES BY SEA

The States parties to the present Convention,

Conscious of the dangers posed by the world-wide carriage by sea of hazardous and noxious substances,

Convinced of the need to ensure that adequate, prompt and effective compensation is available to persons who suffer damage caused by incidents in connection with the carriage by sea of such substances,

Desiring to adopt uniform international rules and procedures for determining questions of liability and compensation in respect of such damage,

Considering that the economic consequences of damage caused by the carriage by sea of hazardous and noxious substances should be shared by the shipping industry and the cargo interests involved,

Have agreed as follows:

Chapter I

GENERAL PROVISIONS

Definitions

Article 1

For the purposes of this Convention:

1. “Ship” means any seagoing vessel and seaborne craft, of any type whatsoever.
2. “Person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. “Owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship’s operator, “owner” shall mean such company.
4. “Receiver” means either:
 - (a) the person who physically receives contributing cargo discharged in the ports and terminals of a State Party; provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of any State Party, then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund; or
 - (b) the person in the State Party who in accordance with the national law of that State Party is deemed to be the receiver of contributing cargo discharged in the ports and terminals of a State Party, provided that the total contributing cargo received according to such national law is substantially the same as that which would have been received under (a).
5. “Hazardous and noxious substances” (HNS) means:
 - (a) any substances, materials and articles carried on board a ship as cargo, referred to in (i) to (vii) below:
 - (i) oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
 - (ii) noxious liquid substances carried in bulk referred to in appendix II of Annex II to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and those substances and mixtures

provisionally categorized as falling in pollution category A, B, C or D in accordance with regulation 3(4) of the said Annex II;

(iii) dangerous liquid substances carried in bulk listed in chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983, as amended, and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.3 of the Code;

(iv) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the International Maritime Dangerous Goods Code, as amended;

(v) liquefied gases as listed in chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, 1983, as amended, and the products for which preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.6 of the Code;

(vi) liquid substances carried in bulk with a flashpoint not exceeding 60°C (measured by a closed cup test);

(vii) solid bulk materials possessing chemical hazards covered by appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended, to the extent that these substances are also subject to the provisions of the International Maritime Dangerous Goods Code when carried in packaged form; and

(b) residues from the previous carriage in bulk of substances referred to in (a)(i) to (iii) and (v) to (vii) above.

6. "Damage" means:

(a) loss of life or personal injury on board or outside the ship carrying the hazardous and noxious substances caused by those substances;

(b) loss of or damage to property outside the ship carrying the hazardous and noxious substances caused by those substances;

(c) loss or damage by contamination of the environment caused by the hazardous and noxious substances, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

(d) the costs of preventive measures and further loss or damage caused by preventive measures.

Where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage shall be deemed to be caused by the hazardous and noxious substances except if, and to the extent that, the damage caused by other factors is damage of a type referred to in article 4, paragraph 3.

In this paragraph, “caused by those substances” means caused by the hazardous or noxious nature of the substances.

7. “Preventive measures” means any reasonable measures taken by any person after an incident has occurred to prevent or minimize damage.

8. “Incident” means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage.

9. “Carriage by sea” means the period from the time when the hazardous and noxious substances enter any part of the ship’s equipment, on loading, to the time they cease to be present in any part of the ship’s equipment, on discharge. If no ship’s equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship’s rail.

10. “Contributing cargo” means any hazardous and noxious substances which are carried by sea as cargo to a port or terminal in the territory of a State Party and discharged in that State. Cargo in transit which is transferred directly, or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to the port or terminal of final destination shall be considered as contributing cargo only in respect of receipt at the final destination.

11. The “HNS Fund” means the International Hazardous and Noxious Substances Fund established under article 13.

12. “Unit of account” means the Special Drawing Right as defined by the International Monetary Fund.

13. “State of the ship’s registry” means in relation to a registered ship the State of registration of the ship, and in relation to an unregistered ship the State whose flag the ship is entitled to fly.

14. “Terminal” means any site for the storage of hazardous and noxious substances received from waterborne transportation, including any facility situated off-shore and linked by pipeline or otherwise to such site.

15. “Director” means the Director of the HNS Fund.

16. “Organization” means the International Maritime Organization.

17. “Secretary-General” means the Secretary-General of the Organization.

Annexes

Article 2

The Annexes to this Convention shall constitute an integral part of this Convention.

Scope of application

Article 3

This Convention shall apply exclusively:

- (a) to any damage caused in the territory, including the territorial sea, of a State Party;
- (b) to damage by contamination of the environment caused in the exclusive economic zone of a State Party, established in accordance with international law, or, if a State Party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;
- (c) to damage, other than damage by contamination of the environment, caused outside the territory, including the territorial sea, of any State, if this damage has been caused by a substance carried on board a ship registered in a State Party or, in the case of an unregistered ship, on board a ship entitled to fly the flag of a State Party; and
- (d) to preventive measures, wherever taken.

Article 4

1. This Convention shall apply to claims, other than claims arising out of any contract for the carriage of goods and passengers, for damage arising from the carriage of hazardous and noxious substances by sea.
2. This Convention shall not apply to the extent that its provisions are incompatible with those of the applicable law relating to workers' compensation or social security schemes.
3. This Convention shall not apply:
 - (a) to pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended, whether or not compensation is payable in respect of it under that Convention; and
 - (b) to damage caused by a radioactive material of class 7 either in the International Maritime Dangerous Goods Code, as amended, or in appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended.

4. Except as provided in paragraph 5, the provisions of this Convention shall not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.
5. A State Party may decide to apply this Convention to its warships or other vessels described in paragraph 4, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.
6. With respect to ships owned by a State Party and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in article 38 and shall waive all defences based on its status as a sovereign State.

Article 5

1. A State may, at the time of ratification, acceptance, approval of, or accession to, this Convention, or any time thereafter, declare that this Convention does not apply to ships:
 - (a) which do not exceed 200 gross tonnage; and
 - (b) which carry hazardous and noxious substances only in packaged form; and
 - (c) while they are engaged on voyages between ports or facilities of that State.
2. Where two neighbouring States agree that this Convention does not apply also to ships which are covered by paragraph 1(a) and (b) while engaged on voyages between ports or facilities of those States, the States concerned may declare that the exclusion from the application of this Convention declared under paragraph 1 covers also ships referred to in this paragraph.
3. Any State which has made the declaration under paragraph 1 or 2 may withdraw such declaration at any time.
4. A declaration made under paragraph 1 or 2, and the withdrawal of the declaration made under paragraph 3, shall be deposited with the Secretary-General who shall, after the entry into force of this Convention, communicate it to the Director.
5. Where a State has made a declaration under paragraph 1 or 2 and has not withdrawn it, hazardous and noxious substances carried on board ships covered by that paragraph shall not be considered to be contributing cargo for the purpose of application of articles 18, 20, article 21, paragraph 5 and article 43.
6. The HNS Fund is not liable to pay compensation for damage caused by substances carried by a ship to which the Convention does not apply pursuant to a declaration made under paragraph 1 or 2, to the extent that:
 - (a) the damage as defined in article 1, paragraph 6(a), (b) or (c) was caused in:

(i) the territory, including the territorial sea, of the State which has made the declaration, or in the case of neighbouring States which have made a declaration under paragraph 2, of either of them; or

(ii) the exclusive economic zone, or area mentioned in article 3(b), of the State or States referred to in (i);

(b) the damage includes measures taken to prevent or minimize such damage.

Duties of State Parties

Article 6

Each State Party shall ensure that any obligation arising under this Convention is fulfilled and shall take appropriate measures under its law including the imposing of sanctions as it may deem necessary, with a view to the effective execution of any such obligation.

Chapter II

LIABILITY

Liability of the owner

Article 7

1. Except as provided in paragraphs 2 and 3, the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances in connection with their carriage by sea on board the ship, provided that if an incident consists of a series of occurrences having the same origin the liability shall attach to the owner at the time of the first of such occurrences.

2. No liability shall attach to the owner if the owner proves that:

(a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or

(c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function; or

(d) the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either:

(i) has caused the damage, wholly or partly; or

(ii) has led the owner not to obtain insurance in accordance with article 12;

provided that neither the owner nor its servants or agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.

3. If the owner proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from liability to such person.

4. No claim for compensation for damage shall be made against the owner otherwise than in accordance with this Convention.

5. Subject to paragraph 6, no claim for compensation for damage under this Convention or otherwise may be made against:

(a) the servants or agents of the owner or the members of the crew;

(b) the pilot or any other person who, without being a member of the crew, performs services for the ship;

(c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;

(e) any person taking preventive measures; and

(f) the servants or agents of persons mentioned in (c), (d) and (e);

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

6. Nothing in this Convention shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage, or the persons indicated in paragraph 5.

Incidents involving two or more ships

Article 8

1. Whenever damage has resulted from an incident involving two or more ships each of which is carrying hazardous and noxious substances, each owner, unless exonerated under article 7, shall

be liable for the damage. The owners shall be jointly and severally liable for all such damage which is not reasonably separable.

2. However, owners shall be entitled to the limits of liability applicable to each of them under article 9.

3. Nothing in this article shall prejudice any right of recourse of an owner against any other owner.

Limitation of liability

Article 9

1. The owner of a ship shall be entitled to limit liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:

(a) 10 million units of account for a ship not exceeding 2,000 units of tonnage; and

(b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (a):

for each unit of tonnage from 2,001 to 50,000 units of tonnage, 1,500 units of account

for each unit of tonnage in excess of 50,000 units of tonnage, 360 units of account

provided, however, that this aggregate amount shall not in any event exceed 100 million units of account.

2. The owner shall not be entitled to limit liability under this Convention if it is proved that the damage resulted from the personal act or omission of the owner, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

3. The owner shall, for the purpose of benefitting from the limitation provided for in paragraph 1, constitute a fund for the total sum representing the limit of liability established in accordance with paragraph 1 with the court or other competent authority of any one of the States Parties in which action is brought under article 38 or, if no action is brought, with any court or other competent authority in any one of the States Parties in which an action can be brought under article 38. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the law of the State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.

4. Subject to the provisions of article 11, the fund shall be distributed among the claimants in proportion to the amounts of their established claims.

5. If before the fund is distributed the owner or any of the servants or agents of the owner or any person providing to the owner insurance or other financial security has as a result of the incident in question, paid compensation for damage, such person shall, up to the amount that person has

paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

6. The right of subrogation provided for in paragraph 5 may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for damage which such person may have paid but only to the extent that such subrogation is permitted under the applicable national law.

7. Where owners or other persons establish that they may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which the right of subrogation would have been enjoyed under paragraphs 5 or 6 had the compensation been paid before the fund was distributed, the court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce the claim against the fund.

8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall rank equally with other claims against the fund.

9. (a) The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3.

The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.

(b) Nevertheless, a State Party which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five-and-a-half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

(c) The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first two sentences of paragraph 9(a). States Parties shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

10. For the purpose of this article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this article on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limitation of liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article 10

1. Where the owner, after an incident, has constituted a fund in accordance with article 9 and is entitled to limit liability:

(a) no person having a claim for damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim; and

(b) the court or other competent authority of any State Party shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.

2. The foregoing shall, however, only apply if the claimant has access to the court administering the fund and the fund is actually available in respect of the claim.

Death and injury

Article 11

Claims in respect of death or personal injury have priority over other claims save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with article 9, paragraph 1.

Compulsory insurance of the owner

Article 12

1. The owner of a ship registered in a State Party and actually carrying hazardous and noxious substances shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, in the sums fixed by applying the limits of liability prescribed in article 9, paragraph 1, to cover liability for damage under this Convention.

2. A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the

appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party such compulsory insurance certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in Annex I and shall contain the following particulars:

- (a) name of the ship, distinctive number or letters and port of registry;
- (b) name and principal place of business of the owner;
- (c) IMO ship identification number;
- (d) type and duration of security;
- (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
- (f) period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.

3. The compulsory insurance certificate shall be in the official language or languages of the issuing State. If the language used is neither English, nor French nor Spanish, the text shall include a translation into one of these languages.

4. The compulsory insurance certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.

5. An insurance or other financial security shall not satisfy the requirements of this article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4, unless the compulsory insurance certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this article.

6. The State of the ship's registry shall, subject to the provisions of this article, determine the conditions of issue and validity of the compulsory insurance certificate.

7. Compulsory insurance certificates issued or certified under the authority of a State Party in accordance with paragraph 2 shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as compulsory insurance certificates issued or certified by them even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the compulsory

insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage. In such case the defendant may, even if the owner is not entitled to limitation of liability, benefit from the limit of liability prescribed in accordance with paragraph 1. The defendant may further invoke the defences (other than the bankruptcy or winding up of the owner) which the owner would have been entitled to invoke. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the owner against the defendant. The defendant shall in any event have the right to require the owner to be joined in the proceedings.

9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention.

10. A State Party shall not permit a ship under its flag to which this article applies to trade unless a certificate has been issued under paragraph 2 or 12.

11. Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security in the sums specified in paragraph 1 is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea.

12. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a compulsory insurance certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed in accordance with paragraph 1. Such a compulsory insurance certificate shall follow as closely as possible the model prescribed by paragraph 2.

Chapter III

COMPENSATION BY THE INTERNATIONAL HAZARDOUS AND NOXIOUS SUBSTANCES FUND (HNS FUND)

Establishment of the HNS Fund

Article 13

1. The International Hazardous and Noxious Substances Fund (HNS Fund) is hereby established with the following aims:

(a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by chapter II is inadequate or not available; and

(b) to give effect to the related tasks set out in article 15.

2. The HNS Fund shall in each State Party be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each State Party shall recognize the Director as the legal representative of the HNS Fund.

Compensation

Article 14

1. For the purpose of fulfilling its function under article 13, paragraph 1(a), the HNS Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of chapter II:

(a) because no liability for the damage arises under chapter II;

(b) because the owner liable for the damage under chapter II is financially incapable of meeting the obligations under this Convention in full and any financial security that may be provided under chapter II does not cover or is insufficient to satisfy the claims for compensation for damage; an owner being treated as financially incapable of meeting these obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under chapter II after having taken all reasonable steps to pursue the available legal remedies;

(c) because the damage exceeds the owner's liability under the terms of chapter II.

2. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall be treated as damage for the purposes of this article.

3. The HNS Fund shall incur no obligation under the preceding paragraphs if:

(a) it proves that the damage resulted from an act of war, hostilities, civil war or insurrection or was caused by hazardous and noxious substances which had escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or

(b) the claimant cannot prove that there is a reasonable probability that the damage resulted from an incident involving one or more ships.

4. If the HNS Fund proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the

negligence of that person, the HNS Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The HNS Fund shall in any event be exonerated to the extent that the owner may have been exonerated under article 7, paragraph 3. However, there shall be no such exoneration of the HNS Fund with regard to preventive measures.

5. (a) Except as otherwise provided in subparagraph (b), the aggregate amount of compensation payable by the HNS Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount and any amount of compensation actually paid under chapter II for damage within the scope of application of this Convention as defined in article 3 shall not exceed 250 million units of account.

(b) The aggregate amount of compensation payable by the HNS Fund under this article for damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 250 million units of account.

(c) Interest accrued on a fund constituted in accordance with article 9, paragraph 3, if any, shall not be taken into account for the computation of the maximum compensation payable by the HNS Fund under this article.

(d) The amounts mentioned in this article shall be converted into national currency on the basis of the value of that currency with reference to the Special Drawing Right on the date of the decision of the Assembly of the HNS Fund as to the first date of payment of compensation.

6. Where the amount of established claims against the HNS Fund exceeds the aggregate amount of compensation payable under paragraph 5, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

Claims in respect of death or personal injury shall have priority over other claims, however, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with paragraph 5.

7. The Assembly of the HNS Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner has not constituted a fund in accordance with chapter II. In such cases paragraph 5(d) applies accordingly.

Related tasks of the HNS Fund

Article 15

For the purpose of fulfilling its function under article 13, paragraph 1(a), the HNS Fund shall have the following tasks:

(a) to consider claims made against the HNS Fund;

(b) to prepare an estimate in the form of a budget for each calendar year of:

Expenditure:

(i) costs and expenses of the administration of the HNS Fund in the relevant year and any deficit from operations in the preceding years; and

(ii) payments to be made by the HNS Fund in the relevant year;

Income:

(iii) surplus funds from operations in preceding years, including any interest;

(iv) initial contributions to be paid in the course of the year;

(v) annual contributions if required to balance the budget; and

(vi) any other income;

(c) to use at the request of a State Party its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate damage arising from an incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention; and

(d) to provide, on conditions laid down in the internal regulations, credit facilities with a view to the taking of preventive measures against damage arising from a particular incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention.

General provisions on contributions

Article 16

1. The HNS Fund shall have a general account, which shall be divided into sectors.

2. The HNS Fund shall, subject to article 19, paragraphs 3 and 4, also have separate accounts in respect of:

(a) oil as defined in article 1, paragraph 5(a)(i) (oil account);

(b) liquefied natural gases of light hydrocarbons with methane as the main constituent (LNG) (LNG account); and

(c) liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents (LPG) (LPG account).

3. There shall be initial contributions and, as required, annual contributions to the HNS Fund.
4. Contributions to the HNS Fund shall be made into the general account in accordance with article 18, to separate accounts in accordance with article 19 and to either the general account or separate accounts in accordance with article 20 or article 21, paragraph 5. Subject to article 19, paragraph 6, the general account shall be available to compensate damage caused by hazardous and noxious substances covered by that account, and a separate account shall be available to compensate damage caused by a hazardous and noxious substance covered by that account.
5. For the purposes of article 18, article 19, paragraph 1(a)(i), paragraph 1(a)(ii) and paragraph 1(c), article 20 and article 21, paragraph 5, where the quantity of a given type of contributing cargo received in the territory of a State Party by any person in a calendar year when aggregated with the quantities of the same type of cargo received in the same State Party in that year by any associated person or persons exceeds the limit specified in the respective subparagraphs, such a person shall pay contributions in respect of the actual quantity received by that person notwithstanding that that quantity did not exceed the respective limit.
6. “Associated person” means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

General provisions on annual contributions

Article 17

1. Annual contributions to the general account and to each separate account shall be levied only as required to make payments by the account in question.
2. Annual contributions payable pursuant to articles 18, 19 and article 21, paragraph 5 shall be determined by the Assembly and shall be calculated in accordance with those articles on the basis of the units of contributing cargo received or, in respect of cargoes referred to in article 19, paragraph 1(b), discharged during the preceding calendar year or such other year as the Assembly may decide.
3. The Assembly shall decide the total amount of annual contributions to be levied to the general account and to each separate account. Following that decision the Director shall, in respect of each State Party, calculate for each person liable to pay contributions in accordance with article 18, article 19, paragraph 1 and article 21, paragraph 5, the amount of that person’s annual contribution to each account, on the basis of a fixed sum for each unit of contributing cargo reported in respect of the person during the preceding calendar year or such other year as the Assembly may decide. For the general account, the above-mentioned fixed sum per unit of contributing cargo for each sector shall be calculated pursuant to the regulations contained in Annex II to this Convention. For each separate account, the fixed sum per unit of contributing cargo referred to above shall be calculated by dividing the total annual contribution to be levied to that account by the total quantity of cargo contributing to that account.

4. The Assembly may also levy annual contributions for administrative costs and decide on the distribution of such costs between the sectors of the general account and the separate accounts.
5. The Assembly shall also decide on the distribution between the relevant accounts and sectors of amounts paid in compensation for damage caused by two or more substances which fall within different accounts or sectors, on the basis of an estimate of the extent to which each of the substances involved contributed to the damage.

Annual contributions to the general account

Article 18

1. Subject to article 16, paragraph 5, annual contributions to the general account shall be made in respect of each State Party by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of aggregate quantities exceeding 20,000 tonnes of contributing cargo, other than substances referred to in article 19, paragraph 1, which fall within the following sectors:

- (a) solid bulk materials referred to in article 1, paragraph 5(a)(vii);
- (b) substances referred to in paragraph 2; and
- (c) other substances.

2. Annual contributions shall also be payable to the general account by persons who would have been liable to pay contributions to a separate account in accordance with article 19, paragraph 1 had its operation not been postponed or suspended in accordance with article 19. Each separate account the operation of which has been postponed or suspended under article 19 shall form a separate sector within the general account.

Annual contributions to separate accounts

Article 19

1. Subject to article 16, paragraph 5, annual contributions to separate accounts shall be made in respect of each State Party:

- (a) in the case of the oil account,
 - (i) by any person who has received in that State in the preceding calendar year, or such other year as the Assembly may decide, total quantities exceeding 150,000 tonnes of contributing oil as defined in article 1, paragraph 3 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, and who is or would be liable to pay contributions to the International Oil Pollution Compensation Fund in accordance with article 10 of that Convention; and

(ii) by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of total quantities exceeding 20,000 tonnes of other oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;

(b) in the case of the LNG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State;

(c) in the case of the LPG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, was the receiver in that State of total quantities exceeding 20,000 tonnes of LPG.

2. Subject to paragraph 3, the separate accounts referred to in paragraph 1 above shall become effective at the same time as the general account.

3. The initial operation of a separate account referred to in article 16, paragraph 2 shall be postponed until such time as the quantities of contributing cargo in respect of that account during the preceding calendar year, or such other year as the Assembly may decide, exceed the following levels:

(a) 350 million tonnes of contributing cargo in respect of the oil account;

(b) 20 million tonnes of contributing cargo in respect of the LNG account; and

(c) 15 million tonnes of contributing cargo in respect of the LPG account.

4. The Assembly may suspend the operation of a separate account if:

(a) the quantities of contributing cargo in respect of that account during the preceding calendar year fall below the respective level specified in paragraph 3; or

(b) when six months have elapsed from the date when the contributions were due, the total unpaid contributions to that account exceed ten per cent of the most recent levy to that account in accordance with paragraph 1.

5. The Assembly may reinstate the operation of a separate account which has been suspended in accordance with paragraph 4.

6. Any person who would be liable to pay contributions to a separate account the operation of which has been postponed in accordance with paragraph 3 or suspended in accordance with paragraph 4, shall pay into the general account the contributions due by that person in respect of that separate account. For the purpose of calculating future contributions, the postponed or suspended separate account shall form a new sector in the general account and shall be subject to the HNS points system defined in Annex II.

Initial contributions

Article 20

1. In respect of each State Party, initial contributions shall be made of an amount which shall for each person liable to pay contributions in accordance with article 16, paragraph 5, articles 18, 19 and article 21, paragraph 5 be calculated on the basis of a fixed sum, equal for the general account and each separate account, for each unit of contributing cargo received or, in the case of LNG, discharged in that State, during the calendar year preceding that in which this Convention enters into force for that State.
2. The fixed sum and the units for the different sectors within the general account as well as for each separate account referred to in paragraph 1 shall be determined by the Assembly.
3. Initial contributions shall be paid within three months following the date on which the HNS Fund issues invoices in respect of each State Party to persons liable to pay contributions in accordance with paragraph 1.

Reports

Article 21

1. Each State Party shall ensure that any person liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article appears on a list to be established and kept up to date by the Director in accordance with the provisions of this article.
2. For the purposes set out in paragraph 1, each State Party shall communicate to the Director, at a time and in the manner to be prescribed in the internal regulations of the HNS Fund, the name and address of any person who in respect of the State is liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article, as well as data on the relevant quantities of contributing cargo for which such a person is liable to contribute in respect of the preceding calendar year.
3. For the purposes of ascertaining who are, at any given time, the persons liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article and of establishing, where applicable, the quantities of cargo to be taken into account for any such person when determining the amount of the contribution, the list shall be prima facie evidence of the facts stated therein.
4. Where a State Party does not fulfil its obligations to communicate to the Director the information referred to in paragraph 2 and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by a State Party.
5. In respect of contributing cargo carried from one port or terminal of a State Party to another port or terminal located in the same State and discharged there, States Parties shall have the

option of submitting to the HNS Fund a report with an annual aggregate quantity for each account covering all receipts of contributing cargo, including any quantities in respect of which contributions are payable pursuant to article 16, paragraph 5. The State Party shall, at the time of reporting, either:

(a) notify the HNS Fund that that State will pay the aggregate amount for each account in respect of the relevant year in one lump sum to the HNS Fund; or

(b) instruct the HNS Fund to levy the aggregate amount for each account by invoicing individual receivers or, in the case of LNG, the title holder who discharges within the jurisdiction of that State Party, for the amount payable by each of them. These persons shall be identified in accordance with the national law of the State concerned.

Non-payment of contributions

Article 22

1. The amount of any contribution due under articles 18, 19, 20 or article 21, paragraph 5 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the internal regulations of the HNS Fund, provided that different rates may be fixed for different circumstances.

2. Where a person who is liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5 does not fulfil the obligations in respect of any such contribution or any part thereof and is in arrears, the Director shall take all appropriate action, including court action, against such a person on behalf of the HNS Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

Optional liability of States Parties for the payment of contributions

Article 23

1. Without prejudice to article 21, paragraph 5, a State Party may at the time when it deposits its instrument of ratification, acceptance, approval or accession or at any time thereafter declare that it assumes responsibility for obligations imposed by this Convention on any person liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5 in respect of hazardous and noxious substances received or discharged in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.

2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with article 46, it shall be deposited with the Secretary-General who shall after the entry into force of this Convention communicate the declaration to the Director.

3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.
4. A declaration made in accordance with this article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such a notification shall take effect three months after the Director's receipt thereof.
5. Any State which is bound by a declaration made under this article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

Organization and administration

Article 24

The HNS Fund shall have an Assembly and a Secretariat headed by the Director.

Assembly

Article 25

The Assembly shall consist of all States Parties to this Convention.

Article 26

The functions of the Assembly shall be:

- (a) to elect at each regular session its President and two Vice-Presidents who shall hold office until the next regular session;
- (b) to determine its own rules of procedure, subject to the provisions of this Convention;
- (c) to develop, apply and keep under review internal and financial regulations relating to the aim of the HNS Fund as described in article 13, paragraph 1(a), and the related tasks of the HNS Fund listed in article 15;
- (d) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
- (e) to adopt the annual budget prepared in accordance with article 15(b);
- (f) to consider and approve as necessary any recommendation of the Director regarding the scope of definition of contributing cargo;
- (g) to appoint auditors and approve the accounts of the HNS Fund;

(h) to approve settlements of claims against the HNS Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with article 14 and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of damage are compensated as promptly as possible;

(i) to establish a Committee on Claims for Compensation with at least 7 and not more than 15 members and any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the States Parties are appropriately represented; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of such subsidiary body;

(j) to determine which States not party to this Convention, which Associate Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;

(k) to give instructions concerning the administration of the HNS Fund to the Director and subsidiary bodies;

(l) to supervise the proper execution of this Convention and of its own decisions;

(m) to review every five years the implementation of this Convention with particular reference to the performance of the system for the calculation of levies and the contribution mechanism for domestic trade; and

(n) to perform such other functions as are allocated to it under this Convention or are otherwise necessary for the proper operation of the HNS Fund.

Article 27

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.
2. Extraordinary sessions of the Assembly shall be convened by the Director at the request of at least one-third of the members of the Assembly and may be convened on the Director's own initiative after consultation with the President of the Assembly. The Director shall give members at least thirty days' notice of such sessions.

Article 28

A majority of the members of the Assembly shall constitute a quorum for its meetings.

Secretariat

Article 29

1. The Secretariat shall comprise the Director and such staff as the administration of the HNS Fund may require.
2. The Director shall be the legal representative of the HNS Fund.

Article 30

1. The Director shall be the chief administrative officer of the HNS Fund. Subject to the instructions given by the Assembly, the Director shall perform those functions which are assigned to the Director by this Convention, the internal regulations of the HNS Fund and the Assembly.
2. The Director shall in particular:
 - (a) appoint the personnel required for the administration of the HNS Fund;
 - (b) take all appropriate measures with a view to the proper administration of the assets of the HNS Fund;
 - (c) collect the contributions due under this Convention while observing in particular the provisions of article 22, paragraph 2;
 - (d) to the extent necessary to deal with claims against the HNS Fund and to carry out the other functions of the HNS Fund, employ the services of legal, financial and other experts;
 - (e) take all appropriate measures for dealing with claims against the HNS Fund, within the limits and on conditions to be laid down in the internal regulations of the HNS Fund, including the final settlement of claims without the prior approval of the Assembly where these regulations so provide;
 - (f) prepare and submit to the Assembly the financial statements and budget estimates for each calendar year;
 - (g) prepare, in consultation with the President of the Assembly, and publish a report on the activities of the HNS Fund during the previous calendar year; and
 - (h) prepare, collect and circulate the documents and information which may be required for the work of the Assembly and subsidiary bodies.

Article 31

In the performance of their duties the Director and the staff and experts appointed by the Director shall not seek or receive instructions from any Government or from any authority external to the HNS Fund. They shall refrain from any action which might adversely reflect on their position as international officials. Each State Party on its part undertakes to respect the exclusively international character of the responsibilities of the Director and the staff and experts appointed by the Director, and not to seek to influence them in the discharge of their duties.

Finances

Article 32

1. Each State Party shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on subsidiary bodies.
2. Any other expenses incurred in the operation of the HNS Fund shall be borne by the HNS Fund.

Voting

Article 33

The following provisions shall apply to voting in the Assembly:

- (a) each member shall have one vote;
- (b) except as otherwise provided in article 34, decisions of the Assembly shall be made by a majority vote of the members present and voting;
- (c) decisions where a two-thirds majority is required shall be a two-thirds majority vote of members present; and
- (d) for the purpose of this article the phrase “members present” means “members present at the meeting at the time of the vote”, and the phrase “members present and voting” means “members present and casting an affirmative or negative vote”. Members who abstain from voting shall be considered as not voting.

Article 34

The following decisions of the Assembly shall require a two-thirds majority:

- (a) a decision under article 19, paragraphs 4 or 5 to suspend or reinstate the operation of a separate account;

- (b) a decision under article 22, paragraph 2, not to take or continue action against a contributor;
- (c) the appointment of the Director under article 26(d);
- (d) the establishment of subsidiary bodies, under article 26(i), and matters relating to such establishment; and
- (e) a decision under article 51, paragraph 1, that this Convention shall continue to be in force.

Tax exemptions and currency regulations

Article 35

1. The HNS Fund, its assets, income, including contributions, and other property necessary for the exercise of its functions as described in article 13, paragraph 1, shall enjoy in all States Parties exemption from all direct taxation.
2. When the HNS Fund makes substantial purchases of movable or immovable property, or of services which are necessary for the exercise of its official activities in order to achieve its aims as set out in article 13, paragraph 1, the cost of which include indirect taxes or sales taxes, the Governments of the States Parties shall take, whenever possible, appropriate measures for the remission or refund of the amount of such duties and taxes. Goods thus acquired shall not be sold against payment or given away free of charge unless it is done according to conditions approved by the Government of the State having granted or supported the remission or refund.
3. No exemption shall be accorded in the case of duties, taxes or dues which merely constitute payment for public utility services.
4. The HNS Fund shall enjoy exemption from all customs duties, taxes and other related taxes on articles imported or exported by it or on its behalf for its official use. Articles thus imported shall not be transferred either for consideration or gratis on the territory of the country into which they have been imported except on conditions agreed by the Government of that country.
5. Persons contributing to the HNS Fund as well as victims and owners receiving compensation from the HNS Fund shall be subject to the fiscal legislation of the State where they are taxable, no special exemption or other benefit being conferred on them in this respect.
6. Notwithstanding existing or future regulations concerning currency or transfers, States Parties shall authorize the transfer and payment of any contribution to the HNS Fund and of any compensation paid by the HNS Fund without any restriction.

Confidentiality of information

Article 36

Information relating to individual contributors supplied for the purpose of this Convention shall not be divulged outside the HNS Fund except in so far as it may be strictly necessary to enable the HNS Fund to carry out its functions including the bringing and defending of legal proceedings.

Chapter IV

CLAIMS AND ACTIONS

Limitation of actions

Article 37

1. Rights to compensation under chapter II shall be extinguished unless an action is brought thereunder within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the owner.
2. Rights to compensation under chapter III shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to article 39, paragraph 7, within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage.
3. In no case, however, shall an action be brought later than ten years from the date of the incident which caused the damage.
4. Where the incident consists of a series of occurrences, the ten-year period mentioned in paragraph 3 shall run from the date of the last of such occurrences.

Jurisdiction in respect of action against the owner

Article 38

1. Where an incident has caused damage in the territory, including the territorial sea or in an area referred to in article 3(b), of one or more States Parties, or preventive measures have been taken to prevent or minimize damage in such territory including the territorial sea or in such area, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of any such States Parties.
2. Where an incident has caused damage exclusively outside the territory, including the territorial sea, of any State and either the conditions for application of this Convention set out in article 3(c) have been fulfilled or preventive measures to prevent or minimize such damage have

been taken, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of:

(a) the State Party where the ship is registered or, in the case of an unregistered ship, the State Party whose flag the ship is entitled to fly; or

(b) the State Party where the owner has habitual residence or where the principal place of business of the owner is established; or

(c) the State Party where a fund has been constituted in accordance with article 9, paragraph 3.

3. Reasonable notice of any action taken under paragraph 1 or 2 shall be given to the defendant.

4. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.

5. After a fund under article 9 has been constituted by the owner or by the insurer or other person providing financial security in accordance with article 12, the courts of the State in which such fund is constituted shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

Jurisdiction in respect of action against the HNS Fund or taken by the HNS Fund

Article 39

1. Subject to the subsequent provisions of this article, any action against the HNS Fund for compensation under article 14 shall be brought only before a court having jurisdiction under article 38 in respect of actions against the owner who is liable for damage caused by the relevant incident or before a court in a State Party which would have been competent if an owner had been liable.

2. In the event that the ship carrying the hazardous or noxious substances which caused the damage has not been identified, the provisions of article 38, paragraph 1, shall apply mutatis mutandis to actions against the HNS Fund.

3. Each State Party shall ensure that its courts have jurisdiction to entertain such actions against the HNS Fund as are referred to in paragraph 1.

4. Where an action for compensation for damage has been brought before a court against the owner or the owner's guarantor, such court shall have exclusive jurisdiction over any action against the HNS Fund for compensation under the provisions of article 14 in respect of the same damage.

5. Each State Party shall ensure that the HNS Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with this Convention before a competent court of that State against the owner or the owner's guarantor.
6. Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.
7. Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS Fund even if the HNS Fund has not actually intervened in the proceedings.

Recognition and enforcement

Article 40

1. Any judgement given by a court with jurisdiction in accordance with article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any State Party, except:
 - (a) where the judgement was obtained by fraud; or
 - (b) where the defendant was not given reasonable notice and a fair opportunity to present the case.
2. A judgement recognized under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
3. Subject to any decision concerning the distribution referred to in article 14, paragraph 6, any judgement given against the HNS Fund by a court having jurisdiction in accordance with article 39, paragraphs 1 and 3 shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each State Party.

Subrogation and recourse

Article 41

1. The HNS Fund shall, in respect of any amount of compensation for damage paid by the HNS Fund in accordance with article 14, paragraph 1, acquire by subrogation the rights that the person so compensated may enjoy against the owner or the owner's guarantor.
2. Nothing in this Convention shall prejudice any rights of recourse or subrogation of the HNS Fund against any person, including persons referred to in article 7, paragraph 2(d), other than those referred to in the previous paragraph, in so far as they can limit their liability. In any event the right of the HNS Fund to subrogation against such persons shall not be less favourable than that of an insurer of the person to whom compensation has been paid.
3. Without prejudice to any other rights of subrogation or recourse against the HNS Fund which may exist, a State Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

Supersession clause

Article 42

This Convention shall supersede any convention in force or open for signature, ratification or accession at the date on which this Convention is opened for signature, but only to the extent that such convention would be in conflict with it; however, nothing in this article shall affect the obligations of States Parties to States not party to this Convention arising under such convention.

Chapter V

TRANSITIONAL PROVISIONS

Information on contributing cargo

Article 43

When depositing an instrument referred to in article 45, paragraph 3, and annually thereafter until this Convention enters into force for a State, that State shall submit to the Secretary-General data on the relevant quantities of contributing cargo received or, in the case of LNG, discharged in that State during the preceding calendar year in respect of the general account and each separate account.

First session of the Assembly

Article 44

The Secretary-General shall convene the first session of the Assembly. This session shall take place as soon as possible after the entry into force of this Convention and, in any case, not more than thirty days after such entry into force.

Chapter VI

FINAL CLAUSES

Signature, ratification, acceptance, approval and accession

Article 45

1. This Convention shall be open for signature at the Headquarters of the Organization from 1 October 1996 to 30 September 1997 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Convention by:
 - (a) signature without reservation as to ratification, acceptance or approval; or
 - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
 - (c) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Entry into force

Article 46

1. This Convention shall enter into force eighteen months after the date on which the following conditions are fulfilled:
 - (a) at least twelve States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it, and
 - (b) the Secretary-General has received information in accordance with article 43 that those persons in such States who would be liable to contribute pursuant to article 18, paragraphs 1(a) and (c) have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.

2. For a State which expresses its consent to be bound by this Convention after the conditions for entry into force have been met, such consent shall take effect three months after the date of expression of such consent, or on the date on which this Convention enters into force in accordance with paragraph 1, whichever is the later.

Revision and amendment

Article 47

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.
2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of six States Parties or one-third of the States Parties, whichever is the higher figure.
3. Any consent to be bound by this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Amendment of limits

Article 48

1. Without prejudice to the provisions of article 47, the special procedure in this article shall apply solely for the purposes of amending the limits set out in article 9, paragraph 1 and article 14, paragraph 5.
2. Upon the request of at least one half, but in no case less than six, of the States Parties, any proposal to amend the limits specified in article 9, paragraph 1, and article 14, paragraph 5, shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
3. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization (the Legal Committee) for consideration at a date at least six months after the date of its circulation.
4. All Contracting States, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
5. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided in paragraph 4, on condition that at least one half of the Contracting States shall be present at the time of voting.
6. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes

in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits established in article 9, paragraph 1, and those in article 14, paragraph 5.

7. (a) No amendment of the limits under this article may be considered less than five years from the date this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this article.

(b) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention increased by six per cent per year calculated on a compound basis from the date on which this Convention was opened for signature.

(c) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention multiplied by three.

8. Any amendment adopted in accordance with paragraph 5 shall be notified by the Organization to all Contracting States.

The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period no less than one-fourth of the States which were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

9. An amendment deemed to have been accepted in accordance with paragraph 8 shall enter into force eighteen months after its acceptance.

10. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with article 49, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

11. When an amendment has been adopted but the eighteen month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 8. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State, if later.

Article 49

1. This Convention may be denounced by any State Party at any time after the date on which it enters into force for that State Party.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. Denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.

4. Notwithstanding a denunciation by a State Party pursuant to this article, any provisions of this Convention relating to obligations to make contributions under articles 18, 19 or article 21, paragraph 5 in respect of such payments of compensation as the Assembly may decide relating to an incident which occurs before the denunciation takes effect shall continue to apply.

Extraordinary sessions of the Assembly

Article 50

1. Any State Party may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions from the remaining States Parties, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not less than sixty days after receipt of the request.

2. The Director may take the initiative to convene an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if the Director considers that such denunciation will result in a significant increase in the level of contributions from the remaining States Parties.

3. If the Assembly, at an extraordinary session, convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions from the remaining States Parties, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Convention with effect from the same date.

Cessation

Article 51

1. This Convention shall cease to be in force:

(a) on the date when the number of States Parties falls below 6; or

(b) twelve months after the date on which data concerning a previous calendar year were to be communicated to the Director in accordance with article 21, if the data shows that the total quantity of contributing cargo to the general account in accordance with article 18, paragraphs 1(a) and (c) received in the States Parties in that preceding calendar year was less than 30 million tonnes.

Notwithstanding (b), if the total quantity of contributing cargo to the general account in accordance with article 18, paragraphs 1(a) and (c) received in the States Parties in the preceding calendar year was less than 30 million tonnes but more than 25 million tonnes, the Assembly may, if it considers that this was due to exceptional circumstances and is not likely to be

repeated, decide before the expiry of the above-mentioned twelve month period that the Convention shall continue to be in force. The Assembly may not, however, take such a decision in more than two subsequent years.

2. States which are bound by this Convention on the day before the date it ceases to be in force shall enable the HNS Fund to exercise its functions as described under article 52 and shall, for that purpose only, remain bound by this Convention.

Winding up of the HNS Fund

Article 52

1. If this Convention ceases to be in force, the HNS Fund shall nevertheless:

(a) meet its obligations in respect of any incident occurring before this Convention ceased to be in force; and

(b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under (a), including expenses for the administration of the HNS Fund necessary for this purpose.

2. The Assembly shall take all appropriate measures to complete the winding up of the HNS Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the HNS Fund.

3. For the purposes of this article the HNS Fund shall remain a legal person.

Depositary

Article 53

1. This Convention and any amendment adopted under article 48 shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;

(ii) the date of entry into force of this Convention;

(iii) any proposal to amend the limits on the amounts of compensation which has been made in accordance with article 48, paragraph 2;

- (iv) any amendment which has been adopted in accordance with article 48, paragraph 5;
- (v) any amendment deemed to have been accepted under article 48, paragraph 8, together with the date on which that amendment shall enter into force in accordance with paragraphs 9 and 10 of that article;
- (vi) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect; and
- (vii) any communication called for by any article in this Convention; and

(b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Languages

Article 54

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

SCHEDULE 4 (sections 193(1))

(SCHEDULE 6 of the 1995 Act – mentioned in section 183 of the 1995 Act)

Part I

TEXT OF THE CONVENTION RELATING TO THE CARRAIGE OF PASSENGERS AND THEIR LUGGAGE BY SEA, AS AMENDED BY THE 2002 PROTOCOL

ARTICLE 1

Definitions

In this Convention the following expressions have the meaning hereby assigned to them:

1. (a) “carrier” means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by that person or by a performing carrier;

- (b) “performing carrier” means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;
- (c) “carrier who actually performs the whole or a part of the carriage” means the performing carrier, or, in so far as the carrier actually performs the carriage, the carrier;
2. “contract of carriage” means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the case may be;
3. “ship” means only a seagoing vessel, excluding an air-cushion vehicle;
4. “passenger” means any person carried in a ship,
- (a) under a contract of carriage, or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Convention;
5. “luggage” means any article or vehicle carried by the carrier under a contract of carriage, excluding:
- (a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods, and
- (b) live animals;
6. “cabin luggage” means luggage which the passenger has in his cabin or is otherwise in this possession, custody or control. Except for the application of paragraph 8 of this Article and Article 8, cabin luggage includes luggage which the passenger has in or on his vehicle;
7. “loss of or damage to luggage” includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;
8. “carriage” covers the following periods:
- (a) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on-board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to the ship or vice-versa, if the cost of such transport is included in the fare or if the vessel used for this purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which he is in a marine terminal or station or on a quay or in or on any other port installation;

(b) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been re-delivered to the passenger;

(c) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent on shore or on board until the time of its re-delivery by the carrier or his servant or agent;

9. “international carriage” means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State;

10. “Organization” means the International Maritime Organization.

11. “Secretary-General” means the Secretary-General of the Organization.

ARTICLE 1 bis

Annex

The annex to this Convention shall constitute an integral part of the Convention.

ARTICLE 2

Application

1. This Convention shall apply to any international carriage if:

(a) the ship is flying the flag of or is registered in a State Party to this Convention, or

(b) the contract of carriage has been made in a State Party to this Convention, or

(c) the place of departure or destination, according to the contract of carriage, is in a State Party to this Convention.

2. Notwithstanding paragraph 1 of this Article, this Convention shall not apply where the carriage is subject, under any other international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of such convention, in so far as those provisions have mandatory application to carriage by sea.

ARTICLE 3

Liability of the carrier

1. For the loss suffered as a result of the death of or personal injury to a passenger caused by a shipping incident, the carrier shall be liable to the extent that such loss in respect of that passenger on each distinct occasion does not exceed 250,000 units of account, unless the carrier proves that the incident:

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by an act or omission done with the intent to cause the incident by a third party.

If and to the extent that the loss exceeds the above limit, the carrier shall be further liable unless the carrier provides that the incident which caused the loss occurred without the fault or neglect of the carrier.

2. For the loss suffered as a result of the death of or personal injury to a passenger not caused by a shipping incident, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier. The burden of proving fault or neglect shall lie the claimant.

3. For the loss suffered as a result of the loss of or damage to cabin luggage, the carrier shall be liable if the incident which caused the loss was due to the fault or neglect of the carrier. The fault or neglect of the carrier shall be presumed for loss caused by a shipping incident.

4. For the loss suffered as a result of the loss of or damage to luggage other than cabin luggage, the carrier shall be liable unless the carrier proves that the incident which caused the loss occurred without the fault or neglect of the carrier.

5. For the purposes of this article:

(a) “shipping incident” means shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship, or defect in the ship;

(b) “fault or neglect of the carrier” includes the fault or neglect of the servants of the carrier, acting within the scope of their employment;

(c) “defect in the ship” means any malfunction, failure or non-compliance with applicable safety regulations in respect of any part of the ship or its equipment when used for the escape, evacuation, embarkation and disembarkation of passengers, or when used for the propulsion, steering, safe navigation, mooring, anchoring, arriving at or leaving berth or anchorage, or damage control after flooding; or when used for the launching of the life saving appliances; and

(d) “loss” shall not include punitive or exemplary damages.

6. The liability of the carrier under this Article only relates to loss arising from incidents that occurred in the course of the carriage. The burden of proving that the incident which caused the loss occurred in the course of the carriage, and the extent of the loss, shall lie with the claimant.

7. Nothing in this Convention shall prejudice any right of recourse of the carrier against any third party, or the defence of contributory negligence under Article 6 of this Convention. Nothing in this Article shall prejudice any right of limitation under Articles 7 or 8 of this Convention.

8. Presumptions of fault or neglect of a party or the allocation of the burden of proof to a party shall not prevent evidence in favour of that party from being considered.

ARTICLE 4

Performing carrier

1. If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Convention. In addition, the performing carrier shall be subject and entitled to the provisions of this Convention for the part of the carriage performed by him.

2. The carrier shall, in relation to the carriage performed by the performing carrier, be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.

3. Any special agreement under which the carrier assumes obligations not imposed by this Convention or any waiver of rights conferred by this Convention shall affect the performing carrier only if agreed by him expressly and in writing.

4. Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.

5. Nothing in this Article shall prejudice any right of recourse as between the carrier and the performing carrier.

ARTICLE 4bis

Compulsory insurance

1. When passengers are carried on-board a ship registered in a State Party that is licensed to carry more than twelve passengers and this Convention applies, any carrier who actually performs the whole or a part of the carriage shall maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover liability under this Convention in respect of the death of an personal injury to passengers. The limit of the

compulsory insurance or other financial security shall not be less than 250,000 units of account per passenger on each distinct occasion.

2. A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry, with respect to a ship not registered in a State Party. This certificate shall be in the form of the model set out in the annex to this Convention and shall contain the following particulars:

(a) name of ship, distinctive number or letters and port of registry;

(b) name and principal place of business of the carrier who actually performs the whole or part of the carriage;

(c) IMO ship identification number;

(d) type and duration of security;

(e) name and principal place of business of insurer or other person providing financial security and, where appropriate, place of business where the insurance or other financial security is established; and

(f) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other financial security.

3. (a) A State Party may authorize an institution or an organization recognised by it to issue the certificate. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued, and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(b) A State Party shall notify the Secretary-General of:

(i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognised by it;

(ii) the withdrawal of such authority; and

(iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date from which notification to that effect was given to the Secretary-General.

(c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not complied with. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.

4. The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of those languages, and, where the State so decides, the official language of the State may be omitted.

5. The certificate shall be carried on board the ship, and a copy shall be deposited with the authorities who keep a record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.

6. An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or other financial security no longer satisfying the requirements of this Article.

7. The State of the ship's registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the certificate.

8. Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of providers of insurance or other financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate.

9. Certificates issued or certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the issuer or guarantor named in the insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

10. Any claim for compensation covered by insurance or other financial security pursuant to this Article may be brought directly against the insurer or other person providing financial security. In such case, the amount set out in paragraph 1 applies as the limit of liability of the insurer or other person providing financial security, even if the carrier or the performing carrier is not entitled to limitation of liability. The defendant may further invoke the defences (other than the bankruptcy or winding up) which the carrier referred to in paragraph 1 would have been entitled

to invoke in accordance with this Convention. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the assured, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the assured against the defendant. The defendant shall in any event have the right to require the carrier and the performing carrier to be joined in the proceedings.

11. Any sum provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention, and any payments made of such sums shall discharge any liability arising under this Convention to the extent of the amounts paid.

12. A State Party shall not permit a ship under its flag to which this Article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 15.

13. Subject to the provisions of this Article, each State Party shall ensure, under its national law, that insurance or other financial security, to the extent specified in paragraph 1, is in force in respect of any ship that is licensed to carry more than twelve passengers, wherever registered, entering or leaving a port in its territory in so far as this Convention applies.

14. Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 13, ships are not required to carry on board or to produce the certificate required by paragraph 2 when entering or leaving ports in its territory, provided that the State Party which issues the certificate has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 13.

15. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authorities of the State of the ship's registry, stating that the ship is owned by that State and that the liability is covered within the amount prescribed in accordance with paragraph 1. Such certificate shall follow as closely as possible the model prescribed by paragraph 2.

ARTICLE 5

Valuables

The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier shall be liable up to the limit provided for in paragraph 3 of Article 8 unless a higher limit is agreed upon in accordance with paragraph 1 of Article 10.

ARTICLE 6

Contributory fault

If the carrier proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the Court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court.

ARTICLE 7

Limit of liability for death and personal injury

1. The liability of the carrier for the death of or personal injury to a passenger under Article 3 shall in no case exceed 400,000 units of account per passenger on each distinct occasion. Where, in accordance with the law of the court seized of the case, damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.
2. A State Party may regulate by specific provisions of national law the limit of liability prescribed in paragraph 1, provided that the national limit of liability, if any, is not lower than that prescribed in paragraph 1. A State Party which makes use of the option provided for in this paragraph, shall inform the Secretary-General of the limit of liability adopted or of the fact that there is none.

ARTICLE 8

Limit of liability for loss of or damage to luggage and vehicles

1. The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 2,250 units of account per passenger, per carriage.
2. The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 12,700 units of account per vehicle, per carriage.
3. The liability of the carrier for the loss of or damage to luggage other than that mentioned in paragraphs 1 and 2 shall in no case exceed 3,375 units of account per passenger, per carriage.
4. The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 330 units of account in the case of damage to a vehicle and not exceeding 149 units of account per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

ARTICLE 9

Unit of Account and conversion

1. The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Article 3, paragraph 1, Article 4bis, paragraph 1, Article 7, paragraph 1, and Article 8 shall be converted into the national currency of the State of the court seized of the case on the basis of the value of that currency by reference to the Special Drawing Right on the date of the judgment of the date agreed upon by the parties. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State Party.
2. Nevertheless, a State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the Unit of Account referred to in paragraph 1 shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.
3. The calculation mentioned in the last sentence of paragraph 1, and the conversion mentioned in paragraph 2 shall be made in such manner as to express in the national currency of the States Parties, as far as possible, the same real value for the amounts in Article 3, paragraph 1, Article 4bis, paragraph 1, Article 7, paragraph 1, and Article 8 as would result from the application of the first three sentences of paragraph 1. States shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 1, or the result of the conversion in paragraph 2, as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

ARTICLE 10

Supplementary provisions on limits of liability

1. The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in Articles 7 and 8.
2. Interest on damages and legal costs shall not be included in the limits of liability prescribed in Articles 7 and 8.

ARTICLE 11

Defences and limits for carriers' servants

If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Convention, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this Convention.

ARTICLE 12

Aggravation of claims

1. Where the limits of liability prescribed in Articles 7 and 8 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.
2. In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could have been awarded against either the carrier or the performing carrier under this Convention, but none of those persons mentioned shall be liable for a sum in excess of the limit applicable to him.
3. In any case where a servant or agent of the carrier or of the performing carrier is entitled under Article 11 of this Convention to avail himself of the limits of liability prescribed in Articles 7 and 8, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits.

ARTICLE 13

Loss of right to limit liability

1. The carrier shall not be entitled to the benefit of the limits of liability prescribed in Articles 7 and 8 and paragraph 1 of Article 10, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
2. The servant or agent of the carrier or the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of the servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

ARTICLE 14

Basis for claims

No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Convention.

ARTICLE 15

Notice of loss or damage to luggage

1. The passenger shall give written notice to the carrier or his agent:
 - (a) in the case of apparent damage to luggage:
 - (i) for cabin luggage, before or at the time of disembarkation of the passenger;
 - (ii) for all other luggage, before or at the time of its re-delivery;
 - (b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.
2. If the passenger fails to comply with this Article, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.
3. The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

ARTICLE 16

Time-bar for actions

1. Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of two years.
2. The limitation period shall be calculated as follows:
 - (a) in the case of personal injury, from the date of disembarkation of the passenger;
 - (b) in the case of death occurring during carriage, from the date when the passenger should have disembarked and in the case of personal injury occurring during the carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three years from the date of disembarkation;

(c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.

3. The law of the Court seized of the case shall govern the grounds for suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of any one of the following periods of time:

(a) a period of five years beginning with the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later; or, if earlier

(b) a period of three years beginning with the date when the claimant knew or ought reasonably to have known of the injury, loss or damage caused by the incident.

4. Notwithstanding paragraphs 1, 2 and 3 of this Article, the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen. The declaration or agreement shall be in writing.

ARTICLE 17

Competent jurisdiction

1. An action arising under Articles 3 and 4 of this Convention shall, at the option of the claimant, be brought before one of the courts listed below, provided that the court is located in a State Party to this Convention, and subject to the domestic law of each State Party governing proper venue within those States with multiple possible forums:

(a) the Court of the State of permanent residence or principal place of business of the defendant, or

(b) the Court of the State of departure or that of the destination according to the contract of carriage, or

(c) the Court of the State of the domicile or permanent residence of the claimant, if the defendant has a place of business and is subject to jurisdiction in that State, or

(d) the Court of the State where the contract of carriage was made, if the defendant has a place of business and is subject jurisdiction in that State.

2. Actions under article 4bis of this Convention shall, at the option of the claimant, be brought before one of the courts where action could be brought against the carrier or performing carrier according to paragraph 1.

3. After the occurrence of the incident which has caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.

ARTICLE 17bis

Recognition and enforcement

1. Any judgment given by a court with jurisdiction in accordance with Article 17 which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except

(a) where the judgment was obtained by fraud; o r

(b) where the defendant was not given reasonable notice and a fair opportunity to present his or her case.

2. A judgment recognised under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

3. A State Party to this Protocol may apply other rules for the recognition and enforcement of judgments, provided that their effect is to ensure that judgments are recognised and enforced at least to the same extent as under paragraphs 1 and 2.

ARTICLE 18

Invalidity of contractual provisions

Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to the passenger's luggage, purporting to relieve any person liable under this Convention of liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Convention except as provided in Article 8, paragraph 4, and any such provision purporting to shift the burden of proof which rests on the carrier or performing carrier or having the effect of restricting the options specified in Article 17, paragraphs 1 or 2, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Convention.

ARTICLE 19

Other conventions on limitation of liability

This Convention shall not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in international conventions relating to the limitation of liability of owners of seagoing ships.

ARTICLE 20

Nuclear damage

No liability shall arise under this Convention for damage caused by a nuclear incident:

(a) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy as amended by its Additional Protocol of 28 January 1964, or the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage, or any amendment or Protocol thereto which is in force; or

(b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or Vienna Conventions or any amendment or Protocol thereto which is in force.

ARTICLE 21

Commercial carriage by public authorities

This Convention shall apply to commercial carriage undertaken by States or Public Authorities under contract of carriage within the meaning of Article 1.

ANNEX

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF LIABILITY FOR THE DEATH AND PERSONAL INJURY TO PASSENGERS

Issued in accordance with the provisions of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002

| Name of Ship | Distinctive number or letters | IMO Ship Identification Number | Port of Registry | Name and full address of the principal place of business of the carrier who actually performs the carriage. |
|--------------|-------------------------------|--------------------------------|------------------|---|
| | | | | |

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002.

Type of Security

Duration of Security

Name and address of the insurer(s) and/or guarantor(s)

Name

Address

.....

This certificate is valid until

Issued or certified by the Government of

.....

(Full designation of the State)

OR

The following text should be used when a State Party avails itself of Article 4bis, paragraph 3:

The present certificate is issued under the authority of the Government of

(full designation of the State) by(name of institution or organization)

At On

(Place)

(Date)

(Signature and Title of issuing or certifying official)

Explanatory Notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of Security" must stipulation the date on which such security takes effect.

5. The entry “Address” of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

Part II

Provisions having effect in connection with Convention

Interpretation

1. In this Part of this Schedule any reference to a numbered article is a reference to the article of the Convention which is so numbered and any expression to which a meaning is assigned by article 1 of the Convention has that meaning.

Provisions adapting or supplementing specified articles of the Convention

2. For the purposes of paragraph 2 of article 2, provisions of such an international convention as is mentioned in that paragraph which apart from this paragraph do not have mandatory application to carriage by sea shall be treated as having mandatory application to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.

3. The reference to the law of the court in article 6 shall be construed as a reference to the Law Reform (Contributory Negligence) Act 1945 except that in relation to Northern Ireland it shall be construed as a reference to section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948.

4. The Secretary of State may by order provided that, in relation to a carrier whose principle place of business is in the United Kingdom, paragraph 1 of article 7 shall have effect with the substitution for the limit for the time being specified in that paragraph of a different limit specified in the order (which shall not be lower than 46,666 units of account).

5.(1) For the purposes of conversion from special drawing rights into sterling the amounts mentioned in articles 7 and 8 of the Convention in respect of which a judgment is given, one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for –

(a) the day on which the judgment is given; or

(b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Treasury stating -

(a) that a particular sum in sterling has been fixed as mentioned in sub-paragraph (1) above for a particular day; or

(b) that no sum has been so fixed for that day and a particular sum in sterling has been so fixed for that day which is the last day for which a sum has been so fixed before the particular day,

shall be conclusive evidence of those matters for the purposes of articles 7 to 9 of the Convention; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

6. It is hereby declared that by virtue of article 12 the limitations on liability there mentioned in respect of a passenger or his luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing the liabilities or any of them which may be brought whether in the United Kingdom or elsewhere.

7. Article 16 applies to arbitral proceedings as it applies to an action.

8. The court before which proceedings are brought in pursuance of article 17 to enforce a liability which is limited by virtue of article 12 may at any stage of the proceedings make such orders as appear to the court to be just and equitable in view of the provisions of article 12 and of any other proceedings which have been or are likely to be begun in the United Kingdom or elsewhere to enforce the liability in whole or in part; and without prejudice to the generality of the preceding provisions of this paragraph such a court shall, where the liability is or may be partly enforceable in other proceeding in the United Kingdom or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceeding before the court or to make any part of its award conditional on the results of any other proceedings.

Other provisions adaption or supplementing the Convention

9. Any reference in the Convention to a contract of carriage excludes a contract of carriage which is not for reward.

10. If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Convention in respect of a particular country the Order shall, subject to the provisions of any subsequent Order made by virtue of this paragraph, be conclusive evidence that the State is a party to the Convention in respect of that country.

11. The Governor may by order make provision –

(a) for requiring a person who is the carrier in relation to a passenger to give to the passenger, in a manner specified in the order, notice of such of the provisions of Part I of this Schedule as are so specified;

(b) for a person who fails to comply with a requirement imposed on him by the order to be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale or not exceeding a lesser amount.

Application of ss. 185 and 185 of the Act (sections 194 and 195 of this Ordinance)

12. It is hereby declared that nothing in the Convention affects the operation of section 185 of the Act (section 194) (which limits a shipowner's liability in certain cases of loss of life, injury or damage).

13. Nothing in section 186 of the Act (section 195) (which among other things limits a shipowner's liability for the loss or damage of goods in certain cases) shall relieve a person of any liability imposed on him by the Convention.

SCHEDULE 5

(sections 178, 194(1), 195(3) and 200)

TEXT OF THE LLMC

Convention on Limitation of Liability for Maritime Claims, 1976
London, 19 November 1976

as amended by

Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims of 19
November 1976
London, 2 May 1996

THE STATES PARTIES TO THIS CONVENTION,

HAVING RECOGNIZED the desirability of determining by agreement certain uniform rules relating to the limitation of liability for maritime claims,

HAVE DECIDED to conclude a Convention for this purpose and have thereto agreed as follows:

CHAPTER I: THE RIGHT OF LIMITATION

Article 1

Persons entitled to limit liability

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
2. The term "shipowner" shall mean the owner, charterer, manager and operator of a seagoing ship.

3. Salvor shall mean any person rendering services in direct connexion with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1(d), (e) and (f).
4. If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible; such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.
5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel itself.
6. An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.
7. The act of invoking limitation of liability shall not constitute an admission of liability.

Article 2

Claims subject to limitation

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be shall be subject to limitation of liability:
 - (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connexion with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
 - (b) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connexion with the operation of the ship or salvage operations;
 - (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connexion with the operation of the ship or salvage operations;
 - (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
 - (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
 - (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

2. Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise; however, claims set out under paragraph 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

Article 3

Claims excepted from limitation

The rules of this Convention shall not apply to:

(a) claims for salvage, including, if applicable, any claim for special compensation under Article 14 of the International Convention on Salvage 1989, as amended, or contribution in general average;

(b) claims for oil pollution damage within the meeting of the International Convention on Civil Liability for Oil Pollution Damage, dated 29 November 1969 or of any amendment or Protocol thereto which is in force;

(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(d) claims against the shipowner of a nuclear ship for nuclear damage;

(e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

Article 4

Conduct barring limitation

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

Article 5

Counterclaims

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

CHAPTER II: LIMITS OF LIABILITY

Article 6

The general limits

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:

(a) in respect of claims for loss of life or personal injury,

(i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 800 Units of Account;

for each ton from 30,001 to 70,000 tons, 600 Units of Account; and

for each ton in excess of 70,000 tons, 400 Units of Account,

(b) in respect of any other claims,

(i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 400 Units of Account;

for each ton from 30,001 to 70,000 tons, 300 Units of Account; and

for each ton in excess of 70,000 tons, 200 Units of Account.

2. Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).

3. However, without prejudice to the right of claims for loss of life or personal injury according to paragraph 2, a State Party may provide in its national law that claims in respect of damage to harbour works, basins and waterways and aids to navigation shall have such priority over other claims under paragraph 1(b) as is provided by that law.

4. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

5. For the purpose of this Convention the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

Article 7

The limit for passenger claims

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

2. For the purpose of this Article "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:

(a) under a contract of passenger carriage, or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

Article 8

Unit of Account

1. The Unit of Account referred to in Articles 6 and 7 is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment. The value of a national currency in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions. The value of a national currency in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State Party.

2. Nevertheless, those States which are not members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 may, at the time of signature without reservation as to ratification, acceptance or approval or at the time of ratification, acceptance, approval or accession or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in their territories shall be fixed as follows:

(a) in respect of Article 6, paragraph 1(a), at an amount of

- (i) 30 million monetary units for a ship with a tonnage not exceeding 2,000 tons;
- (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

- for each ton from 2,001 to 30,000 tons, 12,000 monetary units;

- for each ton from 30,001 to 70,000 tons, 9,000 monetary units; and

- for each ton in excess of 70,000 tons, 6,000 monetary units; and

- (b) in respect of Article 6, paragraph 1(b), at an amount of:

- (i) 15 million monetary units for a ship with a tonnage not exceeding 2,000 tons;

- (ii) for a ship with tonnage in excess thereof, the following amount in addition to that mentioned in (i):

- for each ton from 2,001 to 30,000 tons, 6,000 monetary units;

- for each ton from 30,001 to 70,000 tons, 4,500 monetary units; and

- for each ton in excess of 70,000 tons, 3,000 monetary units; and

- (c) in respect of Article 7, paragraph 1, at an amount of 2,625,000 monetary units multiplied by the number of passengers which the ship is authorized to carry according to its certificate.

Paragraphs 2 and 3 of Article 6 apply correspondingly to subparagraphs (a) and (b) of this paragraph.

3. The monetary unit referred to in paragraph 2 corresponds to sixty-five and a half milligrams of gold millesimal fineness nine hundred. The conversion of the amounts referred to in paragraph 2 into the national currency shall be made according to the law of the State concerned.

4. The calculation mentioned in the last sentence of paragraph 1 and the conversion mentioned in paragraph 3 shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in Articles 6 and 7 as is expressed there in units of account. States Parties shall communicate to the depositary the manner of calculation pursuant to paragraph 1, or the result of the conversion in paragraph 3, as the case may be, at the time of the signature without reservation as to ratification, acceptance or approval, or when depositing an instrument referred to in Article 16 and whenever there is a change in either.

Article 9
Aggregation of claims

1. The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:

(a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or

(b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or

(c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

2. The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

Article 10
Limitation of liability without constitution of a limitation fund

1. Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted. However, a State Party may provide in its national law that, where an action is brought in its Courts to enforce a claim subject to limitation, a person liable may only invoke the right to limit liability if a limitation fund has been constituted in accordance with the provisions of this Convention or is constituted when the right to limit liability is invoked.

2. If ,limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.

3. Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

CHAPTER III: THE LIMITATION FUND

Article 11
Constitution of the fund

1. Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sim of such of the amounts set out in Articles 6

and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

2. A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.

3. A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

Article 12

Distribution of the fund

1. Subject to the provisions of paragraphs 1, 2 and 3 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

2. If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

3. The rights of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.

4. Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

Article 13

Bar to other actions

1. Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.

2. After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent

authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo; or
- (d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

Article 14 *Governing law*

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connexion therewith, shall be governed by the law of the State Party in which the fund is constituted.

CHAPTER IV: SCOPE OF APPLICATION

Article 15

1. This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State. Nevertheless, each State Party may exclude wholly or partially from the application of this Convention any person referred to in Article 1 who at the time when the rules of this Convention are invoked before the Courts of that State does not have his habitual residence in a State Party or does not have his principal place of business in a State Party or any ship in relation to which the right of limitation is invoked or whose release is sought and which does not at the time specified above fly the flag of a State Party.

2. A State Party may regulate by specific provisions of national law the system of limitation of liability to be applied to vessels which are:

- (a) according to the law of that State, ships intended for navigation on inland waterways;
- (b) ships of less than 300 tons.

A State Party which makes use of the option provided for in this paragraph shall inform the depositary of the limits of liability adopted in its national legislation or of the fact that there are none.

3. A State Party may regulate by specific provisions of national law the system of limitation of liability to be applied to claims arising in cases in which interests of persons who are nationals of other States Parties are in no way involved.

3bis. Notwithstanding the limit of liability prescribed in paragraph 1 of Article 7, a State Party may regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers of a ship, provided that the limit of liability is not lower than that prescribed in paragraph 1 of Article 7. A State Party which makes use of the option provided for in this paragraph shall inform the Secretary-General of the limit of liability adopted or of the fact that there are none.

4. The Courts of a State Party shall not apply this Convention to ships constructed for, or adapted to, and engaged in, drilling:

(a) when that State has established under its national legislation a higher limit of liability than that otherwise provided for in Article 6; or

(b) when that State has become party to an international convention regulating the system of liability in respect of such ships.

In a case to which sub-paragraph (a) applies that State Party shall inform the depositary accordingly.

5. This Convention shall not apply to:

(a) air-cushion vehicles;

(b) floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof.

CHAPTER V: FINAL CLAUSES

Article 16

Signature, ratification and accession

1. This Convention shall be open for signature by all States at the Headquarters of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as “the Organization”) from 1 February 1977 until 31 December 1977 and shall thereafter remain open for accession.

2. All States may become parties to this Convention by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
- (c) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization (hereinafter referred to as “Secretary-General”).

Article 17

Entry into force

1. This Convention shall enter into force on the first day of the month following one year after the date on which twelve States have either signed it without reservation as to ratification, acceptance or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession, or signs without reservation as to ratification, acceptance or approval, in respect of this Convention after the requirements for entry into force have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession or the signature without reservation as to ratification, acceptance or approval, shall take effect on the date of entry into force of the Convention or on the first day of the month following the ninetieth day after the date of the signature or the deposit of the instrument, whichever is the later date.

3. For any State which subsequently becomes a Party to this Convention, the Convention shall enter into force on the first day of the month following the expiration of ninety days after the date when such State deposited its instrument.

4. In respect of the relations between States which ratify, accept, or approve this Convention or accede to it, this Convention shall replace and abrogate the International Convention relating to Limitation of the Liability of Owners of Sea-going Ships, done at Brussels on 10 October 1957, and the International Convention for the Unification of certain Rules relating to the Limitation of Liability of the Owners of Sea-going Vessels, signed at Brussels on 25 August 1924.

Article 18

Reservations

1. Any State may, at the time of signature, ratification, acceptance, approval or accession, or at any time thereafter, reserve the right:

- (a) to exclude the application of Article 2, paragraphs 1(d) and (e);

(b) to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or of any amendment or protocol thereto.

No other reservations shall be admissible to the substantive provisions of this Convention.

2. Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.
3. Any State which has made a reservation to this Convention may withdraw it at any time by means of a notification addressed to the Secretary-General. Such withdrawal shall take effect on the date the notification is received. If the notification states that the withdrawal of a reservation is to take effect on a date specified therein, and such date is later than the date the notification is received by the Secretary-General, the withdrawal shall take effect on such later date.

Article 19

Denunciation

1. This Convention may be denounced by a State Party at any time one year from the date on which the Convention entered into force for that Party.
2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General.
3. Denunciation shall take effect on the first day of the month following the expiration of one year after the date of deposit of the instrument, or after such longer period as may be specified in the instrument.

Article 20

Revision and amendment

1. A Conference for the purpose of revising or amending this Convention may be convened by the Organization.
2. The Organization shall convene a Conference of the States Parties to this Convention for revising or amending it at the request of not less than one-third of the Parties.
3. After the date of the entry into force of an amendment to this Convention, any instrument of ratification, acceptance, approval or accession deposited shall be deemed to apply to the Convention as amended, unless a contrary intention is expressed in the instrument.

Article 21

Revision of the limitation amounts and Unit of Account or monetary unit

1. Notwithstanding the provisions of Article 20, a Conference only for the purposes of altering the amounts specified in Articles 6 and 7 and in Article 8, paragraph 2, or of substituting either or both of the Units defined in Article 8, paragraphs 1 and 2, by other units shall be convened by

the Organization in accordance with paragraphs 2 and 3 of this Article. An alteration of the amounts shall be made only because of a significant change in their real value.

2. The Organization shall convene such a Conference at the request of not less than one fourth of the States Parties.

3. A decision to alter the amounts or to substitute the Units by other units of account shall be taken by a two-thirds majority of the States Parties present and voting in such Conference.

4. Any State depositing its instrument of ratification, acceptance, approval or accession to the Convention, after entry into force of an amendment, shall apply to the Convention as amended.

Article 22 *Depositary*

1. The Convention shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) transmit certified true copies of this Convention to all States which were invited to attend the Conference on Limitation of Liability for Maritime Claims and to any other States which accede to this Convention;

(b) inform all States which have signed or acceded to this Convention of:

(i) each new signature and each deposit of an instrument and any reservation thereto together with the date thereof;

(ii) the date of entry into force of this Convention or any amendment thereto;

(iii) any denunciation of this Convention and the date on which it takes effect;

(iv) any amendment adopted in conformity with Articles 20 or 21;

(v) any communication called for by any Article of this Convention.

3. Upon entry into force of this Convention, a certified true copy thereof shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 23 *Languages*

This Convention is established in a single original in the English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this nineteenth day of November one thousand nine hundred and seventy-six.

IN WITNESS WHEREOF the undersigned being duly authorized for that purpose have signed this Convention.

SCHEDULE 6
(section 209(1))

(Merchant Shipping Act 1995, Schedule 11; Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997 Schedule 2)

International Convention on Salvage 1989

Part I

Text of Convention

Chapter I

— General Provisions

Article 1

Definitions

For the purpose of this Convention—

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.
- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organisation means the International Maritime Organisation.
- (g) Secretary-General means the Secretary-General of the Organisation.

Article 2

Application of the Convention

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

Article 3

Platforms and drilling units

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

Article 4

State-owned vessels

1. Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State decides otherwise.
2. Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

Article 5

Salvage operations controlled by public authorities

1. This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.
2. Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.
3. The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

Article 6

Salvage contracts

1. This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.
2. The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.
3. Nothing in this article shall affect the application of article 7 nor duties to prevent or minimise damage to the environment.

Article 7

Annulment and modification of contracts

A contract or any terms thereof may be annulled or modified if—

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

Chapter II

— Performance of Salvage Operations

Article 8

Duties of the salvor and of the owner and master

1. The salvor shall owe a duty to the owner of the vessel or other property in danger—
 - (a) to carry out the salvage operations with due care;
 - (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimise damage to the environment;
 - (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
 - (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

2. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor—

(a) to co-operate fully with him during the course of the salvage operations;

(b) in so doing, to exercise due care to prevent or minimise damage to the environment; and

(c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

Article 9

Rights of coastal States

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognised principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

Article 10

Duty to render assistance

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.

2. The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.

3. The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

Article 11

Co-operation

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

Chapter III

— Rights of Salvors

Article 12

Conditions for reward

1. Salvage operations which have had a useful result give right to a reward.
2. Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
3. This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

Article 13

Criteria for fixing the reward

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below—
 - (a) the salvaged value of the vessel and other property;
 - (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
 - (c) the measure of success obtained by the salvor;
 - (d) the nature and degree of the danger;
 - (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
 - (f) the time used and expenses and losses incurred by the salvors;
 - (g) the risk of liability and other risks run by the salvors or their equipment;
 - (h) the promptness of the services rendered;
 - (i) the availability and use of vessels or other equipment intended for salvage operations;
 - (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.
2. Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party

may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.

3. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

Article 14

Special compensation

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.

2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30 per cent. of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent. of the expenses incurred by the salvor.

3. Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).

4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

5. If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

Article 15

Apportionment between salvors

1. The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.

2. The apportionment between the owner, master and other persons in the service of each salvaging vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

Article 16

Salvage of persons

1. No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.

2. A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging the vessel or other property or preventing or minimising damage to the environment.

Article 17

Services rendered under existing contracts

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

Article 18

The effect of salvor's misconduct

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

Article 19

Prohibition of salvage operations

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

Chapter IV

— Claims and Actions

Article 20

Maritime lien

1. Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
2. The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

Article 21

Duty to provide security

1. Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.
2. Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.
3. The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

Article 22

Interim payment

1. The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.
2. In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

Article 23

Limitation of actions

1. Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.
2. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.
3. An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

Article 24

Interest

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

Article 25

State-owned cargoes

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings in rem against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

Article 26

Humanitarian cargoes

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

Article 27

Publication of arbitral awards

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

Part II

Provisions having effect in connection with Convention

Interpretation

1. In this Part of this Schedule —

(a) “the Convention” means the Convention as set out in Part I of this Schedule and any reference to a numbered article is a reference to the article of the Convention which is so numbered;

(b) “the waters of the Falkland Islands” means the sea or other waters within the seaward limits of the territorial sea of the Falkland Islands.

Claims excluded from Convention

2.(1) The provisions of the Convention do not apply—

(a) to a salvage operation which takes place in inland waters of the Falkland Islands and in which all the vessels involved are of inland navigation; and

(b) to a salvage operation which takes place in inland waters of the Falkland Islands and in which no vessel is involved.

(2) In this paragraph “inland waters” does not include any waters within the ebb and flow of the tide at ordinary spring tides or the waters of any dock which is directly or (by means of one or more other docks) indirectly, connected with such waters.

Assistance to persons in danger at sea

3.(1) The master of a vessel who fails to comply with the duty imposed on him by article 10, paragraph 1 commits an offence and shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Convention or under any contract.

The reward and special compensation: the common understanding

4. In fixing a reward under article 13 and assessing special compensation under article 14 the court or arbitrator is under no duty to fix a reward under article 13 up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under article 14.

Recourse for life salvage payment

5.(1) This paragraph applies where—

(a) services are rendered wholly or in part in Falkland Islands waters in saving life from a vessel of any nationality or elsewhere in saving life from any ship registered in the Falkland Islands; and

(b) either—

(i) the vessel and other property are destroyed, or

(ii) the sum to which the salvor is entitled under article 16, paragraph 2 is less than a reasonable amount for the services rendered in saving life.

(2) Where this paragraph applies, the Governor or the authority acting under the Governor's direction may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life.

Meaning of "judicial proceedings"

6. References in the Convention to judicial proceedings are references to proceedings—

(a) in the Supreme Court;

(b) in the Magistrate's Court,

and any reference to the tribunal having jurisdiction (so far as it refers to judicial proceedings) shall be construed accordingly.

Meaning of "State Party"

7.(1) An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention in respect of a specified country shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention in respect of that country.

(2) In this paragraph "country" includes "territory".

SCHEDULE 7
SCALE OF FINES FOR OFFENCES UNDER THIS ORDINANCE

| Level | Maximum Fine |
|--------------|---------------------|
| 1 | £2,500 |
| 2 | £5,000 |
| 3 | £10,000 |
| 4 | £20,000 |
| 5 | £40,000 |
| 6 | £100,000 |
| 7 | £175,000 |
| 8 | £250,000 |
| 9 | £500,000 |
| 10 | £1,250,000 |
| 11 | £2,500,000 |
| 12 | £6,500,000 |

SCHEDULE 8
(section 281(2))

LICENCES: RIGHT TO MAKE REPRESENTATIONS, ETC.

1. If within twenty-eight days of the issue of a licence the person to whom it is issued requests the licensing authority to give him or her notice in writing of the reasons for the inclusion of any provision in it, the authority must comply with his request within 28 days of receiving it.
2. On issuing a licence to a person the licensing authority must notify him or her of the effect of paragraph 1.
3. If the licensing authority refuses an application for a licence, the licensing authority must give the applicant notice in writing of the reasons for the refusal.

4. If the licensing authority varies or revokes a licence without the holder's consent, the authority must give the holder notice in writing of the reasons for variation or revocation.
5. If within twenty-eight days of receipt of a notice under this Schedule giving the licensing authority's reasons the person to whom it is given makes written representations to the authority concerning the matter to which the notice related, the authority must consider those written representations and must reconsider the matter in the light of those representations.
6. A notice under this Schedule stating the licensing authority's reasons must state the effect of paragraph 5.
7. The licensing authority must notify the person who made the representations as to the result of the authority's reconsideration and the reasons for it.

SCHEDULE 9

(section 284(5) and 287(3))

PERSONS AUTHORISED TO ENFORCE THIS ORDINANCE

1. Introductory

In this Schedule "officer" means a person authorised to enforce Part 14 of this Ordinance.

2. Assistants for officers etc.

(1) An officer may take with him or her, to assist the officer in performing his or her functions —

(a) any other person; and

(b) any equipment or materials.

(2) A person whom an officer takes with him or her to assist the officer may perform any of the officer's functions, but only under the officer's supervision.

3. Powers in relation to vessels, aircraft etc.

(1) In order to perform the functions under Part 14 of this Ordinance an officer may require any person —

(a) to give details of any substances or articles on board, a vessel, aircraft, hovercraft or marine structure; and

(b) to give information concerning any substances or articles lost from a vessel, aircraft, hovercraft or marine structure.

(2) In order to perform any such functions an officer —

(a) may require any vessel, aircraft, hovercraft or marine structure to stop; and

(b) may require the attendance-

(i) of the master, captain or commander of a vessel, aircraft or hovercraft;

(ii) of the person in charge of a marine structure; and

(iii) of any other person who is on board a vessel, aircraft, hovercraft or marine structure,

and may require any person on board to assist the officer in the performance of his or her functions.

(3) In order to perform functions under Part 14 of this Ordinance an officer —

(a) may require —

(i) the master, captain or commander of a vessel, aircraft or hovercraft; and

(ii) the person in charge of a marine structure,

to take it and its crew to the port which appears to the officer to be the nearest convenient port; or

(b) may take it there personally.

(4) In order to perform any such functions an officer may detain a vessel, aircraft, hovercraft or marine structure.

(5) If an officer detains a vessel, aircraft, hovercraft or marine structure, the officer must serve on the master, captain, commander or person in charge a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him or her of a further notice in writing signed by the officer.

4. Containers etc.

Without prejudice to his powers under any other provision of this Ordinance, in order to perform his functions an officer —

(a) may open any container;

(b) may carry out searches, inspections, measurements and tests;

(c) may take samples;

(d) may require the production of documents, books and records; and

(e) may photograph or copy anything the production of which he or she has power to require under paragraph (d).

5. Evidence of officer's authority

(1) An officer must be furnished with a certificate of his authorisation, and when the officer proposes to perform any functions under this Ordinance, it is the officer's his duty if so requested, to produce that certificate.

(2) It is also the officer's duty, if so requested, to state —

- (a) his or her name;
- (b) the functions that he or she proposes to perform; and
- (c) his or her grounds for proposing to perform it.

6. Time of performance of functions

An officer must perform his functions under this Ordinance at a reasonable hour unless it appears to the officer that there are grounds for suspecting that the purposes of their performance may be frustrated if he seeks to perform them at a reasonable hour.

7. Entry into dwellings

(1) An officer may only enter a dwelling for the purposes of performing his functions under this Ordinance if a justice of the peace has issued a warrant authorising him or her to enter and search that dwelling.

(2) A justice of the peace may only issue such a warrant if on application by the officer he is satisfied —

- (a) that the officer has reasonable grounds for believing that there is present in the dwelling anything to which those functions relates; and
- (b) that —
 - (i) it is not practicable to communicate with any person entitled to grant entry to the dwelling; or
 - (ii) a person entitled to grant entry to the dwelling has unreasonably refused an officer entry; or
 - (iii) entry to the dwelling is unlikely to be granted unless a warrant is produced; or
 - (iv) the purpose of entry may be frustrated or seriously prejudiced unless an officer arriving at the dwelling can secure immediate entry to it.

(3) In this paragraph "justice of the peace" includes the Senior Magistrate.

8. Power of officer to use reasonable force

An officer may use reasonable force, if necessary, in the performance of his functions.

9. Protection of officers

An officer is not liable in any civil or criminal proceedings for anything done in the purported performance of his functions under this Ordinance if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

10. Offences

A person commits an offence who —

- (a) intentionally obstructs an officer in the performance of any of his functions under this Ordinance;
- (b) fails without reasonable excuse to comply with a requirement made or direction given by an officer in the performance of his functions under this Ordinance; or
- (c) in purporting to give information required by an officer for the performance of any of his functions under this Ordinance —
 - (i) makes a statement which he knows to be false in a material particular;
 - (ii) recklessly makes a statement which is false in a material particular; or
 - (iii) intentionally fails to disclose any material particular.

SCHEDULE 10

Part A (Section 310(1))

Repealed Falkland Islands Legislation

| Number | Title |
|--------------------------|---|
| 3 of 1960 | Oil in Territorial Waters Ordinance 1960 |
| 15 of 2001 | Merchant Shipping Ordinance 2001 |
| 9 of 1995 | Marine Environment (Protection) Ordinance 1995 |
| 15 of 1995 | Merchant Shipping (Registry) (Amendment) Ordinance 1995 |
| 24 of 1998 | Merchant Shipping (Amendment) Ordinance 1998 |
| S. R. & O. No: 3 of 1995 | Commencement in the Falkland Islands of Amendments to the Merchant Shipping Act 1974 Order 1995 |

| | |
|---------------------------|--|
| S. R. & O. No. 14 of 1996 | Merchant Shipping Act 1995 (Adoption) (Limitation of Liability for Maritime Claims) Order 1996 |
| S R & O No. 35 of 1996 | Merchant Shipping (Adoption of Legislation) (Amendment) Order 1996 |
| S.R. & O. No. 9 of 1997 | Merchant Shipping Act 1979 (Commencement of Certain Provisions in the Falkland Islands) Order 1997 |
| S. R. & O. No. 22 of 2004 | Merchant Shipping Ordinance 2001 (Correction) Order 2004 |

Part B
(Section 310(2))

UK Acts (*which apply to the Falkland Islands*)

| Chapter or number | Title |
|--------------------|--|
| Chapter 60 of 1894 | Merchant Shipping Act 1894 |
| Chapter 48 of 1906 | Merchant Shipping Act 1906 |
| Chapter 28 of 1921 | Merchant Shipping Act 1921 |
| Chapter 47 of 1965 | Merchant Shipping Act 1965 |
| Chapter 36 of 1970 | Merchant Shipping Act 1970 |
| Chapter 39 of 1979 | Merchant Shipping Act 1979 |
| Chapter 10 of 1981 | Merchant Shipping Act 1981 |
| Chapter 21 of 1995 | Merchant Shipping Act 1995 |
| Chapter 48 of 1985 | Food and Environment Protection Act 1985 |
| Chapter 60 of 1971 | Prevention of Oil Pollution Act 1971 |

Part C
(Section 310(3))

UK Statutory Instruments

| Number | Title |
|--------------|--|
| SI 1963/1631 | Merchant Shipping (Registration of Colonial Government Ships) Order 1963 |
| SI 1971/383 | Merchant Shipping (Tonnage)(Overseas Territories) Order 1971 |
| SI 1980/1093 | Merchant Shipping (Prevention of Pollution) (Intervention) Order 1980 |
| SI 1980/1513 | Merchant Shipping Act 1979 (Falkland Islands) Order 1980 |
| SI 1981/424 | Merchant Shipping Act 1979 (Falkland Islands) (Amendment) Order 1981 |
| SI 1982/1668 | Prevention of Oil Pollution Act 1971 (Overseas Territories) Order 1982 |
| SI 1982/1666 | Merchant Shipping (Prevention of Pollution) (Intervention) (Overseas Territories) Order 1982 |
| SI 1988/1084 | Environmental Protection (Overseas Territories) Order 1988 |
| SI 1988/1085 | Merchant Shipping (Tonnage) (Overseas Territories) Order 1988 |

| | |
|--------------|---|
| SI 1988/1086 | Merchant Shipping Act 1970 (Overseas Territories) Order 1988 |
| SI 1989/2400 | Merchant Shipping Act 1979 (Overseas Territories) Order 1989 |
| SI 1992/1717 | Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1992 |
| SI 1997/1748 | Environmental Protection (Overseas Territories) (Amendment) Order 1997 |
| SI 1997/2584 | Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997 |
| SI 1997/2586 | Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997 |
| SI 2003/1877 | Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2003 |
| SI 2003/2559 | Merchant Shipping (Oil Pollution Compensation Limits) Order 2003 |

Passed by the Legislature of the Falkland Islands on 28 September 2017.

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.

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Merchant Shipping (Adoption of Legislation)(Amendment) Ordinance 2017 (No 22 of 2017); and

Communications (Exclusive Licence Fee) Regulations 2018 (SR&O No 1 of 2018).

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Harbours and Ports Ordinance 2017

(No: 21 of 2017)

ARRANGEMENT OF PROVISIONS

Section

PART 1 – PRELIMINARY

1. Title
2. Commencement
3. Interpretation

PART 2 – ESTABLISHMENT OF AUTHORITY, HARBOUR MASTER AND OTHER OFFICERS

4. Establishment or designation of Falkland Islands Maritime Authority
5. Appointment of Harbour Master

PART 3 – PORTS

6. Declaration of ports
7. Powers of Harbour Master
8. Recovery of payments from owner in certain cases
9. Payments may be enforced by distress
10. Restriction of entry of vessels
11. Application of Part 4
12. Offences and penalties
13. Regulations in relation to ports

PART 4 – HARBOURS
Harbour directions: authority

- 14. Designation of harbours
- 15. Directions
- 16. Procedure of issuing harbour directions
- 17. Content of harbour directions

Control of movement of ships in harbour: directions by Harbour Master

- 18. Powers of Harbour Master – general
- 19. Penalty on shipmasters not complying with directions of the Harbour Master
- 20. Directions by Harbour Master concerning dangerous vessels, etc.
- 21. Loss or damage occurring outside harbour
- 22. Further directions by Governor
- 23. Saving for certain vessels
- 24. Harbour Master may remove vessels within harbour, docks or pier

Services to be provided at the harbour: lighthouses, beacons and buoys

- 25. Power to erect lighthouses and lay down buoys, with consent of authority
- 26. Lights, beacons, or sea-marks not to be exhibited or altered without sanction of authority

Harbour Charges

- 27. Authority to impose charges
- 28. Charges of authority to be reasonable
- 29. Duty of authority to make available for inspection, and to keep for sale, copies of lists of certain charges
- 30. Right of objection to ship, passenger and goods charges
- 31. Special provisions with respect to certain aviation charges
- 32. Master to report arrival of vessel

Goods arriving at harbours

- 33. Masters of vessels to give accounts of goods intended to be unshipped within the limits

Protection of the harbour, dock, or pier

- 34. Owners of vessels answerable for damages to works
- 35. Control of works and dredging

Wrecks

- 36. Harbour Master may remove wrecks

Offences

- 37. Failure to comply with directions
- 38. False declaration
- 39. Restrictions before pratique
- 40. Obstructing the Harbour Master
- 41. Damaging moorings, etc.
- 42. Regulations

PART 5 – PILOTAGE

Provision of pilotage services

- 43. General duties as to provision of pilotage services
- 44. Authorisation of pilots
- 45. Employment, etc. of authorised pilots
- 46. Pilot boats

Compulsory pilotage

- 47. Pilotage directions
- 48. Pilotage exemption certificates
- 49. Prevention of discrimination in favour of authority's ships
- 50. Compulsory pilotage
- 51. Liability for ships under compulsory pilotage
- 52. Regulations

PART 6 – DREDGING AND OTHER WORKS

- 53. Licensing requirements
- 54. Offences relating to licensing
- 55. Power to take remedial action
- 56. Regulations with regards to licences

PART 7 – MISCELLANEOUS PROVISIONS

- 57. Repeal and savings

SCHEDULE

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

HARBOURS AND PORTS ORDINANCE 2017

(No: 21 of 2017)

(assented to: 21 December 2017)

(commencement: in accordance with section 2)

(published: 31 January 2018)

AN ORDINANCE

To make provision for the continued appointment of a Harbour Master, the establishment or designation of an Authority to regulate harbours and ports; to provide for maritime services like pilotage within harbours in the Falkland Islands as well as to licence dredging and other works that can be carried out at harbours and ports.

ENACTED by the Legislature of the Falkland Islands —

PART 1 – PRELIMINARY

1. Title

This Ordinance is the Harbours and Ports Ordinance 2017.

2. Commencement

This Ordinance comes into force on a date appointed by the Governor by notice in the *Gazette*.

3. Interpretation

In this Ordinance unless the context otherwise requires —

“authority” means the body established or the department designated as such under section 4 of this Ordinance;

“harbour” means any harbour, whether natural or artificial, and any port, haven, estuary, tidal or other river or inland waterway navigated by sea-going ships, and includes a dock or a wharf as

declared and defined in accordance with section 14 of this Ordinance and includes a harbour declared as such before the commencement of this Ordinance;

“Harbour Master” means a person appointed under section 5 and includes any deputy Harbour Master;

“hovercraft” means a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“master” includes a captain and every person (except a pilot) having command or charge of a ship and, in relation to a fishing vessel, means the person for the time being in command of or in charge of the fishing vessel or in charge of the fishing operations on board the fishing vessel;

“mooring” includes casting anchor and making fast to a shore or a buoy;

“port” means a port declared and defined in accordance with section 7 and includes a port declared as such before the commencement of this Ordinance;

“port state control” means the inspection of foreign vessels by the authority in order to verify that the ship (and its equipment) complies with —

(a) the requirements of international conventions relating to safety; and

(b) the requirements under Part 4 of the Maritime Ordinance 2017 with respect to manning;

“unmooring” includes weighing anchor and casting off from ashore or a buoy;

“vessel” includes —

(a) a ship or boat, or any other description of craft used in navigation;

(b) a rig, raft or floating platform, or any other moveable thing constructed or adapted for floating on, or partial or total submersion in, water; and

(c) a seaplane, a hovercraft, or any other amphibious vehicle.

[Dangerous Vessels Act 1985 (UK), s. 7]

PART 2 — ESTABLISHMENT OF AUTHORITY, HARBOUR MASTER AND OTHER OFFICERS

4. Establishment or designation of Falkland Islands Maritime Authority

(1) The Governor must designate a body as the Falkland Islands Maritime Authority.

(2) The Governor may designate the department responsible for maritime, harbours and ports matters to be the authority (Department of Natural Resources).

(3) The Governor may confer functions or responsibilities to the authority under this Ordinance or under any other law.

5. Appointment of Harbour Master

(1) The Governor may from time to time appoint a public officer to be the Harbour Master.

(2) The Governor may —

(a) confer such responsibilities or functions on the Harbour Master under this Ordinance or under any other law;

(b) give general or specific directions to the Harbour Master in relation to the functions of the Harbour Master under this Ordinance or under any other law.

(3) The Governor may appoint any number of public officers to be deputy Harbour Masters to assist the Harbour Master in carrying out the functions or responsibilities referred to under subsection (2).

(4) A person appointed as a Harbour Master before the commencement of this Ordinance continues to be the Harbour Master as specified in the person's instrument of appointment.

PART 3 – PORTS

6. Declaration of ports

The Governor may by order declare and define the limits of a port.

7. Powers of Harbour Master

The Harbour Master has power to —

(a) order the master of any vessel to change the place where any vessel is berthed or moored in a port;

(b) cause, at the expense of the master, the berth or mooring of any vessel to be changed when an order under paragraph (a) has not been complied with and for that purpose to —

(i) cast off, loose or unshackle the vessel; and

(ii) if necessary, sever any cable, chain or rope of the vessel; and

(iii) put on board the vessel sufficient persons to protect the vessel during its change of berth or mooring;

(c) cause to be boarded and searched any vessel in any port which the Harbour Master reasonably suspects of having on board —

(i) any arms, explosives, ammunition or other combustible substances or materials; or

(ii) any drugs contrary to the laws of the Falkland Islands;

(d) remove or see to the removal of any vessel or other object which is sunk, stranded or abandoned in a port or the approach to the port which, in the opinion of the Harbour Master, is causing an obstruction or danger to navigation;

(e) destroy or see to the destruction of any vessel or object, or part of any vessel or object, referred to in paragraph (d);

(f) take possession of any vessel or object referred to in paragraph (d), and —

(i) if so requested, deliver the vessel or object to its owner on payment of all the costs incurred in the recovery and delivery of the vessel or object; or

(ii) if no such request is received within three months from taking of possession, sell the vessel or object and any property found in it and after deduction of the cost of recovery and sale deposit the balance, if any, of the proceeds of the sale in the Consolidated Fund in trust for the person entitled to such proceeds;

(g) seize and detain any vessel which the Harbour Master has reasonable cause to believe has entered the territorial sea or internal waters of the Falkland Islands in contravention of an order made under section 10.

8. Recovery of payments from owner in certain cases

If, under this Ordinance or any regulations made under it, an owner of a vessel or any person is required to pay any penalty or expenses by reason of an act or omission of the master of the vessel or that person, the amount so paid and costs may be recovered by the owner from the person who committed the offence, did the wrongful act, or omitted to do anything by reason of which the owner was compelled to make payment.

9. Payments may be enforced by distress

Where —

(a) an order has been made under this Part for the payment by the master or owner of a vessel of any fine or other payment; and

(b) such fine has not been paid within —

(i) the time allowed by the court; or

(ii) if no time has been given, such time as may be reasonable,

the Senior Magistrate or not less than two justices of the peace may direct that the amount payable may be levied by the impounding and sale of the vessel, the vessel's equipment or any part of the vessel by the Harbour Master.

10. Restriction of entry of vessels

(1) The Governor may by order published in the *Gazette*, when the Governor considers it necessary in the interests of defence or internal security or other issues of national interest, prohibit the entry of any vessel or class of vessels into the territorial sea or internal waters of the Falkland Islands or any part or parts of them.

(2) An order made under subsection (1) comes into force on the day specified in it notwithstanding that such day may be prior to the publication of the order in the *Gazette*.

11. Application of Part 4

Part 4 applies to ports in the same manner as it applies to harbours.

12. Offences and penalties

(1) A person who —

(a) contravenes any provision of this Part;

(b) fails to comply with the requirements of this Part, including a prohibition under section 10; or

(c) obstructs the Harbour Master or any person acting on his or her behalf or any other person acting under the provisions of this Part,

commits an offence.

(2) A person who commits an offence under this Part is liable on conviction —

(a) to a fine not exceeding level 7 on the scale set out in the Schedule; or

(b) in the case of contravention of an order under section 10, to such fine or forfeiture of the vessel used in contravention of such order, or to both such fine and forfeiture.

13. Regulations in relation to ports

(1) The Governor may make regulations for the better carrying out of the provisions of this Part.

(2) Without derogating from the generality of subsection (1), regulations made under this section may provide for —

(a) the control of mooring, anchoring and berthing of vessels in a port;

(b) the restriction of the carrying, loading, discharging or holding of arms, ammunition or other combustible substances or materials on, from or in vessels entering or remaining in a port;

(c) the regulation of the speed of vessels moving in, into or out of a port;

(d) the watches to be maintained on vessels in a port;

(e) such matters as may appear necessary for protection of ships or other property; or

(f) the imposition of a fine not exceeding level 7 on the scale set out in the Schedule for the contravention of such regulations.

PART 4 – HARBOURS
Designation of harbours

14. Designation of harbours

The Governor may by order designate and define the limits of a harbour.

Harbour directions: authority

15. Directions

(1) The authority may give directions (“harbour directions”) in respect of ships —

- (a) within the harbour; or
- (b) entering or leaving the harbour.

(2) A harbour direction may relate to —

- (a) the movement of ships;
- (b) mooring or unmooring;
- (c) equipment (including nature and use); or
- (d) the manning of ships.

(3) A harbour direction may require the master of a ship to provide information to a specified person in a specified manner.

(4) A harbour direction is subject to any direction given by the Harbour Master under section 18.

(5) The authority may not give a harbour direction which conflicts with an enactment.

(6) The authority may delegate the issuing of any directions to the Harbour Master subject to such conditions or restrictions as the authority may think fit.

[Harbours Act 1964 (UK), s. 40A]

16. Procedure of issuing harbour directions

(1) Harbour directions must be in writing.

(2) Before giving harbour directions the authority must consult such representatives of users of the harbour as the authority thinks appropriate.

(3) The authority must make such arrangements as it thinks appropriate for publicising a proposed harbour direction for at least 28 days before it is given.

(4) Without limiting the arrangements the authority may make under subsection (3), the authority must as soon as is reasonably practicable after giving a harbour direction publish a notice in a newspaper in wide circulation within the Falkland Islands —

(a) stating that a harbour direction has been given; and

(b) giving details of the arrangements for the inspection and supply of copies of the harbour direction.

(5) The authority must —

(a) make harbour directions available for inspection; and

(b) supply a copy to anyone who requests it.

(6) The authority may charge a reasonable fee for the supply of copies.

[Harbours Act 1964 (UK), s. 40B]

17. Content of harbour directions

(1) Harbour directions may make —

(a) provisions that apply generally or only in relation to specified circumstances, areas, periods or descriptions of ship; and

(b) different provisions for different circumstances, areas, periods or descriptions of ship.

(2) Harbour directions may be varied or revoked by subsequent harbour directions.

[Harbours Act 1964 (UK), s. 40C]

Control of movement of ships in harbour: directions by Harbour Master

18. Powers of Harbour Master - general

(1) Subject to subsection (2), the Harbour Master may give directions for all or any of the following purposes —

(a) for regulating the time at which and the manner in which any vessel may enter into, go out of, or lie in or at the harbour, dock, or pier, and within the prescribed limits, if any, and its position, mooring or unmooring, placing and removing, whilst at the harbour, dock, or pier;

(b) for regulating the position in which any vessel must take in or discharge its cargo or any part of it, or must take in or land its passengers, or must take in or deliver ballast within or on the harbour, dock, or pier;

(c) for regulating the manner in which any vessel entering the harbour or dock or coming to the pier must be dismantled, as well for the safety of such vessel as for preventing damage to other vessels, and to the harbour, dock, or pier, and the moorings;

(d) for removing unserviceable vessels and other obstructions from the harbour, dock, or pier, and keeping the same clear; or

(e) for regulating the quantity of ballast or dead weight in the hold which each vessel in or at the harbour, dock, or pier must have during the delivery of her cargo, or after having discharged the same.

(2) Nothing in this Ordinance authorises the Harbour Master to do or cause to be done any act in any way repugnant to or inconsistent with the Customs Ordinance 2003.

[Harbours, Dock and Piers Clauses Act 1847 (UK), s. 52]

19. Penalty on masters not complying with directions of the Harbour Master

(1) The master of every vessel within the harbour or dock, or at or near the pier, or within the prescribed limits, if any, must regulate the vessel according to the directions of the Harbour Master.

(2) Any master of a vessel who, after being served with a notice by the Harbour Master, fails to comply with the Harbour Master's direction commits an offence and is liable to a penalty not exceeding level 3 on the scale set out in the Schedule.

[Harbours, Dock and Piers Clauses Act 1847 (UK), s. 53]

20. Directions by Harbour Master concerning dangerous vessels, etc.

(1) Subject to section 18 and without prejudice to any other power already conferred upon the Harbour Master, the Harbour Master may give directions prohibiting the entry into, or requiring the removal from, the harbour of any vessel if in the Harbour Master's opinion the condition of that vessel or the nature or condition of anything it contains is such that its presence in the harbour might involve —

(a) grave and imminent danger to the safety of any person or property; or

(b) grave and imminent risk that the vessel may, by sinking or foundering in the harbour, prevent or seriously prejudice the use of the harbour by other vessels.

(2) The directions referred to in subsection (1) may be given as respects the vessel in question to —

(a) the owner of the vessel, or to any person in possession of the vessel;

(b) the master of the vessel; or

(c) any salvor in possession of the vessel, or to any person who is the servant or agent of any salvor in possession of the vessel, and who is in charge of the salvage operation,

and in paragraph (b) of this subsection, "master" means the person having command or charge of the vessel, but does not include a pilot (that is to say, a person not belonging to the vessel who has conduct of it).

(3) In determining whether to give any direction under subsection (1) in any particular case, a Harbour Master must have regard to all the circumstances of that case and, in particular, the Harbour Master must have regard to the safety of any person or vessel (whether that person or vessel is in or outside the harbour and including the vessel in question in that case).

(4) Directions may be given under subsection (1) in any such reasonable manner as the Harbour Master thinks fit.

(5) At the time any directions under subsection (1) are given to any person, the Harbour Master giving the directions must inform that person of the grounds for giving them.

[Dangerous Vessels Act 1985 (UK), s. 1]

21. Loss or damage occurring outside harbour

(1) Any loss or damage which occurs outside a harbour in consequence of directions given by the Harbour Master in purported exercise of the Harbour Master's powers is deemed to have occurred in that harbour.

(2) Subject to the provisions of this Part, the authority is liable for any loss or damage arising in the circumstances referred to under subsection (1).

[Dangerous Vessels Act 1985 (UK), s. 2]

22. Further directions by Governor

(1) Where a Harbour Master has given directions under section 20 as respects any vessel, the Governor may, for the purposes of securing the safety of any person or vessel (including the vessel to which those directions relate), give directions under this section to that Harbour Master requiring him or her —

(a) to permit the vessel to which the directions given under section 20 relate to enter and remain, or (as the case may be) to remain, in the harbour in question; and

(b) to take such action (if any) as may be specified in the directions given under this section, for the purpose of enabling the vessel to do so for any connected purpose,

and the directions under section 20 will cease to have effect.

(2) A Harbour Master to whom any directions are given under this section must give notice of those directions as respect the vessel in question to the person to whom the directions under section 20 were given or failing that, to any of the other persons mentioned in section 20(2), in any such reasonable manner as the Harbour Master thinks fit; and it is the duty of —

(a) the Harbour Master, to take any reasonable action in relation to that vessel specified in those directions; and

(b) the Harbour Master and the authority, to take all such further action as may be reasonably necessary to enable that vessel to enter and remain, or to remain, in the harbour.

[Dangerous Vessels Act 1985 (UK), s. 3]

23. Saving for certain vessels

No directions under section 20 apply in relation to —

(a) any vessel belonging to Her Majesty, or employed in the service of the Crown for any purpose, including any such vessel in the possession of a salvor; or

(b) any vessel which is a pleasure boat of 24 metres or less in length.

[Dangerous Vessels Act 1985 (UK), s. 6]

24. Harbour Master may remove vessels within harbour, docks or pier

(1) If —

(a) the master or owner of any vessel in or at the harbour, dock, or pier, or within prescribed limits, if any, does not moor, unmoor, place or remove the same according to the directions of the Harbour Master; or

(b) there is no person on board of any such vessel to attend to the directions,

the Harbour Master may cause such vessel to be moored, unmoored, placed or removed as he or she thinks fit, within or at the harbour, dock, or pier, or with the prescribed limits.

(2) For the purpose of subsection (1), the Harbour Master may cast off, unloose, or cut the rope or unshackle or break the chain, by which any such vessel is moored or fastened.

(3) All expenses incurred while attending the mooring, unmooring, placing, or removing of the vessel must be paid by the master or owner of the vessel.

(4) Before the Harbour Master unlooses or cuts any rope, or unshackles or breaks any chain, by which any vessel without any person on board to protect it is moored or fastened, he or she must cause a sufficient number of persons to be put on board of such vessel for the protection of the same.

[Harbour, Docks and Piers Clauses Act 1847 (UK), s. 58]

Services to be provided at the harbour: lighthouses, beacons and buoys

25. Power to erect lighthouses and lay down buoys, with consent of authority

(1) The authority must make provision for the erection of lighthouses and the laying down of buoys for the guidance of vessels within the limits of any harbour, dock or pier in the Falkland Islands.

(2) The buoys must be of such character for preserving and improving any harbour, dock or pier in the Falkland Islands.

[Harbour, Docks and Piers Clauses Act 1847 (UK), s. 77]

26. Lights, beacons, or sea-marks not to be exhibited or altered without sanction of authority

(1) The authority must sanction the erection of any lighthouse or beacon, or the exhibition or allow to be exhibited any light, beacon, or sea-mark.

(2) Any light, beacon, or sea-mark exhibited with the sanction of the authority under subsection (1) must not be altered without the authority's sanction.

(3) Every light, beacon, and sea-mark must be of such power and description, and may be discontinued or altered, as the authority directs.

[Harbour, Docks and Piers Clauses Act 1847 (UK), s. 78]

Harbour Charges

27. Authority to impose charges

(1) Subject to section 26 the authority has, in relation to any ship at a harbour in the Falkland Islands, the power to impose charges and in particular the power to demand, take and recover such ship, passenger and goods charges as the authority thinks fit.

(2) Any ship, passenger or goods charges which were payable and due for payment immediately before this section comes into operation are deemed to have been imposed by virtue of this section.

[Harbours Act 1964 (UK), s. 26]

28. Charges of authority to be reasonable

(1) The charges (other than excepted charges) that may be imposed by the authority at a harbour under section 27 must be reasonable.

(2) For the purposes of subsection (1) the following are excepted charges —

(a) ship, passenger and goods charges;

(b) charges arising from the running of a ferry service in or from a harbour; and

(c) such other charges, dues or duties as the Governor may by order declare to be excepted.

[Harbours Act 1964 (UK), s. 27]

29. Duty of authority to make available for inspection, and to keep for sale, copies of lists of certain charges

(1) The authority must keep a list showing the ship, passenger and goods charges for the time being chargeable by virtue of section 27.

(2) The list under subsection (1) must —

(a) be kept at the authority's office; and

(b) be open for inspection by any person during reasonable hours without charge.

(3) The authority may sell copies of the list at such price as may be prescribed.

(4) The authority may not impose any ship, passenger or goods charge if, at the time at which it is chargeable, the authority has failed to comply with the requirements of subsection (1) and (2) with respect to the keeping of a list at its office or the charge is not shown in that list.

(5) The authority may supply a copy of a list referred to under subsection (1) to the Governor without charge.

[Harbours Act 1964 (UK), s. 30]

30. Right of objection to ship, passenger and goods charges

(1) This section applies to ship, passenger and goods charges.

(2) Subject to subsection (10), the provisions of subsection (3) to (6) have effect where a written objection to a charge to which this section applies imposed by the authority is lodged with the Governor by —

- (a) a person appearing to have a substantial interest; or
- (b) a body representing persons with a substantial interest,

and the objection is expressed to be made on all or any of the following grounds —

- (i) the charge ought not to be imposed at all;
- (ii) the charge ought to be imposed at a lower rate;
- (iii) according to the circumstances of the case, ships, passengers or goods of a class specified in the objection ought to be excluded from the scope of the charge either generally or in specified circumstances;
- (iv) according to the circumstances of the case, the charge ought to be imposed either generally or in circumstances specified in the objection on ships, passengers or goods of a class so specified at a rate lower than that at which it is imposed on others.

(3) The Governor must, immediately after the objection is lodged, send a copy to the authority and must give notice to the objector that, as a condition precedent to the taking by the Governor of further steps in the matter of the objection, the objector must publish in a specified newspaper a notice (in the form specified, if one is specified) stating that —

- (a) the objector has lodged with the Governor an objection to the charge (and specifying the ground or grounds on which it is expressed to be made); and
- (b) the person or body who desires to make representations to the Governor in the matter, that is to say, a person having a substantial interest and a body representing persons who have such an interest, should do so in writing within the time specified in the notice (which must not be less than 42 days from the publication of the notice).

(4) Where the proper notice concerning the objection has been duly published, then as soon as practicable after the expiration of the time specified in the notice (but subject to the next following subsection), the Governor must —

- (a) proceed to consider the charge and any representations made, unless —
 - (i) the objection has been withdrawn before the expiration of that time; and
 - (ii) no written representations in the matter have been made to the Governor by any such person or body as is mentioned in subsection (3)(b) before the expiration of that time; and
- (b) cause an inquiry to be held, unless the Governor is satisfied that he or she can properly proceed to a decision in the matter without causing an inquiry to be held with respect to it.

(5) Where written representations are made as mentioned in subsection (4), the Governor must send copies of them to the authority and except where the objection has been withdrawn to the objector, and must not proceed to consideration of the charge until such period for consideration of, and comment upon, the representations by the authority and by the objector (if the objection has not been withdrawn) as the Governor thinks reasonable has elapsed.

(6) The Governor must, after effect has been given to subsection (4), either —

(a) approve the charge but set a limit (not being later than the expiration of 12 months from the date on which they approve it) to the period during which the approval is to be of effect, and give to the authority written notice that they have approved it, stating the limit set; or

(b) give to the authority such direction with respect to the charge as would meet the objection to it made on any of the grounds specified in subsection (2) (whether that is or is not the ground, or is or is not included amongst the grounds, on which the objection whose lodging gives rise to the proceedings is expressed to be made).

(7) A direction given under subsection (6) to an authority must be in writing and must specify a date for its coming into operation and the period from that date (which must not exceed twelve months) during which it is to have effect, and the authority must comply with it.

(8) If the authority fails to comply with an obligation to which it is subject to by virtue of subsection (7) the authority commits an offence and is liable, on summary conviction, to a fine not exceeding level 7 on the standard scale.

(9) Immediately after complying on any occasion with subsection (6), the Governor must publish the notice of the direction given to the authority in the same newspaper which published the notice lodging the objection which gave rise to proceedings that resulted in the direction being given.

(10) Where, by virtue of this section, a charge imposed at a harbour is approved, subsections (3) to (6) do not have effect by virtue of the lodging of a further objection to the charge during the period which the approval is of effect, and where, by virtue of this section, a direction is given with respect to a charge so imposed, the said subsections do not have effect by virtue of the lodging of a further objection to that charge during the period which, the direction has effect or of the lodging, during that period, of an objection to a charge that has come into existence by virtue of the direction.

(11) Where the Governor is in the course of giving effect to subsections (3) to (5) as a result of an objection to a charge having been lodged, and a further objection to that charge is lodged with the Governor, subsections (3) to (6) do not have effect by virtue of the lodging of that further objection.

[Harbours Act 1964 (UK), s. 31]

31. Special provisions with respect to certain aviation charges

Section 27(2) so far as regards charges regulated by the provisions of an Order in Council made under section 8(2)(o) of the Civil Aviation Act 1949 (regulation of charges for use of licensed aerodromes and for services provided at an aerodrome) has effect subject to that provision; and sections 28 and 30 do not apply to any charges regulated under that Act.

[Harbours Act 1964 (UK), s. 37]

32. Master to report arrival of vessel

(1) The master of a vessel must report the arrival of a vessel to the Harbour Master within such time as may be specified by the Harbour Master.

(2) A master who fails to make a report within the specified time commits an offence and is liable to a penalty not exceeding level 1 on the scale set out in the Schedule.

[Harbour, Docks and Piers Clauses Act 1847 (UK), s. 35]

Goods arriving at harbours

33. Masters of vessels to give accounts of goods intended to be unshipped within the limits

(1) When any goods are intended to be unshipped within the limits of the harbour, dock, or pier, the master of the vessel containing such goods must, within 24 hours after the arrival of the vessel within the limits of the harbour, dock, or pier, —

(a) deliver to the Collector of Customs the name of the consignee of the goods intended to be unshipped, or other person to whom the same are to be delivered, and,

(b) if —

(i) the whole cargo is intended to be unshipped, deliver a copy of the bill of lading or manifest of the cargo; or

(ii) only part of the cargo is intended to be unshipped, give the best account in writing of the kinds, weights, and quantities of the several goods intended to be unshipped.

(2) Every master must, if required so to do by the Collector of Customs, give to the Collector of Customs 24 hours' notice of the time at which the cargo of the vessel that he or she has charge of, or any part of the vessel, is intended to be unshipped.

[Harbour, Docks and Piers Clauses Act 1847 (UK), s. 37]

Protection of the harbour, dock, or pier

34. Owners of vessels responsible for damages to works

(1) The owner of every vessel or float of timber is answerable to the authority for any damage done by such vessel or float of timber, or by any person employed by the owner of the vessel, to the harbour, dock, or pier, or the quays or works connected with the harbour, dock, or pier.

(2) The master or person having charge of the vessel or float of timber through whose wilful act or negligence any damage is done or caused to the harbour, dock, or pier is also liable to make good the damage.

(3) Subject to subsection (4), the authority may detain any vessel or float of timber until sufficient security has been given for the amount of damage done by the vessel.

(4) Nothing in this section extends to impose any liability for any damage upon the owner of any vessel, where such vessel at the time when the damage is caused is in charge of a duly licensed

pilot whom such owner or master is bound by law to employ and put in charge of his or her vessel.

[Harbour, Docks and Piers Clauses Act 1847 (UK), s. 74]

35. Control of works and dredging

Only a person licensed to do so under Part 6, or the authority may —

- (a) carry out any works including making any alterations or renewals; or
- (b) dredge,

on, under or over tidal waters or tidal land below the level of high water in any harbour.

Wrecks

36. Harbour Master may remove wrecks

Where a vessel or boat is sunk, stranded or abandoned in any harbour or tidal water, or in or near any approach to the harbour or tidal water, in such a manner as, in the opinion of the Governor in Council, is an obstruction or a danger to navigation, the Harbour Master may —

- (a) take possession of and raise, remove or destroy the whole or any part of the vessel or boat;
- (b) light or buoy any such vessel or boat or part until the raising, removal or destruction of the vessel or boat; and
- (c) deliver to the owner on demand and on payment of all expenses incurred, or in the absence of such demand and payment sell, in such manner as the Harbour Master thinks fit, any vessel or boat or part so raised or removed, and also any other property recovered in the exercise of his or her powers under this section, and out of the proceeds of the sale reimburse the expenses incurred in relation to and deposit in the Treasury the surplus (if any) of the proceeds in trust for the persons entitled to that surplus:

Provided that the Harbour Master is entitled to recover from the owner of any vessel or boat raised, removed or destroyed or sold under this section all expenses incurred by the Harbour Master in relation to the raising, removal or destruction of that vessel or boat in excess of the proceeds of such sale.

[Harbours Ordinance 1902, s. 11]

Offences

37. Failure to comply with directions

(1) A person who without reasonable excuse contravenes or fails to comply with any directions given under section 19 commits an offence and is liable on summary conviction to a fine not exceeding level 7 on the scale set out in the Schedule.

(2) It is a defence for a person charged under this section to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

[Dangerous Vessels Act 1985 (UK), s. 5]

38. False declaration

Any person who signs a declaration required by this Ordinance, or by any regulation made under this Ordinance, containing any wilfully false, misleading or inaccurate statement, commits an offence and is liable on conviction to a fine not exceeding level 7 on the scale set out in the Schedule.

39. Restrictions before pratique

(1) It is an offence to receive anything from any vessel arriving from ports outside the Falkland Islands before the person has received free pratique.

(2) It is an offence for any unauthorised person other than the pilot, to board or leave, or make fast to any vessel before the person has received pratique.

(3) A person who commits an offence under this section is liable on conviction to a fine not exceeding level 10 on the scale set out in the Schedule.

[Harbours Ordinance 1902, s. 6]

40. Obstructing the Harbour Master

A person who obstructs the Harbour Master in the due execution of the Harbour Master's duty so as to resist or impede him or her in the proper performance of his or her duty commits an offence and is liable on conviction to a fine not exceeding level 7 on the scale set out in the Schedule.

[Harbours Ordinance 1902, s. 7]

41. Damaging moorings, etc.

Any person who wilfully and unlawfully cuts, breaks, destroys, damages or removes, except for the purposes of this Ordinance, the mooring or securing of any vessel, boat or hulk, or any sea mark, commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding level 10 on the scale set out in the Schedule or both such imprisonment and fine, and the penalties are not a bar to, or prejudice any action at law which may be brought by any person who has suffered injury or loss.

[Harbours Ordinance 1902, s. 8]

42. Regulations

The Governor may make regulations on all or any of the following —

(a) the use of harbours, docks or piers;

(b) the exercise of powers vested in the Harbour Master;

(c) the admission of vessels into or near the harbour, dock, or pier, and their removal out of and from the same, and for the good order and control of such vessels whilst within the harbour or dock, or at or near the pier;

(d) the shipping and unshipping, landing, warehousing, stowing, depositing, and removing of all goods within the limits of the harbour, dock or pier, and the premises within the harbour, dock or pier;

(e) setting out (with the consent of the Collector of Customs) the hours during which the gates or entrances or outlets to the harbour, dock, or pier must be open;

(f) the duties and conduct of all persons who are employed in the harbour, dock or pier or the premises within the harbour, dock or pier;

(g) the use of lights and other navigational aids within the harbour, dock, or pier, and the premises within the harbour, dock or pier, and within the prescribed limits (if any);

(h) preventing damage or injury to any vessel or goods within the harbour or dock, or at or near the pier, or on premises;

(i) the use of cranes, weighing machines, weights and measures;

(j) the exercise of port state control by the authority over foreign vessels; or

(k) the duties and conduct of the persons employed on the premises within the harbour, dock or pier and fixing the rates to be paid to those persons for carrying any goods, articles, or things from or to the same.

PART 5 – PILOTAGE *Provision of pilotage services*

43. General duties as to provision of pilotage services

(1) The authority must keep under consideration —

(a) whether any and, if so, what pilotage services need to be provided to secure the safety of ships navigating in or in the approaches to a harbour; and

(b) whether, in the interests of safety, pilotage should be compulsory for ships navigating in any part of harbour or its approaches; and if so, for which ships and in which circumstances and what pilotage services need to be provided for those ships.

(2) Without prejudice to the generality of subsection (1), the authority must, in performing its functions under that subsection, have regard in particular to the hazards involved in the carriage of dangerous goods or harmful substances by ships.

(3) The authority must provide such pilotage services as it considers necessary in accordance with subsection (1).

[Pilotage Act 1987 (UK), s. 2]

44. Authorisation of pilots

(1) Subject to subsection (3) and section 43, the authority may authorise a number of persons to act as pilots in or in any part of harbour as it considers are suitably qualified to do so; and the authorisation must specify the area within which it has effect and may specify that it only has effect in relation to ships of a particular description.

(2) The authority may —

(a) determine the qualifications in respect of age, physical fitness, length of service, local knowledge, skill, character and any other requirements that a person must have in order to apply for authorisation as a pilot; and

(b) provide for the examination of persons applying to provide pilotage services.

(3) The authority may suspend or revoke an authorisation granted under this section if it appears to it that —

(a) the authorised person is guilty of any incompetence or misconduct affecting the capability of the person as a pilot;

(b) the authorised person has ceased to have the qualifications required from persons applying for authorisation by it under this section or has failed to provide evidence that he or she continues to have those qualifications; or

(c) it is appropriate to do so by virtue of the termination of any contract or other arrangement under which the services of pilots are provided within the harbour.

(4) Before suspending or revoking an authorisation under subsection (3)(a) or (b), a harbour authority must give written notice of its intention to do so to the authorised person, stating the reasons for which it proposes to act, and must give the person a reasonable opportunity of making representations.

(5) Where the authority suspends or revokes an authorisation of any person by virtue of subsection (5)(c), it must give the person notice in writing —

(a) stating that the suspension or revocation was by virtue of that paragraph; and

(b) specifying the duration of the authorisation in question and any previous authorisations granted to that person by the authority.

(6) If any person who is not an authorised pilot for an area holds themselves out as if he or she is in that area as a pilot or so holds himself or herself out as to indicate or be reasonably understood to indicate that the person is such a pilot, the person commits an offence and is liable on summary conviction to a fine not exceeding level 6 on the scale set out in the Schedule.

(7) In this section —

“recognised assistant pilot” means a person who acts as an assistant to pilots and is recognised as such by the authority.

[Pilotage Act 1987 (UK), s. 3]

45. Employment, etc. of authorised pilots

The authority may make such arrangements as it considers appropriate for the provision of the services of authorised pilots in any harbour within the Falkland Islands (whether under a contract of employment or a contract for services).

[Pilotage Act 1987 (UK), s. 4]

46. Pilot boats

(1) Any ship employed in providing pilotage services provided by or on behalf of the authority (in this Ordinance referred to as “pilot boat”) must —

- (a) if operated by the authority, be approved by that authority; and
- (b) otherwise, be licensed by it,

and the authority must not approve or licence any ship under this subsection unless it is satisfied that it is suitable for use as a pilot boat.

(2) The Governor may make regulations for the operation of pilot boats.

[Pilotage Act 1987 (UK), s. 6]

Compulsory pilotage

47. Pilotage directions

(1) Subject to the provisions of this section, if the authority considers that in the interests of safety it should do so, it must direct that pilotage is compulsory for ships navigating in any area or part of an area of a harbour; and such a direction is referred to in this Ordinance as a “pilotage direction”.

(2) A pilotage direction —

- (a) may, subject to subsection (3), apply to all ships or ships of a description specified in the direction (subject to any exceptions as may be specified);
- (b) must specify the area of the harbour and circumstances in which it applies;
- (c) may specify the circumstances in which an authorised pilot in charge of a ship to which it applies is to be accompanied by an assistant who is also an authorised pilot; and
- (d) may contain such supplementary provisions as the authority considers appropriate.

(3) Before giving a pilotage direction the authority must consult —

- (a) the owners of ships which customarily navigate in the area to which the proposed direction would apply; and
- (b) any other persons who carry on harbour operations within the harbour,

or, in either case, such persons as it considers to be representative of them.

(4) If the authority considers that pilotage should be compulsory for ships navigating in any area outside the harbour, it must apply for a harbour revision order to be made to extend the limits within which the authority has jurisdiction for the purposes of pilotage to include that area and a pilotage direction given by it does not apply to that area unless the limits have been so extended.

(5) The authority must arrange for any pilotage direction given by it to be published in such manner as to bring it to the notice of those persons likely to be interested.

[Pilotage Act 1987 (UK), s. 7]

48. Pilotage exemption certificates

(1) Subject to subsection (3), the authority which has given a pilotage direction may, on application by any person who is bona fide the master or first mate of any ship, grant a certificate (in this Ordinance referred to as a “pilotage exemption certificate”) to the person if it is satisfied (by examination or by reference to such other requirements as it may reasonably impose) —

(a) that the applicant’s skill, experience and local knowledge are sufficient for the applicant to be capable of piloting the ship of which the applicant is master or first mate (or that and any other ships specified in the certificate) within the harbour or a part of the harbour as may be specified; and

(b) in any case where it appears to the authority to be necessary in the interests of safety, that the applicant’s knowledge of English is sufficient for that purpose.

(2) The requirements imposed under subsection (1) must not be —

(a) unduly onerous having regard to the difficulties and danger of navigation in the harbour in question; and

(b) more onerous than those required to be met by a person (other than a person who immediately before the appointed day was a recognised assistant pilot within the meaning of section 42).

(3) If the Governor is satisfied, on request by the authority, that it is appropriate to do so by reason of the unusual hazards involved in shipping movements within the harbour, the Governor may make an order suspending the granting of pilotage exemption certificates for a period not exceeding three years.

(4) Where an order is made under subsection (3) any pilotage exemption certificate granted by the authority ceases to have effect and the authority must notify the holders of such certificates of that fact.

(5) A pilotage exemption certificate will not remain in force for more than one year from the date on which it is granted, but —

(a) if the holder continues to be the master or first mate of a ship and the requirements under subsection (1) are met, the authority may renew it annually; and

(b) on the application of the holder, may be altered so as to refer to different ships from those to which it previously referred if the authority is satisfied the requirements under subsection (1) as respect to those ships are met.

(6) The authority may suspend or revoke a pilotage exemption certificate if the holder has been found guilty of any incompetence or misconduct which affects the holder’s capability to pilot the ship of which he or she is master or first mate or any other ships specified in the certificate.

(7) Before refusing an application by any person under this section for the grant, renewal or alteration of a certificate or suspending or revoking a certificate held by any person, the authority must give the applicant written notice of its intention to do so, stating the reasons for which it proposes to act, and must give the applicant a reasonable opportunity to make representations.

(8) The authority may charge such fees in respect of any examination required to be taken for the purposes of this section or the grant, renewal or alteration of any pilotage exemption certificate as the authority considers reasonable for the purposes of meeting its administrative costs in connection with the granting of pilotage exemption certificates.

[Pilotage Act 1987 (UK), s. 8]

49. Prevention of discrimination in favour of authority's ships

The authority must ensure that any ship owned or operated by it and used by it in the exercise of its functions otherwise than under this Ordinance is subject to the same obligations as respects pilotage whilst navigating within any harbour in the Falkland Islands as required for any other ship.

[Pilotage Act 1987 (UK), s. 9]

50. Compulsory pilotage

(1) A ship which is being navigated in an area and in circumstances in which pilotage is compulsory for it by virtue of a pilotage direction must be under the pilotage of —

(a) an authorised pilot accompanied by such an assistant, if any, as is required by virtue of the direction; or

(b) a master or first mate possessing a pilotage exemption certificate in respect of that area and ship.

(2) If any ship is not under pilotage as required by subsection (1) after an authorised pilot has offered to take charge of the ship, the master of the ship commits an offence and is liable on summary conviction to a fine not exceeding level 6 on the scale set out in the Schedule.

(3) If the master of a ship navigates the ship in an area and in circumstances in which pilotage is compulsory as required under a pilotage direction without notifying the authority which gave the direction that he or she proposes to do so, the master commits an offence and is liable on summary conviction to a fine not exceeding level 6 on the scale set out in the Schedule.

[Pilotage Act 1987 (UK), s. 15]

51. Liability for ships under compulsory pilotage

The fact that a ship is being navigated in an area and in circumstances in which pilotage is compulsory for it does not affect any liability of the owner or master of the ship for any loss or damage caused by the ship or by the manner in which it is navigated.

[Pilotage Act 1987 (UK), s. 16]

52. Regulations

The Governor may make regulations to provide for —

(a) the authorisation and qualifications of pilots under section 44;

- (b) the employment of authorised pilots;
- (c) the making of applications for exemption certificates under section 48;
- (d) the licensing and approval of pilot boats;
- (e) the making of pilotage directions; and
- (f) any other matter which is to be prescribed to give effect to this Part.

PART 6 – DREDGING AND OTHER WORKS

53. Licensing requirements

- (1) Subject to section 35 and this Part, a licence is required under this Part for —
 - (a) the carrying out of any works within a harbour; or
 - (b) dredging.
- (2) The Governor may designate the authority or appoint a public officer to be the licensing authority for the purposes of this Part and if no designation of the authority or appointment of a public officer has been done, the Governor will, for the time being, be the licensing authority.
- (3) In determining whether to issue a licence, the licensing authority —
 - (a) must have regard to the need to —
 - (i) protect the marine environment, the living resources which it supports, and human health;
 - (ii) prevent interference with legitimate uses of the harbour in particular with regard to public rights; and
 - (b) may have regard to such other matters as the licensing authority considers relevant.
- (4) Without prejudice to the generality of subsection (3), where it appears to the licensing authority that in carrying out any proposed works or dredging, there is a likelihood of interference with or damage to any apparatus belonging to or maintained by the authority or anything that will obstruct or impede the safe navigation of ships within the harbour, the licensing authority must, in determining whether to issue a licence, have regard to the practical availability of any alternative methods.
- (5) The licensing authority —
 - (a) must include such provisions in a licence as appear to the licensing authority to be necessary or expedient to —
 - (i) protect the marine environment, the living resources which it supports, and human health; and

(ii) prevent interference with legitimate uses of the sea; and

(b) may include in a licence such other conditions as the licensing authority considers appropriate which may include the alternative methods referred to under subsection (4).

(6) Without prejudice to the generality of subsection (5), the licensing authority may include in a licence conditions requiring —

(a) that no operations authorised by the licence must be carried out until the licensing authority has given such further consent or approval of the operation as the licence may specify; and

(b) consultation with users of the harbour or any other persons as may be specified.

54. Offences relating to licensing

(1) A person commits an offence who —

(a) does anything for which a licence is needed —

(i) despite not being the holder of the licence needed; or

(ii) in a manner that is not in accordance with the terms of the required licence which the person holds; or

(b) causes or permits any other person to do any such thing except in pursuance of a licence and in accordance with its provisions.

(2) A person commits an offence who, for the purpose of procuring the issue of a licence or in purporting to carry out any duty imposed on the person by the provisions of a licence makes a statement which the person knows to be false in a material particular.

(3) Any person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 6 on the scale set out in the Schedule.

55. Power to take remedial action

(1) The Governor may authorise the carrying out of any operation which appears to the Governor may be necessary or expedient for the purpose of —

(a) protecting the marine environment, the living resources which it supports, and human health; or

(b) preventing interference with the legitimate use of the sea,

in any case where anything for which a licence is needed appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.

(2) If any such operation as is provided for in subsection (1) is carried out, the Government may recover any expenses reasonably incurred in carrying it out from any person who has been

convicted of an offence in consequence of the act or omission which made it necessary or expedient for the operation to be carried out.

[Marine Environment (Protection) Ordinance (Title 34.6), s. 8]

56. Regulations with regards to licences

The Governor may make regulations —

- (a) to provide for the licensing of works under this Part;
- (b) to provide for licences to carry out dredging operations;
- (c) to set requirements for consultations under section 53(6);
- (d) to provide for requirements which must be in place to safeguard the environment
- (e) for any other matter necessary to give effect to this Part.

PART 7 – MISCELLANEOUS PROVISIONS

57. Repeals and savings

(1) The Harbours Ordinance 1902 is repealed.

(2) Notwithstanding subsections (1) —

(a) any person appointed as the Harbour Master under the Ordinance repealed under this section continues to hold such appointment as specified in their instrument of appointment;

(b) any regulations or orders made under the Ordinance repealed under this section which are in force before the commencement of this section continue in force in so far as they are not inconsistent with this Ordinance or until they are revoked.

SCHEDULE

SCALE OF FINES FOR OFFENCES UNDER THIS ORDINANCE

| Level | Maximum Fine |
|--------------|---------------------|
| 1 | £2,500 |
| 2 | £5,000 |
| 3 | £10,000 |
| 4 | £20,000 |
| 5 | £40,000 |
| 6 | £100,000 |
| 7 | £175,000 |
| 8 | £250,000 |
| 9 | £500,000 |
| 10 | £1,250,000 |
| 11 | £2,500,000 |
| 12 | £6,500,000 |

Passed by the Legislature of the Falkland Islands on 28 September 2017.

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.

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Merchant Shipping (Adoption of Legislation)(Amendment) Ordinance 2017

(No: 22 of 2017)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Schedule 1 to the Ordinance

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

**MERCHANT SHIPPING (ADOPTION OF LEGISLATION)(AMENDMENT)
ORDINANCE 2017**

(No: 22 of 2017)

(assented to: 21 December 2017)
(commencement: in accordance with section 2)
(published: 31 January 2018)

AN ORDINANCE

To amend the Merchant Shipping (Adoption of Legislation) Ordinance 1992 to discontinue the application of some United Kingdom Acts adopted under this Ordinance.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Merchant Shipping (Adoption of Legislation) (Amendment) Ordinance 2017.

2. Commencement

This Ordinance comes into force on a day appointed by the Governor by notice in the *Gazette*.

3. Amendment of Schedule 1 to the Ordinance

Part II of Schedule 1 to the Merchant Shipping (Adoption of Legislation) Ordinance is amended by deleting the following entries —

- (a) Merchant Shipping Act 1964 and the provision describing the extent of its application to the Falkland Islands;
- (b) Anchor and Cable Chains Act 1967 and the provision describing the extent of its application to the Falkland Islands;

(c) Fishing Vessels (Safety Provisions) Act 1970 and the provision describing the extent of its application to the Falkland Islands;

(d) Merchant Shipping Act 1979 and the provision describing the extent of its application to the Falkland Islands; and

(e) Merchant Shipping Act 1995 and the provision describing the extent of its application to the Falkland Islands.

Passed by the Legislature of the Falkland Islands on 28 September 2017.

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

Communications (Exclusive Licence Fee) Regulations 2018

S. R. & O. No. 1 of 2018

Made: 23 January 2018

Published: 31 January 2018

Coming into force: upon publication

I make these regulations under section 74 of the Communications Ordinance 2017, on the advice of the Executive Council.

1. Title

These Regulations are the Communications (Exclusive Licence Fee) Regulations 2018.

2. Commencement

These Regulations come into force on publication in the *Gazette*.

3. Interpretation

In these regulations —

“exclusive licence” means a licence referred to in Part 7 of the Communications Ordinance.

4. Exclusive licence fee

The fee payable by the licensee for an exclusive licence is £20,000 per year.

Made 23 January 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE

(not forming part of the regulations)

These Regulations prescribe the amount of the fee to be paid for an exclusive licence issued under Part 7 of the Communications Ordinance. The fee is set at £20,000 per year.



FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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28 February 2018

No. 3

Appointment

Nicole Denise Socodo, Data Clerk, Fisheries, Natural Resources Department, 08.01.18.

Julie Rose Sloan, Tourism Development Specialist, Policy and Economic Development Department, 30.01.18.

Chloe Anderson, Policy Assistant, Policy and Economic Development Department, 01.02.18.

Marilou Delignieres, Trainee Pilot, Falkland Islands Government Air Service, Development and Commercial Services Department, 02.02.18.

Alexander Alao, Mechanic, Plant and Vehicle Section, Public Works Department, 05.02.18.

Naomi Baxter, Biosecurity Officer, Agriculture, Natural Resources Department, 05.02.18.

David George Benjamin, General Handyperson, Property and Municipal Section, Public Works Department, 05.02.18.

Davide Ranghetti, Economist and Economic Policy Adviser, Policy and Economic Development Department, 06.02.18.

Christopher Meneses Cruz, Plant Operator/Handyperson, Highways Section, Public Works Department, 16.02.18.

Tansie Rebecca Bonner, Cleaner, Agriculture, Natural Resources Department, 19.02.18.

Jonathan William Poynter, Deputy Marine Officer/Harbour Master, Fisheries, Natural Resources Department, 19.02.18.

Sara Whitney, Learning Support Assistant, Infant and Junior School, Education Department, 19.02.18.

Michael William McLeod, Carpenter, Property and Municipal Section, Public Works Department, 26.02.18.

Charles Eybers, Mechanic, Plant and Vehicle Section, Public Works Department, 27.02.18.

Completion of contract

Jessica Briony Jones, PHD Intern – Marine Ecology, Fisheries, Natural Resources Department, 01.02.18.

Alison Mary McAndie, Senior Staff Nurse, Health and Social Services Department, 20.02.18.

Bernard John Meehan, Senior Fisheries Protection Officer, Fisheries, Natural Resources Department, 28.02.18.

Renewal of contract

Mary Elizabeth Ashdown, Senior Dental Officer, Health and Social Services Department, 01.02.18.

Jessica Briony Jones, PHD Intern – Marine Ecology, Fisheries, Natural Resources Department, 02.02.18.

Promotion

Christopher John James Butler, from Senior Police Constable to Sergeant (Operations), Royal Falkland Islands Police, Emergency Services Department, 19.02.18.

Resignation

Gary Webb, Sergeant, Royal Falkland Islands Police, Emergency Services Department, 20.11.17.

Len McGill, Chief of Police, Royal Falkland Islands Police, Emergency Services Department, 06.01.18.

Wendy Luxton, Residential Care Worker, Health and Social Services Department, 02.02.18.

Ian James McLeod, Foreman, Highways Section, Public Works Department, 02.02.18.

Louise Ellis, CMT Policy Co-ordinator, Policy and Economic Development Department, 13.02.18.

Robert Keith Legg, Caretaker/Handyperson, Property and Municipal Section, Public Works Department, 15.02.18.

Margo-Amee Smallwood, Cleaner, Agriculture, Natural Resources Department, 15.02.18.

Ryan Neil Watson, Sports Attendant, Leisure Centre, Development and Commercial Services Department, 28.02.18.

Retirement

David Street, Chief of Police, Royal Falkland Islands Police, Emergency Services Department, 12.01.18.

Robert Gilbert, Assistant Power Station Manager, Power and Electrical Section, Public Works Department, 09.02.18.

NOTICES

No. 14

1 February 2018

Land Ordinance 1949 section 11A

Vesting Deed

Further to an application made by **Jennifer Carol Forrest** of 16 Kent Road, Stanley, Falkland Islands, pursuant to section 11A of the Land Ordinance (notice of which application was published in the Gazette on 31 December 2017) I hereby give notice that I have this day executed a Vesting Deed in the form set out hereafter:

“Whereas on application having been made to me Elizabeth Jayne Dent, Registrar General, pursuant to section 11A of the Land Ordinance by **Jennifer Carol Forrest** of 16 Kent Road, Stanley, Falkland Islands, I am satisfied that the said Jennifer Carol Forrest is entitled to be registered as the owner in fee simple absolute in possession of the land described in the Schedule to this deed now therefore by this deed I do declare that the estate in fee simple absolute in possession of the said land is vested in the said Jennifer Carol Forrest subject only to such matters as are mentioned in Crown Grant 49 and to such easements rights privileges and encumbrances as may have been created prior to the date of this deed.

Schedule (description of land)

All that piece or parcel of land measuring approximately 104.12 square metres forming part of Crown Grant 49 bounded on the east by the public road known as Hebe Street for a distance of 7.6 metres and bounded on the south by the property owned by Jennifer Carol Forrest known as 12 Hebe Street for the distance of 13.7 metres.”

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

Dated 1 February 2018

E. J. DENT,
Registrar General.

No. 15

2 February 2018

Swan Inlet Limited Company Number: 13798

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 2 February 2018

E. J. DENT,
Registrar of Companies.

No. 16

2 February 2018

Falkland Islands Pensions Scheme Ordinance 1997 (section 5)

Appointment of Member to the Pensions Board

1. Section 5(1) of the Falkland Islands Pensions Scheme Ordinance 1997 provides that the Governor shall appoint members to the Pensions Board.

2. In exercise of my powers under section 5(2)(b), after consultation with representatives of employers, I appoint **Karen Margaret Drysdale** to be a member of the Pensions Board from 11 February 2018 to 10 February 2021.

3. This appointment has effect and continues in effect as detailed in paragraph 2 above and in accordance with the Falkland Islands Pensions Scheme Ordinance, unless terminated sooner.

Dated 2 February 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 17

5 February 2018

Shepherd Offshore (Falklands) Limited Company Number: 15732

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 5 February 2018.

Dated 5 February 2018

E. J. DENT,
Registrar of Companies.

No. 18

7 February 2018

Media Trust Ordinance 1989 section 4

Appointment of Chair

1. Section 4 of the Media Trust Ordinance 1989 provides that trustees of the Media Trust shall be appointed by the Governor

acting in his discretion. Daniel Martin Fowler was appointed a trustee of the Media Trust on 28 February 2017.

2. In exercise of my powers under section 4, I appoint **Daniel Martin Fowler** to be chair of the Media Trust.

3. This appointment has effect from 24 January 2018 and continues in effect until 27 February 2021, unless terminated sooner.

Dated 7 February 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 19

7 February 2018

Administration of Estates Ordinance 1949
section 13

Appointment of Official Administrator

1. Section 13 of the Administration of Estates Ordinance 1949 provides for an Official Administrator to be appointed by the Governor to exercise the rights, powers and duties and be subject to the liabilities of the Public Trustee established under the Public Trustee Act 1906, in respect of the administration of estates where the Official 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 1949, I appoint the holder of the post of **Attorney General** 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 given below and continues in effect until further appointment to the post is made or until otherwise terminated.

Dated 7 February 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 20

27 February 2018

Application for Falkland Islands Status

Notice is hereby given that:

Joanne Elizabeth Turner;
Julie Ann Halliday; and
Karen Jane Lee

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 22 March 2018.

Dated 27 February 2018

J. E. SMITH,
Immigration Officer.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

28 February 2018

No. 4

The following is published in this Supplement —

Criminal Procedure Rules 2018 (SR&O No 2 of 2018).

SUBSIDIARY LEGISLATION

Criminal Procedure Rules 2018

S. R. & O. No. 2 of 2018

Made:15 February 2018

Published:28 February 2018

Coming into force: on publication

Arrangement of Provisions

General Principles

Rule

PART 1

THE OVERRIDING OBJECTIVE

- 1.1 The overriding objective
- 1.2 The duty of the participants in a criminal case
- 1.3 The application by the court of the overriding objective

PART 2

UNDERSTANDING AND APPLYING THE RULES

- 2.1 When the Rules apply
- 2.2 Definitions
- 2.3 References to legislation, including these rules

PART 3

CASE MANAGEMENT

- 3.1 When this Part applies
- 3.2 The duty of the court
- 3.3 The duty of the parties
- 3.4 Case progression officers and their duties
- 3.5 The court's case management powers
- 3.6 Application to vary a direction
- 3.7 Agreement to vary a time limit fixed by a direction
- 3.8 Court's power to vary requirements under this Part
- 3.9 Case preparation and progression
- 3.10 Readiness for trial or appeal
- 3.11 Conduct of a trial or an appeal
- 3.12 Duty and powers of court officer

PART 4
SERVICE OF DOCUMENTS

- 4.1 When this Part applies
- 4.2 Methods of service
- 4.3 Service by handing over a document
- 4.4 Service by leaving or posting a document
- 4.5 Service by electronic means
- 4.6 Documents that cannot be served by electronic means
- 4.7 Service by person in custody
- 4.8 Service by another method
- 4.9 Documents that may not be served on a legal representative
- 4.10 Date of service
- 4.11 Proof of service
- 4.12 Court's power to give directions about service

PART 5
FORMS AND COURT RECORDS

- 5.1 Applications, etc. by forms or electronic means
- 5.2 Signature of forms
- 5.3 Duty to make records
- 5.4 Recording and transcription of proceedings
- 5.5 Custody of case materials
- 5.6 Supply to a party of information or documents from records or case materials
- 5.7 Supply to the public, including reporters, of information about cases
- 5.8 Supply of written certificate or extract from records

PART 6
PROCEEDINGS IN PUBLIC

- 6.1 When this Part applies
- 6.2 Exercise of court's powers to which this Part applies
- 6.3 Court's power to vary requirements under this Part
- 6.4 Reporting and access restrictions
- 6.5 Varying or removing restrictions

Commencing and Concluding Proceedings

PART 7
COMMENCING A PROSECUTION

- 7.1 When this Part applies
- 7.2 Information and written charge
- 7.3 Allegation of offence in information or charge

PART 8
EARLY DETAILS OF THE PROSECUTION CASE

- 8.1 Providing early details of the prosecution case
- 8.2 Content of early details

PART 9
DISCONTINUING A PROSECUTION

- 9.1 When this Part applies
- 9.2 Discontinuing a case
- 9.3 Defendant's notice to continue

Jurisdiction and Allocation

PART 10
CRIMINAL JURISDICTION

- 10.1 Criminal jurisdiction of the Summary Court
- 10.2 Duty of justices legal adviser
- 10.3 Criminal jurisdiction of the Magistrate's Court
- 10.4 Criminal jurisdiction of the Supreme Court

PART 11
ALLOCATION, TRANSFER, SENDING AND COMMITTAL

- 11.1 Allocation of offences
- 11.2 Transfer between courts
- 11.3 Sending indictable offences to the Supreme Court
- 11.4 Form and content of the indictment
- 11.5 Committal for sentence

Court Practice

PART 12
MODES OF ADDRESS AND COURT ATTIRE

- 12.1 When this Part applies
- 12.2 Modes of address
- 12.3 Court attire

Detainment and Bail

PART 13
WARRANTS FOR ARREST, DETENTION OR IMPRISONMENT

- 13.1 When this Part applies
- 13.2 Terms of a warrant for arrest
- 13.3 Terms of a warrant for detention or imprisonment
- 13.4 Information to be included in a warrant
- 13.5 Execution of a warrant
- 13.6 Warrants that cease to have effect on payment
- 13.7 Warrant issued when the court office is closed

PART 14
BAIL AND CUSTODY TIME LIMITS

- 14.1 When this Part applies

- 14.2 Exercise of court's powers to which this Part applies
- 14.3 General duties of court officer
- 14.4 Prosecutor's representations about bail
- 14.5 Reconsideration of police bail
- 14.6 Notice of application to consider bail
- 14.7 Defendant's application or appeal to the Supreme Court
- 14.8 Prosecutor's appeal against grant of bail
- 14.9 Consideration of bail in a murder or treason case
- 14.10 Condition of residence
- 14.11 Requirement for surety or payment, etc.
- 14.12 Forfeiture of a recognisance given by a surety
- 14.13 When these rules about custody time limits apply
- 14.14 Custody time limits
- 14.15 Application for extension of custody time limit
- 14.16 Bail on expiry of the custody time limit
- 14.17 Appeal against custody time limit decision

Preparing for Trial

PART 15
PRELIMINARY APPLICATIONS

- 15.1 Application to stay case for abuse of process
- 15.2 Application for indication of sentence

PART 16
PLEA AND TRIAL PREPARATION HEARINGS

- 16.1 Application for joint or separate trials
- 16.2 Order for joint or separate trials, or amendment of the indictment
- 16.3 Arraigning the defendant on the indictment
- 16.4 Manner of trial on indictment
- 16.5 Taking a plea in summary proceedings
- 16.6 Written plea of guilty in absence
- 16.7 Pre-trial hearings: general rules
- 16.8 Place of trial

PART 17
MEASURES TO ASSIST A WITNESS OR DEFENDANT TO GIVE EVIDENCE

- 17.1 Making an application for a direction or order
- 17.2 Decisions and reasons
- 17.3 Court's power to vary requirements under this Part
- 17.4 Custody of documents
- 17.5 Declaration by intermediary
- 17.6 Special measures directions - exercise of court's power
- 17.7 Special measures direction for a young witness
- 17.8 Content of application for a special measures direction
- 17.9 Application to vary or discharge a special measures direction

- 17.10 Application containing information withheld from another party
- 17.11 Representations in response
- 17.12 Defendant's evidence direction - exercise of court's power
- 17.13 Content of application for a defendant's evidence direction
- 17.14 Application to vary or discharge a defendant's evidence direction
- 17.15 Representations in response
- 17.16 Witness anonymity direction - exercise of court's power
- 17.17 Content and conduct of application for a witness anonymity order
- 17.18 Duty of court officer to notify the Attorney General
- 17.19 Application to vary or discharge a witness anonymity order
- 17.20 Representations in response
- 17.21 Live link direction - exercise of court's powers
- 17.22 Content of application for a live link direction
- 17.23 Application to discharge a live link direction
- 17.24 Representations in response

PART 18
DISCLOSURE

- 18.1 When this Part applies
- 18.2 Prosecution disclosure
- 18.3 Prosecutor's application for public interest ruling
- 18.4 Defence disclosure
- 18.5 Defendant's application for prosecution disclosure
- 18.6 Review of public interest ruling
- 18.7 Defendant's application to use disclosed material
- 18.8 Unauthorised use of disclosed material
- 18.9 Court's power to vary requirements under this Part

Trial Procedure

PART 19
PROCEDURE AT SUMMARY TRIAL

- 19.1 Procedure at trial
- 19.2 Unrepresented defendants

PART 20
JURIES

- 20.1 Selecting the jury
- 20.2 Discharging jurors
- 20.3 Objecting to jurors

PART 21
PROCEDURE AT TRIAL ON INDICTMENT

- 21.1 Procedure at trial
- 21.2 Directions to the jury
- 21.3 Taking the verdict of the jury

- 21.4 Directions and verdict when trial by judge alone

Evidence

PART 22
FORMS OF EVIDENCE

- 22.1 Evidence of a witness in person
- 22.2 Evidence of a witness in writing
- 22.3 Evidence by admission

PART 23
WRITTEN WITNESS STATEMENTS

- 23.1 Content of written witness statement
- 23.2 Written witness statement in evidence

PART 24
EXPERT EVIDENCE

- 24.1 When this Part applies
- 24.2 Expert's duty to the court
- 24.3 Introduction of expert evidence
- 24.4 Content of expert's report
- 24.5 Expert to be informed of service of report
- 24.6 Pre-hearing discussion of expert evidence
- 24.7 Court's power to direct that evidence is to be given by a single joint expert
- 24.8 Instructions to a single joint expert
- 24.9 Court's power to vary requirements under this Part

PART 25
HEARSAY EVIDENCE

- 25.1 Notice to introduce hearsay evidence
- 25.2 Opposing the introduction of hearsay evidence
- 25.3 Reasons for decisions
- 25.4 Unopposed hearsay evidence
- 25.5 Court's power to vary requirements under this Part

PART 26
EVIDENCE OF BAD CHARACTER

- 26.1 When this Part applies
- 26.2 Content of application or notice
- 26.3 Application to introduce evidence of a non-defendant's bad character
- 26.4 Notice to introduce evidence of a defendant's bad character
- 26.5 Reasons for decisions
- 26.6 Court's power to vary requirements under this Part

PART 27

EVIDENCE OF A COMPLAINANT'S PREVIOUS SEXUAL BEHAVIOUR

- 27.1 When this Part applies
- 27.2 Application for permission to introduce evidence or cross-examination
- 27.3 Content of application
- 27.4 Service of application
- 27.5 Reply to application
- 27.6 Application for special measures
- 27.7 Court's power to vary requirements under this Part

PART 28

RESTRICTION ON CROSS-EXAMINATION BY A DEFENDANT

- 28.1 When this Part applies
- 28.2 Appointment of advocate to cross-examine witness
- 28.3 Exercise of court's powers
- 28.4 Application to prohibit cross-examination
- 28.5 Application to discharge prohibition imposed by the court
- 28.6 Application containing information withheld from another party
- 28.7 Representations in response
- 28.8 Court's power to vary requirements

Sentence

PART 29

SENTENCING PROCEDURES

- 29.1 Reasons for not following usual sentencing requirements
- 29.2 Notice of requirements of suspended sentence and community, etc. orders
- 29.3 Notification requirements
- 29.4 Variation of sentence
- 29.5 Application to vary or discharge a compensation order
- 29.6 Application to remove, revoke or suspend a disqualification or restriction
- 29.7 Requests for medical reports, etc.
- 29.8 Information to be supplied on the making of a supervision order
- 29.9 Application to review sentence because of assistance given or withheld

Appeals

PART 30

APPEALS TO THE SUPREME COURT

- 30.1 When this Part applies
- 30.2 Appeals against conviction
- 30.3 Appeals against sentence
- 30.4 Time limit for an appeal by a defendant
- 30.5 Form of the appeal notice
- 30.6 Respondent's notice
- 30.7 Directions

- 30.8 Bail pending appeal
- 30.9 Calling evidence on appeal
- 30.10 Loss of time order
- 30.11 Abandonment
- 30.12 Procedure at appeal hearing

SUBSIDIARY LEGISLATION

Criminal Procedure Rules 2018

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I make these rules under section 785 of the Criminal Procedure and Evidence Ordinance 2014.

General Principles

PART 1 THE OVERRIDING OBJECTIVE

1.1. The overriding objective

- (1) The overriding objective of this procedural code is that criminal cases be dealt with justly.
- (2) Dealing with a criminal case justly includes —
 - (a) acquitting the innocent and convicting the guilty;
 - (b) dealing with the prosecution and the defence fairly;
 - (c) recognising the constitutional rights of a defendant under the Constitution;
 - (d) respecting the interests of witnesses, victims and jurors and keeping them informed of the progress of the case;
 - (e) dealing with the case efficiently and expeditiously;
 - (f) ensuring that appropriate information is available to the court when bail and sentence are considered; and
 - (g) dealing with the case in ways that take into account —
 - (i) the gravity of the offence alleged,
 - (ii) the complexity of what is in issue,
 - (iii) the severity of the consequences for the defendant and others affected, and

(iv) the needs of other cases.

1.2. The duty of the participants in a criminal case

(1) Each participant, in the conduct of each case, must —

(a) prepare and conduct the case in accordance with the overriding objective;

(b) comply with these Rules and directions made by the court; and

(c) at once inform the court and all parties of any significant failure (whether or not that participant is responsible for that failure) to take any procedural step required by these Rules, any practice direction or any direction of the court. A failure is significant if it might hinder the court in furthering the overriding objective.

(2) Anyone involved in any way with a criminal case is a participant in its conduct for the purposes of this rule.

1.3. The application by the court of the overriding objective

The court must further the overriding objective in particular when—

(a) exercising any power given to it by legislation (including these Rules); or

(b) applying any Practice Direction; or

(c) interpreting any rule.

PART 2 UNDERSTANDING AND APPLYING THE RULES

2.1. When the Rules apply

(1) In general, Criminal Procedure Rules apply in all criminal cases in the Summary Court, the Magistrate’s Court and the Supreme Court.

(2) If a rule applies only in one or some of those courts, the rule makes that clear.

(3) These Rules apply on and after their publication in the Gazette.

(4) Unless the court otherwise directs, they do not affect a right or duty existing under any other legislation or practice direction.

2.2. Definitions

(1) In these Rules, unless the context makes it clear that something different is meant —

“advocate” means a person who is entitled to exercise a right of audience in the court;

“Attorney General” means the Attorney General of the Falkland Islands or a person authorised to act on the Attorney General’s behalf;

“business day” means any day except Saturday, Sunday, Christmas Day, Boxing Day, or a public holiday;

“court” means a tribunal with jurisdiction over criminal cases;

“court officer” means the appropriate member of the staff of a court as determined by a judge, the Registrar or the Head of Courts or, in the case of r3.12(2), as appointed by the Chief Justice;

“defendant” means a defendant in person or, where the context allows, a defendant’s advocate or legal representative;

“judge” means the Chief Justice, or any person presiding over a trial if not the Chief Justice;

“legal representative” means the person for the time being named as a party’s representative and who is entitled to conduct litigation in the court;

“live link” means an arrangement by which a person can see and hear, and be seen and heard by, the court when that person is not in the courtroom;

“prosecutor” means a prosecutor or person authorised to act on the prosecutor’s behalf;

“public interest ruling” means a ruling about whether it is in the public interest to disclose prosecution material under sections 235 and 236 of the Criminal Procedure and Evidence Ordinance 2014; and

“Registrar” means the Registrar of the Supreme Court or a court officer acting with the Registrar’s authority.

(2) Definitions of some other expressions are in the rules in which they apply.

2.3. References to legislation, including these Rules

(1) In these Rules, where a rule refers to an Ordinance or to subordinate legislation by title and year, subsequent references to that Ordinance or to that legislation in the rule are shortened: so, for example, after a reference to the Criminal Procedure Rules reference is then made to ‘the Rules’.

(2) In the courts to which these Rules apply—

(a) a reference to the Criminal Procedure Rules may be abbreviated to ‘CrimPR’; and

(b) a reference to a Part or rule in the Criminal Procedure Rules may be abbreviated to, for example, ‘CrimPR Part 3’ or ‘CrimPR 3.5’.

PART 3
CASE MANAGEMENT

3.1. When this Part applies

Rules 3.1 to 3.12 apply to the management of each case in the Summary Court, Magistrate's Court and the Supreme Court.

3.2. The duty of the court

- (1) The court must further the overriding objective by actively managing the case.
- (2) Active case management includes—
 - (a) the early identification of the real issues;
 - (b) the early identification of the needs of witnesses;
 - (c) achieving certainty as to what must be done, by whom, and when, in particular by the early setting of a timetable for the progress of the case;
 - (d) monitoring the progress of the case and compliance with directions;
 - (e) ensuring that evidence, whether disputed or not, is presented in the shortest and clearest way;
 - (f) discouraging delay, dealing with as many aspects of the case as possible on the same occasion, and avoiding unnecessary hearings;
 - (g) encouraging the participants to co-operate in the progression of the case; and
 - (h) making use of technology, including the provision of a live link where appropriate.
- (3) The court must actively manage the case by giving any direction appropriate to the needs of that case as early as possible.

3.3. The duty of the parties

- (1) Each party must—
 - (a) actively assist the court in fulfilling its duty under rule 3.2, without or if necessary with a direction; and
 - (b) apply for a direction if needed to further the overriding objective.
- (2) Active assistance for the purposes of this rule includes—

- (a) at the beginning of the case, communication between the prosecutor and the defendant at the first available opportunity and in any event no later than the beginning of the day of the first hearing;
- (b) after that, communication between the parties and with the court officer until the conclusion of the case;
- (c) by such communication establishing, among other things—
 - (i) whether the defendant is likely to plead guilty or not guilty,
 - (ii) what is agreed and what is likely to be disputed,
 - (iii) what information, or other material, is required by one party of another, and why, and
 - (iv) what is to be done, by whom, and when (without or if necessary with a direction);
- (d) reporting on that communication to the court—
 - (i) at the first hearing, and
 - (ii) after that, as directed by the court; and
- (e) consideration of whether technology would be of assistance in the proceedings.

3.4. Case progression officers and their duties

- (1) At the beginning of the case each party must, unless the court otherwise directs—
 - (a) nominate someone responsible for progressing that case; and
 - (b) tell other parties and the court who that is and how to contact that person.
- (2) In fulfilling its duty under rule 3.2, the court must where appropriate—
 - (a) nominate a court officer responsible for progressing the case; and
 - (b) make sure the parties know who that is and how to contact that court officer.
- (3) In this Part a person nominated under this rule is called a case progression officer.
- (4) A case progression officer must—
 - (a) monitor compliance with directions;

- (b) make sure that the court is kept informed of events that may affect the progress of that case;
- (c) make sure that he or she can be contacted promptly about the case;
- (d) act promptly and reasonably in response to communications about the case; and
- (e) if he or she will be unavailable, appoint a substitute to fulfil his or her duties.

3.5. The court's case management powers

(1) In fulfilling its duty under rule 3.2 the court may give any direction and take any step actively to manage a case unless that direction or step would be inconsistent with legislation, including these Rules.

(2) In particular, the court may—

- (a) nominate a case management officer;
- (b) give a direction on its own initiative or on application by a party;
- (c) ask or allow a party to propose a direction;
- (d) for the purpose of giving directions, receive applications and representations by letter, by telephone or by any other means of electronic communication, and conduct a hearing by such means;
- (e) give a direction—
 - (i) at a hearing, in public or in private, or
 - (ii) where the parties expressly consent, without a hearing;
- (f) fix, postpone, bring forward, extend, cancel or adjourn a hearing;
- (g) shorten or extend (even after it has expired) a time limit fixed by a direction;
- (h) require that issues in the case should be—
 - (i) identified in writing,
 - (ii) determined separately, and decide in what order they will be determined; and
 - (iii) specify the consequences of failing to comply with a direction.

(3) The Summary Court, Magistrate's Court and the Supreme Court may give a direction that will apply in another court if the case is to continue there.

(4) Any power to give a direction under this Part includes a power to vary or revoke that direction.

(5) If a party fails to comply with a rule or a direction, the court may—

(a) fix, postpone, bring forward, extend, cancel or adjourn a hearing;

(b) exercise its powers to make a costs order; and

(c) impose such other sanction as may be appropriate.

3.6. Application to vary a direction

(1) A party may apply to vary a direction if—

(a) the court gave it without a hearing;

(b) the court gave it at a hearing in that party's absence; or

(c) circumstances have changed.

(2) A party who applies to vary a direction must—

(a) apply as soon as practicable after becoming aware of the grounds for doing so; and

(b) give as much notice to the other parties as the nature and urgency of the application permits.

3.7. Agreement to vary a time limit fixed by a direction

(1) The parties may agree to vary a time limit fixed by a direction, but only if—

(a) the variation will not—

(i) affect the date of any hearing that has been fixed, or

(ii) significantly affect the progress of the case in any other way;

(b) the court has not prohibited variation by agreement; and

(c) the court's case progression officer is promptly informed.

(2) The court's case progression officer must refer the agreement to the court if in doubt that the condition in paragraph (1)(a) is satisfied.

3.8. Court's power to vary requirements under this Part

(1) The court may—

- (a) shorten or extend (even after it has expired) a time limit set by this Part; and
- (b) allow an application or representations to be made orally.

(2) A person who wants an extension of time must—

- (a) apply when serving the application or representations for which it is needed; and
- (b) explain the delay.

3.9. Case preparation and progression

(1) At every hearing, if a case cannot be concluded there and then the court must give directions so that it can be concluded at the next hearing or as soon as possible after that.

(2) At every hearing the court must, where relevant—

- (a) if the defendant is absent, decide whether to proceed nonetheless;
- (b) if the defendant is unrepresented, explain to the defendant his right to be represented and/or to be supported during the course of the proceedings;
- (c) take the defendant's plea (unless already done) or if no plea can be taken then find out whether the defendant is likely to plead guilty or not guilty;
- (d) set, follow or revise a timetable for the progress of the case, which may include a timetable for any hearing including the trial or (in the Supreme Court) the appeal;
- (e) in giving directions, ensure continuity in relation to the court and to the parties' representatives where that is appropriate and practicable; and
- (f) where a direction has not been complied with, find out why, identify who was responsible, and take appropriate action.

(3) In order to prepare for the trial, the court must take every reasonable step—

- (a) to encourage and to facilitate the attendance of witnesses when they are needed; and
- (b) to facilitate the participation of any person, including the defendant.

(4) Facilitating the participation of the defendant includes finding out whether the defendant needs interpretation because—

- (a) the defendant does not speak or understand English; or
- (b) the defendant has a hearing or speech impediment.

- (5) Where the defendant needs interpretation—
- (a) the court officer must arrange for interpretation to be provided at every hearing which the defendant is due to attend;
 - (b) interpretation may be by an intermediary where the defendant has a speech impediment, without the need for a defendant’s evidence direction;
 - (c) on application or on its own initiative, the court may require a written translation to be provided for the defendant of any document or part of a document, unless—
 - (i) translation of that document, or part, is not needed to explain the case against the defendant, or
 - (ii) the defendant agrees to do without and the court is satisfied that the agreement is clear and voluntary and that the defendant has had legal advice or otherwise understands the consequences;
 - (d) on application by the defendant, the court must give any direction which the court thinks appropriate, including a direction for interpretation by a different interpreter, where—
 - (i) no interpretation is provided,
 - (ii) no translation is ordered or provided in response to a previous application by the defendant, or
 - (iii) the defendant complains about the quality of interpretation or of any translation.
- (6) Facilitating the participation of any person includes giving directions for the appropriate treatment and questioning of a witness or the defendant, especially where the court directs that such questioning is to be conducted through an intermediary.
- (7) Where directions for appropriate treatment and questioning are required, the court must—
- (a) invite representations by the parties and by any intermediary; and
 - (b) set ground rules for the conduct of the questioning, which rules may include—
 - (i) a direction relieving a party of any duty to put that party’s case to a witness or a defendant in its entirety,
 - (ii) directions about the manner of questioning,
 - (iii) directions about the duration of questioning,
 - (iv) if necessary, directions about the questions that may or may not be asked,

(v) where there is more than one defendant, the allocation among them of the topics about which a witness may be asked, and

(vi) directions about the use of models, plans, body maps or similar aids to help communicate a question or an answer.

(8) Every interpreter and intermediary shall be provided with a copy of the Code of Conduct on Interpreters and Intermediaries which shall set out the duties of interpreters and intermediaries to the court and to the parties.

3.10. Readiness for trial or appeal

(1) This rule applies to a party's preparation for trial or appeal, and in this rule and rule 3.11 'trial' includes any hearing at which evidence will be introduced.

(2) In fulfilling the duty under rule 3.3, each party must—

(a) comply with directions given by the court;

(b) take every reasonable step to make sure that party's witnesses will attend when they are needed;

(c) make appropriate arrangements to present any written or other material; and

(d) promptly inform the court and the other parties of anything that may—

(i) affect the date or duration of the trial or appeal, or

(ii) significantly affect the progress of the case in any other way.

(3) The court may require a party to give a certificate of readiness.

3.11. Conduct of a trial or an appeal

In order to manage a trial or an appeal, the court—

(a) must establish, with the active assistance of the parties, what are the disputed issues;

(b) must consider setting a timetable that—

(i) takes account of those issues and of any timetable proposed by a party, and

(ii) may limit the duration of any stage of the hearing;

(c) may require a party to identify—

(i) which witnesses that party wants to give evidence in person,

- (ii) the order in which that party wants those witnesses to give their evidence,
- (iii) whether that party requires an order compelling the attendance of a witness,
- (iv) what arrangements are desirable to facilitate the giving of evidence by a witness,
- (v) what arrangements are desirable to facilitate the participation of any other person, including the defendant,
- (vi) what written evidence that party intends to introduce,
- (vii) what other material, if any, that person intends to make available to the court in the presentation of the case, and
- (viii) whether that party intends to raise any point of law that could affect the conduct of the trial or appeal; and

(d) may limit—

- (i) the examination, cross-examination or re-examination of a witness, and
- (ii) the duration of any stage of the hearing.

3.12. Duty and powers of court officer

(1) The court officer must—

(a) where a person is entitled or required to attend a hearing, give as much notice as reasonably practicable to—

- (i) that person, and
- (ii) that person's custodian (if any);

(b) where the court gives directions, promptly make a record available to the parties.

(2) The following things may be done by a court officer—

(a) the laying of an information, other than an information substantiated on oath;

(b) the issue of any summons, including a witness summons;

(c) the marking of an information as withdrawn, following consultation with a member of the judiciary;

(d) the dismissing of an information, or the discharging of an accused in respect of an information, or the discharging of an accused in respect of an information, where no evidence is offered by the prosecution, following consultation with a member of the judiciary;

(e) the making of an order for the payment of defence costs where that order is not an order that is based on the fault of another party to the proceedings;

(f) the extending of bail on the same conditions as those (if any) previously imposed, or, with the consent of the prosecutor and the accused, the imposing or varying of conditions of bail, following consultation with a member of the judiciary;

(g) the further adjournment of criminal proceedings with the consent of the prosecutor and the accused, and following consultation with the judiciary, if but only if,

(i) the accused, not having been remanded on the previous adjournment, is not remanded on the further adjournment; or

(ii) the accused, having been remanded on bail on the previous adjournment, is remanded on bail on the like terms and conditions, or, with the consent of the prosecutor and the accused, on other terms and conditions;

(h) the further adjournment of criminal proceedings, where there has been no objection by the prosecutor, where the accused, having been remanded on bail on the previous adjournment, is remanded on bail on the like terms and conditions in his absence and following consultation with the judiciary;

(i) the remand of the accused on bail in his absence at the time of further adjourning the proceedings in pursuance of sub-paragraph (j) above, following consultation with the judiciary;

(j) the appointment of a later time at which a person, who has been granted bail subject to a duty to appear before a court, is to appear, and the enlargement of any sureties for that person at that time, provided there is no objection by the prosecutor, following consultation with the judiciary;

(k) where a person has been granted police bail to appear at a court, the appointment of an earlier time for his appearance, following consultation with the judiciary;

(l) the asking of an accused whether he pleads guilty or not guilty to a charge, after having stated to him the substance of the information laid against him;

(m) the fixing or setting aside of a date, time and place for the trial of an information;

(n) the making of a direction in accordance with rule 3.9;

(o) the giving, variation or revocation of directions for the conduct of a criminal trial, including directions as to the following matters, namely–

(i) the timetable for proceedings;

(ii) the attendance of the parties; and

(iii) the service of documents (including summaries of any legal arguments relied on by the parties);

(p) with the consent of the parties, the giving, variation or revocation of orders for separate or joint trials in the case of two or more accused or two or more informations;

(q) where an accused has been convicted of an offence, the making of an order for him to produce his driving licence;

(r) the issue of a warrant of distress;

(s) the allowing of further time for payment of a sum enforceable by a court of summary jurisdiction or the varying of the number of instalments payable, the amount of any instalment payable and the date on which any instalment becomes payable where a court of summary jurisdiction has ordered that a sum adjudged to be paid shall be paid by instalments;

(t) the making of an order before an enquiry into the means of a person that that person shall furnish to the court a statement of his means;

(u) the fixing of a later day in substitution for a day previously fixed for the appearance of an offender to enable an enquiry into his means to be made or to enable a hearing to be held.

(3) Where the court officer does a thing in pursuance of sub-paragraph (2) above any party to the proceedings may apply, in writing, to the court for a review of the court officer's action.

(4) The court may determine an application for a review of the action of a court officer with, or without, a hearing having invited representations from the parties.

PART 4 SERVICE OF DOCUMENTS

4.1. When this Part applies

(1) The rules in this Part apply to the service of every document in a case to which these Rules apply; and

(2) The rules apply subject to any special rules in other legislation (including other Parts of these Rules).

4.2. Methods of service

A document may be served by any of the methods described in these rules.

4.3. Service by handing over a document

(1) A document may be served on—

- (a) an individual by handing it to him or her;
- (b) a corporation by handing it to a person holding a senior position in that corporation;
- (c) an individual or corporation who is legally represented in the case by handing it to that legal representative;
- (d) the prosecution by handing it to the prosecutor or to the prosecution representative;
- (e) the court by handing it to a court officer.

(2) If an individual is under 18, a copy of a document served under paragraph (1)(a) must be handed to his or her parent, or another appropriate adult, unless no such person is readily available.

(3) Unless the court otherwise directs, for the purposes of paragraph (1)(c) or (d) (service by handing a document to a party's representative) 'representative' includes an advocate appearing for that party at a hearing.

4.4. Service by leaving or posting a document

(1) A document may be served by addressing it to the person to be served and leaving it at the appropriate address for service under this rule, or by sending it to that address by post.

(2) The address for service under this rule on—

- (a) an individual is an address where it is reasonably believed that he or she will receive it;
- (b) a corporation is its principal office in the Falkland Islands, and if there is no readily identifiable principal office in the Falkland Islands then any place where it carries on its activities or business;
- (c) an individual or corporation who is legally represented in the case is that legal representative's office;
- (d) the prosecution is the prosecutor's office; and
- (e) the court is the relevant court office.

4.5. Service by electronic means

(1) This rule applies where—

(a) the person to be served has given an electronic address and has indicated that he or she is willing to accept service at that address, or

(b) the person to be served is legally represented in the case and the legal representative has given an electronic address.

(2) A document may be served by sending it by electronic means to the address which the recipient has given; and—

(a) in every case, making it possible for the recipient to read the document, or view or listen to its content, as the case may be, and

(b) unless the court otherwise directs, making it possible for the recipient to make and keep an electronic copy of the document,

provided that it is not a document listed in rule 4.6.

(3) Where a document is served under this rule the person serving it need not provide a paper copy as well.

4.6 Documents that cannot be served solely by electronic means

The following documents shall also be served in hard copy by electronic means notwithstanding that such documents may also have been sent in accordance with rule 4.5:

(a) the indictment;

(b) Early Disclosure of the prosecution case; and

(c) disclosure made in accordance with the provisions of the Criminal Procedure and Evidence Ordinance.

4.7. Service by person in custody

(1) A person in custody may serve a document by handing it to the custodian addressed to the person to be served.

(2) The custodian must—

(a) endorse it with the time and date of receipt;

(b) record its receipt; and

(c) forward it promptly to the addressee.

4.8. Service by another method

(1) The court may allow service of a document by a method other than those described in these rules.

(2) An order allowing service by another method must specify—

- (a) the method to be used; and
- (b) the date on which the document will be served.

4.9. Documents that may not be served on a legal representative

Unless the court otherwise directs, service on a party’s legal representative of any of the following documents is not service of that document on that party—

- (a) a summons or witness summons;
- (b) notice of a court hearing date or notice of when and where an adjourned hearing will resume;
- (c) any notice or document served in accordance with Part 14 (Bail and Custody Time Limits);
- (d) notice of an application to vary or discharge a compensation order;
- (e) notice of the location of the sentencing or enforcing court;
- (f) a notice requiring payment.

4.10. Date of service

(1) A document served under rule 4.3 or 4.6 is served on the day it is handed over.

(2) Unless something different is shown, a document served on a person by any other method is served—

- (a) in the case of a document left at an address, on the next business day after the day on which it was left;
- (b) in the case of a document sent by post, on the second business day after the day on which it was posted or despatched;
- (c) in the case of a document served by electronic means—
 - (i) on the day on which it is sent, if that day is a business day and if it is sent by no later than 2.30pm that day,
 - (ii) otherwise, on the next business day after it was sent; and
- (d) in any case, on the day on which the addressee responds to it, if that is earlier.

(3) Unless something different is shown, a document produced by a computer system for dispatch by post is to be taken as having been sent by first class post, or by the equivalent of first class post, to the addressee on the business day after the day on which it was produced.

(4) Where a document is served on or by the court officer, ‘business day’ does not include a day on which the court office is closed.

4.11. Proof of service

The person who serves a document may prove that by signing a certificate explaining how and when it was served.

4.12. Court’s power to give directions about service

(1) The court may specify the time as well as the date by which a document must be—

(a) served; or

(b) sent by electronic means.

(2) The court may treat a document as served if the addressee responds to it even if it was not served in accordance with the rules in this Part.

PART 5 FORMS AND COURT RECORDS

5.1. Applications, etc. by forms or electronic means

(1) This rule applies where a rule, a practice direction or the court requires a person to—

(a) make an application or give a notice;

(b) supply information for the purposes of case management by the court; or

(c) supply information needed for other purposes by the court.

(2) Unless the court otherwise directs, such a person must use the appropriate form.

5.2. Signature of forms

(1) This rule applies where a form provides for its signature.

(2) Unless other legislation otherwise requires, or the court otherwise directs, signature may be by any written or electronic authentication of the form by, or with the authority of, the signatory.

5.3. Duty to make records

(1) For each case, as appropriate, the court officer must record, by such means as the court may direct—

(a) each charge or indictment count against the defendant;

- (b) the defendant's plea to each charge or count;
- (c) each acquittal, conviction, sentence, determination, direction or order;
- (d) each decision about bail;
- (e) the court's reasons for a decision, where legislation requires those reasons to be recorded;
- (f) any appeal;
- (g) each party's presence or absence at each hearing;
- (h) in the Supreme Court, any request for assistance or other communication about the case received from a juror;
- (i) the identity of—
 - (i) the prosecutor,
 - (ii) the defendant,
 - (iii) any other applicant to whom these Rules apply,
 - (iv) any interpreter or intermediary,
 - (v) the parties' legal representatives, if any, and
 - (vi) the judge or justices of the peace who made each recorded decision;
- (j) where a defendant is entitled to attend a hearing, any agreement by the defendant to waive that right; and
- (k) where interpretation is required for a defendant, any agreement by that defendant to do without the written translation of a document.

(2) Such records must include—

- (a) each party's and representative's address, including any electronic address and telephone number available;
- (b) the defendant's date of birth, if available; and
- (c) the date of each event and decision recorded.

5.4. Recording and transcription of proceedings

- (1) Where someone may appeal, the court officer must—

- (a) arrange for the recording of the proceedings, unless the court otherwise directs; and
 - (b) arrange for the transcription of such a recording if—
 - (i) the court hearing the appeal wants such a transcript, or
 - (ii) anyone else wants such a transcript (but that is subject to the restrictions in paragraph (2)).
- (2) Unless the court otherwise directs, a person who transcribes a recording of proceedings under such arrangements—
- (a) must not supply anyone other than the court requesting the transcription with a transcript of a recording of—
 - (i) a hearing in private, or
 - (ii) information to which reporting restrictions apply;
 - (b) subject to that, must supply any person with any transcript for which that person asks—
 - (i) in accordance with the transcription arrangements made by the court officer, and
 - (ii) on payment by that person of any fee prescribed.
- (3) A party who wants to hear a recording of proceedings must—
- (a) apply in writing to the court officer, and
 - (b) explain the reasons for the request; and
 - (c) pay any fee prescribed.
- (4) If the court so directs, the court officer must allow that party to hear a recording of—
- (a) a hearing in public;
 - (b) a hearing in private, if the applicant was present at that hearing.

5.5. Custody of case materials

Unless the court otherwise directs, in respect of each case the court officer may—

- (a) keep any evidence, application, representation or other material served by the parties; or
- (b) arrange for the whole or any part to be kept by some other appropriate person, subject to—

- (i) any condition imposed by the court, and
- (ii) the rules about keeping exhibits pending any appeal.

5.6. Supply to a party of information or documents from records or case materials

(1) This rule applies where—

(a) a party wants information, or a copy of a document, from records or case materials kept by the court officer (for example, in case of loss, or to establish what is retained); or

(b) a person affected by an order made, or warrant issued, by the court wants such information or such a copy.

(2) Such a party or person must—

(a) apply to the court officer;

(b) specify the information or document required; and

(c) pay any fee prescribed.

(3) The application—

(a) may be made orally, giving no reasons, if paragraph (4) requires the court officer to supply the information or document requested;

(b) must be in writing, unless the court otherwise permits, and must explain for what purpose the information is required, in any other case.

(4) The court officer must supply to the applicant party or person—

(a) a copy of any document served by, or on, that party or person (but not of any document not so served);

(b) by word of mouth, or in writing, as requested—

(i) information that was received from that party or person in the first place,

(ii) information about the terms of any direction or order directed to that party or person, or made on an application by that party or person, or at a hearing in public,

(iii) information about the outcome of the case.

(5) If the court so directs, the court officer must supply to the applicant party or person, by word of mouth or in writing, as requested, information that paragraph (4) does not require the court officer to supply.

(6) Where the information requested is about the grounds on which an order was made, or a warrant was issued, in the absence of the party or person applying for that information—

(a) that party or person must also serve the request on the person who applied for the order or warrant;

(b) if the person who applied for the order or warrant objects to the supply of the information requested, that objector must—

(i) give notice of the objection not more than 14 days after service of the request (or within any longer period allowed by the court),

(ii) serve that notice on the court officer and on the party or person requesting the information, and

(iii) if the objector wants a hearing, explain why one is needed;

(c) the court may determine the application for information at a hearing (which must be in private unless the court otherwise directs), or without a hearing;

(d) the court must not permit the information requested to be supplied unless the person who applied for the order or warrant has had at least 14 days (or any longer period allowed by the court) in which to make representations.

(7) A notice of objection under paragraph (6) must explain—

(a) whether the objection is to the supply of any part of the information requested, or only to the supply of a specified part, or parts, of it;

(b) whether the objection is to the supply of the information at any time, or only to its supply before a date or event specified by the objector; and

(c) the grounds of the objection.

(8) Where a notice of objection under paragraph (6) includes material that the objector thinks ought not be revealed to the party or person applying for information, the objector must—

(a) omit that material from the notice served on that party or person;

(b) mark the material to show that it is only for the court; and

(c) with that material include an explanation of why it has been withheld.

(9) Where paragraph (8) applies—

(a) a hearing of the application may take place, wholly or in part, in the absence of the party or person applying for information;

(b) at any such hearing, the general rule is that the court must consider, in the following sequence—

(i) representations first by the party or person applying for information and then by the objector, in the presence of both, and then

(ii) further representations by the objector, in the absence of that party or person but the court may direct other arrangements for the hearing.

5.7. Supply to the public, including reporters, of information about cases

(1) This rule—

(a) applies where a member of the public, including a reporter, wants information about a case from the court officer;

(b) requires the court officer to publish information about cases due to be heard.

(2) A person who wants information about a case from the court officer must—

(a) apply to the court officer;

(b) specify the information requested; and

(c) pay any fee prescribed.

(3) The application—

(a) may be made orally, giving no reasons, if paragraph (4) requires the court officer to supply the information requested;

(b) must be in writing, unless the court otherwise permits, and must explain for what purpose the information is required, in any other case.

(4) The court officer must supply to the applicant—

(a) any information listed in paragraph (6), if—

(i) the information is available to the court officer,

(ii) the supply of the information is not prohibited by a reporting restriction, or other order of the court,

(iii) the trial has not yet concluded, or the verdict was not more than 6 months ago; and

- (b) details of any reporting or access restriction ordered by the court.
- (5) The court officer must supply that information—
- (a) by word of mouth; or
 - (b) by such other arrangements as the court directs.
- (6) The information that paragraph (4) requires the court officer to supply is—
- (a) the date of any hearing in public, unless any party has yet to be notified of that date;
 - (b) each alleged offence and any plea entered;
 - (c) the court’s decision at any hearing in public, including any decision about—
 - (i) bail, or
 - (ii) the committal, sending or transfer of the case to another court;
 - (d) whether the case is under appeal;
 - (e) the outcome of any trial and any appeal; and
 - (f) the identity of—
 - (i) the prosecutor,
 - (ii) the defendant,
 - (iii) the parties’ representatives, including their addresses,
 - (iv) the judge or justices of the peace, by whom a decision at a hearing in public was made; and
 - (v) the clerk to the Summary Court present at a hearing in public when a decision was made.
- (7) If the court so directs, the court officer must—
- (a) supply to the applicant, by word of mouth, other information about the case; or
 - (b) allow the applicant to inspect or copy a document, or part of a document, containing information about the case.
- (8) The court may determine an application to which paragraph (7) applies—

(a) at a hearing, in public or in private; or

(b) without a hearing.

(9) The court officer must publish the information listed in paragraph (11) if—

(a) the information is available to the court officer;

(b) the hearing to which the information relates is due to take place in public; and

(c) the publication of the information is not prohibited by a reporting restriction.

(10) The court officer must publish that information—

(a) by notice displayed somewhere prominent in the vicinity of the court room in which the hearing is due to take place;

(b) by such other arrangements as the court directs, including arrangements for publication by electronic means; and

(c) for no longer than 2 business days.

(11) The information that paragraph (9) requires the court officer to publish is—

(a) the date, time and place of the hearing;

(b) the identity of the defendant; and

(c) such other information as it may be practicable to publish concerning—

(i) the type of hearing,

(ii) the identity of the court,

(iii) the offence or offences alleged, and

(iv) whether any reporting restriction applies,

save that the offence or offences alleged shall be published only on the notice displayed in the vicinity of the courtroom, and not elsewhere.

5.8. Supply of written certificate or extract from records

(1) This rule applies where legislation—

(a) allows a certificate of conviction or acquittal, or an extract from records kept by the court officer, to be introduced in evidence in criminal proceedings; or

(b) requires such a certificate or extract to be supplied by the court officer to a specified person for a specified purpose.

(2) A person who wants such a certificate or extract must—

(a) apply in writing to the court officer;

(b) specify the certificate or extract required;

(c) explain under what legislation and for what purpose it is required; and

(d) pay any fee prescribed.

(3) If the application satisfies the requirements of that legislation, the court officer must supply the certificate or extract requested—

(a) to a party;

(b) unless the court otherwise directs, to any other applicant.

PART 6 PROCEEDINGS IN PUBLIC

6.1. When this Part applies

(1) This Part applies where the court can—

(a) impose a restriction on—

(i) reporting what takes place at a public hearing, or

(ii) public access to what otherwise would be a public hearing;

(b) vary or remove a reporting or access restriction that is imposed by legislation;

(c) withhold information from the public during a public hearing;

(d) allow there to take place during a hearing—

(i) sound recording, or

(ii) communication by electronic means.

(2) This Part does not apply to arrangements required by legislation, or directed by the court, in connection with—

(a) sound recording during a hearing, or the transcription of such a recording; or

(b) measures to assist a witness or defendant to give evidence.

6.2. Exercise of court’s powers to which this Part applies

(1) When exercising a power to which this Part applies, as well as furthering the overriding objective, in accordance with rule 1.3, the court must have regard to the importance of—

(a) dealing with criminal cases in public; and

(b) allowing a public hearing to be reported to the public.

(2) The court may determine an application or appeal under this Part—

(a) at a hearing, in public or in private; or

(b) without a hearing.

(3) But the court must not exercise a power to which this Part applies unless each party and any other person directly affected—

(a) is present; or

(b) has had an opportunity—

(i) to attend, or

(ii) to make representations.

6.3. Court’s power to vary requirements under this Part

(1) The court may—

(a) shorten or extend (even after it has expired) a time limit under this Part;

(b) require an application to be made in writing instead of orally;

(c) consider an application or representations made orally instead of in writing;

(d) dispense with a requirement to—

(i) give notice, or

(ii) serve a written application.

(2) Someone who wants an extension of time must—

(a) apply when making the application or representations for which it is needed; and

(b) explain the delay.

6.4. Reporting and access restrictions

(1) This rule applies where the court can—

(a) impose a restriction on—

(i) reporting what takes place at a public hearing, or

(ii) public access to what otherwise would be a public hearing;

(b) withhold information from the public during a public hearing.

(2) Unless other legislation otherwise provides, the court may do so—

(a) on application by a party; or

(b) on its own initiative.

(3) A party who wants the court to do so must—

(a) apply as soon as reasonably practicable;

(b) notify—

(i) each other party, and

(ii) such other person (if any) as the court directs;

(c) specify the proposed terms of the order, and for how long it should last;

(d) explain—

(i) what power the court has to make the order, and

(ii) why an order in the terms proposed is necessary;

(e) where the application is for a restriction on reporting of criminal proceedings for lifetime of witnesses and victims under 18, explain—

(i) how the circumstances of the person whose identity is concerned meet the conditions prescribed by that section, having regard to the factors which that section lists; and

(ii) why such a reporting direction would be likely to improve the quality of any evidence given by that person, or the level of co-operation given by that person to any party in

connection with the preparation of that party's case, taking into account the factors listed in that section;

(f) where the application is for a reporting direction to restrict reports about certain adult witnesses in criminal proceedings, explain—

(i) how the witness is eligible for assistance, having regard to the factors listed in section 460 of the Criminal Procedure and Evidence Ordinance, and

(ii) why such a reporting direction would be likely to improve the quality of the witness' evidence, or the level of co-operation given by the witness to the applicant in connection with the preparation of the applicant's case, taking into account the factors which section 460 lists.

6.5. Varying or removing restrictions

(1) This rule applies where the court can vary or remove a reporting or access restriction.

(2) Unless other legislation otherwise provides, the court may do so—

(a) on application by a party or person directly affected; or

(b) on its own initiative.

(3) A party or person who wants the court to do so must—

(a) apply as soon as reasonably practicable;

(b) notify—

(i) each other party, and

(ii) such other person (if any) as the court directs;

(c) specify the restriction;

(d) explain, as appropriate, why it should be varied or removed.

Commencing and Concluding Proceedings

PART 7

COMMENCING A PROSECUTION

7.1. When this Part applies

This Part applies where a prosecutor commences criminal proceedings by information in accordance with section 257 of the Criminal Procedure Evidence Ordinance 2014.

7.2. Written information

(1) A prosecutor who wants the court to issue a summons or a warrant must serve an information in writing on the court officer.

(2) Where a person comes before the court who is in custody having been arrested without a warrant or who has been arrested without a warrant and released on bail to attend before the court the prosecutor shall provide the court officer with an information in writing.

7.3 Allegation of offence in information

An allegation of an offence in an information must —

- (a) contain a statement of the offence,
- (b) describe the offence in ordinary language,
- (c) identify any legislation that creates it.

PART 8 EARLY DETAILS OF THE PROSECUTION CASE

8.1. Providing early details of the prosecution case

(1) The prosecutor must serve early details of the prosecution case on the court officer—

- (a) as soon as practicable; and
- (b) in any event, no later than the beginning of the day of the first hearing.

(2) Where a defendant requests those details, the prosecutor must serve them on the defendant—

- (a) as soon as practicable; and
- (b) in any event, no later than the beginning of the day of the first hearing.

(3) Where a defendant does not request those details, the prosecutor must make them available to the defendant at, or before, the beginning of the day of the first hearing.

8.2. Content of early details

Early details of the prosecution case must include—

- (a) sufficient information of the circumstances of the offence to progress the case in accordance with rule 3;
- (b) the defendant's criminal record, if any;
- (c) any written witness statement or exhibit that the prosecutor then has available and considers material to plea, or to the allocation of the case for trial, or to sentence; and

(d) any available statement of the effect of the offence on a victim, a victim's family or others.

PART 9 DISCONTINUING A PROSECUTION

9.1. When this Part applies

(1) This Part applies where—

(a) the Attorney General has the conduct of the proceedings in the Magistrate's Court or the Summary Court and can discontinue proceedings at a preliminary stage.

(b) the Attorney General has the conduct of the proceedings in the Supreme Court and an indictment has not been preferred.

9.2. Discontinuing a case

(1) The Attorney General exercising a power to which this Part applies must serve notice on—

(a) the court officer; and

(b) the defendant.

(2) Such a notice must—

(a) identify—

(i) the defendant and each offence to which the notice relates,

(ii) the person serving the notice, and

(iii) the power that that person is exercising;

(b) explain—

(i) in the copy of the notice served on the court officer, the reasons for discontinuing the case,

(ii) that the notice brings the case to an end,

(iii) if the defendant is in custody for any offence to which the notice relates, that the defendant must be released from that custody, and

(iv) if the notice is under section 174 of the Criminal Procedure and Evidence Ordinance 2014, that the defendant has a right to require the case to continue.

(3) Where the defendant is on bail, the court officer must notify—

(a) any surety; and

(b) any person responsible for monitoring or securing the defendant's compliance with a condition of bail.

9.3. Defendant's notice to continue

(1) This rule applies where the Attorney General serves a notice to discontinue under section 174 of the Criminal Procedure and Evidence Ordinance 2014.

(2) A defendant who wants the case to continue must serve notice not more than 21 days after service of the notice to discontinue—

(a) on the court officer; and

(b) the Attorney General.

(3) If the defendant serves such a notice, the court officer must refer the case to the court.

Jurisdiction and Allocation

PART 10 CRIMINAL JURISDICTION

10.1. Criminal jurisdiction of the Summary Court

The Summary Court has the powers and jurisdiction as set out in section 178 of the Criminal Procedure and Evidence Ordinance 2014.

10.2. Duty of clerk to the Summary Court

(1) This rule applies only in the Summary Court.

(2) The clerk to the Summary Court must—

(a) assist an unrepresented defendant;

(b) give the court such advice as is required to enable it to exercise its powers; and

(c) if required, attend the members of the court outside the courtroom to give such advice, but inform the parties of any advice so given.

10.3. Criminal jurisdiction of the Magistrate's Court

(1) The Magistrate's Court has the jurisdiction to try and determine any summary offence.

(2) The Senior Magistrate has the powers and jurisdiction as set out in section 177 of the Criminal Procedure and Evidence Ordinance 2014.

10.4. Criminal jurisdiction of the Supreme Court

The Supreme Court has unlimited jurisdiction to hear and determine any criminal proceedings under any law.

PART 11 ALLOCATION, TRANSFER, SENDING AND COMMITTAL

11.1. Allocation of offences

(1) All criminal proceedings commence in the Summary Court but where for any reason the Summary Court cannot sit the proceedings can commence in the Magistrate's Court.

(2) At the first hearing the court will determine where the proceedings will be heard using the allocation procedure—

(a) if an offence before the court is an indictable offence the court must—

(i) send the defendant to the Supreme Court; and

(ii) send any other defendant charged jointly with them; and

(iii) send any related summary offences with which the defendants are charged.

(b) if an offence before the Summary Court is a summary offence the court must take a plea in accordance with rule 16.5 and where the defendant pleads not guilty the court will hear representations as to allocation from—

(i) the prosecutor; and

(ii) the defendant.

(3) In deciding the question of allocation the court shall consider—

(a) whether the defendant is already awaiting trial on other matters in the Magistrate's Court;

(b) whether a co-accused charged with the same offence is already awaiting trial in the Magistrate's Court;

(c) the value of any damage caused or compensation sought;

(d) whether complex points of evidence or law are likely to arise in the trial;

(e) whether a sentence in excess of that which the Summary Court can impose is likely to be justified if the defendant is convicted;

(f) the extent to which a case concerns matters of public interest; and

(g) any other consideration required by the interests of justice.

11.2. Transfer between courts

(1) If at any point prior to the proceedings coming to trial it is in the interests of justice to do so—

(a) the Summary Court may transfer the proceedings to the Magistrate’s Court,

(b) the Magistrate’s Court may transfer the proceedings to the Summary Court.

(2) The proceedings may be transferred from one court to the other even if they have been transferred on one or more previous occasions.

(3) Either the Summary Court or the Magistrate’s Court may make an order for the proceedings to be transferred from one court to the other.

(4) An order for the proceedings to be transferred from one court to the other may be made—

(a) on an application from one or more of the parties to the case; or

(b) on the court’s own initiative.

(5) An order for the proceedings to be transferred from one court to the other shall not be made unless the parties to the proceedings have been given the opportunity to make representations.

11.3. Sending indictable offences to the Supreme Court

(1) Where the Summary Court or the Magistrate’s Court sends a defendant to the Supreme Court it must issue a sending notice specifying the offence or offences for which the person is being sent to the Supreme Court including any related summary offences.

(2) The court officer shall, as soon as is reasonably practicable, serve a copy of the sending notice on—

(a) the Supreme Court

(b) the defendant being sent to the Supreme Court; and

(c) the prosecutor.

(3) Within 56 days of the order sending the defendant to the Supreme Court the prosecutor must—

(a) file an indictment in the registry of the Supreme Court in accordance with rule 11.4; and

(b) file a copy of the evidence upon which the prosecution relies and comply with the duty of disclosure under section 216 of the Criminal Procedure and Evidence Ordinance 2014.

(4) The court that sends the defendant to the Supreme Court may, at the time of the order sending the defendant to the Supreme Court, make any case management direction necessary to manage the case including shortening the time for filing the indictment, the evidence and complying with the duty of disclosure but will not do so without allowing the prosecutor to make representations.

11.4. Form and content of the indictment

(1) An indictment must be in a form that contains, in a paragraph called a ‘count’—

(a) a statement of the offence charged that—

(i) describes the offence in ordinary language, and

(ii) identifies any legislation that creates it; and

(b) such particulars of the conduct constituting the commission of the offence as to make clear what the prosecutor alleges against the defendant.

(2) More than one incident of the commission of the offence may be included in a count if those incidents taken together amount to a course of conduct having regard to the time, place or purpose of commission.

(3) An indictment may contain more than one count if all the offences charged—

(a) are founded on the same facts; or

(b) form or are a part of a series of offences of the same or a similar character.

(4) The counts must be numbered consecutively.

(5) An indictment may contain—

(a) any count charging substantially the same offence as one specified in the notice of the offence or offences for which the defendant was sent for trial; and

(b) any other count based on the prosecution evidence already served.

(6) The indictment filed in the registry of the Supreme Court must be in the name of and signed by the Attorney General.

11.5. Committal for sentence

(1) Where the Summary Court convicts a defendant the court may commit the defendant to be sentenced in the Magistrate’s Court after considering—

(a) the maximum penalty that is prescribed by law,

(b) the character and antecedents of the defendant,

(c) whether a sentence greater than that which the Summary Court can lawfully impose should be imposed,

(d) any representations from the prosecutor, and

(e) any representations from the defendant.

(2) Where the Summary Court commits the defendant to the Magistrate's Court the court officer must, as soon as practicable, provide the Magistrate's Court with—

(a) a certificate of conviction,

(b) record of a decision about bail,

(c) a note of evidence if evidence was called,

(d) any statement or other document introduced in evidence,

(e) any medical or other report, and

(f) a record of any driving disqualification.

Court Practice

PART 12

MODES OF ADDRESS AND COURT ATTIRE

12.1. When this Part applies

This Part applies to all hearings before the Summary Court, the Magistrate's Court and the Supreme Court unless the court directs otherwise.

12.2. Modes of address

(1) A justice of the peace shall be addressed as 'Sir', 'Madam' or 'Your Worship' when sitting in the Summary Court.

(2) The Senior Magistrate shall be addressed as 'Your Honour' when sitting in the Magistrate's Court.

(3) The Chief Justice and the Acting Judge of the Supreme Court shall be addressed as 'Your Lordship' or 'Your Ladyship' when sitting in the Supreme Court.

12.3. Court attire

(1) The Chief Justice shall wear the wig and robes of the Chief Justice of the Falkland Islands.

- (2) The Senior Magistrate shall wear the wig and robes of the Senior Magistrate of the Falkland Islands.
- (3) The Registrar of the Supreme Court shall wear the gown of the Registrar of the Supreme Court of the Falkland Islands.
- (4) The court officer sitting as the clerk to the Magistrate's Court shall wear a court gown.
- (5) When appearing before the Supreme Court and the Magistrate's Court the Attorney General shall wear the wig and robes of the Attorney General of the Falkland Islands.
- (6) Advocates appearing before the Supreme Court and the Magistrate's Court shall wear court robes. The advocate shall—
 - (a) wear the wig and court robes they are entitled to wear by virtue of their professional qualification in their country of qualification; and
 - (b) in addition any advocate, whether entitled to do so by virtue of their professional qualification or not, shall be entitled to wear the wig of a barrister of England and Wales unless they choose not to do so; or
 - (c) in all other cases wear the collar, bands and gown of a solicitor of England and Wales.
- (7) A justice of the peace sitting in the Summary Court shall wear business attire.
- (8) The court officer sitting as the clerk to the justices in the Summary Court shall wear business attire.
- (9) Advocates appearing before the Summary Court shall wear business attire.

Detainment and Bail

PART 13 WARRANTS FOR ARREST, DETENTION OR IMPRISONMENT

13.1. When this Part applies

- (1) This Part applies where the court can issue a warrant for arrest, detention or imprisonment.
- (2) In this Part, 'defendant' means anyone against whom such a warrant is issued.

13.2. Terms of a warrant for arrest

- (1) A warrant for arrest must require each person to whom it is directed to arrest the defendant and—
 - (a) bring the defendant to a court—

- (i) specified in the warrant, or
 - (ii) required or allowed by law; or
- (b) release the defendant on bail (with conditions or without) to attend court at a date, time and place—
- (i) specified in the warrant, or
 - (ii) to be notified by the court.

13.3. Terms of a warrant for detention or imprisonment

A warrant for detention or imprisonment must—

- (a) require each person to whom it is directed to detain the defendant and—
 - (i) take the defendant to any place specified in the warrant or required or allowed by law, and
 - (ii) deliver the defendant to the custodian of that place; and
- (b) require that custodian to detain the defendant, as ordered by the court, until in accordance with the law—
 - (i) the defendant is delivered to the appropriate court or place, or
 - (ii) the defendant is released.

13.4. Information to be included in a warrant

(1) A warrant must identify—

- (a) each person to whom it is directed;
- (b) the defendant against whom it was issued;
- (c) the reason for its issue; and
- (d) the court that issued it.

(2) A warrant for detention or imprisonment must contain a record of any decision by the court.

(3) A warrant that contains an error is not invalid, as long as—

- (a) it was issued in respect of a lawful decision by the court; and
- (b) it contains enough information to identify that decision.

13.5. Execution of a warrant

- (1) A warrant may be executed by any person to whom it is directed.
- (2) The person who executes a warrant must—
 - (a) explain, in terms the defendant can understand, what the warrant requires, and why;
 - (b) show the defendant the warrant, if that person has it; and
 - (c) if the defendant asks—
 - (i) arrange for the defendant to see the warrant, if that person does not have it, and
 - (ii) show the defendant any written statement of that person's authority.
- (3) The person who executes a warrant of arrest that requires the defendant to be released on bail must—
 - (a) make a record of—
 - (i) the defendant's name,
 - (ii) the reason for the arrest,
 - (iii) the defendant's release on bail, and
 - (iv) when and where the warrant requires the defendant to attend court; and
 - (b) serve the record on—
 - (i) the defendant, and
 - (ii) the court officer.
- (4) The person who executes a warrant of detention or imprisonment must—
 - (a) take the defendant—
 - (i) to any place specified in the warrant, or
 - (ii) if that is not immediately practicable, to any other place at which the defendant may be lawfully detained (and the warrant then has effect as if it specified that place);
 - (b) obtain a receipt from the custodian; and
 - (c) notify the court officer that the defendant has been taken to that place.

PART 14
BAIL AND CUSTODY TIME LIMITS

14.1. When this Part applies

- (1) This Part applies where a court can—
- (a) grant or withhold bail, or impose or vary a condition of bail, and
 - (b) where bail has been withheld, extend a custody time limit.
- (2) In this Part, ‘defendant’ includes a person who has been granted bail by a police officer.

14.2. Exercise of court’s powers to which this Part applies

- (1) The court must not make a decision to which this Part applies unless—
- (a) each party to the decision and any surety directly affected by the decision—
 - (i) is present, in person or by live link, or
 - (ii) has had an opportunity to make representations;
 - (b) on an application for bail by a defendant who is absent and in custody, the court is satisfied that the defendant—
 - (i) has waived the right to attend, or
 - (ii) was present when a court withheld bail in the case on a previous occasion and has been in custody continuously since then;
 - (c) on a prosecutor’s appeal against a grant of bail, application to extend a custody time limit or appeal against a refusal to extend such a time limit—
 - (i) the court is satisfied that a defendant who is absent has waived the right to attend, or
 - (ii) the court is satisfied that it would be just to proceed even though the defendant is absent.
- (2) The court may make a decision to which this Part applies at a hearing, in public or in private.
- (3) The court may determine without a hearing an application to vary a condition of bail if—
- (a) the parties to the application have agreed the terms of the variation proposed; or
 - (b) on an application by a defendant, the court determines the application no sooner than the fifth business day after the application was served.

(4) The court may adjourn a determination to which this Part applies, if that is necessary to obtain information sufficient to allow the court to make the decision required.

(5) At any hearing at which the court makes one of the following decisions, the court must announce in terms the defendant can understand (with help, if necessary) its reasons for—

(a) withholding bail, or imposing or varying a bail condition; or

(b) granting bail, where the prosecutor opposed the grant.

(6) At any hearing at which the court grants bail, the court must—

(a) tell the defendant where and when to surrender to custody; or

(b) arrange for the court officer to give the defendant, as soon as practicable, notice of where and when to surrender to custody.

14.3. General duties of the court officer

(1) The court officer must arrange for a note or other record to be made of—

(a) the parties' representations about bail; and

(b) the court's reasons for a decision—

(i) to withhold bail, or to impose or vary a bail condition, or

(ii) to grant bail, where the prosecutor opposed the grant.

(2) The court officer must serve notice of a decision about bail on—

(a) the defendant;

(b) the prosecutor (but only where the court granted bail, the prosecutor opposed the grant, and the prosecutor asks for such a notice);

(c) a party to the decision who was absent when it was made;

(d) a surety who is directly affected by the decision;

(e) the defendant's custodian, where the defendant is in custody and the decision requires the custodian—

(i) to release the defendant (or will do so, if a requirement ordered by the court is met), or

(ii) to transfer the defendant to the custody of another custodian;

(f) the court officer for any other court at which the defendant is required by that decision to surrender to custody.

(3) Where the court postpones the date on which a defendant who is on bail must surrender to custody, the court officer must serve notice of the postponed date on—

(a) the defendant; and

(b) any surety.

14.4. Prosecutor's representations about bail

(1) This rule applies whenever the court can grant or withhold bail.

(2) The prosecutor must provide the court with all the information in the prosecutor's possession which is material to what the court must decide.

(3) A prosecutor who opposes the grant of bail must specify—

(a) each exception to the general right to bail on which the prosecutor relies; and

(b) each consideration that the prosecutor thinks relevant.

(4) A prosecutor who wants the court to impose a condition on any grant of bail must—

(a) specify each condition proposed; and

(b) explain what purpose would be served by such a condition.

14.5. Reconsideration of police bail

(1) This rule applies where a party wants a court to reconsider a bail decision by a police officer.

(2) An application under this rule must be made to—

(a) the court to whose custody the defendant is under a duty to surrender, if any; or

(b) the Summary Court in any other case.

(3) The applicant party must—

(a) apply in writing; and

(b) serve the application on—

(i) the court officer,

(ii) the other party, and

- (iii) any surety affected or proposed.
- (4) The application must—
 - (a) specify—
 - (i) the decision that the applicant wants the court to make,
 - (ii) each offence charged, or for which the defendant was arrested, and
 - (iii) the police bail decision to be reconsidered and the reasons given for it;
 - (b) explain, as appropriate—
 - (i) why the court should grant bail itself, or withdraw it, or impose or vary a condition, and
 - (ii) if the applicant is the prosecutor, what material information has become available since the police bail decision was made;
 - (c) propose the terms of any suggested condition of bail; and
 - (d) if the applicant wants an earlier hearing than paragraph (7) requires, ask for that, and explain why it is needed.
- (5) A prosecutor who applies under this rule must serve on the defendant, with the application, notice that the court has power to withdraw bail and, if the defendant is absent when the court makes its decision, order the defendant's arrest.
- (6) A party who opposes an application must—
 - (a) notify the court officer and the applicant at once; and
 - (b) serve on each notice of the reasons for opposition.
- (7) Unless the court otherwise directs, the court officer must arrange for the court to hear the application as soon as practicable and in any event—
 - (a) if it is an application to withdraw bail, no later than the second business day after it was served;
 - (b) in any other case, no later than the fifth business day after it was served.
- (8) The court may—
 - (a) vary or waive a time limit under this rule;

(b) allow an application to be in a different form to one set out in this Part.

14.6. Notice of application to consider bail

(1) This rule applies where—

(a) a party wants the court to grant bail that has been withheld, or to withdraw bail that has been granted, or to impose a new bail condition or to vary a present one; or

(b) a defendant wants the court to reconsider such bail before the next hearing in the case.

(2) Such a party must—

(a) apply in writing;

(b) serve the application on—

(i) the court officer,

(ii) the other party, and

(iii) any surety affected or proposed; and

(c) serve the application not less than 2 business days before any hearing in the case at which the applicant wants the court to consider it, if such a hearing is already due.

(3) The application must—

(a) specify—

(i) the decision that the applicant wants the court to make,

(ii) each offence charged, and

(iii) each relevant previous bail decision and the reasons given for each;

(b) if the applicant is a defendant, explain—

(i) as appropriate, why the court should not withhold bail, or why it should vary a condition, and

(ii) what further information or legal argument, if any, has become available since the most recent previous bail decision was made;

(c) if the applicant is the prosecutor, explain—

(i) as appropriate, why the court should withdraw bail, or impose or vary a condition, and

- (ii) what material information has become available since the most recent previous bail decision was made;
 - (d) propose the terms of any suggested condition of bail; and
 - (e) if the applicant wants an earlier hearing than paragraph (6) requires, ask for that, and explain why it is needed.
- (4) A prosecutor who applies under this rule must serve on the defendant, with the application, notice that the court has power to withdraw bail and, if the defendant is absent when the court makes its decision, order the defendant's arrest.
- (5) A party who opposes an application must—
- (a) notify the court officer and the applicant at once; and
 - (b) serve on each notice of the reasons for opposition.
- (6) Unless the court otherwise directs, the court officer must arrange for the court to hear the application as soon as practicable and in any event—
- (a) if it is an application to grant or withdraw bail, no later than the second business day after it was served;
 - (b) if it is an application to impose or vary a condition, no later than the fifth business day after it was served.
- (7) The court may—
- (a) vary or waive a time limit under this rule;
 - (b) allow an application to be in a different form to one set out in the Part, or to be made orally;
 - (c) if this Part allows, determine without a hearing an application to vary a condition.

14.7. Defendant's application or appeal to the Supreme Court

- (1) This rule applies where a defendant wants to—
- (a) apply to the Supreme Court for bail after bail has been withheld by the Summary Court or the Magistrate's Court; or
 - (b) appeal to the Supreme Court after the Summary Court or the Magistrate's Court has refused to vary a bail condition as the defendant wants.
- (2) The defendant must—

- (a) apply to the Supreme Court in writing as soon as practicable after the decision; and
 - (b) serve the application on—
 - (i) the Registrar of the Supreme Court,
 - (ii) the Summary Court or Magistrate’s Court officer,
 - (iii) the prosecutor, and
 - (iv) any surety affected or proposed.
- (3) The application must—
- (a) specify—
 - (i) the decision that the applicant wants the Supreme Court to make, and
 - (ii) each offence charged;
 - (b) explain—
 - (i) as appropriate, why the Supreme Court should not withhold bail, or why it should vary the condition under appeal, and
 - (ii) what further information or legal argument, if any, has become available since the original decision;
 - (c) propose the terms of any suggested condition of bail;
 - (d) if the applicant wants an earlier hearing than paragraph (6) requires, ask for that, and explain why it is needed; and
 - (e) on an application for bail, attach a copy of the certificate of full argument.
- (4) The Summary Court or the Magistrate’s Court officer must as soon as practicable serve on the Registrar of the Supreme Court—
- (a) a copy of the note or record made in connection with the court’s decision; and
 - (b) the date of the next hearing, if any.
- (5) A prosecutor who opposes the application must—
- (a) notify the Registrar of the Supreme Court and the defendant at once; and

(b) serve on each notice of the reasons for opposition.

(6) Unless the Supreme Court otherwise directs, the Registrar of the Supreme Court must arrange for the court to hear the application or appeal as soon as practicable and in any event no later than the business day after it was served.

(7) The Supreme Court may vary a time limit under this rule.

14.8. Prosecutor's appeal against grant of bail

(1) This rule applies where a prosecutor wants to appeal against a grant of bail by the Summary Court in accordance with section 151 of the Criminal Procedure and Evidence Ordinance 2014.

(2) The prosecutor must tell the Summary Court of the decision to appeal—

(a) at the end of the hearing during which the court granted bail; and

(b) before the defendant is released on bail.

(3) The Summary Court which has granted bail must exercise its power to remand the defendant in custody pending determination of the appeal.

(4) The prosecutor must serve an appeal notice—

(a) on the court officer and on the defendant;

(b) not more than 2 hours after telling that court of the decision to appeal.

(5) The appeal notice must specify—

(a) each offence with which the defendant is charged;

(b) the decision under appeal;

(c) the reasons given for the grant of bail; and

(d) the grounds of appeal.

(6) On an appeal to the Magistrate's Court, the Summary Court officer must, as soon as practicable, serve on the Magistrate's Court officer—

(a) the appeal notice;

(b) a copy of the note or record of bail decision; and

(c) notice of the date of the next hearing in the Summary Court which has granted bail.

(7) If the Magistrate's Court so directs, the Magistrate's Court officer must arrange for the defendant to be assisted by a legal representative in a case in which the defendant—

(a) has no legal representative; and

(b) asks for such assistance.

(8) On an appeal to the Magistrate's Court, the Magistrate's Court officer must arrange for the court to hear the appeal as soon as practicable and in any event no later than the second business day after the appeal notice was served.

(9) The prosecutor—

(a) may abandon an appeal to the Magistrate's Court without the court's permission, by serving a notice of abandonment, signed by or on behalf of the prosecutor, on—

(i) the defendant,

(ii) the Magistrate's Court officer, and

(iii) the Summary Court officer

before the hearing of the appeal begins; but

(b) after the hearing of the appeal begins, may only abandon the appeal with the Magistrate's Court's permission.

(10) The court officer for the court which has granted bail must instruct the defendant's custodian to release the defendant on the bail granted by that court, subject to any condition or conditions of bail imposed, if—

(a) the prosecutor fails to serve an appeal notice within the time to which paragraph (4) refers; or

(b) the prosecutor serves a notice of abandonment under paragraph (9).

14.9. Consideration of bail in a murder or treason case

(1) This rule applies in a case in which—

(a) the defendant is charged with murder or treason; and

(b) the Supreme Court has not yet considered bail.

(2) The Summary Court or Magistrate's Court officer must arrange with the Registrar of the Supreme Court for the Supreme Court to consider bail as soon as practicable and in any event no later than the second business day after—

(a) the Summary Court or the Magistrate’s Court sends the defendant to the Supreme Court for trial; or

(b) the first hearing in the Summary Court or the Magistrate’s Court, if the defendant is not at once sent for trial.

(3) Neither the Summary Court nor the Magistrate’s Court may grant bail in a case of murder or treason.

14.10. Condition of residence

(1) The defendant must notify the prosecutor of the address at which the defendant will live and sleep if released on bail with a condition of residence—

(a) as soon as practicable after the institution of proceedings, unless already done; and

(b) as soon as practicable after any change of that address.

(2) The prosecutor must help the court to assess the suitability of an address proposed as a condition of residence.

14.11. Requirement for a surety or payment, etc.

(1) This rule applies where the court imposes as a condition of bail a requirement for—

(a) a surety;

(b) a payment; or

(c) the surrender of a document or thing.

(2) The court may direct how such a condition must be met.

(3) Unless the court otherwise directs, if any such condition or direction requires a surety to enter into a recognisance—

(a) the recognisance must specify—

(i) the amount that the surety will be required to pay if the purpose for which the recognisance is entered is not fulfilled, and

(ii) the date, or the event, upon which the recognisance will expire;

(b) the surety must enter into the recognisance in the presence of—

(i) the court officer,

(ii) the defendant’s custodian, where the defendant is in custody, or

- (iii) someone acting with the authority of either; and
- (c) the person before whom the surety enters into the recognisance must at once serve a copy on—
 - (i) the surety, and
 - (ii) as appropriate, the court officer and the defendant’s custodian.
- (4) Unless the court otherwise directs, if any such condition or direction requires someone to make a payment, or surrender a document or thing—
 - (a) that payment, document or thing must be made or surrendered to—
 - (i) the court officer,
 - (ii) the defendant’s custodian, where the defendant is in custody, or
 - (iii) someone acting with the authority of either; and
 - (b) the court officer or the custodian, as appropriate, must serve immediately on the other a statement that the payment, document or thing has been made or surrendered.
- (5) The custodian must release the defendant when each requirement ordered by the court has been met.

14.12. Forfeiture of a recognisance given by a surety

- (1) This rule applies where the court imposes as a condition of bail a requirement that a surety enter into a recognisance and, after the defendant is released on bail,—
 - (a) the defendant fails to surrender to custody as required, or
 - (b) it appears to the court that the surety has failed to comply with a condition or direction.
- (2) The court officer must serve notice of the hearing at which the court will consider the forfeiture of the recognisance on—
 - (a) the surety; and
 - (b) each party to the decision to grant bail.
- (3) The court must not forfeit the recognisance less than 5 business days after service of notice under paragraph (2).

14.13. When these rules about custody time limits apply

These rules do not apply in relation to proceedings for an offence instituted before the date of commencement of these Rules, except where the accused is sent on or after that date for trial in the Supreme Court.

14.14. Custody time limits

(1) In the case of a summary offence that is not a serious offence as defined by section 2 of the Criminal Procedure and Evidence Ordinance; the maximum period of custody between a defendant's first appearance and the start of a summary trial is 70 days.

(2) In the case of a serious offence as defined by section 2 of the Criminal Procedure and Evidence Ordinance the maximum period of custody between a defendant's first appearance and the start of a summary trial is 182 days.

(3) In the case of an indictable offence the maximum period of custody between the defendant's first appearance before the Summary Court or the Magistrate's Court and the start of a trial in the Supreme Court is 182 days.

14.15. Application for extension of custody time limit

(1) An application to a court for the extension or further extension of a custody time limit under section 170 of the Criminal Procedure and Evidence Ordinance must be made in writing and be given to—

- (a) the court officer; and
- (b) the defendant or the defendant's representative,

not less than 2 days before making an application.

(2) If the court is satisfied that it is not practicable in all the circumstances for the prosecution to comply with the requirement to give notice in accordance with this rule, the court may direct that the prosecution need not give notice.

14.16. Bail on expiry of the custody time limit

(1) The prosecution must, not less than 5 days before the expiry of the time custody limit, give notice in writing as to whether or not the prosecution intends to apply for conditions to be attached to the grant of bail—

- (a) to the appropriate court officer; and
- (b) to the defendant or the defendant's representative.

(2) The court officer will make arrangements for the defendant to be brought before the court within the period of 2 days preceding the expiry of the time limit.

(3) If the court is satisfied that it is not practicable in all the circumstances for the prosecution to give notice in accordance with this rule, the court may direct that the prosecution need not give notice.

(4) The prosecution need not comply with rule this rule if it has made an application in accordance with rule 14.15.

14.17. Appeal against custody time limit decision

(1) This rule applies where –

(a) a defendant wants to appeal to the Supreme Court against a decision by the Summary Court or the Magistrate’s Court to extend a custody time limit;

(b) a prosecutor wants to appeal to the Supreme Court against a decision by the Summary Court or the Magistrate’s Court not to extend a custody time limit;

(2) The appellant must serve an appeal notice –

(a) on—

(i) the other party to the decision,

(ii) the Registrar of the Supreme Court, and

(iii) the Summary Court or Magistrate’s Court officer,

(b) in a defendant’s appeal, as soon as practicable after the decision under appeal;

(c) in a prosecutor’s appeal—

(i) as soon as practicable after the decision under appeal, and

(ii) before the relevant custody time limit expires.

(3) The appeal notice must specify

(a) each offence with which the defendant is charged;

(b) the decision under appeal;

(c) the date on which the relevant custody time limit will expire;

(d) on a defendant’s appeal, the date on which the relevant custody time limit would have expired but for the decision under appeal; and

(e) the grounds of appeal.

(4) The Registrar of the Supreme Court must arrange for the Supreme Court to hear the appeal as soon as practicable and in any event no later than the second business day after the appeal notice was served.

(5) The appellant—

(a) before the hearing of the appeal begins may abandon an appeal without the Supreme Court's permission, by serving a notice of abandonment, signed by or on behalf of the appellant, on —

(i) the other party,

(ii) the Registrar of the Supreme Court, and

(iii) the Summary Court or the Magistrate's Court officer; but

(b) after the hearing of the appeal begins, may only abandon the appeal with the Supreme Court's permission.

Preparing for Trial

PART 15
PRELIMINARY APPLICATIONS

15.1. Application to stay case for abuse of process

(1) This rule applies where a defendant wants the court to stay the case on the grounds that the proceedings are an abuse of the court's process, or are otherwise unfair.

(2) Such a defendant must—

(a) apply in writing—

(i) as soon as practicable after becoming aware of the grounds for doing so,

(ii) at a pre-trial hearing, unless the grounds for the application do not arise until trial, and

(iii) in any event, before the defendant pleads guilty or the jury (if there is one) retires to consider its verdict at trial;

(b) serve the application on—

(i) the court officer, and

(ii) each other party; and

(c) in the application—

- (i) explain the grounds on which it is made,
- (ii) include, attach or identify all supporting material,
- (iii) specify relevant events, dates and propositions of law, and
- (iv) identify any witness the applicant wants to call to give evidence in person.

(3) A party who wants to make representations in response to the application must serve the representations on—

- (a) the court officer; and
- (b) each other party,

not more than 14 days after service of the application.

15.2. Application for indication of sentence

(1) This rule applies where a defendant wants the Magistrate’s Court or the Supreme Court to give an indication of the maximum sentence that would be passed if a guilty plea were entered when the indication is sought.

(2) Such a defendant must—

- (a) apply in writing as soon as practicable; and
- (b) serve the application on—
 - (i) the court officer, and
 - (ii) the prosecutor.

(3) The application must—

- (a) specify—
 - (i) the offence or offences to which it would be a guilty plea, and
 - (ii) the facts on the basis of which that plea would be entered; and
- (b) include the prosecutor’s agreement to, or representations on, that proposed basis of plea.

(4) The prosecutor must—

- (a) provide information relevant to sentence, including—

- (i) any previous conviction of the defendant, and the circumstances where relevant,
 - (ii) any statement of the effect of the offence on the victim, the victim's family or others;
and
 - (b) identify any other matter relevant to sentence, including—
 - (i) the legislation applicable,
 - (ii) any sentencing guidelines, or guideline cases, and
 - (iii) aggravating and mitigating factors.
- (5) The hearing of the application—
- (a) may take place in the absence of any other defendant;
 - (b) must be attended by—
 - (i) the applicant defendant's legal representatives (if any), and
 - (ii) the prosecution advocate.

PART 16
PLEA AND TRIAL PREPARATION HEARINGS

16.1. Application for joint or separate trials

- (1) This rule applies where a party wants the court to order—
- (a) the joint trial of—
 - (i) offences charged separately, or
 - (ii) defendants charged separately;
 - (b) separate trials of offences charged in the same proceedings;
 - (c) separate trials of defendants charged in the same proceedings; or
 - (d) the deletion of a count from an indictment.
- (2) Such a party must—
- (a) apply in writing—
 - (i) as soon as practicable after becoming aware of the grounds for doing so, and

- (ii) before the trial begins, unless the grounds for the application do not arise until trial;
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party; and
 - (c) in the application—
 - (i) specify the order proposed, and
 - (ii) explain why it should be made.
- (3) A party who wants to make representations in response to the application must serve the representations on—
- (a) the court officer; and
 - (b) each other party,
- not more than 14 days after service of the application.

16.2. Order for joint or separate trials, or amendment of the indictment

- (1) This rule applies where the court makes an order—
- (a) for joint or separate trials; or
 - (b) amending an indictment in any other respect.
- (2) Unless the court otherwise directs, the court officer must endorse any paper copy of each affected indictment or charge made for the court with—
- (a) a note of the court’s order; and
 - (b) the date of that order.

16.3. Arraigning the defendant on the indictment

- (1) In order to take the defendant’s plea, the Supreme Court must—
- (a) ensure that the defendant is correctly identified by the indictment;
 - (b) in respect of each count in the indictment—
 - (i) read the count aloud to the defendant, or arrange for it to be read aloud or placed before the defendant in writing,

(ii) ask whether the defendant pleads guilty or not guilty to the offence charged by that count, and

(iii) take the defendant's plea.

(2) Where a count is read which is substantially the same as one already read aloud, then only the materially different details need be read aloud.

(3) Where a count is placed before the defendant in writing, the court must summarise its gist aloud.

(4) In respect of each count in the indictment—

(a) if the defendant declines to enter a plea, the court must treat that as a not guilty plea unless the defendant is unfit to plead;

(b) if the defendant pleads not guilty to the offence charged by that count but guilty to another offence of which the court could convict on that count—

(i) if the prosecutor and the court accept that plea, the court must treat the plea as one of guilty of that other offence, but

(ii) otherwise, the court must treat the plea as one of not guilty;

(c) if the defendant pleads a previous acquittal or conviction of the offence charged by that count—

(i) the defendant must identify that acquittal or conviction in writing, explaining the basis of that plea, and

(ii) the court must exercise its power to decide whether that plea disposes of that count.

16.4. Manner of trial on indictment

(1) Upon entering a plea of not guilty the court shall ascertain whether the defendant chooses to be tried by judge alone or by judge and jury.

(2) The defendant must personally state his or her choice by saying it aloud.

(3) The defendant must not be asked to make his or her choice until—

(a) he or she has pleaded to all of the counts on the indictment on which he or she is to be tried on indictment on that occasion; and

(b) the trial judge has, in open court, explained to the defendant in ordinary language—

(i) the respective roles of the judge and jury in a trial upon indictment;

- (ii) the different role of the judge sitting alone to try an indictment;
- (iii) the defendant's right to choose whether to be tried by a judge and jury or by the judge alone;
- (iv) if appropriate, that the jury will consist of 12 jurors;
- (v) if appropriate, that the jury will consist of 7 jurors;
- (vi) that the choice is irrevocable unless the trial judge otherwise permits and before any juror has been sworn or any person has been called to give evidence; and
- (vii) the effect of section 336 of the Criminal Procedure and Evidence Ordinance 2014.

(4) If a defendant is unable or refuses to choose he or she is deemed to have chosen to be tried by judge and jury.

16.5. Taking a plea in summary proceedings

- (1) In order to take the defendant's plea, the Summary Court and the Magistrate's Court must—
- (a) ensure that the defendant is correctly identified by the information;
 - (b) in respect of each information—
 - (i) read the information aloud to the defendant, or arrange for it to be read aloud or placed before the defendant in writing,
 - (ii) ask whether the defendant pleads guilty or not guilty to the offence charged by that information, and
 - (iii) take the defendant's plea.
- (2) Where an information is read which is substantially the same as one already read aloud, then only the materially different details need be read aloud.
- (3) Where an information is placed before the defendant in writing, the court must summarise its gist aloud.
- (4) In respect of each information—
- (a) if the defendant declines to enter a plea, the court must treat that as a not guilty plea unless the defendant is unfit to plead;
 - (b) if the defendant pleads not guilty to the offence charged by that information but guilty to another offence of which the court could convict on that information—

(i) if the prosecutor and the court accept that plea, the court must treat the plea as one of guilty of that other offence, but

(ii) otherwise, the court must treat the plea as one of not guilty;

(c) if the defendant pleads a previous acquittal or conviction of the offence charged by that information—

(i) the defendant must identify that acquittal or conviction in writing, explaining the basis of that plea, and

(ii) the court must exercise its power to decide whether that plea disposes of that information.

16.6. Written plea of guilty in absence

(1) Where the court is satisfied that section 271 of the Criminal Procedure and Evidence Ordinance 2014 applies the procedure shall be—

(a) the prosecutor shall read out the statement of facts; and

(b) the court officer shall read out any submission received in Form 3; and

(c) the court shall decide whether to accept the plea of guilty and convict the defendant in the defendant's absence.

(2) If the court convicts the defendant then the court can pass sentence as if the defendant had appeared and pleaded guilty save that the court must not without adjourning to secure the attendance of the defendant—

(a) sentence the defendant to any term of imprisonment or to any other form of detention; or

(b) subject the defendant to any disqualification.

(3) If the defendant appears before the court having nonetheless pleaded guilty in writing the court shall not proceed to convict the defendant without first giving the defendant the opportunity to make oral submissions.

16.7. Pre-trial hearings: general rules

(1) The court—

(a) must conduct a trial preparation hearing in every case where a defendant pleads not guilty;

(b) may conduct a further pre-trial case management hearing (and if necessary more than one such hearing) only where—

(i) the court anticipates a guilty plea,

(ii) it is necessary to conduct such a hearing in order to give directions for an effective trial, or

(iii) such a hearing is required to set ground rules for the conduct of the questioning of a witness or defendant.

(2) A pre-trial case management hearing—

(a) must be in public, as a general rule, but all or part of the hearing may be in private if the court so directs; and

(b) must be recorded, in accordance with rule 5.4 (Recording and transcription of proceedings in court).

(3) Where the court determines a pre-trial application in private, it must announce its decision in public.

(4) Prior to the hearing the parties must complete the plea and trial preparation hearing form as prescribed by the court.

(5) A pre-trial hearing is a preliminary hearing for the purposes of Part 15 of the Criminal Procedure and Evidence Ordinance 2014.

16.8. Place of trial

(1) Unless the Chief Justice otherwise directs, the court officer must arrange for the trial to take place in a courtroom in the Falkland Islands.

(2) The court officer must arrange for the court and the jury (if there is one) to view any place required by the court.

PART 17

MEASURES TO ASSIST A WITNESS OR DEFENDANT TO GIVE EVIDENCE

17.1. Making an application for a direction or order

A party who wants the court to exercise its power to give or make a direction pursuant to Part 22 of the Criminal Procedure and Evidence Ordinance 2014 the party must—

(a) apply in writing as soon as reasonably practicable, and in any event not more than 14 days after the defendant pleads not guilty; and

(b) serve the application on—

(i) the court officer, and

(ii) each other party.

17.2. Decisions and reasons

(1) A party who wants to introduce the evidence of a witness who is the subject of an application, direction or order must—

(a) inform the witness of the court's decision as soon as reasonably practicable; and

(b) explain to the witness the arrangements that as a result will be made for him or her to give evidence.

(2) The court must announce, at a hearing in public before the witness gives evidence, the reasons for a decision—

(a) to give, make, vary or discharge a direction or order; or

(b) to refuse to do so.

17.3. Court's power to vary requirements under this Part

(1) The court may—

(a) shorten or extend (even after it has expired) a time limit under this Part; and

(b) allow an application or representations to be made in a different form to one set out in this Part, or to be made orally.

(2) A person who wants an extension of time must—

(a) apply when serving the application or representations for which it is needed; and

(b) explain the delay.

17.4. Custody of documents

Unless the court otherwise directs, the court officer may—

(a) keep a written application or representations; or

(b) arrange for the whole or any part to be kept by some other appropriate person, subject to any conditions that the court may impose.

17.5. Declaration by intermediary

(1) This rule applies where—

(a) a video recorded interview with a witness is conducted through an intermediary;

(b) the court directs the examination of a witness or defendant through an intermediary.

(2) An intermediary must make a declaration—

(a) before such an interview begins;

(b) before the examination begins (even if such an interview with the witness was conducted through the same intermediary).

(3) The declaration must be in these terms—

“I solemnly, sincerely and truly declare and affirm [*or* I swear by Almighty God] that I will well and faithfully communicate questions and answers and make true explanation of all matters and things as shall be required of me according to the best of my skill and understanding.”

17.6. Special measures directions – exercise of court’s powers

The court may decide whether to give, vary or discharge a special measures direction—

(a) at a hearing, in public or in private, or if not contested without a hearing;

(b) in a party’s absence, if that party—

(i) applied for the direction, variation or discharge, or

(ii) has had at least 14 days in which to make representations.

17.7. Special measures direction for a young witness

(1) This rule applies where a primary rule requires the court to give a direction for a special measure to assist a child witness or a qualifying witness—

(a) on an application, if one is made; or

(b) on the court’s own initiative, in any other case.

(2) A party who wants to introduce the evidence of such a witness must as soon as reasonably practicable—

(a) notify the court that the witness is eligible for assistance;

(b) provide the court with any information that the court may need to assess the witness’ views, if the witness does not want the primary rule to apply; and

(c) serve any video recorded evidence on—

(i) the court officer, and

(ii) each other party.

17.8. Content of application for a special measures direction

An applicant for a special measures direction must—

- (a) explain how the witness is eligible for assistance;
- (b) explain why special measures would be likely to improve the quality of the witness' evidence;
- (c) propose the measure or measures that in the applicant's opinion would be likely to maximise, so far as practicable, the quality of that evidence;
- (d) report any views that the witness has expressed about—
 - (i) his or her eligibility for assistance,
 - (ii) the likelihood that special measures would improve the quality of his or her evidence, and
 - (iii) the measure or measures proposed by the applicant;
- (e) in a case in which a child witness or a qualifying witness does not want the primary rule to apply, provide any information that the court may need to assess the witness' views;
- (f) in a case in which the applicant proposes that the witness should give evidence by live link—
 - (i) identify someone to accompany the witness while the witness gives evidence,
 - (ii) name that person, if possible, and
 - (iii) explain why that person would be an appropriate companion for the witness, including the witness' own views;
- (g) in a case in which the applicant proposes the admission of video recorded evidence, identify—
 - (i) the date and duration of the recording,
 - (ii) which part the applicant wants the court to admit as evidence, if the applicant does not want the court to admit all of it;
- (h) attach any other material on which the applicant relies; and
- (i) if the applicant wants a hearing, ask for one, and explain why it is needed.

17.9. Application to vary or discharge a special measures direction

- (1) A party who wants the court to vary or discharge a special measures direction must—
 - (a) apply in writing, as soon as reasonably practicable after becoming aware of the grounds for doing so; and
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party.
- (2) The applicant must—
 - (a) explain what material circumstances have changed since the direction was given (or last varied, if applicable);
 - (b) explain why the direction should be varied or discharged; and
 - (c) ask for a hearing, if the applicant wants one, and explain why it is needed.

17.10. Application containing information withheld from another party

- (1) This rule applies where—
 - (a) an applicant serves an application for a special measures direction, or for its variation or discharge; and
 - (b) the application includes information that the applicant thinks ought not be revealed to another party.
- (2) The applicant must—
 - (a) omit that information from the part of the application that is served on that other party;
 - (b) mark the other part to show that, unless the court otherwise directs, it is only for the court; and
 - (c) in that other part, explain why the applicant has withheld that information from that other party.
- (3) Any hearing of an application to which this rule applies—
 - (a) must be in private, unless the court otherwise directs; and
 - (b) if the court so directs, may be, wholly or in part, in the absence of a party from whom information has been withheld.

- (4) At any hearing of an application to which this rule applies—
- (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the applicant and then by each other party, in all the parties' presence, and then
 - (ii) further representations by the applicant, in the absence of a party from whom information has been withheld; but
 - (b) the court may direct other arrangements for the hearing.

17.11. Representations in response

- (1) This rule applies where a party wants to make representations about—
- (a) an application for a special measures direction;
 - (b) an application for the variation or discharge of such a direction; or
 - (c) a direction, variation or discharge that the court proposes on its own initiative.
- (2) Such a party must—
- (a) serve the representations on—
 - (i) the court officer, and
 - (ii) each other party;
 - (b) do so not more than 14 days after, as applicable—
 - (i) service of the application, or
 - (ii) notice of the direction, variation or discharge that the court proposes; and
 - (c) ask for a hearing, if that party wants one, and explain why it is needed.
- (3) Where representations include information that the person making them thinks ought not be revealed to another party, that person must—
- (a) omit that information from the representations served on that other party;
 - (b) mark the information to show that, unless the court otherwise directs, it is only for the court; and

(c) with that information include an explanation of why it has been withheld from that other party.

(4) Representations against a special measures direction must explain, as appropriate—

(a) why the witness is not eligible for assistance;

(b) if the witness is eligible for assistance, why—

(i) no special measure would be likely to improve the quality of the witness' evidence,

(ii) the proposed measure or measures would not be likely to maximise, so far as practicable, the quality of the witness' evidence, or

(iii) the proposed measure or measures might tend to inhibit the effective testing of that evidence;

(c) in a case in which the admission of video recorded evidence is proposed, why it would not be in the interests of justice for the recording, or part of it, to be admitted as evidence.

(5) Representations against the variation or discharge of a special measures direction must explain why it should not be varied or discharged.

17.12. Defendant's evidence direction

The court may decide whether to give, vary or discharge a defendant's evidence direction—

(a) at a hearing, in public or in private, or if not contested without a hearing;

(b) in a party's absence, if that party—

(i) applied for the direction, variation or discharge, or

(ii) has had at least 14 days in which to make representations.

17.13. Content of application for a defendant's evidence direction

An applicant for a defendant's evidence direction must—

(a) explain how the proposed direction meets the conditions prescribed by the Criminal Procedure and Evidence Ordinance 2014;

(b) in a case in which the applicant proposes that the defendant give evidence by live link—

(i) identify a person to accompany the defendant while the defendant gives evidence, and

(ii) explain why that person is appropriate;

(c) ask for a hearing, if the applicant wants one, and explain why it is needed.

17.14. Application to vary or discharge a defendant’s evidence direction

(1) A party who wants the court to vary or discharge a defendant’s evidence direction must—

(a) apply in writing, as soon as reasonably practicable after becoming aware of the grounds for doing so; and

(b) serve the application on—

(i) the court officer, and

(ii) each other party.

(2) The applicant must—

(a) on an application to discharge a live link direction, explain why it is in the interests of justice to do so;

(b) on an application to discharge a direction for an intermediary, explain why it is no longer necessary in order to ensure that the defendant receives a fair trial;

(c) on an application to vary a direction for an intermediary, explain why it is necessary for the direction to be varied in order to ensure that the defendant receives a fair trial; and

(d) ask for a hearing, if the applicant wants one, and explain why it is needed.

17.15. Representations in response

(1) This rule applies where a party wants to make representations about—

(a) an application for a defendant’s evidence direction;

(b) an application for the variation or discharge of such a direction; or

(c) a direction, variation or discharge that the court proposes on its own initiative.

(2) Such a party must—

(a) serve the representations on—

(i) the court officer, and

(ii) each other party;

(b) do so not more than 14 days after, as applicable—

- (i) service of the application, or
 - (ii) notice of the direction, variation or discharge that the court proposes; and
- (c) ask for a hearing, if that party wants one, and explain why it is needed.
- (3) Representations against a direction, variation or discharge must explain why the conditions prescribed by the Criminal Procedure and Evidence Ordinance 2014 are not met.

17.16 Witness Anonymity Orders - exercise of court's powers

- (1) The court may decide whether to make, vary or discharge a witness anonymity order—
- (a) at a hearing (which must be in private, unless the court otherwise directs), or without a hearing (unless any party asks for one);
 - (b) in the absence of a defendant.
- (2) The court must not exercise its power to make, vary or discharge a witness anonymity order, or to refuse to do so—
- (a) before or during the trial, unless each party has had an opportunity to make representations;
 - (b) on an appeal by the defendant unless in each party's case—
 - (i) that party has had an opportunity to make representations, or
 - (ii) the appeal court is satisfied that it is not reasonably practicable to communicate with that party;
 - (c) after the trial and any such appeal are over, unless in the case of each party and the witness—
 - (i) each has had an opportunity to make representations, or
 - (ii) the court is satisfied that it is not reasonably practicable to communicate with that party or witness.

17.17 Content and conduct of application for a witness anonymity order

- (1) An applicant for a witness anonymity order must—
- (a) include in the application nothing that might reveal the witness' identity;
 - (b) describe the measures proposed by the applicant;

(c) explain how the proposed order meets the conditions prescribed by section 471 of the Criminal Procedure and Evidence Ordinance 2014;

(d) explain why no measures other than those proposed will suffice, such as—

- (i) an admission of the facts that would be proved by the witness,
- (ii) an order restricting public access to the trial,
- (iii) reporting restrictions,
- (iv) a direction for a special measure
- (v) introduction of the witness' written statement as hearsay evidence, or
- (vi) arrangements for the protection of the witness;

(e) attach to the application—

- (i) a witness statement setting out the proposed evidence, edited in such a way as not to reveal the witness' identity,
- (ii) where the prosecutor is the applicant, any further prosecution evidence to be served, and any further prosecution material to be disclosed, similarly edited, and
- (iii) any defence statement that has been served, or as much information as may be available to the applicant that gives particulars of the defence; and

(f) ask for a hearing, if the applicant wants one.

(2) At any hearing of the application, the applicant must—

(a) identify the witness to the court, unless at the prosecutor's request the court otherwise directs; and

(b) present to the court, unless it otherwise directs—

- (i) the unedited witness statement from which the edited version has been prepared,
- (ii) where the prosecutor is the applicant, the unedited version of any further prosecution evidence or material from which an edited version has been prepared, and
- (iii) such further material as the applicant relies on to establish that the proposed order meets the conditions prescribed by section 471 of the 2014 Ordinance.

(3) At any such hearing—

(a) the general rule is that the court must consider, in the following sequence—

(i) representations first by the applicant and then by each other party, in all the parties' presence, and then

(ii) information withheld from a defendant, and further representations by the applicant, in the absence of any (or any other) defendant; but

(b) the court may direct other arrangements for the hearing.

(4) Before the witness gives evidence, the applicant must identify the witness to the court—

(a) if not already done;

(b) without revealing the witness' identity to any other party or person; and

(c) unless at the prosecutor's request the court otherwise directs.

17.18. Duty of court officer to notify the Attorney General

The court officer must notify the Attorney General of an application, unless the prosecutor is, or acts on behalf of, a public authority.

17.19. Application to vary or discharge a witness anonymity order

(1) A party who wants the court to vary or discharge a witness anonymity order, or a witness who wants the court to do so when the case is over, must—

(a) apply in writing, as soon as reasonably practicable after becoming aware of the grounds for doing so; and

(b) serve the application on—

(i) the court officer, and

(ii) each other party.

(2) The applicant must—

(a) explain what material circumstances have changed since the order was made (or last varied, if applicable);

(b) explain why the order should be varied or discharged, taking account of the conditions for making an order; and

(c) ask for a hearing, if the applicant wants one.

(3) Where an application includes information that the applicant thinks might reveal the witness' identity, the applicant must—

- (a) omit that information from the application that is served on a defendant;
- (b) mark the information to show that it is only for the court and the prosecutor (if the prosecutor is not the applicant); and
- (c) with that information include an explanation of why it has been withheld.

(4) Where a party applies to vary or discharge a witness anonymity order after the trial and any appeal are over, the party who introduced the witness' evidence must serve the application on the witness.

17.20. Representations in response

(1) This rule applies where a party or, where the case is over, a witness, wants to make representations about—

- (a) an application for a witness anonymity order;
- (b) an application for the variation or discharge of such an order; or
- (c) a variation or discharge that the court proposes on its own initiative.

(2) Such a party or witness must—

- (a) serve the representations on—
 - (i) the court officer, and
 - (ii) each other party;
- (b) do so not more than 14 days after, as applicable—
 - (i) service of the application, or
 - (ii) notice of the variation or discharge that the court proposes; and
- (c) ask for a hearing, if that party or witness wants one.

(3) Where representations include information that the person making them thinks might reveal the witness' identity, that person must—

- (a) omit that information from the representations served on a defendant;

(b) mark the information to show that it is only for the court (and for the prosecutor, if relevant); and

(c) with that information include an explanation of why it has been withheld.

(4) Representations against a witness anonymity order must explain why the conditions for making the order are not met.

(5) Representations against the variation or discharge of such an order must explain why it would not be appropriate to vary or discharge it, taking account of the conditions for making an order.

(6) A prosecutor's representations in response to an application by a defendant must include all information available to the prosecutor that is relevant to the conditions and considerations specified by sections 471 and 472 of the Criminal Procedure and Evidence Ordinance 2014.

17.21. Live link directions – exercise of court's powers

The court may decide whether to give or discharge a live link direction—

(a) at a hearing, in public or in private, or if not contested without a hearing;

(b) in a party's absence, if that party—

(i) applied for the direction or discharge, or

(ii) has had at least 14 days in which to make representations in response to an application by another party.

17.22. Content of application for a live link direction

An applicant for a live link direction must—

(a) unless the court otherwise directs, identify the place from which the witness will give evidence;

(b) if that place is in the Falkland Islands, explain why it would be in the interests of the efficient or effective administration of justice for the witness to give evidence by live link;

(c) if the applicant wants the witness to be accompanied by another person while giving evidence—

(i) name that person, if possible, and

(ii) explain why it is appropriate for the witness to be accompanied;

(d) ask for a hearing, if the applicant wants one, and explain why it is needed.

17.23. Application to discharge a live link direction

- (1) A party who wants the court to discharge a live link direction must—
 - (a) apply in writing, as soon as reasonably practicable after becoming aware of the grounds for doing so; and
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party.
- (2) The applicant must—
 - (a) explain what material circumstances have changed since the direction was given;
 - (b) explain why it is in the interests of justice to discharge the direction; and
 - (c) ask for a hearing, if the applicant wants one, and explain why it is needed.

17.24. Representations in response

- (1) This rule applies where a party wants to make representations about an application for a live link direction or for the discharge of such a direction.
- (2) Such a party must—
 - (a) serve the representations on—
 - (i) the court officer, and
 - (ii) each other party;
 - (b) do so not more than 14 days after service of the application; and
 - (c) ask for a hearing, if that party wants one, and explain why it is needed.
- (3) Representations against a direction or discharge must explain, as applicable, why the conditions prescribed by the Criminal Procedure and Evidence Ordinance 2014 are not met.

PART 18 DISCLOSURE

18.1. When this Part applies

This Part applies where Part 14 of the Criminal Procedure and Evidence Ordinance 2014 applies.

18.2. Prosecution disclosure

- (1) This rule applies where the prosecutor—

- (a) discloses prosecution material to the defendant; or
- (b) serves on the defendant a written statement that there is no such material to disclose.

(2) The prosecutor must at the same time so inform the court officer.

18.3. Prosecutor's application for public interest ruling

(1) This rule applies where—

- (a) without a court order, the prosecutor would have to disclose material; and
- (b) the prosecutor wants the court to decide whether it would be in the public interest to disclose it.

(2) The prosecutor must—

- (a) apply in writing for such a decision; and
- (b) serve the application on—
 - (i) the court officer,
 - (ii) any person who the prosecutor thinks would be directly affected by disclosure of the material, and
 - (iii) the defendant, but only to the extent that serving it on the defendant would not disclose what the prosecutor thinks ought not be disclosed.

(3) The application must—

- (a) describe the material, and explain why the prosecutor thinks that—
 - (i) it is material that the prosecutor would have to disclose,
 - (ii) it would not be in the public interest to disclose that material, and
 - (iii) no measure such as the prosecutor's admission of any fact, or disclosure by summary, extract or edited copy, adequately would protect both the public interest and the defendant's right to a fair trial;
- (b) omit from any part of the application that is served on the defendant anything that would disclose what the prosecutor thinks ought not be disclosed (in which case, paragraph (4) of this rule applies); and
- (c) explain why, if no part of the application is served on the defendant.

- (4) Where the prosecutor serves only part of the application on the defendant, the prosecutor must—
- (a) mark the other part, to show that it is only for the court; and
 - (b) in that other part, explain why the prosecutor has withheld it from the defendant.
- (5) Unless already done, the court may direct the prosecutor to serve an application on—
- (a) the defendant;
 - (b) any other person who the court considers would be directly affected by the disclosure of the material.
- (6) The court must determine the application at a hearing which—
- (a) must be in private, unless the court otherwise directs; and
 - (b) if the court so directs, may take place, wholly or in part, in the defendant's absence.
- (7) At a hearing at which the defendant is present—
- (a) the general rule is that the court must consider, in the following sequence—
 - (i) representations first by the prosecutor and any other person served with the application, and then by the defendant, in the presence of them all, and then
 - (ii) further representations by the prosecutor and any such other person in the defendant's absence; but
 - (b) the court may direct other arrangements for the hearing.
- (8) The court may only determine the application if satisfied that it has been able to take adequate account of—
- (a) such rights of confidentiality as apply to the material; and
 - (b) the defendant's right to a fair trial.
- (9) Unless the court otherwise directs, the court officer—
- (a) must not give notice to anyone other than the prosecutor—
 - (i) of the hearing of an application under this rule, unless the prosecutor served the application on that person, or

(ii) of the court's decision on the application;

(b) may—

(i) keep a written application or representations, or

(ii) arrange for the whole or any part to be kept by some other appropriate person, subject to any conditions that the court may impose.

18.4. Defence disclosure

(1) This rule applies where—

(a) the defendant gives a defence statement;

(b) the defendant gives a defence witness notice.

(2) The defendant must serve such a statement or notice on—

(a) the court officer; and

(b) the prosecutor.

18.5. Defendant's application for prosecution disclosure

(1) This rule applies where the defendant—

(a) has served a defence statement; and

(b) wants the court to require the prosecutor to disclose material.

(2) The defendant must serve an application on—

(a) the court officer; and

(b) the prosecutor.

(3) The application must—

(a) describe the material that the defendant wants the prosecutor to disclose;

(b) explain why the defendant thinks there is reasonable cause to believe that—

(i) the prosecutor has that material, and

(ii) it is material that should be disclosed; and

(c) ask for a hearing, if the defendant wants one, and explain why it is needed.

- (4) The court may determine an application under this rule—
 - (a) at a hearing, in public or in private; or
 - (b) if not contested, without a hearing.
- (5) The court must not require the prosecutor to disclose material unless the prosecutor—
 - (a) is present; or
 - (b) has had at least 14 days in which to make representations.

18.6. Review of public interest ruling

- (1) This rule applies where the court has ordered that it is not in the public interest to disclose material that the prosecutor otherwise would have to disclose, and—
 - (a) the defendant wants the court to review that decision; or
 - (b) the court reviews that decision on its own initiative.
- (2) Where the defendant wants the court to review that decision, the defendant must—
 - (a) serve an application on—
 - (i) the court officer, and
 - (ii) the prosecutor; and
 - (b) in the application—
 - (i) describe the material that the defendant wants the prosecutor to disclose, and
 - (ii) explain why the defendant thinks it is no longer in the public interest for the prosecutor not to disclose it.
- (3) The prosecutor must serve any such application on any person who the prosecutor thinks would be directly affected if that material were disclosed.
- (4) The prosecutor, and any such person, must serve any representations on—
 - (a) the court officer; and
 - (b) the defendant, unless to do so would in effect reveal something that either thinks ought not be disclosed.
- (5) The court may direct—

(a) the prosecutor to serve any such application on any person who the court considers would be directly affected if that material were disclosed;

(b) the prosecutor and any such person to serve any representations on the defendant.

(6) The court must review a decision to which this rule applies at a hearing which—

(a) must be in private, unless the court otherwise directs; and

(b) if the court so directs, may take place, wholly or in part, in the defendant's absence.

(7) At a hearing at which the defendant is present—

(a) the general rule is that the court must consider, in the following sequence—

(i) representations first by the defendant, and then by the prosecutor and any other person served with the application, in the presence of them all, and then

(ii) further representations by the prosecutor and any such other person in the defendant's absence; but

(b) the court may direct other arrangements for the hearing.

(8) The court may only conclude a review if satisfied that it has been able to take adequate account of—

(a) such rights of confidentiality as apply to the material; and

(b) the defendant's right to a fair trial.

18.7. Defendant's application to use disclosed material

(1) This rule applies where a defendant wants the court's permission to use disclosed prosecution material—

(a) otherwise than in connection with the case in which it was disclosed; or

(b) beyond the extent to which it was displayed or communicated publicly at a hearing.

(2) The defendant must serve an application on—

(a) the court officer; and

(b) the prosecutor.

(3) The application must—

- (a) specify what the defendant wants to use or disclose; and
 - (b) explain why.
- (4) The court may determine an application under this rule—
- (a) at a hearing, in public or in private; or
 - (b) if not contested, without a hearing.
- (5) The court must not permit the use of such material unless—
- (a) the prosecutor has had at least 28 days in which to make representations; and
 - (b) the court is satisfied that it has been able to take adequate account of any rights of confidentiality that may apply to the material.

18.8. Court’s power to vary requirements under this Part

The court may—

- (a) shorten or extend (even after it has expired) a time limit under this Part;
- (b) allow an application under this Part to be in a different form to one set out in this Part, or to be presented orally; and
- (c) specify the period within which—
 - (i) any application under this Part must be made, or
 - (ii) any material must be disclosed.

Trial Procedure

PART 19
PROCEDURE AT SUMMARY TRIAL

19.1 Procedure at trial

- (1) On the summary trial of an information the court must, if the defendant appears;
- (a) state to the defendant the substance of the information; and
 - (b) ask whether the defendant pleads guilty or not guilty
- (2) In the following sequence—

- (a) the prosecutor may summarise the prosecution case, concisely identifying the relevant law, outlining the facts and indicating the matters likely to be in dispute;
- (b) the prosecutor must introduce the evidence on which the prosecution case relies;
- (c) at the conclusion of the prosecution case, on the defendant's application or on its own initiative, the court—
 - (i) may acquit on the ground that the prosecution evidence is insufficient for any reasonable court properly to convict, but
 - (ii) must not do so unless the prosecutor has had an opportunity to make representations;
- (d) at the end of the prosecution case, the court must ask whether the defendant intends to give evidence in person and, if the answer is 'no', then the court must satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary)—
 - (i) the right to give evidence in person, and
 - (ii) that if the defendant does not give evidence in person, or refuses to answer a question while giving evidence, the court may draw such inferences as seem proper;
- (e) if the defendant is introducing evidence other than his own evidence then the defendant may concisely summarise the defence case;
- (f) in this order (or in a different order, if the court so directs) the defendant may—
 - (i) give evidence in person,
 - (ii) call another witness, or witnesses, to give evidence in person, and
 - (iii) introduce any other evidence;
- (g) a party may introduce further evidence if it is then admissible (for example, because it is in rebuttal of evidence already introduced);
- (h) the prosecutor may make final representations in support of the prosecution case,
- (i) the defendant may make final representations in support of the defence case;
- (j) if the trial is before justices of the peace then any legal advice that the justices of the peace receive shall be given in open court and the parties shall have the opportunity to make representations;

(k) if the trial is before the Senior Magistrate then the Senior Magistrate shall announce the directions of law that will apply to the case in open court and the parties shall have the opportunity to make representations;

(l) the court will announce its verdict.

(3) Where a party wants to introduce evidence or make representations after that party's opportunity to do so under paragraph (2), the court—

(a) may refuse to receive any such evidence or representations; and

(b) must not receive any such evidence or representations after it has announced its verdict.

19.2 Unrepresented defendants

The Clerk to the Summary Court or the court must explain, in terms the defendant can understand (with help, if necessary)—

(a) the procedure at trial,

(b) the right to give evidence, and

(c) the potential effect of not doing so at all, or of refusing to answer a question while doing so.

PART 20 JURIES

20.1. Selecting the jury

(1) The court must select a jury to try the case from the panel, or part of the panel, of jurors summoned by the court to attend at that time and place.

(2) The court must select the jury by drawing at random each juror's name from among those so summoned and—

(a) announcing each name so drawn; or

(b) announcing an identifying number assigned by the court officer to that person, where the court is satisfied that that is necessary.

(3) The jury the court selects—

(a) must comprise no fewer than 12 jurors where the defendant is to be tried on an indictment that alleges murder or treason;

(b) must comprise no fewer than 7 jurors where the defendant is to be tried on an indictment that alleges any offence other than murder or treason; and

(c) may comprise of 2 additional jurors to begin with, where the court is satisfied that it is beneficial to have additional jurors to hear the beginning of the trial.

(4) Where the court selects a jury comprising more than 12 jurors in a trial on an indictment alleging murder or treason, or more than 7 jurors in a trial on an indictment alleging an offence other than murder or treason, the court must explain to them that—

(a) the purpose of selecting more than 12 jurors or 7 jurors to begin with is to fill any vacancy or vacancies caused by the discharge of any of the first 12 or first 7 before the prosecution evidence begins;

(b) any such vacancy or vacancies will be filled by the extra jurors in order of their selection from the panel;

(c) the court will discharge any extra juror or jurors remaining by no later than the beginning of the prosecution evidence; and

(d) any juror who is discharged for that reason then will be available to be selected for service on another jury, during the period for which that juror has been summoned.

(5) Each of the 12 or more jurors or 7 or more jurors the court selects—

(a) must take an oath or affirm; and

(b) becomes a full jury member until discharged.

(6) The oath or affirmation must be in these terms, or in any corresponding terms that the juror declares to be binding on him or her—

“I swear by Almighty God [*or* I do solemnly, sincerely and truly declare and affirm] that I will faithfully try the defendant and give a true verdict according to the evidence.”

20.2. Discharging jurors

(1) The court may exercise its power to discharge a juror at any time—

(a) after the juror completes the oath or affirmation; and

(b) before the court discharges the jury.

(2) No later than the beginning of the prosecution evidence, if the jury then comprises of additional jurors, the court must discharge any in excess of 12 jurors in a trial on an indictment alleging murder or treason, or any in excess of 7 jurors in a trial on an indictment alleging an offence other than murder or treason in reverse order of their selection from the panel.

(3) The court may exercise its power to discharge the jury at any time—

(a) after each juror has completed the oath or affirmation; and

(b) before the jury has delivered its verdict on each offence charged in the indictment.

(4) The court must exercise its power to discharge the jury when, in respect of each offence charged in the indictment, either—

(a) the jury has delivered its verdict on that offence; or

(b) the court has discharged the jury from reaching a verdict.

20.3. Objecting to jurors

(1) A party who objects to the panel of jurors must serve notice explaining the objection on the court officer and on the other party before the first juror's name or number is drawn.

(2) A party who objects to the selection of an individual juror must—

(a) tell the court of the objection—

(i) after the juror's name or number is announced, and

(ii) before the juror completes the oath or affirmation; and

(b) explain the objection.

(3) A prosecutor who exercises the prosecution right to prevent the court selecting an individual juror must announce the exercise of that right before the juror completes the oath or affirmation.

(4) The court must determine an objection under paragraph (1), (2) or (3)—

(a) at a hearing, in public or in private; and

(b) in the absence of the jurors, unless the court otherwise directs.

PART 21 PROCEDURE AT TRIAL ON INDICTMENT

21.1. Procedure at trial

(1) On a trial on indictment, where there is a jury, the court officer must—

(a) inform the jurors of each offence charged in the indictment to which the defendant pleads not guilty by reading out loud the statement of the offence and the particulars of the offence; and

(b) inform the jurors that it is their charge, having heard all of the evidence, to decide whether the defendant is guilty or not on each offence.

(2) On a trial on indictment, whether trial by judge and jury or trial by judge alone, in the following sequence—

(a) the prosecutor may summarise the prosecution case, concisely outlining the facts and the matters likely to be in dispute;

(b) where there is a jury, to help the jurors to understand the case and resolve any issue in it the court may—

(i) invite the defendant concisely to identify what is in issue, if necessary in terms approved by the court; and may

(ii) direct that the jurors be given a copy of any defence statement, edited if necessary to exclude any reference to inappropriate matters or to matters evidence of which would not be admissible;

(c) the prosecutor must introduce the evidence on which the prosecution case relies;

(d) at the end of the prosecution evidence, on the defendant's application or on its own initiative, the court—

(i) may direct the jury (if there is one) to acquit on the ground that the prosecution evidence is insufficient for any reasonable court properly to convict, but

(ii) must not do so unless the prosecutor has had an opportunity to make representations;

(e) at the end of the prosecution evidence, the court must ask whether the defendant intends to give evidence in person and, if the answer is 'no', then the court must satisfy itself that there has been explained to the defendant, in terms the defendant can understand (with help, if necessary)—

(i) the right to give evidence in person, and

(ii) that if the defendant does not give evidence in person, or refuses to answer a question while giving evidence, the court may draw such inferences as seem proper;

(f) if the defendant is introducing evidence other than his own evidence then the defendant may concisely summarise the defence case;

(g) in this order (or in a different order, if the court so directs) the defendant may—

(i) give evidence in person,

(ii) call another witness, or witnesses, to give evidence in person, and

(iii) introduce any other evidence;

(h) a party may introduce further evidence if it is then admissible (for example, because it is in rebuttal of evidence already introduced);

(i) the prosecutor may make final representations in support of the prosecution case;

(j) the defendant may make final representations in support of the defence case.

(3) Unless the jury (if there is one) has retired to consider its verdict, the court may allow a party to introduce evidence, or make representations, after that party's opportunity to do so under paragraph (2).

(4) Unless the jury has already reached a verdict on a count, the court may exercise its power to—

(a) discharge the jury from reaching a verdict on that count;

(b) direct the jury to acquit the defendant on that count; or

(c) invite the jury to convict the defendant, if the defendant pleads guilty to the offence charged by that count.

(5) Submissions and rulings on matters of law or case management must be made in the absence of jurors.

21.2. Directions to the jury

(1) The court must give the jury directions about the relevant law at any time at which to do so will assist jurors to evaluate the evidence.

(2) Before the jury retires to consider a verdict the court must—

(a) summarise for the jury, to such extent as is necessary, the evidence relevant to the issues they must decide;

(b) direct the jury as to matters of law;

(c) give the jury such questions, if any, as the court invites jurors to answer in coming to a verdict;

(d) direct the jury to elect a foreperson to speak on the jury's behalf;

(e) direct the jury to retire to consider its verdict.

(3) The court shall—

(a) if necessary recall the jury to answer jurors' questions;

- (b) if appropriate, recall the jury to give directions for a verdict by a majority; and
- (c) recall the jury when it informs the court that it has reached a verdict.

(4) The court may give the jury directions, questions or other assistance in writing.

21.3 Taking the verdict of the jury

When the court recalls the jury to deliver its verdict the court must ask the foreperson chosen by the jury, in respect of each count—

- (a) whether the jury has reached a verdict on which all the jurors agree;
- (b) if so, whether that verdict is guilty or not guilty;
- (c) and whether that verdict is the verdict of all the jurors,
- (d) if not, where the jury has deliberated for at least 2 hours and if the court decides to invite a majority verdict, then—
 - (i) on an indictment that charges murder or treason whether at least 10 (of 11 or 12 jurors), agreed on a verdict; or
 - (ii) on an indictment that charges any other offence whether at least 6 (of 7) agreed on a verdict,
 - (iii) if so, is that verdict guilty or not guilty, and
 - (iv) if, and only if, such a verdict is guilty, how many jurors agreed to that verdict and how many disagreed.

21.4. Directions and verdict when trial by judge alone

(1) Where a trial is by judge alone, before the judge announces a verdict, the judge must announce the directions of law that will apply to the case in open court and the parties shall have the opportunity to make representations.

(2) The judge will announce the verdict.

Evidence

PART 22 FORMS OF EVIDENCE

22.1. Evidence of a witness in person

(1) This rule applies where a party wants to introduce evidence by calling a witness to give that evidence in person.

(2) Unless the court otherwise directs—

(a) a witness waiting to give evidence must not wait inside the courtroom, unless that witness is—

(i) a party, or

(ii) an expert witness, or

(iii) an investigating officer in charge of the case and the parties agree to that witness being present inside the courtroom;

(b) a witness who gives evidence in the courtroom must do so from the place provided for that purpose; and

(c) a witness' address—

(i) must not be given in public unless the address is relevant to an issue in the case,

(ii) may be given in writing to the court, parties and jury.

(3) Unless otherwise directed by the court before giving evidence a witness must take an oath or affirm.

(4) In the following sequence—

(a) the party who calls a witness may ask questions in examination-in-chief;

(b) if the witness gives evidence for the prosecution—

(i) the defendant, if there is only one, may ask questions in cross-examination, or

(ii) subject to the court's directions, each defendant, if there is more than one, may ask such questions, in the order their names appear in the indictment or as directed by the court;

(c) if the defendant gives evidence or the witness gives evidence for a defendant—

(i) subject to the court's directions, each other defendant, if there is more than one, may ask questions in cross-examination, in the order their names appear in the indictment or as directed by the court, and

(ii) the prosecutor may ask such questions;

(d) the party who called the witness may ask questions in re-examination arising out of any cross-examination.

(5) If the court so permits at any time while giving evidence a witness may refer to a record of that witness' recollection of events.

(6) The court may—

(a) ask a witness questions; and in particular

(b) where the defendant is not represented, ask a witness any question necessary in the defendant's interests.

22.2. Evidence of a witness in writing

(1) This rule applies where a party wants to introduce in evidence the written statement of a witness.

(2) If the court admits such evidence each relevant part of the statement must be read or summarised aloud, unless the court otherwise directs.

22.3. Evidence by admission

(1) This rule applies where—

(a) a party introduces in evidence a fact admitted by another party; or

(b) parties jointly admit a fact.

(2) Unless the court otherwise directs, a written record must be made of the admission and signed by the parties.

(3) The admission must be read aloud.

PART 23 WRITTEN WITNESS STATEMENTS

23.1. Content of written witness statement

(1) A written witness statement must contain—

(a) at the beginning—

(i) the witness' name, and

(ii) the witness' age, if under 18;

(b) a declaration by the witness that—

(i) it is true to the best of the witness' knowledge and belief, and

(ii) the witness knows that if it is introduced in evidence, then it would be an offence wilfully to have stated in it anything that the witness knew to be false or did not believe to be true;

(c) if the witness cannot read the statement, a signed declaration by someone else that that person read it to the witness; and

(d) the witness' signature.

(2) Where the statement refers to a document or object as an exhibit—

(a) the statement must contain such a description of that exhibit as to identify it clearly; and

(b) the exhibit must be labelled or marked correspondingly, and the label or mark signed by the maker of the statement.

23.2. Written witness statement in evidence

(1) A party who wants to introduce in evidence a written witness statement must, before the hearing at which that party wants to introduce it, serve a copy of the statement on—

(i) the court officer, and

(ii) each other party.

(2) If that party relies on only part of the statement, that party must mark the copy in such a way as to make that clear.

(3) A prosecutor must serve on a defendant, with the copy of the statement, a notice—

(a) of the right to object to the introduction of the statement in evidence instead of the witness giving evidence in person;

(b) that if the defendant does not object, the court—

(i) can nonetheless require the witness to give evidence in person, but

(ii) may decide not to do so.

(4) A party served with a written witness statement who objects to its introduction in evidence must—

(a) serve notice of the objection on—

(i) the party who served it, and

(ii) the court officer; and

(b) serve the notice of objection not more than 7 days after service of the statement unless the court extends that time limit, before or after the statement was served.

(5) The court may exercise its power to require the witness to give evidence in person—

(a) on application by any party; or

(b) on its own initiative.

(6) A party entitled to receive a copy of a statement may waive that entitlement by so informing—

(a) the party who would have served it; and

(b) the court.

PART 24 EXPERT EVIDENCE

24.1. When this Part applies

(1) This Part applies where a party wants to introduce expert opinion evidence.

(2) A reference to an ‘expert’ in this Part is a reference to a person who is required to give or prepare expert evidence for the purpose of criminal proceedings, including evidence required to determine fitness to plead or for the purpose of sentencing.

24.2. Expert’s duty to the court

(1) An expert must help the court to achieve the overriding objective—

(a) by giving opinion which is—

(i) objective and unbiased, and

(ii) within the expert’s area or areas of expertise; and

(b) by actively assisting the court in fulfilling its duty of case management under rule 3, in particular by—

(i) complying with directions made by the court, and

(ii) at once informing the court of any significant failure (by the expert or another) to take any step required by such a direction.

(2) This duty overrides any obligation to the person from whom the expert receives instructions or by whom the expert is paid.

(3) This duty includes obligations—

- (a) to define the expert's area or areas of expertise—
 - (i) in the expert's report, and
 - (ii) when giving evidence in person;
- (b) when giving evidence in person, to draw the court's attention to any question to which the answer would be outside the expert's area or areas of expertise; and
- (c) to inform all parties and the court if the expert's opinion changes from that contained in a report served as evidence or given in a statement.

24.3. Introduction of expert evidence

(1) A party who wants to introduce expert evidence otherwise than as admitted fact must—

- (a) serve a report by the expert which complies with rule 24.4 (Content of expert's report) on—
 - (i) the court officer, and
 - (ii) each other party;
- (b) serve the report as soon as practicable, and in any event with any application in support of which that party relies on that evidence;
- (c) serve with the report notice of anything of which the party serving it is aware which might reasonably be thought capable of detracting substantially from the credibility of that expert;
- (d) if another party so requires, give that party a copy of, or a reasonable opportunity to inspect—
 - (i) a record of any examination, measurement, test or experiment on which the expert's findings and opinion are based, or that were carried out in the course of reaching those findings and opinion, and
 - (ii) anything on which any such examination, measurement, test or experiment was carried out.

(2) Unless the parties otherwise agree or the court directs, a party may not—

- (a) introduce expert evidence if that party has not complied with paragraph (1);
- (b) introduce in evidence an expert report if the expert does not give evidence in person.

24.4. Content of expert's report

An expert's report must—

- (a) give details of the expert's qualifications, relevant experience and accreditation;
- (b) give details of any literature or other information which the expert has relied on in making the report;
- (c) contain a statement setting out the substance of all facts given to the expert which are material to the opinions expressed in the report, or upon which those opinions are based;
- (d) make clear which of the facts stated in the report are within the expert's own knowledge;
- (e) say who carried out any examination, measurement, test or experiment which the expert has used for the report and—
 - (i) give the qualifications, relevant experience and accreditation of that person,
 - (ii) say whether or not the examination, measurement, test or experiment was carried out under the expert's supervision, and
 - (iii) summarise the findings on which the expert relies;
- (f) where there is a range of opinion on the matters dealt with in the report—
 - (i) summarise the range of opinion, and
 - (ii) give reasons for the expert's own opinion;
- (g) if the expert is not able to give an opinion without qualification, state the qualification;
- (h) include such information as the court may need to decide whether the expert's opinion is sufficiently reliable to be admissible as evidence;
- (i) contain a summary of the conclusions reached;
- (j) contain a statement that the expert understands an expert's duty to the court, and has complied and will continue to comply with that duty; and
- (k) contain the same declaration of truth as a witness statement.

24.5. Expert to be informed of service of report

A party who serves on another party or on the court a report by an expert must, at once, inform that expert of that fact.

24.6. Pre-hearing discussion of expert evidence

- (1) This rule applies where more than one party wants to introduce expert evidence.
- (2) The court may direct the experts to—
 - (a) discuss the expert issues in the proceedings; and
 - (b) prepare a statement for the court of the matters on which they agree and disagree, giving their reasons.
- (3) Except for that statement, the content of that discussion must not be referred to without the court's permission.
- (4) A party may not introduce expert evidence without the court's permission if the expert has not complied with a direction under this rule.

24.7. Court's power to direct that evidence is to be given by a single joint expert

- (1) Where more than one defendant wants to introduce expert evidence on an issue at trial, the court may direct that the evidence on that issue is to be given by one expert only.
- (2) Where the co-defendants cannot agree who should be the expert, the court may—
 - (a) select the expert from a list prepared or identified by them; or
 - (b) direct that the expert be selected in another way.

24.8. Instructions to a single joint expert

- (1) Where the court gives a direction for a single joint expert to be used, each of the co-defendants may give instructions to the expert.
- (2) A co-defendant who gives instructions to the expert must, at the same time, send a copy of the instructions to each other co-defendant.
- (3) The court may give directions about—
 - (a) the payment of the expert's fees and expenses; and
 - (b) any examination, measurement, test or experiment which the expert wishes to carry out.
- (4) The court may, before an expert is instructed, limit the amount that can be paid by way of fees and expenses to the expert.
- (5) Unless the court otherwise directs, the instructing co-defendants are jointly and severally liable for the payment of the expert's fees and expenses.

24.9. Court’s power to vary requirements under this Part

- (1) The court may extend (even after it has expired) a time limit under this Part.
- (2) A party who wants an extension of time must—
 - (a) apply in writing, and
 - (b) explain the delay.

**PART 25
HEARSAY EVIDENCE**

25.1. Notice to introduce hearsay evidence

- (1) This rule applies where a party wants to introduce hearsay evidence under Part 20 of the Criminal Procedure and Evidence Ordinance 2014.
- (2) That party must—
 - (a) serve notice on—
 - (i) the court officer, and
 - (ii) each other party;
 - (b) in the notice—
 - (i) identify the evidence that is hearsay,
 - (ii) set out any facts on which that party relies to make the evidence admissible,
 - (iii) explain how that party will prove those facts if another party disputes them, and
 - (iv) explain why the evidence is admissible; and
 - (c) attach to the notice any statement or other document containing the evidence that has not already been served.
- (3) A prosecutor who wants to introduce such evidence must serve the notice not more than 14 days after the defendant pleads not guilty.
- (4) A defendant who wants to introduce such evidence must serve the notice as soon as reasonably practicable.
- (5) A party entitled to receive a notice under this rule may waive that entitlement by so informing—
 - (a) the party who would have served it; and

(b) the court.

25.2. Opposing the introduction of hearsay evidence

(1) This rule applies where a party objects to the introduction of hearsay evidence.

(2) That party must—

(a) apply to the court to determine the objection;

(b) serve the application on—

(i) the court officer, and

(ii) each other party;

(c) serve the application as soon as reasonably practicable, and in any event not more than 14 days after—

(i) service of notice to introduce the evidence

(ii) service of the evidence to which that party objects, if no notice has been served, or

(iii) the defendant pleads not guilty,

whichever of those events happens last; and

(d) in the application, explain—

(i) which, if any, facts set out in a notice that party disputes,

(ii) why the evidence is not admissible, and

(iii) any other objection to the evidence.

(3) The court—

(a) may determine an application—

(i) at a hearing, in public or in private, or

(ii) without a hearing but only where the parties expressly consent not to be heard;

(b) may adjourn the application.

25.3. Reasons for decisions

The court must announce at a hearing in public (but in the absence of the jury, if there is one) the reasons for a decision to admit evidence as evidence of hearsay, or to refuse to do so.

25.4. Court's power to vary requirements under this Part

(1) The court may—

(a) shorten or extend (even after it has expired) a time limit under this Part;

(b) allow an application or notice to be in a different form to one set out in this Part, or to be made or given orally; or

(c) dispense with the requirement for notice to introduce hearsay evidence.

(2) A party who wants an extension of time must—

(a) apply when serving the application or notice for which it is needed; and

(b) explain the delay.

PART 26 EVIDENCE OF BAD CHARACTER

26.1. When this Part applies

This Part applies where a party wants to introduce evidence of bad character, within the meaning of section 372 of the Criminal Procedure and Evidence Ordinance 2014.

26.2. Content of application or notice

(1) A party who wants to introduce evidence of bad character must—

(a) make an application where it is evidence of a non-defendant's bad character;

(b) give notice where it is evidence of a defendant's bad character.

(2) An application or notice must—

(a) set out the facts of the misconduct on which that party relies,

(b) explain how that party will prove those facts (whether by certificate of conviction, other official record, or other evidence), if another party disputes them, and

(c) explain why the evidence is admissible.

26.3. Application to introduce evidence of a non-defendant's bad character

(1) This rule applies where a party wants to introduce evidence of the bad character of a person other than the defendant.

- (2) That party must serve an application to do so on—
 - (a) the court officer; and
 - (b) each other party.
- (3) The applicant must serve the application—
 - (a) as soon as reasonably practicable; and in any event
 - (b) not more than 14 days after the prosecutor discloses material on which the application is based (if the prosecutor is not the applicant).
- (4) A party who objects to the introduction of the evidence must—
 - (a) serve notice on—
 - (i) the court officer, and
 - (ii) each other partynot more than 14 days after service of the application; and
 - (b) in the notice explain, as applicable
 - (i) which, if any, facts of the misconduct set out in the application that party disputes,
 - (ii) what, if any, facts of the misconduct that party admits instead,
 - (iii) why the evidence is not admissible, and
 - (iv) any other objection to the application.
- (5) The court—
 - (a) may determine an application—
 - (i) at a hearing, in public or in private, or
 - (ii) without a hearing but only where the parties consent not to be heard;
 - (b) may adjourn the application.

26.4. Notice to introduce evidence of a defendant's bad character

- (1) This rule applies where a party wants to introduce evidence of a defendant's bad character.

- (2) A prosecutor or co-defendant who wants to introduce such evidence must serve notice on—
- (a) the court officer; and
 - (b) each other party.
- (3) A prosecutor must serve any such notice not more than 14 days after the defendant pleads not guilty.
- (4) A co-defendant who wants to introduce such evidence must serve the notice as soon as reasonably practicable.
- (5) A party who objects to the introduction of the evidence identified by such a notice must—
- (a) apply to the court to determine the objection;
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party
- not more than 14 days after service of the notice; and
- (c) in the application explain, as applicable—
 - (i) which, if any, facts of the misconduct set out in the notice that party disputes,
 - (ii) what, if any, facts of the misconduct that party admits instead,
 - (iii) why the evidence is not admissible,
 - (iv) why it would be unfair to admit the evidence, and
 - (v) any other objection to the notice.
- (6) The court—
- (a) may determine an application—
 - (i) at a hearing, in public or in private, or
 - (ii) without a hearing but only where the parties consent not to be heard;
 - (b) may adjourn the application.

- (7) A party entitled to receive such a notice may waive that entitlement by so informing—
- (a) the party who would have served it; and
 - (b) the court.
- (8) A defendant who wants to introduce evidence of his or her own bad character must—
- (a) give notice, in writing or orally—
 - (i) as soon as reasonably practicable, and in any event
 - (ii) before the evidence is introduced, either by the defendant or in reply to a question asked by the defendant of another party's witness in order to obtain that evidence; and
 - (b) on indictment, at the same time give notice (in writing, or orally) of any direction about the defendant's character that the defendant wants the court to give the jury.

26.5. Reasons for decisions

The court must announce at a hearing in public (but in the absence of the jury, if there is one) the reasons for a decision to admit evidence as evidence of bad character, or to refuse to do so.

26.6. Court's power to vary requirements under this Part

- (1) The court may—
- (a) shorten or extend (even after it has expired) a time limit under this Part;
 - (b) allow an application or notice to be in a different form as set out in this Part, or to be made or given orally;
 - (c) dispense with a requirement for notice to introduce evidence of a defendant's bad character.
- (2) A party who wants an extension of time must—
- (a) apply when serving the application or notice for which it is needed; and
 - (b) explain the delay.

PART 27

EVIDENCE OF A COMPLAINANT'S PREVIOUS SEXUAL BEHAVIOUR

27.1. When this Part applies

This Part applies where a defendant wants to—

- (a) introduce evidence; or

(b) cross-examine a witness,

about a complainant's sexual behaviour despite the prohibition in section 455 of the Criminal Procedure and Evidence Ordinance 2014.

27.2. Application for permission to introduce evidence or cross-examine

The defendant must apply for permission to do so—

(a) in writing; and

(b) not more than 14 days after the prosecutor has complied or purported to comply with section 216 of the Criminal Procedure and Evidence Ordinance 2014.

27.3. Content of application

The application must—

(a) identify the issue to which the defendant says the complainant's sexual behaviour is relevant;

(b) give particulars of—

(i) any evidence that the defendant wants to introduce, and

(ii) any questions that the defendant wants to ask;

(c) identify the exception to the prohibition in section 455 of the Criminal Procedure and Evidence Ordinance 2014 on which the defendant relies; and

(d) give the name and date of birth of any witness whose evidence about the complainant's sexual behaviour the defendant wants to introduce.

27.4. Service of application

The defendant must serve the application on the court officer and all other parties.

27.5. Reply to application

A party who wants to make representations about an application must—

(a) do so in writing not more than 14 days after receiving it; and

(b) serve those representations on the court officer and all other parties.

27.6. Application for special measures

If the court allows an application under then—

(a) a party may apply not more than 14 days later for a special measures direction or for the variation of an existing special measures direction; and

(b) the court may shorten the time for opposing that application.

27.7. Court's power to vary requirements under this Part

The court may shorten or extend (even after it has expired) a time limit under this Part.

PART 28

RESTRICTION ON CROSS-EXAMINATION BY A DEFENDANT

28.1. When this Part applies

This Part applies where—

(a) a defendant may not cross-examine in person a witness because of section 449 or section 450 of the Criminal Procedure and Evidence Ordinance 2014;

(b) the court can prohibit a defendant from cross-examining in person a witness under section 451 of that Ordinance.

28.2. Appointment of advocate to cross-examine witness

(1) This rule applies where a defendant may not cross-examine in person a witness in consequence of—

(a) the prohibition imposed by section 449 or section 450 of the Criminal Procedure and Evidence Ordinance 2014; or

(b) a prohibition imposed by the court under section 451 of that Ordinance.

(2) The court must, as soon as practicable, explain in terms the defendant can understand (with help, if necessary)—

(a) the prohibition and its effect;

(b) that the defendant is entitled to arrange for a lawyer with a right of audience in the court to cross-examine the witness on his or her behalf;

(c) that the defendant must notify the court officer of the identity of any such lawyer, with details of how to contact that person, by no later than a date set by the court;

(d) that if the defendant does not want to make such arrangements, or if the defendant gives no such notice by that date, then—

(i) the court must decide whether it is necessary in the interests of justice to appoint such a lawyer to cross-examine the witness for the defendant, and

(ii) if the court decides that that is necessary, the court will appoint a lawyer chosen by the court.

- (3) Having given those explanations, the court must—
- (a) ask whether the defendant wants to arrange for a lawyer to cross-examine the witness, and set a date by when the defendant must notify the court officer of the identity of that lawyer if the answer to that question is ‘yes’;
 - (b) if the answer to that question is ‘no’, or if by the date set the defendant has given no such notice—
 - (i) decide whether it is necessary in the interests of justice for the witness to be cross-examined by an advocate appointed to represent the defendant’s interests, and
 - (ii) if the court decides that that is necessary, give directions for the appointment of such an advocate.
- (4) Where an advocate is appointed by the court—
- (a) the directions that the court gives under paragraph (3)(b)(ii) must provide for the material to be supplied to that advocate, including by whom and when it must be supplied; and
 - (b) the appointment terminates at the conclusion of the cross-examination of the witness.
- (5) The court may give the explanations and ask the questions required by this rule—
- (a) at a hearing, in public or in private; or
 - (b) without a hearing, by written notice to the defendant.
- (6) The court may extend (even after it has expired) the time limit that it sets under paragraph (3)(a)—
- (a) on application by the defendant; or
 - (b) on its own initiative.

28.3. Exercise of court’s powers

- (1) The court may decide whether to impose or discharge a prohibition against cross-examination—
- (a) at a hearing, in public or in private;
 - (b) in a party’s absence, if that party—
 - (i) applied for the prohibition or discharge, or
 - (ii) has had at least 14 days in which to make representations.

(2) The court must announce, at a hearing in public before the witness gives evidence, the reasons for a decision—

(a) to impose or discharge such a prohibition; or

(b) to refuse to do so.

28.4. Application to prohibit cross-examination

(1) This rule applies where the prosecutor wants the court to prohibit the cross-examination of a witness by a defendant in person.

(2) The prosecutor must—

(a) apply in writing, as soon as reasonably practicable after becoming aware of the grounds for doing so; and

(b) serve the application on—

(i) the court officer,

(ii) the defendant who is the subject of the application, and

(iii) any other defendant, unless the court otherwise directs.

(3) The application must—

(a) report any views that the witness has expressed about whether he or she is content to be cross-examined by the defendant in person;

(b) identify—

(i) the nature of the questions likely to be asked, having regard to the issues in the case,

(ii) any relevant behaviour of the defendant at any stage of the case, generally and in relation to the witness,

(iii) any relationship, of any nature, between the witness and the defendant,

(iv) any other defendant in the case who is subject to such a prohibition in respect of the witness, and

(v) any special measures direction made in respect of the witness, or for which an application has been made;

(c) explain why the quality of evidence given by the witness on cross-examination—

(i) is likely to be diminished if no such prohibition is imposed, and

(ii) would be likely to be improved if it were imposed; and

(d) explain why it would not be contrary to the interests of justice to impose the prohibition.

28.5. Application to discharge prohibition imposed by the court

(1) A party who wants the court to discharge a prohibition against cross-examination which the court imposed must—

(a) apply in writing, as soon as reasonably practicable after becoming aware of the grounds for doing so; and

(b) serve the application on—

(i) the court officer, and

(ii) each other party.

(2) The applicant must—

(a) explain what material circumstances have changed since the prohibition was imposed; and

(b) ask for a hearing, if the applicant wants one, and explain why it is needed.

28.6. Application containing information withheld from another party

(1) This rule applies where—

(a) an applicant serves an application for the court to impose a prohibition against cross-examination, or for the discharge of such a prohibition; and

(b) the application includes information that the applicant thinks ought not be revealed to another party.

(2) The applicant must—

(a) omit that information from the part of the application that is served on that other party;

(b) mark the other part to show that, unless the court otherwise directs, it is only for the court; and

(c) in that other part, explain why the applicant has withheld that information from that other party.

(3) Any hearing of an application to which this rule applies—

(a) must be in private, unless the court otherwise directs; and

(b) if the court so directs, may be, wholly or in part, in the absence of a party from whom information has been withheld.

(4) At any hearing of an application to which this rule applies—

(a) the general rule is that the court must consider, in the following sequence—

(i) representations first by the applicant and then by each other party, in all the parties' presence, and then

(ii) further representations by the applicant, in the absence of a party from whom information has been withheld; but

(b) the court may direct other arrangements for the hearing.

28.7. Representations in response

(1) This rule applies where a party wants to make representations about—

(a) an application for a prohibition against cross-examination;

(b) an application for the discharge of such a prohibition; or

(c) a prohibition or discharge that the court proposes on its own initiative.

(2) Such a party must—

(a) serve the representations on—

(i) the court officer, and

(ii) each other party;

(b) do so not more than 14 days after, as applicable—

(i) service of the application, or

(ii) notice of the prohibition or discharge that the court proposes; and

(c) ask for a hearing, if that party wants one, and explain why it is needed.

(3) Representations against a prohibition must explain in what respect the conditions for imposing it are not met.

(4) Representations against the discharge of a prohibition must explain why it should not be discharged.

(5) Where representations include information that the person making them thinks ought not be revealed to another party, that person must—

(a) omit that information from the representations served on that other party;

(b) mark the information to show that, unless the court otherwise directs, it is only for the court; and

(c) with that information include an explanation of why it has been withheld from that other party.

28.8. Court's power to vary requirements

(1) The court may—

(a) shorten or extend (even after it has expired) a time limit under this Part.

(b) allow an application or representations required by any of those rules to be made in a different form to one set out in this Part.

(2) A person who wants an extension of time must—

(a) apply when serving the application or representations for which it is needed; and

(b) explain the delay.

Sentence

PART 29 SENTENCING PROCEDURES

29.1. Reasons for not following usual sentencing requirements

(1) This rule applies where the court decides—

(a) not to follow a relevant sentencing guideline;

(b) not to make, where it could—

(i) a restitution order,

(ii) a compensation order,

(iii) a deprivation order;

(c) not to order, where it could—

(i) that a suspended sentence of imprisonment is to take effect,

(ii) the endorsement of the defendant's driving record, or

(iii) the defendant's disqualification from driving, for the usual minimum period or at all;

(d) to pass a lesser sentence than it otherwise would have passed because the defendant has assisted, or has agreed to assist, an investigator or prosecutor in relation to an offence.

(2) The court must explain why it has so decided, when it explains the sentence that it has passed.

(3) Where paragraph (1)(d) applies, the court must arrange for such an explanation to be given to the defendant and to the prosecutor in writing, if the court thinks that it would not be in the public interest to explain in public.

29.2. Notice of requirements of suspended sentence and community, etc. orders

(1) This rule applies where the court—

(a) makes a suspended sentence order; or

(b) imposes a requirement under—

(i) a community order,

(ii) a youth rehabilitation order, or

(iii) a suspended sentence order.

(2) The court officer must notify—

(a) the defendant of—

(i) the length of the sentence suspended by a suspended sentence order, and

(ii) the period of the suspension;

(b) the defendant and, where the defendant is under 16, an appropriate adult, of—

(i) any requirement or requirements imposed, and

(ii) the identity of any responsible officer or supervisor, and the means by which that person may be contacted;

- (c) any responsible officer or supervisor of—
 - (i) the defendant’s name, address and telephone number (if available),
 - (ii) the offence or offences of which the defendant was convicted, and
 - (iii) the requirement or requirements imposed; and
- (d) the person affected, where the court imposes a requirement—
 - (i) for the protection of that person from the defendant, or
 - (ii) requiring the defendant to reside with that person.

29.3. Notification requirements

- (1) This rule applies where, on a conviction, sentence or order, legislation requires the defendant—
 - (a) to notify information to the police; or
 - (b) to be included in a list.
- (2) The court must tell the defendant that such requirements apply, and under what legislation.

29.4. Variation of sentence

- (1) This rule—
 - (a) applies where a court can vary or rescind a sentence or order by virtue of section 488 of the Criminal Procedure and Evidence Ordinance, that being where the Supreme Court has passed a sentence and the variation or rescission is to be made within 28 days of the sentence having been passed; or, where there has been a joint trial, within 28 days after the conclusion of that joint trial or within 56 days of the sentence that is to be varied having been imposed, whichever is the earlier; and also
 - (b) authorises the court, in addition to its other powers under section 488 of the Criminal Procedure and Evidence Ordinance 2014, to vary the sentence of a defendant within the period of 56 days beginning with another defendant’s acquittal or sentencing where—
 - (i) defendants are tried separately on the same or related facts alleged, and
 - (ii) one is sentenced before another is acquitted or sentenced.
- (2) The court may exercise its power—
 - (a) on application by a party, or on its own initiative; and

- (b) after hearing representations by the parties;
 - (c) at a hearing in public.
- (3) A party who wants the court to exercise a power to vary sentence must—
- (a) apply in writing as soon as reasonably practicable after—
 - (i) the sentence or order that that party wants the court to vary or rescind, or
 - (ii) where paragraph (1)(b) applies, the other defendant’s acquittal or sentencing;
 - (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party; and
 - (c) in the application—
 - (i) explain why the sentence should be varied or rescinded,
 - (ii) specify the variation that the applicant proposes, and
 - (iii) if the application is late, explain why.
- (4) The court must not exercise its power in the defendant’s absence unless—
- (a) the court makes a variation—
 - (i) which is proposed by the defendant, or
 - (ii) the effect of which is that the defendant is no more severely dealt with under the sentence as varied than before; or
 - (b) the defendant has had an opportunity to make representations at a hearing (whether or not the defendant in fact attends).
- (5) The court may extend (even after it has expired) the time limit under paragraph (3), unless the court’s power to vary or rescind the sentence cannot be exercised.

29.5. Application to vary or discharge a compensation order

- (1) This rule applies where on application by the defendant a court can vary or discharge a compensation order.
- (2) A defendant who wants the court to exercise that power must—

- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
- (b) serve the application on the court officer;
- (c) in the application, specify the order that the defendant wants the court to vary or discharge and explain (as applicable)—

- (i) what civil court finding shows that the injury, loss or damage was less than it had appeared to be when the order was made,

- (ii) in what circumstances the person for whose benefit the order was made has recovered the property for the loss of which it was made,

- (iii) in what circumstances the defendant's means have been reduced substantially and unexpectedly, and why they seem unlikely to increase for a considerable period.

(3) The court officer must serve a copy of the application on the person for whose benefit the order was made.

(4) The court must not vary or discharge the order unless the defendant, and the person for whose benefit it was made, each has had an opportunity to make representations at a hearing.

29.6. Application to remove, revoke or suspend a disqualification or restriction

(1) This rule applies where, on application by the defendant, the court can remove, revoke or suspend a disqualification or restriction included in a sentence (except a disqualification from driving).

(2) A defendant who wants the court to exercise such a power must—

- (a) apply in writing, no earlier than the date on which the court can exercise the power;

- (b) serve the application on the court officer; and

- (c) in the application—

- (i) specify the disqualification or restriction, and

- (ii) explain why the defendant wants the court to remove, revoke or suspend it.

(3) The court officer must serve a copy of the application on the Chief Police Officer.

29.7. Requests for medical reports, etc.

(1) This rule applies where the court—

- (a) requests a medical examination of the defendant and a report; or

(b) requires information about the arrangements that could be made for the defendant where the court is considering a sentence that imposes requirements as to medical treatment.

(2) Unless the court otherwise directs, the court officer must, as soon as practicable, serve on each person from whom a report or information is sought a note that—

(a) specifies the power exercised by the court;

(b) explains why the court seeks a report or information from that person; and

(c) sets out or summarises any relevant information available to the court.

29.8. Information to be supplied on the making of a supervision order

(1) This rule applies where the court makes a supervision order pursuant to section 768 of the Criminal Procedure and Evidence Ordinance 2014.

(2) The court officer must, as soon as practicable, serve on (as applicable) the supervised person; the supervising officer and the person in charge of any institution where the defendant will reside—

(a) a record of the court's order;

(b) such information as the court has received that appears likely to assist in treating or otherwise dealing with the defendant, including information about—

(i) the defendant's mental condition,

(ii) the defendant's other circumstances, and

(iii) the circumstances of the offence.

29.9. Application to review sentence because of assistance given or withheld

(1) This rule applies where the Court can reduce or increase a sentence on application by a prosecutor in a case in which—

(a) since being sentenced, the defendant has assisted, or has agreed to assist, an investigator or prosecutor in relation to an offence; or

(b) since receiving a reduced sentence for agreeing to give such assistance, the defendant has failed to do so.

(2) A prosecutor who wants the court to exercise that power must—

(a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;

(b) serve the application on—

- (i) the court officer, and
 - (ii) the defendant; and
- (c) in the application—
- (i) explain why the sentence should be reduced, or increased, as appropriate, and
 - (ii) identify any other matter relevant to the court’s decision, including any sentencing guideline or guideline case.
- (3) The general rule is that the application must be determined by the judge who passed the sentence, unless that judge is unavailable.
- (4) The court must not determine the application in the defendant’s absence unless the defendant has had an opportunity to make representations at a hearing (whether or not the defendant in fact attends).

Appeals

PART 30
APPEALS TO THE SUPREME COURT

30.1. When this Part applies

This part applies to all appeals from the Summary Court and Magistrate’s Court, other than those by way of case stated pursuant to section 672 of the Criminal Procedure and Evidence Ordinance—

- (a) by a defendant—
 - (i) against conviction; or
 - (ii) against sentence; or
 - (iii) against conviction and sentence; and
- (b) by the Attorney General against a ruling or sentence in the Magistrate’s Court.

30.2. Appeals against conviction

When hearing an appeal against conviction the court will determine whether the conviction is safe or unsafe.

30.3. Appeals against sentence

(1) When hearing an appeal by a defendant against sentence the court will determine whether the sentence is manifestly excessive or not.

(2) When hearing an appeal by the Attorney General against a sentence imposed by the Magistrate's Court the court will determine whether the sentence was unduly lenient or not.

30.4. Time limit for an appeal by a defendant

(1) A defendant who appeals against conviction or sentence, or both to the Supreme Court must do so within 21 days after the day on which the court sentences or otherwise deals with the defendant.

(2) An appellant who requires an extension of the time limit set out in rule 30.1 must—

(a) apply for an extension of the time limit on the prescribed form as set out in rule 30.2; and

(b) do so at the same time that the appeal is lodged; and

(c) state the reasons why an extension of time is required and provide copies of any documentation in support of the application.

(3) If any party served with an appeal notice which contains an application for an extension of time objects to an extension of time being granted then they must do so—

(a) at the time the respondent's notice is lodged in accordance with rule 30.3; and

(b) do so in writing setting out the reasons why the application for an extension of time is opposed.

(4) The court may determine any application for an extension of the time limit—

(a) in public or in private,

(b) with or without a hearing.

30.5. Form of the appeal notice

(1) An appeal under this Part must—

(a) be in writing; and

(b) be on the form prescribed by the court; and

(c) state the grounds of the appeal with sufficient particularity to enable the Supreme Court to identify clearly the matters relied upon.

(2) On the form prescribed by the court the appellant must—

(a) specify—

(i) the conviction, verdict or finding; or

- (ii) the sentence; or
 - (iii) the order against which the appellant wants to appeal; and
- (b) identify each ground of appeal on which the appellant relies, numbering them consecutively (if more than one) and concisely outlining each argument in support; and
- (c) identify any transcript(s) that the appellant considers the court will need, if the appellant wants to appeal against conviction;
- (d) identify any directions that the appellant seeks relating to the production of documents, exhibits or evidence;
- (e) in appeals against sentence—
- (i) attach the social inquiry report used by the lower court at the time of sentence; and
 - (ii) state whether the appellant seeks the updating of the report; or
 - (iii) if a report has not previously been prepared, state whether the appellant seeks the preparation of a social inquiry report;
- (f) summarise the relevant facts;
- (g) identify the relevant authorities;
- (3) Include or attach any application for the following, with reasons—
- (a) any application for an extension of time,
 - (b) bail pending appeal,
 - (c) a direction to attend in person, if the appellant is in custody,
 - (d) an order requiring a witness to attend court,
 - (e) a direction for special measures for a witness,
 - (f) an application for leave to call a witness in support of an appeal against conviction.
- (5) Specify a time estimate for the hearing of the case.
- (6) Identify any other document or thing that the appellant thinks the court will need to decide the appeal.

- (7) Provide any issues of availability for listing for hearing of the appeal.
- (8) Any document mentioned in the Form should be identified clearly, by exhibit number or otherwise.

30.6. Respondent's notice

- (1) Upon receipt of the appeal notice the Registrar of the Supreme Court will, as soon as reasonably practicable, serve the appeal notice on any party directly affected by the appeal.
- (2) Within 14 days a party served with the appeal notice—
 - (a) may respond to the appeal notice if the party wishes to do so; and
 - (b) must respond to the appeal notice if the court has directed the party to do so.
- (3) Upon receipt of a respondent's notice the Registrar of the Supreme Court will, as soon as reasonably practicable, serve the respondent's notice on—
 - (a) the appellant; and
 - (b) any party who was served with the appeal notice in accordance with this Part.
- (4) A respondent's notice must be on the form prescribed by the court and state—
 - (a) the date on which the respondent was served with the appeal notice;
 - (b) each ground of opposition on which the respondent relies, numbering them consecutively (if there is more than one), concisely outlining each argument in support and identify the ground of appeal to which each relates;
 - (c) include a summary of any relevant facts not already summarised in the appeal notice;
 - (d) include or attach any application for the following, with reasons —
 - (i) an extension of time within which to serve the respondent's notice
 - (ii) an order requiring a witness to attend court
 - (iii) a direction for special measures for a witness
 - (e) any document or thing that the respondent considers the court will need to decide the appeal; and
 - (f) any issues of availability for listing for the hearing of the appeal.

(5) Where a defendant appeals against a conviction, the prosecutor is required to submit a respondent's notice in accordance with this Part.

(6) Where a defendant appeals against a sentence the prosecutor shall not be permitted to submit a respondent's notice unless directed by the court.

30.7. Directions

The court may, at any time, make directions in relation to the appeal or any aspect of the appeal.

30.8. Bail pending appeal

(1) Bail pending appeal may be granted by the lower court or by the Supreme Court.

(2) In all cases an application for bail pending appeal shall first be made to the lower court from which the appeal is being made.

(3) An application for bail pending appeal shall not be made to the Supreme Court unless—

(a) the lower court refuses to grant bail pending appeal; or

(b) grants bail pending appeal but imposes conditions of bail.

(4) Unless the court otherwise directs an application for bail pending appeal shall be made in writing and served on the prosecutor no less than 24 hours before the hearing of the application.

(5) An application for bail pending appeal shall not be made to the Supreme Court before a notice of appeal has been filed.

(6) Unless the Supreme Court otherwise directs all applications for bail pending appeal shall be heard in private.

30.9. Calling evidence on appeal

(1) No party shall be entitled to call evidence on appeal without the leave of the Supreme Court.

(2) Evidence on appeal can only be heard on an appeal against conviction.

(3) An application for leave to call evidence on appeal shall be made in writing, on a form prescribed by the court, and shall set out—

(a) why the evidence appears credible; and

(b) why the evidence would have been admissible in the original proceedings; and

(c) why the evidence is relevant to the appeal against conviction; and

(d) why the evidence was not adduced at the original hearing; and

(e) explain the failure to adduce the evidence at the original hearing.

(4) A copy of the application shall be served on the prosecutor by the Registrar of the Supreme Court whereupon the prosecutor shall have 14 days from the date the application was served to respond in writing.

(5) A response by the prosecutor must be filed at court and served by the prosecutor on the appellant.

(6) An application for leave to call evidence can be decided with or without a hearing, in public or in private save that where the application is to be decided without a hearing the parties shall be given an opportunity to explain why a hearing is necessary.

30.10. Loss of time order

(1) In accordance with section 564 of the Criminal Procedure and Evidence Ordinance 2014 the court may order that any part of a custodial sentence served pending appeal will not be reckoned as part of the term of any sentence to which the appellant is for the time being subject.

(2) The court will not make a loss of time order unless the appellant has been given an opportunity to make representations at a hearing.

30.11. Abandonment

(1) An appeal may be abandoned at any time before the appeal hearing if the appellant gives notice in writing on a form prescribed by the court.

(2) Upon receiving such a notice the Registrar shall notify any other party to the appeal and the appeal will be treated as if it had been heard and dismissed.

(3) If, as a result of abandonment, a party seeks an order for costs they must make an application to the court in writing no later than 14 days after the date of the notice of abandonment sent by the Registrar and shall serve any other party to the appeal with a copy of the application.

30.12. Procedure at appeal hearing

(1) The appeal will be heard in public save unless exceptional circumstances apply.

(2) The appeal will be heard in the following sequence—

(a) the appellant will be entitled to make representations and call any evidence for which leave has been granted; and

(b) the respondent will be entitled to make representations in reply and call any evidence for which leave has been granted; and

(c) the appellant will have a right to reply to any new matter raised by the respondent.

(3) Without the leave of the court the parties will not be allowed to address the court on any matter not set out in the appeal notice or the respondent's notice.

Made 15 February 2018

J. T. Lewis Q.C.,
Chief Justice.

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Appointment

Michelle Beverly King, Legal Support Officer, Government Legal Services, Law and Regulation Directorate, 01.03.18.

Rebecca Honeybone, Assistant Taxation Officer, Treasury, 01.03.18.

Sian Watt, Receptionist, Leisure Centre, Development and Commercial Services Department, 05.03.18.

Adam Michael Hurst, Residential Support Worker, Health and Social Services Department, 13.03.18.

Toni Trevizan, Scientific Fisheries Observer, Fisheries, Natural Resources Department, 16.03.18.

Charlene Rose Rowlands, Prison Officer, HM Prison, Emergency Services Department, 20.03.18.

Alexander Peter Karpoff Douglas, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 26.03.18.

Max Rowlands, Sports Attendant, Leisure Centre, Development and Commercial Services Department, 26.03.18.

Completion of contract

Idah Lorato Motsamai, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 03.03.18.

Robyn Diane Culhane, Senior Staff Nurse, Health and Social Services Department, 14.03.18.

Christopher John James Butler, Sergeant (Operations), Royal Falkland Islands Police, Emergency Services Department, 16.03.18.

Mark Cook, Leisure Centre Manager, Leisure Centre, Development and Commercial Services Department, 16.03.18.

Michael Jean-Luc Gras, Stock Assessment Scientist, Fisheries, Natural Resources Department, 16.03.18.

Haseeb Sajjad Randhawa, Fisheries Scientist (Marine Biology), Fisheries, Natural Resources Department, 25.03.18.

David Sherriff, HGV Driver/Handyperson, Plant and Vehicle Section, Public Works Department, 26.03.18.

Yvette Sherriff, Practice Nurse, Health and Social Services Department, 26.03.18.

Stuart Ian Hampson, Director, Human Resources Department, 28.03.18.

Renewal of contract

Bernard John Meehan, Senior Fisheries Protection Officer, Fisheries, Natural Resources Department, 01.03.18.

Idah Lorato Motsamai, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 04.03.18.

Robyn Diane Culhane, Senior Staff Nurse, Health and Social Services Department, 15.03.18.

Christopher John James Butler, Sergeant (Operations), Royal Falkland Islands Police, Emergency Services Department, 17.03.18.

Mark Cook, Leisure Centre Manager, Leisure Centre, Development and Commercial Services Department, 17.03.18.

Michael Jean-Luc Gras, Stock Assessment Scientist, Fisheries, Natural Resources Department, 17.03.18.

Haseeb Sajjad Randhawa, Fisheries Scientist (Marine Biology), Fisheries, Natural Resources Department, 26.03.18.

David Sherriff, HGV Driver/Handyperson, Plant and Vehicle Section, Public Works Department, 27.03.18.

Yvette Sherriff, Practice Nurse, Health and Social Services Department, 27.03.18.

Stuart Ian Hampson, Director, Human Resources Department, 29.03.18.

Promotion

James Greenland, from Assistant Power Station Manager Designate to Assistant Power Station Manager, Power and Electrical Section, Public Works Department, 01.03.18.

Gerard Allan Ford, from Assistant Foreman to Foreman, Highways Section, Public Works Department, 05.03.18.

Zena Butler, from Police Constable to Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 16.03.18.

Marcus Samuel Pole-Evans, from Plant Operator/Handyperson to Assistant Foreman, Highways Section, Public Works Department, 26.03.18.

Resignation

Carol Thorsen, Senior Clerk/Personal Assistant to Chief Police Officer, Royal Falkland Islands Police, Emergency Services Department, 08.03.18.

Robert Maddocks, Foreman, Highways Section, Public Works Department, 29.03.18.

Retirement

Richard Howard Moorhouse, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 30.03.18.

Transfer

Robert Thomas McCrea, from Plant Operator/Handyperson to Cemetery Caretaker/Handyperson, Property and Municipal Section, Public Works Department, 27.02.18.

Daniella Dawn Curtis, from Medical Secretary to Overseas Medical Co-ordinator, Health and Social Services Department, 26.03.18.

Raycrestle Thomas, from Overseas Medical Co-ordinator, Health and Social Services Department to Senior Clerk/Personal Assistant to Chief Police Officer, Royal Falkland Islands Police, Emergency Services Department, 26.03.18.

NOTICES

No. 21 28 February 2018

Commissioners for Oaths Ordinance 1969

section 2

Administration of Justice Ordinance 1949

section 47

Marriage Ordinance 1996

section 25

Appointments – Sarah Laurie Whitby

1. I appoint **Sarah Laurie Whitby** to be —

Commissioner for Oaths under section 2 of the Commissioners for Oaths Ordinance 1969;

Notary Public under section 47 of the Administration of Justice Ordinance 1949; and

Registrar for marriages generally under section 25 of the Marriage Ordinance 1996.

2. These appointments have effect from the date of signature below and continue in effect until the expiry of the contract of employment of Sarah Laurie Whitby with the Falkland Islands Government, unless terminated sooner.

Dated 28 February 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 22

6 March 2018

Land Ordinance 1949

section 11A

Vesting Deed

Further to an application made by **Donald William Betts** of 7 Jeremy Moore Avenue, Stanley, Falkland Islands, pursuant to section 11A of the Land Ordinance (notice of which application was published in the Gazette on 31 January 2018) I hereby give notice that I have this day executed a Vesting Deed in the form set out hereafter:

“Whereas on application having been made to me Elizabeth Jayne Dent, Registrar General, pursuant to section 11A of the Land Ordinance by **Donald William Betts** of 7 Jeremy Moore Avenue, Stanley, Falkland Islands, on behalf of Michael Elfed Biggs, Donald William Betts and Valerie Ann Harvey (as administrators of the estate of the late Ellen Alma Betts) I am satisfied that the said Michael Elfed Biggs, Donald William Betts and Valerie Ann Harvey (as administrators of the estate of the late Ellen Alma Betts) are entitled to be registered as the owner in fee simple absolute in possession of the land described in the Schedule to this deed now therefore by this deed I do declare that the estate in fee simple absolute in possession of the said land is vested in the said Michael Elfed Biggs, Donald William Betts and Valerie Ann Harvey (as administrators of the estate of the late Ellen Alma Betts) subject only to such matters as are mentioned in Crown Grant 33 and to such easements rights privileges and encumbrances as may have been created prior to the date of this deed.

Schedule

(Description of land)

All that piece or parcel of land measuring approximately 1022 square metres or thereabouts forming part of Crown Grant 33, known as 21 Fitzroy Road”

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

Dated 6 March 2018

E. J. DENT,
Registrar General.

No. 23 8 March 2018

**Southern Pole Services (Falkland Islands) Limited
Company Number: 15453**

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 2 March 2018.

Dated 8 March 2018

E. J. DENT,
Registrar of Companies.

No. 24 8 March 2018

United Kingdom Statutory Instruments

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

2018 No 179 – The Venezuela (Sanctions) (Overseas Territories) Order 2018
<http://www.legislation.gov.uk/ukSI/2018/179/contents/made>

The Order requires publication of the list of designated persons and restricted goods. This obligation is satisfied by publication of a link to the relevant list available through the websites below:

Designated persons:

<https://www.gov.uk/government/publications/financial-sanctions-venezuela>

Restricted goods:

<https://www.gov.uk/government/publications/notice-to-exporters-201725-new-eu-sanctions-against-venezuela/notice-to-exporters-201725-new-eu-sanctions-against-venezuela>

Dated 8 March 2018

B. I. STEEN,
for Attorney General.

No. 25 12 March 2018

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance 1949**

Take notice that **Robert Ernest Gilbert** of 22 Jeremy Moore Avenue, Stanley died on 25 February 2018.

Whereas **Christopher Paul Gilbert, Neil Robert Gilbert and Mark Ian Gilbert** have applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

Notice is hereby given pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no

caveat be entered in the Supreme Court within 21 days of the publication hereof.

Dated 12 March 2018

J. BROOKS,
Registrar, Supreme Court

No. 26 16 March 2018

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance 1949**

Take notice that **Terence Kenneth Mills** died on 5 December 2016.

Whereas **Simon David Young** as Official Administrator 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 16 March 2018

J. BROOKS,
Registrar, Supreme Court

No. 27 20 March 2018

**Administration of Justice Ordinance 1949
paragraph 3(1), Schedule 3**

**Appointment of Bailiffs to the Courts
of the Falkland Islands**

1. Paragraph 3(1) of Schedule 3 to the Administration of Justice Ordinance 1949 provides for bailiffs 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 1949 I appoint the following to be bailiffs of the Courts of the Falkland Islands:

**Suzanna Clarke
Anthony Davies
Leeann Harris
Mark Nightingale
John Whitby**

3. These appointments have effect from the date given below, and continue in effect until further order or revocation.

Dated 20 March 2018

N. J. PHILLIPS C.B.E.,
Governor.

Falkland Islands Pensions Scheme Ordinance 1997
section 5

Appointment of Members of Pensions Board

1. Section 5(1) of the Falkland Islands Pensions Scheme Ordinance 1997 provides that the Governor shall appoint members to the Pensions Board.

2. In exercise of my powers under section 5(2)(c) after consulting representatives of employees who are members of the Scheme I appoint:-

Ana Bonita Crowie from 1 April 2018 to 31 March 2021; and
Kevin John Ironside from 1 April 2018 to 31 March 2021

to be members of the Pensions Board to represent the interests of those employees.

3. These appointments have effect and continue in effect as detailed in paragraph 2 above and in accordance with the Falkland Islands Pensions Scheme Ordinance, unless terminated sooner.

Dated 27 March 2018

N. J. PHILLIPS C.B.E.,
Governor.

Application for Permanent Residence

Notice is hereby given that:-

Ian David Sargent;
Christine Lydia Sargent (Ramoutar);
Jessica Briony Jones;
Esther Kate Ricardo Bertram;
Alexander John Michel Cleminson;
Camila Ignacia Walton Alfaro;
Shazelle Monita Sukhnarain;
Rodrigo Alejandro Munoz Middleton;

Carolina Andrea Lopez Torres; and
Hilary Alison McFarland

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

Any person who knows of any reason why a permit should not be granted to any of the above named 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 23 April 2018.

Dated 27 March 2018

J. E. SMITH,
Immigration Officer.

Electricity Supply Regulations 1969
regulation 10A(5)

Variation of electricity price

1. This notice is given to comply with regulation 10A(5) of the Electricity Supply Regulations.

2. A variation in electricity prices was announced on Friday 30 March 2018 and will come into effect on Sunday 1 April 2018.

3. The overall price of electricity per unit for all consumers was increased from 19p to 21p.

4. For consumers supplied via pre-payment meters, electricity is being supplied at 21p per unit and cards are now being sold at above face value.

5. For all other consumers, electricity is now being supplied at 21p per unit.

Dated 30 March 2018

J. A. WILSON,
Financial Secretary.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

31 March 2018

No. 5

The following is published in this Supplement —

Law Revision and Publication Ordinance 2017 (Amendment) Order 2018 (SR&O No 3 of 2018).

SUBSIDIARY LEGISLATION

STATUTES

Law Revision and Publication Ordinance 2017 (Amendment) Order 2018

S. R. & O. No. 3 of 2018

Made: 28 March 2018

Published: 31 March 2018

Coming into force: on publication

I make this order under section 25(8)(b) of the Law Revision and Publication Ordinance 2017 to give effect to a recommendation of the Statute Law Commissioner approved by the Legislative Assembly.

1. Title

This order is the Law Revision and Publication Ordinance 2017 (Amendment) Order 2018.

2. Commencement

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

3. Amendment of Schedule 1 to the Law Revision and Publication Ordinance

Part 2 of Schedule 1 to the Law Revision and Publication Ordinance 2017 (UK enactments which apply to Falkland Islands) is amended by—

(a) inserting the following entry in its correct alphabetical order—

| | | | |
|--|------|----------------------|---|
| Fishing Vessels (Codes of Practice) Regulations (SI 2017/943) | 2017 | Whole Regulations | The Regulations are subject to the modifications specified in Schedule 2 to the Merchant Shipping (Adoption of Legislation) Ordinance 1992 |
|--|------|----------------------|---|

(b) omitting the following entries—

Fishing Vessels (Life-Saving Appliances) Regulations 1988 (SI 1988/38)

Fishing Vessels (Safety Provisions) Rules 1975 (SI 1975/330)

Made 28 March 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE
(not forming part of this order)

This order amends Schedule 1 of the Law Revision and Publication Ordinance 2017 to include application to the law of the Falkland Islands of the Fishing Vessels (Codes of Practice) Regulations 2017 (SI 2017/943).

The order accordingly also amends Schedule 1 of the Law Revision and Publication Ordinance 2017 to revoke the application to the law of the Falkland Islands of; the Fishing Vessels (Safety Provisions) Rules 1975 (SI 1975/330); and the Fishing Vessels (Life-Saving Appliances) Regulations 1988 (SI 1988/38).

Published at the Attorney General's Chambers, Stanley, Falkland Islands
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FALKLAND ISLANDS GAZETTE

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Vol. 127

30 April 2018

No. 5

Appointment

John Christopher Rowland, Technical Assistant, Civil Aviation, Law and Regulation Directorate, 14.02.18.

Rebecca Dee Rees, Company Taxation Officer, Taxation, Treasury, 27.03.18.

David John Whitby, Examinations Officer, Training Centre, Education Department, 09.04.18.

Daniel Severino Pereira Machin, Agricultural Advisor – Sheep Management, Agriculture, Natural Resources Department, 24.04.18.

Alan Slack, Duty Supervisor, Leisure Centre, Development and Commercial Services Department, 24.04.18.

Completion of contract

Rebecca Elizabeth Evans, Advanced Childcare Practitioner, Health and Social Services Department, 03.04.18.

Job Mtetwa, Design Engineer, Design Section, Public Works Department, 03.04.18.

Mary Elizabeth Ashdown, Senior Dental Officer, Health and Social Services Department, 12.04.18.

Anne Jeanette Bailey, Company Taxation Officer, Taxation, Treasury, 15.04.18.

Susan Helen Street, Agricultural Advisor – Livestock and Nutrition Management, Agriculture, Natural Resources Department, 15.04.18.

Venessa Ann Neylen, Hospital Manager, Health and Social Services Department, 20.04.18.

Renewal of contract

Job Mtetwa, Design Engineer, Design Section, Public Works Department, 04.04.18.

Promotion

Emily Clare Hancox, from Projects Officer to Offshore Environmental Advisor, Mineral Resources Department, 01.04.18.

Chester Colin Buckley, from Aircraft Refueller/Handyperson to Aircraft Fitter, Falkland Islands Government Air Service, Development and Commercial Services Department, 12.04.18.

Resignation

Rodrigo Cordeiro Garcia, Head of Environmental Safety Policy, Mineral Resources Department, 30.03.18.

Benjamin Noel Hoyles, Mechanic/Fire Fighter, Fire and Rescue, Emergency Services Department, 18.04.18.

Stacey Louise Steen, Licensing Clerk, Royal Falkland Islands Police, Emergency Services Department, 26.04.18.

Daniela Alejandra Cardenas Flores, Learning Support Assistant, Infant and Junior School, Education Department, 27.04.18.

Rafael Sotomayor Morales, Duty Supervisor, Leisure Centre, Development and Commercial Services Department, 30.04.18.

Transfer

David George Benjamin, from General Handyperson to Skilled Handyperson, Property and Municipal Section, Public Works Department, 01.04.18.

Tony Steven Burman, from Senior Police Constable to Detective Constable, Royal Falkland Islands Police, Emergency Services Department, 01.04.18.

Sian Karen Davies, from Senior Houseparent, Stanley House, Education Department to CMT Policy Co-ordinator, Policy and Economic Development Department, 01.04.18.

Nicholas Stuart Francis, from Works Manager to Maintenance Manager, Property and Municipal Section, Public Works Department, 01.04.18.

NOTICES

No. 31 29 March 2018

Court of Appeal Rules 1997 *rule 5*

Appointment of Registrar of Court of Appeal

1. Rule 5 of the Falkland Islands Court of Appeal Rules 1997 provides for a Registrar of the Court of Appeal to be appointed by the Governor.

2. In exercise of my powers under rule 5 of the Falkland Islands Court of Appeal Rules 1997 I appoint **Dominic Paul Green** to be Registrar of the Court of Appeal.

3. This appointment shall have effect from 29 March 2018 until further order.

Dated 29 March 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 32 2 April 2018

Index of Retail Prices

The Index for the quarter ended 31 December 2017 has now been completed.

The Index has increased during the quarter, to 101.903; this equates to a 0.3% increase for the quarter, and a 1.3% increase for the year:

| <i>Date</i> | <i>Index</i> | <i>Annual Change</i> | <i>Quarterly change</i> |
|-------------|--------------|----------------------|-------------------------|
| 31.12.16 | 100.565 | -1.0% | 0.4% |
| 31.03.17 | 100.022 | -0.1% | -0.5% |
| 30.06.17 | 100.740 | 1.2% | 0.7% |
| 30.09.17 | 101.616 | 1.5% | 0.9% |
| 31.12.17 | 101.903 | 1.3% | 0.3% |

Dated 2 April 2018

M. DALY,
for Director of Policy and Economic Development.

No. 33 3 April 2018

Falkland Islands Sheeppowners Association Limited **Company Number: 6465**

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 1 April 2018.

Dated 3 April 2018

E. J. DENT,
Registrar of Companies.

No. 34

5 April 2018

Education Ordinance 1989 *section 57*

Academic Year 2018 – 2019* **Term Dates**

Term One

Wednesday 5 September – Friday 14 December 2018

Half Term

Monday 22 October – Friday 26 October 2018 (inclusive)

Term Two

Monday 21 January – Friday 12 April 2019

Half Term

Monday 4 March – Friday 8 March 2019 (inclusive)

Term Three

Monday 29 April – Thursday 8 August 2019

Half Term

Monday 10 June – Friday 14 June 2019 (inclusive)

Public Holidays (schools closed)

Monday 1 October 2018 Peat Cutting Monday

Monday 10 December 2018 Battle Day

Professional Development Days for Teaching and Non-Teaching Staff

Monday 3 September 2018

Tuesday 4 September 2018

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

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 Head Teacher of Infant Junior School/Camp Education in advance.

Dated 5 April 2018

R. SEDDON,
Director of Education.

**This notices replaces notice number 12 published in the Falkland Islands Gazette Volume 127 No 2 on 31 January 2018.*

No. 35

6 April 2018

Administration of Justice Ordinance 1949 *section 3*

Appointment of Justices of the Peace

1. Section 3(1) of the Administration of Justice Ordinance 1949 provides for justices of the peace to be appointed by the Governor acting in his discretion.

2. In exercise of my discretion and powers under section 3(1) of the Administration of Justice Ordinance 1949 I appoint the following to be justices of the peace:

Margaret Mary Battersby
Elizabeth Anne Milston
Serena Samantha Sinclair

**Kristiane Annergret Helena Thorsen; and
Janette Mary Vincent**

3. These appointments have effect from the date given below.

Dated 6 April 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 36

11 April 2018

Prisons Ordinance 2017
section 13

Appointment of Members of Prison Monitoring Board

1. In exercise of my powers under section 13(1)(b) of the Prisons Ordinance 2017 I appoint the following persons to be members of the Prison Monitoring Board:

Joost Herman Willem Pompert
John Alexander Reid; and
Phoebe Esther Socodo

2. These appointments have effect from 1 April 2018 and continue in effect for one year expiring on 31 March 2019, unless terminated sooner.

Dated 11 April 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 37

12 April 2018

Public Health Ordinance 1894
section 3

**Appointment of Member of
Health and Medical Services Committee**

1. Section 3(2)(c) of the Public Health Ordinance 1894 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 **Michael David Jones** to be a member of the Health and Medical Services Committee.

3. This appointment has effect from the date given below, and continues in effect for three years in accordance with section 3 of the Public Health Ordinance, unless terminated sooner.

Dated 12 April 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 38

13 April 2018

Museum and National Trust Ordinance 1991
section 4

**Appointment of Members and Designation of Chair
of Museum and National Trust**

1. Section 4(1) of the Museum and National Trust Ordinance 1991 provides that the Governor may appoint members to the Museum and National Trust on the advice of Executive Council.

2. In exercise of my powers under section 4(1) and having taken advice from Executive Council I appoint:

John Richard Cockwell from 1 May 2018 to 30 April 2021; and
Denise McPhee from 1 May 2018 to 30 April 2021

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 Chair.

4. In exercise of my powers under section 16(1) I designate **John Richard Cockwell** to be Chair 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 13 April 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 39

18 April 2018

Falkland Islands Constitution Order 2008
section 91

Authorisation to take Judicial Oaths

1. Section 91 of the Falkland Islands Constitution Order 2008 (SI 2008/2846) provides that every judge of the Court of Appeal shall make and subscribe before the Governor or some other person authorised by the Governor, the judicial oath and the oath of allegiance.

2. I hereby authorise **Susan Elizabeth Keith Pullen** for the purposes of any judge of the Court of Appeal to make and subscribe the judicial oath and the oath of allegiance before her.

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

Dated 18 April 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 40

26 April 2018

**Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance 1949**

Take notice that **Colin George MacDonald** died on 29 December 2017.

Whereas **Irene MacDonald** 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 26 April 2018

J. BROOKS,
Registrar, Supreme Court

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FALKLAND ISLANDS GAZETTE

Extraordinary

PUBLISHED BY AUTHORITY

Vol. 127

1 May 2018

No. 6

The following are published in this Extraordinary Gazette —

Register of Electors for Camp Constituency; and

Register of Electors for Stanley Constituency.

Register of Electors for Camp Constituency at 1 May 2018

| | | | |
|----|-------------------|----------------------------|---------------------------------------|
| 1 | Alazia | Fayan Pamela Jane | Port Edgar Farm, W.F.I |
| 2 | Alazia | Hazel | Carpenters Cottage, Teal Inlet, E.F.I |
| 3 | Alazia | Keith | Goose Green, E.F.I |
| 4 | Alazia | Michael Robert | Port Edgar Farm, W.F.I |
| 5 | Alazia | Rhian Ella | Port Edgar Farm |
| 6 | Anderson | Tony James | Port Howard Farm, W.F.I |
| 7 | Ashworth | Glennis | Fitzroy Ridge, E.F.I |
| 8 | Ashworth | Malcolm | Fitzroy Ridge, E.F.I |
| 9 | Bagley | Darren Clive | Riverview Farm, E.F.I |
| 10 | Battersby | Jon Alan | Hawkbit, Fitzroy, E.F.I |
| 11 | Battersby | Margaret Mary | Hawkbit, Fitzroy, E.F.I |
| 12 | Beattie | Ian Robert Ewen | North Arm, E.F.I |
| 13 | Bendyshe | Angela Geraldine Mary | Gibraltar Station, E.F.I |
| 14 | Bendyshe Pitaluga | Antoinette Margaretha Mary | Gibraltar Station, E.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 | Blackley | Shane David | Saunders Island |
| 20 | Bonner | Simon | Port Howard, W.F.I |
| 21 | Boyce | Sarah Jane | North Arm Farm, E.F.I |
| 22 | Browning | Anita Jayne | Evelyn Station, E.F.I |
| 23 | Browning | Gavin | Evelyn Station, E.F.I |
| 24 | Castro Barrientos | Gilberto Enrique | Manager House, Fitzroy Farm, E.F.I |
| 25 | Clark | Alan Neil | Port Howard, W.F.I |
| 26 | Clarke | Angela Sindy | Elephant Beach Farm, E.F.I |
| 27 | Clarke | Jeanette | Kings Ridge Farm, E.F.I |
| 28 | Clarke | Michael Jan | Kings Ridge Farm, E.F.I |
| 29 | Clarke | Suzanna | Manager House, Fitzroy Farm, E.F.I |
| 30 | Clausen Goodwin | Sophia Marina | No.7 Goose Green, E.F.I |
| 31 | Clifton | Heidi Monica | Smylies Farm, Port San Carlos, E.F.I |
| 32 | Cockwell | Benjamin William | Fox Bay Village, W.F.I |
| 33 | Cockwell | Clare Marie | Fox Bay Village, W.F.I |
| 34 | Cockwell | Grizelda Susan | Chartres, W.F.I |
| 35 | Collins Finlay | Shiralee | 18 Fox Bay Village, W.F.I |
| 36 | Crowie | Ana Bonita | Peale Cottage, Darwin, E.F.I |
| 37 | Davis | Aase | Evelyn Station, E.F.I |
| 38 | Davis | Ian John | Evelyn Station, E.F.I |
| 39 | Davis | Maurice | Pot Rincon, Evelyn Station, E.F.I |
| 40 | Davis | Stacey Elizabeth | Riverview Farm E.F.I |
| 41 | Decroliere | Carrie Madeline Helen | Fox Bay Village, W.F.I |
| 42 | Decroliere | Eric Ernest Albert | Fox Bay Village, W.F.I |

| | | | |
|----|--------------|------------------------|-----------------------------------|
| 43 | Dickson | Charles George | Brookfield, E.F.I |
| 44 | Dickson | Doreen | Wreck Point, E.F.I |
| 45 | Dickson | Gerald William | Wreck Point, E.F.I |
| 46 | Dickson | Steven Charles | North Arm, E.F.I |
| 47 | Didlick | Fiona Margaret | C Cottage, Darwin, E.F.I |
| 48 | Didlick | Graham John | C Cottage, Darwin, E.F.I |
| 49 | Donnelly | Daniel | Crooked Inlet, W.F.I |
| 50 | Donnelly | Joyce Elizabeth | Crooked Inlet, W.F.I |
| 51 | Edwards | Norma | Lake Sullivan, W.F.I |
| 52 | Edwards | Rebecca Elizabeth | Port Howard Farm, W.F.I |
| 53 | Edwards | Roger Anthony | Lake Sullivan, W.F.I |
| 54 | Evans | Dale Clement | Spring Point Farm, W.F.I |
| 55 | Evans | Donna Newell | Spring Point Farm, W.F.I |
| 56 | Evans | Duane Richard | Doyle Farm, W.F.I |
| 57 | Evans | Michael David | Spring Point Farm, W.F.I |
| 58 | Evans | Richard Gregory | Pebble Island Lodge |
| 59 | Felton | Andrew James | Cape Dolphin Farm, E.F.I |
| 60 | Felton | Sonia Ellen | Cape Dolphin Farm, E.F.I |
| 61 | Felton-Short | Scott Daniel | Philomel Farm, Fox Bay, W.F.I |
| 62 | Ferguson | Ellen Rose | Pot Rincon, Evelyn Station, E.F.I |
| 63 | Finlayson | Neil Roderick | North Arm, E.F.I |
| 64 | Ford | Tanya Louise | Albemarle Station, W.F.I |
| 65 | Gilding | Amy Heather | Port Louis, E.F.I |
| 66 | Gilding | Peter Bernard | Port Louis, E.F.I |
| 67 | Gleadell | Marklin John | Mosside Farm, E.F.I |
| 68 | Goodwin | Neil Alexander William | No 7 Goose Green, E.F.I |
| 69 | Gough | Phyllis Candy | Pot Rincon, Evelyn Station, E.F.I |
| 70 | Green | Carol Ann | 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 | Hill Cove, W.F.I |
| 81 | Hansen | Matthew Alex | Main Point, Hill Cove, W.F.I |
| 82 | Hansen | Susan Ann | Main Point Farm, W.F.I |
| 83 | Harvey | Jen | Hill Cove, W.F.I |
| 84 | Harvey | Valerie Ann | Hill Cove, W.F.I |
| 85 | Harwood | Reuben Joseph | Rum Station, Port Stephens, W.F.I |
| 86 | Heathman | Ailsa | Estancia, E.F.I |

| | | | |
|-----|-----------|---------------------|-----------------------------------|
| 87 | Heathman | Ewart Tony | Estancia, E.F.I |
| 88 | Hirtle | Anthony | Peaks Farm, W.F.I |
| 89 | Hirtle | Doris Linda | Port Howard, W.F.I |
| 90 | Hirtle | Susan Mary | Peaks Farm, W.F.I |
| 91 | Hobman | Juan Jose Eleuterio | Westley Farm, W.F.I |
| 92 | Hoy | Dawn | Sheffield Farm, W.F.I |
| 93 | Innes | Gordon | Hill Cove, W.F.I |
| 94 | Innes | Isabella Alice | Hill Cove, W.F.I |
| 95 | Jaffray | Dereck Charles | Bold Cove Farm, W.F.I |
| 96 | Jaffray | Tanya Fiona | Clear View, Fitzroy River, E.F.I |
| 97 | Jamieson | Brian Neil | South Harbour, W.F.I |
| 98 | Jamieson | Kerri Yeoman | South Harbour, W.F.I |
| 99 | Jennings | Jacqueline | West Point Island |
| 100 | Jones | John Hugh | Race Point Farm, E.F.I |
| 101 | Jones | Karen Diana | Bold Cove Farm, W.F.I |
| 102 | Jones | Michael David | Head Of Bay, E.F.I |
| 103 | Jones | Michelle | Race Point Farm, E.F.I |
| 104 | Jones | Sheila Janice | Head Of Bay, E.F.I |
| 105 | Kilmartin | Kevin Seaton | Bluff Cove Farm, E.F.I |
| 106 | Kilmartin | Nicola Ruth | Bluff Cove Farm, E.F.I |
| 107 | Knight | Keith Andrew | Coast Ridge, W.F.I |
| 108 | Knight | Nigel Arthur | Coast Ridge, W.F.I |
| 109 | Larsen | Betty | North Arm, E.F.I |
| 110 | Lee | Beverley Christina | Galley Café, Goose Green, E.F.I |
| 111 | Lee | Christopher | Port Howard, W.F.I |
| 112 | Lee | Elizabeth | Goose Green, E.F.I |
| 113 | Lee | John Alfred | Goose Green, E.F.I |
| 114 | Lee | Leslie James | Galley Café, Goose Green, E.F.I |
| 115 | Lee | Mervyn Richard | North Arm, E.F.I |
| 116 | Lee | Myles | Port Howard, W.F.I |
| 117 | Lee | Trudi Dale | Galley Café, Goose Green, E.F.I |
| 118 | Livermore | Darren | Rat Castle, Fitzroy, E.F.I |
| 119 | Lloyd | Melvyn John | Clay Pass Farm, E.F.I |
| 120 | Lloyd | Valerie Ann | Clay Pass Farm, E.F.I |
| 121 | Lowe | Adrian Stewart | Murrell Farm, E.F.I |
| 122 | Lowe | Lisa Helen | Murrell Farm, E.F.I |
| 123 | Luxton | William Robert | Chartres, W.F.I |
| 124 | MacDonald | Derek George | 3 Goose Green, E.F.I |
| 125 | MacDonald | Isla Karen | 3 Goose Green, E.F.I |
| 126 | Marsh | Alastair Roy | Shallow Harbour, W.F.I |
| 127 | Marsh | Anna Deirdre | Philomel Farm, Fox Bay, W.F.I |
| 128 | Marsh | Gavin Nicholas | Philomel Farm, Fox Bay, W.F.I |
| 129 | Marsh | Helen Rose | Rincon Ridge, Fox Bay West, W.F.I |
| 130 | Marsh | Kevin Roy | Harps Farm, W.F.I |

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| 131 | Marsh | Leon Peter | Rincon Ridge, Fox Bay West, W.F.I |
| 132 | Marsh | Marlane Rose | Shallow Harbour, W.F.I |
| 133 | Marsh | Patricia Ann | Lakelands Farm, Fox Bay, W.F.I |
| 134 | Marsh | Rachel Mandy | Philomel Farm, Fox Bay, W.F.I |
| 135 | Marsh | Robin Frank | Lakelands Farm, Fox Bay, W.F.I |
| 136 | Marsh | Samantha Ann | Rincon Ridge Farm, Fox Bay, W.F.I |
| 137 | Maskell-Bott | John Malcolm | Hill Cove, W.F.I |
| 138 | Maskell-Bott | Sarah | Hill Cove, W.F.I |
| 139 | May | Christopher Raymond | Speedwell Island |
| 140 | May | Lindsey Olga | Speedwell Island |
| 141 | May | Shaun Christopher | Albemarle Station, W.F.I |
| 142 | McGhie | James | Smylies Farm, Port San Carlos, E.F.I |
| 143 | McGhie | Jodie Kim | Port North, W.F.I |
| 144 | McGhie | Roy | Port North, W.F.I |
| 145 | McGill | Lorraine Iris | Carcass Island |
| 146 | McGill | Robin Perry | Carcass Island |
| 147 | McKay | Josephine Ann | Greenhill Farm, Chartres, W.F.I |
| 148 | McKay | Kenneth Andrew | Greenhill Farm, Chartres, W.F.I |
| 149 | McKay | Penelope Rose | Westley Farm, W.F.I |
| 150 | McLeod | John | Dunvegan Cabin, E.F.I |
| 151 | McLeod | Madeline Jean | Dunvegan Cabin, E.F.I |
| 152 | McMullen | Matthew John | Kingsford Valley Farm, E.F.I |
| 153 | McPhee | Mark | Brookfield, E.F.I |
| 154 | McPhee | Sheila Margaret | Kingsford Creek, San Carlos, E.F.I |
| 155 | McPhee | Terence Owen | Kingsford Creek, San Carlos, E.F.I |
| 156 | McPhee | Trudi Lynette | Brookfield, E.F.I |
| 157 | McRae | David Michael | Carcass Island |
| 158 | Miller | Catherine McLeod | Fox Bay Village, W.F.I |
| 159 | Miller | James Albert | Fox Bay Village, W.F.I |
| 160 | Minnell | Donna Marie | Moss Side, E.F.I |
| 161 | Minnell | Michael Robert | Moss Side, E.F.I |
| 162 | Mitchell | Leon John | Mount Kent Farm, E.F.I |
| 163 | Molkenbuhr | Lee Charles | Johnson's Harbour Farm, E.F.I |
| 164 | Molkenbuhr | Martha Jenny | Johnsons Harbour, E.F.I |
| 165 | Morrison | Edgar Ewen | No.17 Goose Green, E.F.I |
| 166 | Morrison | Lewis Ronald | Goose Green, E.F.I |
| 167 | Newman | Glynnis Karen | Goose Green, E.F.I |
| 168 | Newman | Lisa Jeraine | Harps Farm, W.F.I |
| 169 | Nightingale | Charlene | Hill Cove, W.F.I |
| 170 | Nightingale | Karl Richard | West Lagoons, W.F.I |
| 171 | Nightingale | Peter | Hill Cove, W.F.I |
| 172 | Nightingale | Sian Yvonne | West Lagoons, W.F.I |
| 173 | Oliver | Cynthia Dawn | Fitzroy, E.F.I |
| 174 | Oliver | Paul | Fitzroy, E.F.I |

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| 175 | Ovenden | Philip David | 13 Fitzroy, E.F.I. |
| 176 | Phillips | Linda | North Arm, E.F.I |
| 177 | Phillips | Paul David | Hope Cottage, E.F.I |
| 178 | Phillips | Shula Louise | Hope Cottage, E.F.I |
| 179 | Pitaluga | Nicholas Alexander Robinson | Gibraltar Station, E.F.I |
| 180 | Pitaluga | Robin Andreas McIntosh | Gibraltar Station, E.F.I |
| 181 | Pole-Evans | Carole Suzan | Saunders Island |
| 182 | Pole-Evans | David Llewellyn | Saunders Island |
| 183 | Pole-Evans | Louise Suzan | Saunders Island |
| 184 | Pole-Evans | Shirley Helen | Manybranch, W.F.I |
| 185 | Pole-Evans | Suzan | Saunders Island |
| 186 | Pole-Evans | William Reginald | Manybranch, W.F.I |
| 187 | Poncet | Dion Michael | Beaver Island |
| 188 | Poncet | Jerome Pierre | Beaver Island |
| 189 | Poncet | Leiv Sigismond | Beaver Island |
| 190 | Porter | Joan | Shallow Harbour, W.F.I |
| 191 | Reeves | Ronald James | Port Howard, W.F.I |
| 192 | Reid | Emily Margaret | North Arm, E.F.I |
| 193 | Rendell | Michael | Bleaker Island |
| 194 | Rendell | Nicholas Simon Oliver | The Outlook, Bleaker Island |
| 195 | Rendell | Phyllis Mary | Bleaker Island |
| 196 | Robertson | Ann | Port Stephens, W.F.I |
| 197 | Robertson | Leigh Francesca | Doyle Farm, W.F.I |
| 198 | Robertson | Paul Jonathan | Port Stephens, W.F.I |
| 199 | Robertson | Peter Charles | Port Stephens, W.F.I |
| 200 | Rowlands | Neil | River House, Fitzroy River, E.F.I |
| 201 | Sackett | Pauline | Fitzroy Farm, E.F.I |
| 202 | Short | Clint Andrez Robert | Walker Creek, E.F.I |
| 203 | Short | Elaine Elizabeth | Bleaker Island |
| 204 | Short | Lyndsay Marie | Walker Creek, E.F.I |
| 205 | Short | Robert Charles | Bleaker Island |
| 206 | Short | Robert George | Walker Creek, E.F.I |
| 207 | Sinclair | Simon Keith | Fitzroy Farm, E.F.I |
| 208 | Steen | Gail | Paragon House Lafonia, E.F.I |
| 209 | Steen | Vernon Robert | Paragon House Lafonia, E.F.I |
| 210 | Stevens | Richard James | Port Sussex, E.F.I |
| 211 | Stevens | Toni Donna | Port Sussex, E.F.I |
| 212 | Street | David Charles | Plot 13A Fitzroy Ridge, E.F.I |
| 213 | Street | Edith Mary | Plot 13A Fitzroy Ridge, E.F.I |
| 214 | Summers | Nichola Jane | Carcass Island |
| 215 | Thom | John Currie | Fitzroy Farm, E.F.I |
| 216 | Towersey | Diane Katherine | Port Stephens, W.F.I |
| 217 | Turner | Elaine Ellen | Rincon Grande, E.F.I |
| 218 | Tuson | Michael Anthony | Saunders Island |

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|-----|-----------|-------------------|---------------------------|
| 219 | Tuson | Olwen Carol | Saunders Island |
| 220 | Vatamanu | Paula May | Port Howard Farm, W.F.I |
| 221 | Velasquez | Arleen | North Arm, E.F.I |
| 222 | Velasquez | Oscar Hernan | North Arm, E.F.I |
| 223 | Watson | Glenda Joyce | Long Island, E.F.I |
| 224 | Watt | Sylvia Ann | No.17 Goose Green, E.F.I |
| 225 | White | Allan Paul George | West Point Island |
| 226 | Whitney | Daniela Grace | Mount Kent Farm, E.F.I |
| 227 | Whitney | Dennis | Arkvilla MPA Plot, E.F.I |
| 228 | Whitney | Sara Marie | Home Farm, Douglas, E.F.I |
| 229 | Whitney | Tyrone | Home Farm, Douglas, E.F.I |
| 230 | Wilkinson | Rosemary | Dunnose Head, W.F.I |
| 231 | Woodward | James Gregory | Swan Inlet, E.F.I |
| 232 | Woodward | Lesley Ann | Swan Inlet, E.F.I |

Register of Electors for Stanley Constituency at 1 May 2018

| | | | |
|----|-------------------|---------------------|------------------------|
| 1 | Adams | John Harvey | 21 Ross Road East |
| 2 | Adams | Marjorie Rose | 21 Ross Road East |
| 3 | Adams-Leach | Shirley | 4 Moody Street |
| 4 | Addison | Samantha Catherine | 9 Brandon Road |
| 5 | Adeoye | Anneliese Rose | 39 Callaghan Road |
| 6 | Alazia | Andrew | 36 Callaghan Road |
| 7 | Alazia | George Robert | 9 Thatcher Drive |
| 8 | Alazia | Sandra Marie | 36 Callaghan Road |
| 9 | Alazia | Shannon Christine | 36 Callaghan Road |
| 10 | Alazia | Yvonne | 5 Thatcher Drive |
| 11 | Aldridge | Brian George | 17 James Street |
| 12 | Aldridge | Caroline Mary | 2 McKay Close |
| 13 | Aldridge | Diana Mary | 17 James Street |
| 14 | Aldridge | Jody May | 13 Hansen Hill |
| 15 | Aldridge | Kenneth John | 2 McKay Close |
| 16 | Aldridge | Nina Ann | 2 Mountain View |
| 17 | Aldridge | Stephen John | 13 Hansen Hill |
| 18 | Allan | Joyce Ena | 39 Ross Road |
| 19 | Allan | Valerie Anne | 6A Jeremy Moore Avenue |
| 20 | Anderson | Carol Anne | 22 Endurance Avenue |
| 21 | Anderson | Chloe | 22 Endurance Avenue |
| 22 | Anderson | Eddie | 22 Endurance Avenue |
| 23 | Anderson | Jenny | 8 Goss Road |
| 24 | Anderson | Kayleigh May | 9 Fieldhouse Close |
| 25 | Anderson | Margaret Kathleen | 18 Murray Heights |
| 26 | Anderson | Paul James | 9 Fieldhouse Close |
| 27 | Anderson | Reginald Stanford | 18 Murray Heights |
| 28 | Anderson | Richard Louis | 7 Yates Place |
| 29 | Anderson | Stephen Robert | 25 Callaghan Road |
| 30 | Anderson | Tony James | 8 Goss Road |
| 31 | Anderson-Smith | Georgina Carol | 11 Fitzroy Road East |
| 32 | Anthony | Enid Elizabeth | 6 Dairy Paddock Road |
| 33 | Appleby | Amelia | 15 Fieldhouse Close |
| 34 | Arkipkin | Alexander Ivanovich | 13 Biggs Road |
| 35 | Arkipkina | Sofia Alexandrovna | 13 Biggs Road |
| 36 | Armstrong-Ford | Karen Jane | 2 Sullivan Street |
| 37 | Ashbridge | Corina Rose | 116 Davis Street |
| 38 | Ashworth | Cara Michelle | 3 Rex Hunt Road |
| 39 | Ashworth | Iain | 3 Rex Hunt Road |
| 40 | Bagley | Corey Darren | 4 Felton Court |
| 41 | Bagley | Jaqueline Elizabeth | 7 Narrows View |
| 42 | Bagley | Keanu Adrian | 28 Sandy Woodward Road |
| 43 | Bahamonde Salazar | Luis Alberto | 21 Mink Park |

| | | | |
|----|--------------|--------------------------|------------------------------|
| 44 | Baigorri | Joanne Rose | 52 Rex Hunt Road |
| 45 | Baker | Alison Margaret | 29 Fitzroy Road |
| 46 | Baker | Emily | 5 Pitaluga Place |
| 47 | Barker | Jane Elizabeth Diana | 5 Pitaluga Place |
| 48 | Barker | Philip Craig | 5 Pitaluga Place |
| 49 | Barkman | Teslyn Siobhan | 23 Rex Hunt Road |
| 50 | Barlow | Andrea Joanna | Mullet Creek |
| 51 | Barlow | Martyn Liam | Mullet Creek |
| 52 | Barnes | Dierdre | 8 Discovery Close |
| 53 | Barnes | Karen Rose | 26 Ross Road West |
| 54 | Barnes | Marshall | 8 Discovery Close |
| 55 | Barnes | Paul | 26 Ross Road West |
| 56 | Barton | Alison Mary | 6 Villiers Street |
| 57 | Barton | Arthur John | 6 Villiers Street |
| 58 | Barton | David Arthur | 6 Villiers Street |
| 59 | Barton | John David | 41 Fitzroy Road |
| 60 | Barton | Michael Richard | 6A Jeremy Moore Avenue |
| 61 | Bates | Barbara | 8 Watson Way |
| 62 | Bates | James William | 8 Watson Way |
| 63 | Beckett | Melisa Jane | 4 Thatcher Drive |
| 64 | Berntsen | Arina Janis | 12 Rex Hunt Road |
| 65 | Berntsen | Christian Olaf Alexander | 15A James Street |
| 66 | Berntsen | Erica | 10 Fitzroy Road |
| 67 | Berntsen | Falkland | 10 Fitzroy Road |
| 68 | Berntsen | Gene Stanley | 22 Kent Road |
| 69 | Berntsen | John Alexander | Flat 1 7 Jeremy Moore Avenue |
| 70 | Berntsen | Kenneth Frederick | 1 Racecourse Road East |
| 71 | Berntsen | Matthew John | 19 Rex Hunt Road |
| 72 | Berntsen | Rachel Ena | 15A James Street |
| 73 | Berntsen | Robyn Chanelle | 5 Sandy Woodward Road |
| 74 | Berntsen | Saphena Anya Jane | 20 Teaberry Way |
| 75 | Berntsen | Trina Mary Shirlene | 3 Discovery Close |
| 76 | Berntsen | Valdamar Lars | 9 Teaberry Way |
| 77 | Besley-Clark | Barbara June | 16 Ross Road West |
| 78 | Besley-Clark | Norman | 16 Ross Road West |
| 79 | Betts | Arlette | Lafone House, Ross Road |
| 80 | Betts | Boonruam Phisil | 7 Short Street |
| 81 | Betts | Donald William | 7 Jeremy Moore Avenue |
| 82 | Betts | George Winston Charles | 35 Ross Road West |
| 83 | Betts | Ian | 1 Villiers Street |
| 84 | Betts | Lucia Elizabeth | 35 Ross Road West |
| 85 | Betts | Michael George | 35 Ross Road West |
| 86 | Betts | Owen | 19 Biggs Road |
| 87 | Betts | Peter James | 50A Davis Street |

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|-----|-------------|---------------------------|----------------------------------|
| 88 | Betts | Priscilla Violet Morrison | Stanley Cottage, Ross Road |
| 89 | Betts | Shirley Rose | 7 Jeremy Moore Avenue |
| 90 | Betts | Trudi Ann | 50A Davis Street |
| 91 | Betts | Tyrone Trevor | 7 Short Street |
| 92 | Betts-McKay | Cody Michael | 23 Murray Heights |
| 93 | Biggs | Althea Maria | 3 Dairy Paddock Road |
| 94 | Biggs | Christopher David | Harbour View Knott |
| 95 | Biggs | Coleen Margot | 9 Moody Street |
| 96 | Biggs | Daniel Craig | 16 Endurance Avenue |
| 97 | Biggs | Frances | 16 Endurance Avenue |
| 98 | Biggs | Kyle Alexander | 36 Rex Hunt Road |
| 99 | Biggs | Lucas Sebastian | 16 Endurance Avenue |
| 100 | Biggs | Michael Elfed | 21 Fitzroy Road |
| 101 | Biggs | Peter Julian Basil | 16 Endurance Avenue |
| 102 | Biggs | Terri-Sue | Harbour View Knott |
| 103 | Biles | Kathleen Anne | 14 Kent Road |
| 104 | Biles | Keith Robert | 14 Kent Road |
| 105 | Binnie | Linda Rose | 6 Fieldhouse Close |
| 106 | Binnie | Ronald Eric | 6 Fieldhouse Close |
| 107 | Birmingham | Alexandra Sally | 5A Hansen Hill |
| 108 | Birmingham | John | 4 Drury Street |
| 109 | Bishop | Nigel Ian | 5 Jersey Road |
| 110 | Bishop | Tansy Fiona | 5 Jersey Road |
| 111 | Blackley | Candy Joy | 4 Barrack Street |
| 112 | Blackley | Maurice | 10A German Camp, Callaghan Rd |
| 113 | Blake | Alexander Charles | 38 Eliza Crescent |
| 114 | Blake | Anthony Thomas | 14 Watson Way |
| 115 | Blake | Larissa Celly | 12 Ross Road West |
| 116 | Blake | Lionel Geoffrey | 1 Ross Road |
| 117 | Blake | Sally Gwynfa | 1 Ross Road |
| 118 | Blake | Thomas Patrick | 12 Ross Road West |
| 119 | Bolt | Dennis John | 4 Watson Way |
| 120 | Bone | Andrew James | Flat 3, 6 Jersey Road |
| 121 | Bone | Kim Anthony | 15 Fieldhouse Close |
| 122 | Bonner | Alan Paul | 8 Pioneer Row |
| 123 | Bonner | Avril Margaret Rose | 4 Felton Court |
| 124 | Bonner | Cheryl Anne | 10 Racecourse Road |
| 125 | Bonner | Declan William | 1A Villiers Street |
| 126 | Bonner | Elizabeth Eleanor | 38 Fitzroy Road |
| 127 | Bonner | Ewen Shane | 6 Mink Park |
| 128 | Bonner | Hayley Trina | 41 Ross Road West |
| 129 | Bonner | Linda Jane | 4A Ross Road West |
| 130 | Bonner | Lindsay Jane | 10 Rex Hunt Road |

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| 131 | Bonner | Nicholas | 4A Ross Road West |
| 132 | Bonner | Odette Ellen May | 11 Narrows View |
| 133 | Bonner | Paul Roderick | 5 John Street |
| 134 | Bonner | Richard James | 4A Felton Court |
| 135 | Bonner | Susan Anne | 43 Ross Road East |
| 136 | Bonner | Tansie Rebecca | 4 Felton Court |
| 137 | Bonner | Terence Leslie | 11 Narrows View |
| 138 | Bonner | Timothy | Chauffeurs Cottage |
| 139 | Bonner | Vera Ann | 5 John Street |
| 140 | Bonner | Vera Joan | Chauffeurs Cottage |
| 141 | Booth | Myriam Margaret Lucia | 7 Philomel Street |
| 142 | Bowles | Norma Evangeline | 1A Villiers Street |
| 143 | Bowles | Sarah | 9 Drury Street |
| 144 | Bowles | William Edward | 1A Villiers Street |
| 145 | Bowles | William George Troyd | 9 Drury Street |
| 146 | Bragger | Edward Laurence | 14 Jeremy Moore Avenue |
| 147 | Bragger | Stacy John | 4B Ross Road West |
| 148 | Brickle | Paul | 32 Fitzroy Road |
| 149 | Briones Sepúlveda | Vivian Delia | 4 Rowlands Rise |
| 150 | Brock | Juanita Lois | 20 Drury Street |
| 151 | Brook | Emma Jane | 41 Ross Road East |
| 152 | Brooks | Cheryl Rose | 1B Capricorn Road |
| 153 | Browning | Henry Stanbury | Flat 3 7 Jeremy Moore Avenue |
| 154 | Browning | Joan Lucy Ann | 5 Villiers Street |
| 155 | Browning | Nathan David | 3 Dairy Paddock Road |
| 156 | Browning | Rex | 1 Yates Place |
| 157 | Browning | Trevor Osneith | 5 Villiers Street |
| 158 | Brownlee | Andrew Samuel | 19 Ross Road East |
| 159 | Brownlee | Lynn Frances | 19 Ross Road East |
| 160 | Brownlee | Michael Stewart | 20 Kent Road |
| 161 | Brownlee | Samantha Louise | 19 Ross Road East |
| 162 | Buckett | Jake Steven | 6A John Street |
| 163 | Buckett | Ronald Peter | 49 Fitzroy Road |
| 164 | Buckett | Roy Peter | 22 James Street |
| 165 | Buckland | Carole Lynda Jane | 8 Moody Street |
| 166 | Buckland | Darlene Joanna | 5 James Street |
| 167 | Buckland | Kristy Lesley Anne | 26 Rex Hunt Road |
| 168 | Buckley-Whitney | Helena Jane | 2 Pioneer Row |
| 169 | Budd | Dennis Raymond | 5 Ian Campbell Drive |
| 170 | Budd | Grant William | 1 Ian Campbell Drive |
| 171 | Budd | Pamela Joan | 5 Ian Campbell Drive |
| 172 | Burston | Catherine | 91 Davis Street |
| 173 | Burston | Stephen Leslie | 91 Davis Street |
| 174 | Bury | Ian Thomas | 63 Davis Street |

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| 175 | Butcher | Michael George | 3A Dairy Paddock Road |
| 176 | Butler | George Joseph | 1A Moody Street |
| 177 | Butler | Margaret Orlanda | 5 Short Street |
| 178 | Buxton | Nicole Gabrielle | 9 Ian Campbell Drive |
| 179 | Cant | Daniel James | 24 Goss Road |
| 180 | Carey | Anthony Michael | 19 Ross Road West |
| 181 | Carey | Gladys | 19 Ross Road West |
| 182 | Cartwright | Stephen | 39 Ross Road West |
| 183 | Castle | David Peter | 26 John Street |
| 184 | Castle | Isobel | 26 John Street |
| 185 | Castro Aguila | Jeanette Del Pilar | 37 Davis Street |
| 186 | Cena | Josephine Inday | 2 Rowlands Rise |
| 187 | Chaloner | Anthony Ross | 8 Endurance Avenue |
| 188 | Chantada | Jose Luis | 1A Hebe Street |
| 189 | Chantada | Pamela Margaret | 1A Hebe Street |
| 190 | Chater | Jane | 3 Short Street |
| 191 | Chater | Thomas Frederick | 3 Short Street |
| 192 | Chater | Victoria | The Old Pink Shop Fitzroy Rd |
| 193 | Chater | William John | The Old Pink Shop Fitzroy Rd |
| 194 | Cheek | Gerald Winston | 9 Biggs Road |
| 195 | Cheek | Janet Lynda | 35 Ross Road East |
| 196 | Cheek | Marie | 9 Biggs Road |
| 197 | Cheek | Rosalind Catriona | 32 Goss Road |
| 198 | Cheema | Ahmad Masood | 17 Callaghan Road |
| 199 | Christie | Darren James | 8 Jeremy Moore Avenue |
| 200 | Christie | Phillippa Josephine | 8 Jeremy Moore Avenue |
| 201 | Clapp | Kevin Christopher | 1 Murray Heights |
| 202 | Clark | Douglas James | 39 Fitzroy Road |
| 203 | Clark | Paul Stanbury | 43 Ross Road East |
| 204 | Clarke | Aaron Charles | 4 Philomel Street |
| 205 | Clarke | Camilla Marie | 8 Drury Street |
| 206 | Clarke | Daniel Alan | 23 Jeremy Moore Avenue |
| 207 | Clarke | David James | 8 Diddle Dee Drive |
| 208 | Clarke | Derek Simon | 23 Jeremy Moore Avenue |
| 209 | Clarke | Gwynne Edwina | 17 Jeremy Moore Avenue |
| 210 | Clarke | Ian | 3A Ross Road West |
| 211 | Clarke | India Lauren | 15 Rex Hunt Road |
| 212 | Clarke | Jeremy Ian Thomas | 11 Fitzroy Road |
| 213 | Clarke | Jonathan Terence | 27 Eliza Crescent |
| 214 | Clarke | Joseph Gwyn | 15 Davis Street |
| 215 | Clarke | Julie Ann | 11 Racecourse Road |
| 216 | Clarke | Laura Jane | 4 Philomel Street |
| 217 | Clarke | Louise Kathleen | Stanley House |
| 218 | Clarke | Mari-Ann Lucille | 5 Mink Park |

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|-----|-----------------|-------------------------|-----------------------------|
| 219 | Clarke | Marvin Thomas | 13 Davis Street |
| 220 | Clarke | Rudy Thomas | 8 Drury Street |
| 221 | Clarke | Terence John | 17 Jeremy Moore Avenue |
| 222 | Clarke | Tracey Clare | 23 Jeremy Moore Avenue |
| 223 | Clarke | Trudi Ann | 13 Davis Street |
| 224 | Clarke | Violet Rose | 55 Davis Street |
| 225 | Clausen | Andrea Patricia | 3 St Mary's Walk |
| 226 | Clausen | Denzil | 24 Murray Heights |
| 227 | Clausen | Denzil George Gustavius | 3 St Mary's Walk |
| 228 | Clement | Gary | 9 Snake Street |
| 229 | Clement | Jacqueline Ann | 84A Davis Street |
| 230 | Clement | Jane | Gift Shop Flat, Villiers St |
| 231 | Clement | Sarah Jane | 10 Snake Hill |
| 232 | Clement | Wayne | 10 Snake Hill |
| 233 | Clifford | Cherie Yvonne | 3 Eliza Cove Road |
| 234 | Clifford | John Owen | 3 Eliza Cove Road |
| 235 | Clifton | Darwin Lewis | 53 Davis Street |
| 236 | Clifton | Leonard | 2 Murray Heights |
| 237 | Clifton | Neil | 8 Anderson Drive |
| 238 | Clifton | Stephen Peter | 61 Fitzroy Road |
| 239 | Clifton | Teresa Ann | 20 Davis Street |
| 240 | Clifton | Thora Janeene | 2 Murray Heights |
| 241 | Clifton | Valerie Ann | 10 Pioneer Row |
| 242 | Clingham | Shaun Michael Ashley | 19A Mink Park |
| 243 | Cockwell | Anna | 18 Kent Road |
| 244 | Cockwell | Jennifer Marie | 90 Davis Street |
| 245 | Cockwell | John Richard | 14 Ross Road West |
| 246 | Cockwell | Maurice Adam | 90 Davis Street |
| 247 | Cockwell | Samuel George | 18 Kent Road |
| 248 | Coleman | Nigel Eric | 59 Sandy Woodward Road |
| 249 | Collins | Brian Richard | 41 Davis Street |
| 250 | Collins | Hazel | 41 Davis Street |
| 251 | Connolly | Kevin Barry | 1 King Street |
| 252 | Cordeiro Garcia | Rodrigo | 1 Mink Park Moody Brook Rd |
| 253 | Cordero | Crystal Rose | 11 Narrows View |
| 254 | Cotter | Jacqueline Ann | 18 Mink Park |
| 255 | Cotter | Mary Jane | 9 Jeremy Moore Avenue |
| 256 | Cotter | Timothy Stewart | 9 Jeremy Moore Avenue |
| 257 | Courtney | Anthony Clive | 30 Goss Road |
| 258 | Courtney | Eva | 75 Rex Hunt Road |
| 259 | Courtney | Julie Doris | 30 Goss Road |
| 260 | Courtney | Marc Anthony | 75 Rex Hunt Road |
| 261 | Courtney | Tonisha Louise | 30 Goss Road |
| 262 | Coutts | John | 36 Ross Road West |

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|-----|-----------------|------------------------|------------------------|
| 263 | Coutts | Marie Anne | 36 Ross Road West |
| 264 | Crabb | Elizabeth Ann | 34A Davis Street |
| 265 | Crowie | Clare Frances | 8 Jersey Road |
| 266 | Crowie | Dave Mark | 10 James Street |
| 267 | Crowie | David Martin | 39 Callaghan Road |
| 268 | Crowie | Joan May | 13 Murray Heights |
| 269 | Crowie | Layla Alicia | 19 James Street |
| 270 | Crowie | Nicola Jane | 18 Sandy Woodward Road |
| 271 | Crowie | Rachael | 10 James Street |
| 272 | Crowie | Robert John | 18 Sandy Woodward Road |
| 273 | Crowie | Roxanne | 81 Rex Hunt Road |
| 274 | Cruikshank | Kirsty Nicole | 6 Hansen Hill |
| 275 | Cruikshank | Stuart Eric | 6 Hansen Hill |
| 276 | Curtis | Bonnie Elizabeth | 13 Jersey Road |
| 277 | Curtis | James William Hamilton | 5A Brisbane Road |
| 278 | Curtis | Tanya | 5A Brisbane Road |
| 279 | Curtis | Tiegan Jane | 5A Brisbane Road |
| 280 | Daille Marchant | Antoine Rene | 18 Mink Park |
| 281 | Davidson | Deborah | 4 James Street |
| 282 | Davies | Anthony Warren | 7 Callaghan Road |
| 283 | Davies | Colin George | 15 Ross Road West |
| 284 | Davies | Eileen Wynne | 15 Ross Road West |
| 285 | Davies | Helen Louise | 15A Ross Road West |
| 286 | Davies | Jacqueline Nancy | 7 Callaghan Road |
| 287 | Davies | Samantha | 14 Rex Hunt Road |
| 288 | Davies | Sian Karen | 34 Rex Hunt Road |
| 289 | Davis | Doreen Susan | 11 Callaghan Road |
| 290 | Davis | Ellen Rose | 55 Davis Street |
| 291 | Davis | Macauley John | 37 Davis Street |
| 292 | Davis | Roy George Victor | 6 Narrows View |
| 293 | Davis | Samantha Jane | 21 Kent Road |
| 294 | Davis | Yona | 37 Davis Street |
| 295 | Davis-Berntsen | Tessa Linda | 41 Eliza Crescent |
| 296 | Dent | Dean Angus | 19 Hansen Hill |
| 297 | Dent | Elizabeth Jayne | 4 Fieldhouse Close |
| 298 | Dent | Janice Vanessa | 19 Hansen Hill |
| 299 | Dent | Stephen John | 4 Fieldhouse Close |
| 300 | Dickson | Iris | 2 Dairy Paddock Road |
| 301 | Dickson | Michael Keith | 12 Dairy Paddock Road |
| 302 | Dickson | Ronald Edward | 2 Dairy Paddock Road |
| 303 | Didlick | Imogen Fiona | 54 Rex Hunt Road |
| 304 | Didlick-Smith | Rhiannon Elenore | 51 Sandy Woodward Road |
| 305 | Dobbys | Kathleen Gay | 60 Davis Street |
| 306 | Dodd | Alison | 10 Beaver Road |

| | | | |
|-----|----------|--------------------------|--------------------------|
| 307 | Dodd | Mark Thomas | 8 Mink Park |
| 308 | Dodd | Nigel Keith | 10 Beaver Road |
| 309 | Drysdale | Karen Margaret | 1 Watson Way |
| 310 | Duncan | Charmain | 5 Mountain Berry Road |
| 311 | Duncan | Stuart Dave | 2 Fieldhouse Close |
| 312 | Earnshaw | Jacqueline Elizabeth | 37 Ross Road West |
| 313 | East | Carly Chelsea | 64 Davis Street |
| 314 | East | Justin Clive Richard | 1 Fieldhouse Close |
| 315 | Eccles | Ashton Laura | 3 Jeremy Moore Avenue |
| 316 | Eccles | Bernard Leslie | 18 Jeremy Moore Avenue |
| 317 | Eccles | Matthew James | 3 Jeremy Moore Avenue |
| 318 | Eccles | Moira Cameron | 18 Jeremy Moore Avenue |
| 319 | Elliot | Elizabeth Rose | 15 Callaghan Road |
| 320 | Elliot | Henry James | 15 Callaghan Road |
| 321 | Ellis | Cyril | 24 Ross Road East |
| 322 | Ellis | Lucy | 11 James Street |
| 323 | Ellis | Paul | 43 John Street |
| 324 | Ellis | Sally Jean | 43 John Street |
| 325 | Ellis | Valerie | 24 Ross Road East |
| 326 | Elsby | Barry | Moody Brook House |
| 327 | Elsby | Thomas | 15 Rex Hunt Road |
| 328 | Erikson | Fiona Alison | Flat 2, 6 Jersey Road |
| 329 | Evans | Raymond | 12 Rex Hunt Road |
| 330 | Evans | Tracy | 53 Sandy Woodward Road |
| 331 | Eynon | Carol | 8 Villiers Street |
| 332 | Eynon | David John | 8 Villiers Street |
| 333 | Faria | April Marie | 3A Brisbane Road |
| 334 | Faria | Basil Harry | 3A Brisbane Road |
| 335 | Faria | Maria Anne | 3A Brisbane Road |
| 336 | Faria | Paul | 22 Hansen Hill |
| 337 | Faria | Sarah Louise | 22 Hansen Hill |
| 338 | Faria | Susana Caroline Berntsen | 22 Hansen Hill |
| 339 | Felton | Trudi Eileen | 13 Eliza Crescent |
| 340 | Ferguson | John William | 47 Ross Road East |
| 341 | Ferguson | Robert John Andrew | 1 Sullivan Street |
| 342 | Ferguson | Rose | 6 Thatcher Drive |
| 343 | Ferguson | Stephanie Janet | 47 Ross Road East |
| 344 | Ferguson | Thelma | 4A St Mary's Walk |
| 345 | Ferriby | Debora Susana | 56 Davis Street |
| 346 | Ferriby | Lee Robert | 56 Davis Street |
| 347 | Ferriby | Lucas Diego | 56 Davis Street |
| 348 | Fiddes | Douglas Graham | The Stables, Moody Brook |
| 349 | Fiddes | Gardner Walker | 3 Watson Way |
| 350 | Fiddes | Keelan Shaun | The Stables, Moody Brook |

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| 351 | Fiddes | Kelly Melody | 19A Mink Park |
| 352 | Fiddes | Melody Christine | 3 Watson Way |
| 353 | Fiddes | Tevra Helen | The Stables, Moody Brook |
| 354 | Findlay | Madeleine Joyce | 5 Drury Street |
| 355 | Finlayson | Kimberley Elizabeth | 5A Davis Street |
| 356 | Finlayson | Marc Ian | 19 James Street |
| 357 | Finlayson | Marilyn Christine | 24 James Street |
| 358 | Finlayson | Peter | 24 James Street |
| 359 | Finlayson | Phyllis | 6 Brandon Road |
| 360 | Fisher-Smith | Julie Anne | 22 Kent Road |
| 361 | Floyd | Amanda Susan | 7 Murray Heights |
| 362 | Floyd | Michael | 7 Pitaluga Place |
| 363 | Floyd | Stephen Paul | 26 Hansen Hill |
| 364 | Floyd | Tracy | 26 Hansen Hill |
| 365 | Fogerty | Richard Edwin John | Stone Cottage, Bypass Road |
| 366 | Ford | Alison Jane Marie | 9 Jersey Road |
| 367 | Ford | Bronwen Rebecca | 6A John Street |
| 368 | Ford | Brooklyn Marie | 3 Pitaluga Place |
| 369 | Ford | Chloe Elizabeth | 21 Murray Heights |
| 370 | Ford | Christine | 6 Drury Street |
| 371 | Ford | Christopher James | 6 Felton Court |
| 372 | Ford | Colin Stewart | 15 Kent Road |
| 373 | Ford | Colleen Mary | 12 Davis Street |
| 374 | Ford | Daniel Timothy | 2 Hebe Place |
| 375 | Ford | Darrel | 29 Rex Hunt Road |
| 376 | Ford | David | 3 Beaver Road |
| 377 | Ford | Debbi Louisa | 6 Felton Court |
| 378 | Ford | Donna Marie | 19 Kent Road |
| 379 | Ford | Gerard Allan | 12 Hansen Hill |
| 380 | Ford | Ieuan Colin | 18 Ross Road West |
| 381 | Ford | Jack Christopher | 6 Felton Court |
| 382 | Ford | Jill Edith | 12 Hansen Hill |
| 383 | Ford | Jonathan | 3 Pitaluga Place |
| 384 | Ford | Julie Ann | 3 Pitaluga Place |
| 385 | Ford | Leann Caroline | 15 Kent Road |
| 386 | Ford | Leonard | 9 Jersey Road |
| 387 | Ford | Marie | 3 Beaver Road |
| 388 | Ford | Melanie | 29 Rex Hunt Road |
| 389 | Ford | Mikaela Jayne | 89 Davis Street |
| 390 | Ford | Neil Frazer | 6 Drury Street |
| 391 | Ford | Simon | 1 James Street |
| 392 | Ford | Wade Leonard | 9 Jersey Road |
| 393 | Forrest | Jennifer Carol | 16 Kent Road |
| 394 | Forrest | Michael John | 16 Kent Road |

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| 395 | Forster | Amanda | 9 Fieldhouse Close |
| 396 | Forster | Gwyneth May | 10 Drury Street |
| 397 | Forster | James | 10 Drury Street |
| 398 | Forster | Lynne | 15 Rex Hunt Road |
| 399 | Fowler | Alan Claude | 4 Capricorn Road |
| 400 | Fowler | Daniel Martin | 2 Glasgow Road |
| 401 | Fowler | John Andrew Thomas | 90 Davis Street |
| 402 | Fowler | Vanessa Kay | 4 Capricorn Road |
| 403 | Fowler | Zoë | 2 Glasgow Road |
| 404 | France | Ian Peter | 4 Sullivan Street |
| 405 | France | Samantha Jane | 4 Sullivan Street |
| 406 | Francis | Carla Marie | 2 Fieldhouse Close |
| 407 | Francis | Timothy Daniel | 3 Mink Park |
| 408 | Freeman | Carl Francis | Moody Brook Road |
| 409 | Freeman | Dianne May | Moody Brook Road |
| 410 | Freer | Edward Craig | 7 Fitzroy Road East |
| 411 | Freer | Matthew Paul | 7 Fitzroy Road East |
| 412 | Freer | Pamela Jane | 7 Fitzroy Road East |
| 413 | Freer | Stephen Paul James | 7 Fitzroy Road East |
| 414 | French | Robert Alan | 12 Narrows View |
| 415 | Fyfe | David MacGregor | 6 Capricorn Road |
| 416 | Gilbert | Christopher Paul | 11 Ian Campbell Drive |
| 417 | Gilbert | Mark Ian | 13 Beaver Road |
| 418 | Gilbert | Sharon | 11 Ian Campbell Drive |
| 419 | Gilding | Melanie Carol | 38 Ross Road |
| 420 | Gilding | Petra Sophie | 14 John Street |
| 421 | Gisby | Annie | 37 Ross Road East |
| 422 | Glanville | Adam James | 12 James Street |
| 423 | Gleadell | Ian Keith | 2 Yates Place |
| 424 | Goodwin | Bonita Colleen | 21 Eliza Crescent |
| 425 | Goodwin | Catherine Dawn | 8 Hansen Hill |
| 426 | Goodwin | Colin Valentine | 8 Beaver Road |
| 427 | Goodwin | Derek Samuel | 21 Eliza Crescent |
| 428 | Goodwin | Emily Rose | 7 Brisbane Road |
| 429 | Goodwin | Gareth Kevin | 15 Hansen Hill |
| 430 | Goodwin | June Elizabeth | 8 Beaver Road |
| 431 | Goodwin | Kenton John Douglas Benjamin | 33 Ross Road West |
| 432 | Goodwin | Mandy Hazel Minnell | 31 Ross Road West |
| 433 | Goodwin | Margaret Ann | 3`H' Jones Road |
| 434 | Goodwin | Marie-Bernard Therese | 15 Hansen Hill |
| 435 | Goodwin | Michael Samuel | 21 Eliza Crescent |
| 436 | Goodwin | Rachel Karen | 31 Ross Road West |
| 437 | Goodwin | Robin | 31 Ross Road West |
| 438 | Goodwin | Robin Christopher | 27 Callaghan Road |

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| 439 | Goodwin | Simon James | 8 Hansen Hill |
| 440 | Goodwin | Una | 27 Callaghan Road |
| 441 | Goodwin | William John Maurice | 7 Brisbane Road |
| 442 | Goss | Amber Morgyn | 16 Jeremy Moore Avenue |
| 443 | Goss | Annagret | 16 Jeremy Moore Avenue |
| 444 | Goss | Ariane Storm | 20 Kent Road |
| 445 | Goss | Carole-Ann | 20 Jeremy Moore Avenue |
| 446 | Goss | Emma Holly | 16 Jeremy Moore Avenue |
| 447 | Goss | Eric Miller | 2 Fitzroy Road East |
| 448 | Goss | Errol Barry Gordon | 30 Davis Street |
| 449 | Goss | Ian Ernest Earle | 98 Davis Street |
| 450 | Goss | Jane Alexander | 27 Eliza Crescent |
| 451 | Goss | Morgan Edmund | 16 Jeremy Moore Avenue |
| 452 | Goss | Sandra Kathleen | 11 Kent Road |
| 453 | Goss | Shirley Ann | 2 Fitzroy Road East |
| 454 | Goss | Simon Peter Miller | 11 Kent Road |
| 455 | Goss | Susan Diann | 98 Davis Street |
| 456 | Goss | William Henry | 7 Brandon Road |
| 457 | Gough | Tanzey Jayne | 3 Police Cottages |
| 458 | Green | David William | 55 Sandy Woodward Road |
| 459 | Greenland | James Andrew William | 3 Biggs Road |
| 460 | Greenland | Kimberley Joanna | 3 Biggs Road |
| 461 | Greenough | Geoffrey | Cemetery Cottage |
| 462 | Greenough | Wanda Rose | Cemetery Cottage |
| 463 | Guala Oyarzo | Henry Hernan | 5 Teaberry Way |
| 464 | Hadden | Sheila Peggy | 8A St Mary's Walk |
| 465 | Halliday | Cathy Anne | 5 Drury Street |
| 466 | Halliday | Jeffrey James | 9A Philomel Street |
| 467 | Halliday | Joyce Isabella Patience | 5 Fieldhouse Close |
| 468 | Halliday | Julie Ann | 9A Philomel Street |
| 469 | Halliday | Kenneth William | 5 Fieldhouse Close |
| 470 | Hancox | Emily Clare | 7 Racecourse Road |
| 471 | Hansen | Douglas John | 6 Fitzroy Road |
| 472 | Hansen | Keva Elizabeth | 1 Dairy Paddock Road |
| 473 | Hansen | Rose Idina | 10 Thatcher Drive |
| 474 | Hansen | Terrance Joseph | 58C Sandy Woodward Road |
| 475 | Hardcastle | Eileen Beryl | 7 Ross Road East |
| 476 | Harris | Angela Jane | 10 Haskard Rise |
| 477 | Harris | Dennis Sefton | Racecourse Cottage |
| 478 | Harris | Heather | 3 Ross Road East |
| 479 | Harris | Jill Yolanda Miller | 19 Fitzroy Road |
| 480 | Harris | Karl Henry | 10 Haskard Rise |
| 481 | Harris | Leeann Watson | 11 Dairy Paddock Road |
| 482 | Harris | Leslie Sidney | 19 Fitzroy Road |

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| 483 | Harris | Michael Ronald | 3 Ross Road East |
| 484 | Harris | Ralph Aaron | 11 Dairy Paddock Road |
| 485 | Harris | Rebecca Jayne | 11 Dairy Paddock Road |
| 486 | Harris | Reece Lee | 11 Dairy Paddock Road |
| 487 | Harris | Wendy Ann | Racecourse Cottage |
| 488 | Harte | Emma Louise | 9A Philomel Street |
| 489 | Harte | Jessica Elise | 9A Philomel Street |
| 490 | Harte | Torin Matthew | 9A Philomel Street |
| 491 | Hartley | Jeannette | 14 Jersey Road |
| 492 | Harvey | Sheila | 8 Barrack Street |
| 493 | Harvey | William | Flat 3 5 Jeremy Moore Avenue |
| 494 | Hawksworth | David | 25 Eliza Crescent |
| 495 | Hawksworth | Ryan | 2 Goss Road |
| 496 | Hay | Bryony | 20 Davis Street |
| 497 | Hay | Graeme | 30 Rex Hunt Road |
| 498 | Hay | Joanne Hazel Rose | 30 Rex Hunt Road |
| 499 | Hayward | Marjorie | 4B St Mary's Walk |
| 500 | Hayward | Matthew Oliver | Mullet Creek |
| 501 | Hayward | Neville | 21 Hansen Hill |
| 502 | Hayward | Pauline May | 21 Hansen Hill |
| 503 | Heathman | Abbie Louise | 15 Eliza Cove Road |
| 504 | Heathman | Malcolm Keith | 15 Eliza Cove Road |
| 505 | Heathman | Mandy Gail | 15 Eliza Cove Road |
| 506 | Heathman | Nyree | 7 Allardyce Street |
| 507 | Heathman | Sally Hermione | 15 Eliza Cove Road |
| 508 | Henry | Adam Robert | 28 Brandon Road |
| 509 | Henry | Donna Louise | 3 Davis Street |
| 510 | Henry | John Stuart | 15 Villiers Street |
| 511 | Henry | Patricia Denise | 86 Davis Street |
| 512 | Hewitt | Charles David James Murdo | 16 Sullivan Street |
| 513 | Hewitt | Christine Alison Elizabeth | 16 Sullivan Street |
| 514 | Hewitt | Gary George | 3 Hebe Place |
| 515 | Hewitt | Margaret Ann | 3 Hebe Place |
| 516 | Hills | David John | 33 Callaghan Road |
| 517 | Hirtle | Christine | 5 Capricorn Road |
| 518 | Hirtle | Debbie Ann | 2B Capricorn Road |
| 519 | Hirtle | Rose Ann Shirley | 4 Villiers Street |
| 520 | Hirtle | Samantha Lee | 2 Hebe Place |
| 521 | Hirtle | Zane Eric | 12 Drury Street |
| 522 | Hobman | Anilda Marilu | 5 Police Cottages |
| 523 | Hobman | Luis Alfonso | 5 Police Cottages |
| 524 | Hobman | Vivien | 20 Hansen Hill |
| 525 | Howe | Alexander Luke Desmond | 33 Ross Road |
| 526 | Howe | Alison Delia | 36 Davis Street |

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| 527 | Howe | Paul Anthony | 36 Davis Street |
| 528 | Hoyles | Benjamin Noel | 10 Brandon Road |
| 529 | Hoyles | Lani Maria | 10 Brandon Road |
| 530 | Hutton | Elizabeth Isabella | 3 John Street |
| 531 | Hutton | Philip | 3 John Street |
| 532 | Ibarra Espinosa | Gonzalo Patricio | 18 Callaghan Road |
| 533 | Igao | Georgia Jane | 10 Goss Road |
| 534 | Igao | Noel Neri | 10 Goss Road |
| 535 | Igao | Pauline Lynx | 10 Goss Road |
| 536 | Inglis | Alison Anne MacKenzie | 9 Short Street |
| 537 | Irvine | Andrew Grant McKenzie | 9 McKay Close |
| 538 | Jackson | Kathleen | 7 Drury Street |
| 539 | Jackson | Malcolm | 7 Drury Street |
| 540 | Jackson | Mark Malcolm | 5 Drury Street |
| 541 | Jacobsen | Alastair | 1A Philomel Street |
| 542 | Jacobsen | Catherine Joan | 1A Philomel Street |
| 543 | Jacobsen | Tanzi | 33 Callaghan Road |
| 544 | Jaffray | Alexander | 8A Brisbane Road |
| 545 | Jaffray | Dominic Summers | 5 Racecourse Road East |
| 546 | Jaffray | Eileen | 5 Hebe Street |
| 547 | Jaffray | Elliott Jessie | 8A Brisbane Road |
| 548 | Jaffray | Estelle Anita | 11 Snake Hill |
| 549 | Jaffray | Eva Lynn | 47 Callaghan Road |
| 550 | Jaffray | Gerard Alan | 47 Callaghan Road |
| 551 | Jaffray | Helen Rose | 84 Davis Street |
| 552 | Jaffray | Ian | 5 Hebe Street |
| 553 | Jaffray | Ingrid Joyce | 9 Fitzroy Road |
| 554 | Jaffray | Janet | 3 Ross Road West |
| 555 | Jaffray | John | 3 Ross Road West |
| 556 | Jaffray | John Summers | 3 Mountain Berry Road |
| 557 | Jaffray | John Willie | 21 Watson Way |
| 558 | Jaffray | Juliet Hazel | 28 Davis Street |
| 559 | Jaffray | June Elizabeth | 17 Ross Road East |
| 560 | Jaffray | Kalon David | 47 Callaghan Road |
| 561 | Jaffray | Lisa Jane | 7 Hebe Street |
| 562 | Jaffray | Phyllis | 21 Watson Way |
| 563 | Jaffray | Shaun Melvyn | 28 Davis Street |
| 564 | Jaffray | Stephen James | 5 James Street |
| 565 | Jaffray | Terence Roy | 5 Hebe Street |
| 566 | Jaffray | Tony | 84 Davis Street |
| 567 | Jaffray | Tracy | 3 Fitzroy Road East |
| 568 | Jamieson | Malcolm William | 1 Rex Hunt Road |
| 569 | Jamieson | Patricia Anne | 1 Rex Hunt Road |
| 570 | Jennings | Hamish Warren | 9A Davis Street |

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| 571 | Jennings | Leeanne Kate | 9 Davis Street |
| 572 | Jennings | Nancy Elizabeth | 7 Philomel Street |
| 573 | Jennings | Roy | 9 Davis Street |
| 574 | Jennings | Stephen | 5 Fitzroy Road |
| 575 | Jennings | Warren Alan | 5A Brisbane Road |
| 576 | Jones | Deena Marie | 6 Allardyce Street |
| 577 | Jones | Yvonne Malvina | 2 Thatcher Drive |
| 578 | Jonson | Nicole Frances | 30 Endurance Avenue |
| 579 | Joshua | Angeline Gloria | 6 Beaver Road |
| 580 | Joshua | Josephine Mary | 7 Gleadell Close |
| 581 | Joshua | Paul Alan | 6 Beaver Road |
| 582 | Joshua | Rosemond Patricia | 3 Felton Stream |
| 583 | Keane | Alva Rose Marie | 18 Davis Street |
| 584 | Keane | Olaf James | 18 Davis Street |
| 585 | Keane | Thomas James | 18 Davis Street |
| 586 | Kearney | Philip James | 2 Brandon Road |
| 587 | Keenleyside | Charles Desmond | 3 Pioneer Row |
| 588 | Keenleyside | Manfred Michael Ian | 2 Snake Hill |
| 589 | Keenleyside | Nanette Barbara | 2 Snake Hill |
| 590 | Kennedy | Igan Stephen | 9 Fitzroy Road |
| 591 | Kenny | Erling | 20 James Street |
| 592 | Kidd | John Nathan | 7 Ross Road West |
| 593 | Kidd | Lillian Rose Orissa | 7 Ross Road West |
| 594 | King | Anna Constance Eve | 34 Ross Road |
| 595 | King | Glynis Margaret | Stanley Arms Flat |
| 596 | King | Michelle Beverly | 4 Biggs Road |
| 597 | King | Peter Thomas | 10 Jeremy Moore Avenue |
| 598 | King | Robert John | 22/24 Davis Street |
| 599 | King | Rosemarie | 10 Jeremy Moore Avenue |
| 600 | King-Clark | Roxanne McCarthy | 39 Fitzroy Road |
| 601 | Kirkham | Campbell Joseph | 5 Capricorn Road |
| 602 | Knight | Margaret Anne | 6 Yates Place |
| 603 | Knipe | Chedwin Norman | 3 Davis Street West |
| 604 | Knipe | Chloe Susanne | 3 Davis Street West |
| 605 | Knipe | Susan Jane Helena | 3 Davis Street West |
| 606 | Kultschar | John William | 33C Davis Street |
| 607 | Kultschar | Karin Pamela | 5 Brisbane Road |
| 608 | Kultschar | Richard Paul | 5 Brisbane Road |
| 609 | Kultschar | Yvonne Rosina | 33C Davis Street |
| 610 | Ladron De Guevara Barnes | Jeremy Marshall | 22/24 Davis Street |
| 611 | Ladron De Guevara Vilches | Carmen Benilda | 22/24 Davis Street |
| 612 | Laffi | Atilio Segundo | 3 Brisbane Road |
| 613 | Laffi | Kathleen Mary | 3 Brisbane Road |
| 614 | Lang | Colin David | 2 Brisbane Road |

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| 615 | Lang | James Patrick | 2 Davis Street West |
| 616 | Lang | Leah Falalimpa | 2 Davis Street West |
| 617 | Lang | Theresa Margaret | 28 Goss Road |
| 618 | Lang | Valma Emily | 8A Moody Street |
| 619 | Lang | Wendy Diane | 2 Brisbane Road |
| 620 | Larsen | Ellen | 6A Moody Street |
| 621 | Larsen | Ronald Ivan | 2 Anderson Drive |
| 622 | Lazo | Javier Waldemar | 80 Davis Street |
| 623 | Lazo | Laura Rose | 80 Davis Street |
| 624 | Lazo | Matthew Derek | 5 Allardyce Street |
| 625 | Leach | Nigel Jon | 4 Moody Street |
| 626 | Lee | Gladys | 11 Drury Street |
| 627 | Lee | Karen | 14 Davis Street |
| 628 | Lee | Rodney William | 15 Ian Campbell Drive |
| 629 | Legg | Robert Keith | 21 Kent Road |
| 630 | Lennie | Gordon Carnie | 9 Narrows View |
| 631 | Lewis | David James | 3 Ian Campbell Drive |
| 632 | Lewis | Jason | 9 Short Street |
| 633 | Lewis | Pamela Irene | 3 Ian Campbell Drive |
| 634 | Limburn | Monica | 2 Brandon Road |
| 635 | Livermore | Anton | 82 Davis Street |
| 636 | Livermore | Doreen Emily | 82 Davis Street |
| 637 | Lloyd | Christopher Sturdee | 12 McKay Close |
| 638 | Lloyd | Natalie Anne | 12 McKay Close |
| 639 | Lowe | Katrina Louise | 33 Ross Road West |
| 640 | Luxton | Jennifer Mary | 4 Hebe Place |
| 641 | Luxton | Michael | 1A Pioneer Row |
| 642 | Luxton | Nicola | 1A Pioneer Row |
| 643 | Luxton | Stephen Charles | 1 Mullet Creek |
| 644 | Luxton | Susan Vera | 1 Mullet Creek |
| 645 | Lyse | Linda Margaret | 65 Fitzroy Road |
| 646 | Macaskill | Angus Lindsay | 11 Short Street |
| 647 | Macaskill | John | 34 Ross Road West |
| 648 | Macaskill | Robert John | 1A Brisbane Road |
| 649 | Macaskill | Tracey Jayne | 1A Brisbane Road |
| 650 | Maciello | Jorge Diego | Flat 1, 30 Jersey Road |
| 651 | Maciello | Susan Ovedia Franz | Flat 1, 30 Jersey Road |
| 652 | Maddocks | Robert Charles | 11 Murray Heights |
| 653 | Martin | Lee Anthony | 7 McKay Close |
| 654 | Martin | Lisa Maria | 7 McKay Close |
| 655 | May | Angela Jane | 11 Sullivan Street |
| 656 | May | Bruce Raymond | 9 Kent Road |
| 657 | May | Bryan Roy | 21 Jeremy Moore Avenue |
| 658 | May | Connie | 9 Kent Road |

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| 659 | May | Donna Monica | 15 Davis Street |
| 660 | May | Jonathan Roy | 12 Jeremy Moore Avenue |
| 661 | May | Lucinda Vikki | 12 Jeremy Moore Avenue |
| 662 | May | Monica | 21 Jeremy Moore Avenue |
| 663 | May | Roger | 11 Sullivan Street |
| 664 | May | Tiphonie | 25 Davis Street |
| 665 | May | William Albert | 1 Glasgow Road |
| 666 | McBain | Arthur | 29 Goss Road |
| 667 | McBain | Rhoda Margaret | 29 Goss Road |
| 668 | McCallum | Bettina Kay | 14 Drury Street |
| 669 | McCallum | Rampai | 14A Drury Street |
| 670 | McCormick | Dale Ronald | 24 Eliza Crescent |
| 671 | McCormick | Pauline Margaret Ruth | 29 Callaghan Road |
| 672 | McCormick | Richard Paul | 29B Callaghan Road |
| 673 | McCormick | Samantha Laura | 18 Rex Hunt Road |
| 674 | McCormick | Tamara Anne | 64 Sandy Woodward Road |
| 675 | McGill | Cara Jane | 6 Ian Campbell Drive |
| 676 | McGill | Daniel Stanford | 2 James Street |
| 677 | McGill | Derek Gary | 38 Rex Hunt Road |
| 678 | McGill | Diane Beverley | 2 James Street |
| 679 | McGill | Heather Margaret | Gardeners Cottage South |
| 680 | McGill | Len Stanford | 2 James Street |
| 681 | McGill | Teresa Rose | 26 Ross Road East |
| 682 | McKay | Bono John | 3A Brandon Road West |
| 683 | McKay | Clara Mary | 20 Ross Road West |
| 684 | McKay | Heather Valerie | 16 Eliza Crescent |
| 685 | McKay | Jeannie Paullina | 2 Allardyce Street |
| 686 | McKay | Jennifer Coral | 24 Eliza Crescent |
| 687 | McKay | Lauren Joyce | 24 Rex Hunt Road |
| 688 | McKay | Michael John | 64 Davis Street |
| 689 | McKay | Michelle Jane | 64 Davis Street |
| 690 | McKay | Peter John | 21 Ross Road West |
| 691 | McKay | Rex | 16 Eliza Crescent |
| 692 | McKay | Roy Derek | 2A Capricorn Road |
| 693 | McKay | Stacey Jane | 28 Rex Hunt Road |
| 694 | McKee | Miranda | 12 Watson Way |
| 695 | McKee | Richard Buick | 12 Watson Way |
| 696 | McKenzie | Alice Maud | 2B St Mary's Walk |
| 697 | McKenzie | Charles Alexander Albert John | 2B St Mary's Walk |
| 698 | McLaren | Caroline Mary | Flat 9, 6 Jersey Road |
| 699 | McLean | Stephen Thomas Turnbull | 2 Mountain View |
| 700 | McLeod | David | 49 Callaghan Road |
| 701 | McLeod | Henry Donald Alexander | 16 Fieldhouse Close |
| 702 | McLeod | Janet Wensley | 75 Davis Street |

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| 703 | McLeod | Janice | 2 Ross Road West |
| 704 | McLeod | John | 23 Hansen Hill |
| 705 | McLeod | Kirsty Jane | 5 Pitaluga Place |
| 706 | McLeod | Marie | 16 Fieldhouse Close |
| 707 | McLeod | Mark Travis | 49 Callaghan Road |
| 708 | McLeod | Michael William | 5 Short Street |
| 709 | McLeod | Robert | 75 Davis Street |
| 710 | McLeod | Robert John | 2 Ross Road West |
| 711 | McLeod | Tamsin Margaret Butler | 5 Short Street |
| 712 | McLeod | Valorie Marcela | 7 Ian Campbell Drive |
| 713 | McMullen | June | 8 Brandon Road |
| 714 | McMullen | Lucille Anne | 6 John Street |
| 715 | McMullen | Tony | 8 Brandon Road |
| 716 | McPhee | Denise | 4 Brandon Road West |
| 717 | McPhee | Hannah | 4 Brandon Road West |
| 718 | McPhee | Jessica | 4 Brandon Road West |
| 719 | McPhee | Justin Owen | 4 Brandon Road West |
| 720 | McRae | Gloria Linda | 9 Snake Street |
| 721 | McRae | Michael | 2A 'H' Jones Road |
| 722 | McRae | Tamara | 2A' H' Jones Road |
| 723 | Merrey | Adrianna Janine | 28 Sandy Woodward Road |
| 724 | Middleton | Callum William | 14 Mink Park |
| 725 | Middleton | Caren | 15 Mink Park |
| 726 | Middleton | Charlotte Anne Mary | 2 Police Cottages |
| 727 | Middleton | Chelsea Emma | 13 McKay Close |
| 728 | Middleton | Leonard | 8A Yates Place |
| 729 | Middleton | Macauley Brian | 13 McKay Close |
| 730 | Middleton | Megan Shirley Rebecca | 79 Davis Street |
| 731 | Middleton | Murray Alexander | 15 Mink Park |
| 732 | Middleton | Nevin Alexander | 15 Mink Park |
| 733 | Middleton | Phillip John | 5 St Marys Walk |
| 734 | Middleton | Sharon Elizabeth | Dolphin Cottage |
| 735 | Middleton | Stephanie Anne | 13 McKay Close |
| 736 | Middleton | Yvonne Allison | 50 Davis Street |
| 737 | Miller | Andrew Nigel | 7 Villiers Street |
| 738 | Miller | Gail Marie | 6A Brisbane Road |
| 739 | Miller | Janet Mary | Market Garden, Airport Rd |
| 740 | Miller | Jayne Elizabeth | 27 Davis Street |
| 741 | Miller | Samuel Andrew | 27 Davis Street |
| 742 | Miller | Timothy John Durose | Market Garden, Airport Rd |
| 743 | Minnell | Adrian James | 8 Moody Street |
| 744 | Minnell | Hazel Eileen | 5 Yates Place |
| 745 | Minto | Adam Daniel | 58A Sandy Woodward Road |
| 746 | Minto | Bradley Stewart Andrew | 18 Endurance Avenue |

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| 747 | Minto | Christian Ian | 6 Biggs Road |
| 748 | Minto | Dilys Rose | 18 Endurance Avenue |
| 749 | Minto | Graham Stewart | 12 Brisbane Road |
| 750 | Minto | Isabel Joan | 12 Brisbane Road |
| 751 | Minto | Patrick Andrew | 19 Murray Heights |
| 752 | Minto | Sean Daem | 5 Sandy Woodward Road |
| 753 | Minto | Timothy Ian | 18 Endurance Avenue |
| 754 | Miranda | Carmen Ediht | 8 Anderson Drive |
| 755 | Mitchell | Hayden Owen | 16 Fieldhouse Close |
| 756 | Mitchell | Paige | 16 Fieldhouse Close |
| 757 | Mitchell | Shane Leon | 8 Ian Campbell Drive |
| 758 | Moffatt | Angela | 20 Ross Road East |
| 759 | Moffatt | James | 20 Ross Road East |
| 760 | Moffatt | Jay | 5 Gleadell Close |
| 761 | Moffatt | Sean | 20 Ross Road East |
| 762 | Molkenbuhr-Smith | Sara Jayne | 1 Callaghan Road |
| 763 | Montgomerie | Carolyn Anne | 1 McKay Close |
| 764 | Montgomerie | Kerys Elizabeth Victoria | 1 McKay Close |
| 765 | Montgomerie | Delen Ann Nicola | 1 McKay Close |
| 766 | Morris | Alana Marie | 4 Callaghan Road |
| 767 | Morris | David | 4 Callaghan Road |
| 768 | Morris | Jason Paul | Flat 4, 30 Jersey Road |
| 769 | Morris | Trevor Alan | 1 Moody Street |
| 770 | Morrison | Fayan | 54 John Street |
| 771 | Morrison | Gerald | 1A Brandon Road |
| 772 | Morrison | Graham Stewart | 34A Davis Street |
| 773 | Morrison | Guy Damian | 1A Brandon Road |
| 774 | Morrison | Jacqueline Denise Anita | 13 Ian Campbell Drive |
| 775 | Morrison | Joan Margaret | 8 Brisbane Road |
| 776 | Morrison | John | 9 Rowlands Rise |
| 777 | Morrison | Joleen Coleen | 24 Kent Road |
| 778 | Morrison | Kathleen Iris | 1A Brandon Road |
| 779 | Morrison | Kenneth | 13 Ian Campbell Drive |
| 780 | Morrison | Lena | 108 Davis Street |
| 781 | Morrison | Leslie Theodore Norman | 108 Davis Street |
| 782 | Morrison | Marcus Lewis | 5 Mink Park |
| 783 | Morrison | Michael John | 10 Fitzroy Road East |
| 784 | Morrison | Nanette Rose | 46 Davis Street |
| 785 | Morrison | Nigel Peter | 86 Davis Street |
| 786 | Morrison | Paul Roderick | 3 Racecourse Road East |
| 787 | Morrison | Richard Lowry | 1 Biggs Road |
| 788 | Morrison | Susan Margaret | 10 Fitzroy Road East |
| 789 | Morrison | William Roderick Halliday | 54 John Street |
| 790 | Murphy | Andrew Paul | 2 King Street |

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| 791 | Murphy | Ann Susan | 2 King Street |
| 792 | Napier | Lily | 2 Racecourse Road |
| 793 | Napier | Roderick Bertrand | 2 Racecourse Road |
| 794 | Neilson | Barry Marwood | 6 Barrack Street |
| 795 | Neilson | Cara Jane | 12 Goss Road |
| 796 | Neilson | Edward Sydney | 12 Goss Road |
| 797 | Neilson | Harold Ian | 74 Davis Street |
| 798 | Neilson | Margaret | 6 Barrack Street |
| 799 | Newell | Joseph Orr | 11 Davis Street |
| 800 | Newman | Andrew Raymond | 51 Ross Road East |
| 801 | Newman | Marlene | 11 Jeremy Moore Avenue |
| 802 | Newman | Terence | 24 Endurance Avenue |
| 803 | Newman | Terri-Ann | 24 Endurance Avenue |
| 804 | Newton | Josephine Ellen | 22 Shackleton Drive |
| 805 | Norman | Heather Thelma | 6A Pioneer Row |
| 806 | Olmedo | Alex | 61 Sandy Woodward Road |
| 807 | Ormond | Christina Helen | 6 Goss Road |
| 808 | Ormond | Kevin Michael Patrick Joseph | 6 Goss Road |
| 809 | Ormond | Krysteen Alison | 2 Gleadell Close |
| 810 | Ormond | Terrienne Helen | 2 Gleadell Close |
| 811 | O'Sullivan | Heather Mary-Lynn | Flat 2 7 Jeremy Moore Avenue |
| 812 | Owen | Sally | 1 Biggs Road |
| 813 | Paice | Corrinne | 3 Racecourse Road |
| 814 | Paice | Craig Arthur | 3 Racecourse Road |
| 815 | Parke | James Fred | 3 Racecourse Road |
| 816 | Parke | Janet Margaret | 3 Racecourse Road |
| 817 | Passfield | Kenneth Alexander | 2A Brandon Road West |
| 818 | Paver | Bernadette Marguerite | Moody Brook House |
| 819 | Peck | Christine | 21 Jersey Road |
| 820 | Peck | David Patrick | 5 Sullivan Street |
| 821 | Peck | Eleanor Margaret | 10 Davis Street |
| 822 | Peck | Farrah Louise | 24 Kent Road |
| 823 | Peck | Gordon Pedro James | 34 Eliza Crescent |
| 824 | Peck | Harwood John Charles | 26 Eliza Crescent |
| 825 | Peck | James | Lafone House |
| 826 | Peirega | Alexa Rachel | 27 Rex Hunt Road |
| 827 | Peirega | Martin Eduardo | 27 Rex Hunt Road |
| 828 | Peirega | Naomi Renee | 27 Rex Hunt Road |
| 829 | Pennisi Minto | Barbara | 9 Fitzroy Road East |
| 830 | Perry | Hilda Blanche | 6A St Marys Walk |
| 831 | Peters | Ross Munro Alan | 64 Sandy Woodward Road |
| 832 | Peters | Tristan Mark | 24 Rex Hunt Road |
| 833 | Pettersson | Derek Richard | 3 Anderson Drive |
| 834 | Pettersson | Trudi Ann | 3 Anderson Drive |

| | | | |
|-----|-------------------|-------------------------|------------------------------|
| 835 | Phillips | Anthony Vincent | Flat 3, 30 Jersey Road |
| 836 | Phillips | Carol Joan | 6 Rex Hunt Road |
| 837 | Phillips | David Dawson | 35 Fitzroy Road |
| 838 | Phillips | Elisa | 35 Fitzroy Road |
| 839 | Phillips | Jordan Liam | 32 Davis Street |
| 840 | Phillips | Terence | 6 Rex Hunt Road |
| 841 | Pitt | Myra May | 6A Pioneer Row |
| 842 | Plato | Darren Richard | 2 Jersey Road |
| 843 | Platt | Claire | 5 Villiers Street |
| 844 | Pointing | Stephen William | 4 Anderson Drive |
| 845 | Pole-Evans | Amy Rose | 4 McKay Close |
| 846 | Pole-Evans | John | 16 Ross Road East |
| 847 | Pole-Evans | Lisa | 74 Davis Street |
| 848 | Pole-Evans | Marcus Samuel | 41 Eliza Crescent |
| 849 | Pole-Evans | Martin | 19 Kent Road |
| 850 | Pole-Evans | Michael Anthony | 4 McKay Close |
| 851 | Pollard | Andrew Keith | 4 Fitzroy Road East |
| 852 | Pollard | Cathy | 2 Kent Road |
| 853 | Pollard | Elizabeth Eve | 23 Ross Road East |
| 854 | Pollard | John | 23 Ross Road East |
| 855 | Pollard | Mark John | 2 Kent Road |
| 856 | Pompert | Joost Herman Willem | 11 Ross Road West |
| 857 | Pompert Robertson | Sorrel Freya | 11 Ross Road West |
| 858 | Pompert-Robertson | Sophie Thora | 11 Ross Road West |
| 859 | Poncet | Jeremy Nigel | 28 Rex Hunt Road |
| 860 | Poncet | Sally Elizabeth | 2A Brandon Road West |
| 861 | Poole | Evelyn May | 31 Fitzroy Road |
| 862 | Poole | Michael James | 19 Davis Street |
| 863 | Poole | Nancy Margaret | 1 Racecourse Road |
| 864 | Poole | Raymond John | 1 Racecourse Road |
| 865 | Poole | Ross William | 52 John Street |
| 866 | Poole | Ryan James | Flat 2 7 Jeremy Moore Avenue |
| 867 | Poole | Toby Raymond | 19 Davis Street |
| 868 | Prindle-Middleton | Stella Margaret | 5 St Mary's Walk |
| 869 | Pring | Bernadette Jane Spencer | 5A Ross Road West |
| 870 | Pring | Geoffrey Alan | 5A Ross Road West |
| 871 | Prior | Claudette | 1 Goss Road |
| 872 | Prior | Malcolm | 1 Goss Road |
| 873 | Ramirez Mardones | Vanessa Elisa | 61 Sandy Woodward Road |
| 874 | Reddick | Keith John | By-Pass Road |
| 875 | Reeves | Ashley Paul | 39 Brandon Road |
| 876 | Reid | Ann | 3A Hansen Hill |
| 877 | Reid | Beverley Rose | 12 James Street |
| 878 | Reid | Colleen Rose | 9 Fitzroy Road East |

| | | | |
|-----|----------------|--------------------------|------------------------|
| 879 | Reid | John Alexander | 7 Fitzroy Road |
| 880 | Reid | Paula | 5 Biggs Road |
| 881 | Reid | Reynold Gus | 5 Biggs Road |
| 882 | Richards | Shirley | 8A James Street |
| 883 | Roberts | Bradley Gerard | 2 Hansen Hill |
| 884 | Roberts | Cheryl Ann Spencer | 49 Ross Road East |
| 885 | Roberts | David Anthony | 1 Mountain View |
| 886 | Roberts | Gethyn Edward | 11 Short Street |
| 887 | Roberts | Nicholas Daniel | 1 Mountain View |
| 888 | Roberts | Peter James | 49 Ross Road East |
| 889 | Roberts | Simon Theodore Nathaniel | 5 Narrows View |
| 890 | Robertson | Dion Sebastian | 40 Rex Hunt Road |
| 891 | Robertson | Janet | 11 Ross Road West |
| 892 | Robson | Alison Emily | 15 Villiers Street |
| 893 | Robson | Cherry Rose | 5 Philomel Street |
| 894 | Robson | Damien | 18 Ross Road East |
| 895 | Robson | Jodie | 1 Philomel Place |
| 896 | Robson | Miranda Gaye | 10 Hansen Hill |
| 897 | Robson | Patricia Jayne | 18 Ross Road East |
| 898 | Robson | Phyllis Ann | 1 Philomel Place |
| 899 | Robson | Raymond Nigel | 10 Hansen Hill |
| 900 | Robson | William Charles | 18 Ross Road East |
| 901 | Rodriguez-Reid | Axel Reynaldo | 4 Fieldhouse Close |
| 902 | Roose | Alison Elizabeth | 7 Brandon Road |
| 903 | Ross | Allan John | 1 Short Street |
| 904 | Ross | Christine Aislinn | 6 Mink Park |
| 905 | Ross | Claudio Javier Ampuero | 2 Mullet Creek |
| 906 | Ross | Gabrielle Leigh | 56 Rex Hunt Road |
| 907 | Ross | Glenn Stephen | 23 Watson Way |
| 908 | Ross | Janet | 23 Watson Way |
| 909 | Ross | Kerri-Anne | 8 Mink Park |
| 910 | Ross | Kevin | 12 Snake Hill |
| 911 | Ross | Lachlan Neil | 14 Fieldhouse Close |
| 912 | Ross | Rebecca Jane | 3 Beaver Road |
| 913 | Ross | Sheena Margaret | 25 Rex Hunt Road |
| 914 | Ross | Shirley Vyona | 1 Short Street |
| 915 | Rowland | Charlene Rose | 19 Jeremy Moore Avenue |
| 916 | Rowland | John Christopher | 19 Jeremy Moore Avenue |
| 917 | Rowland | Sarah Anne | 9 Hansen Hill |
| 918 | Rowlands | Daisy Malvina | 39 John Street |
| 919 | Rowlands | Dorinda Roberta | Camber House |
| 920 | Sackett | Albert John | 25A Ross Road East |
| 921 | Sackett | Jacqueline | 25 Callaghan Road |
| 922 | Sanchez | Jennifer Helen | 50 Sandy Woodward Road |

| | | | |
|-----|-----------------|--------------------------|----------------------------|
| 923 | Sanchez | Joshua | 50 Sandy Woodward Road |
| 924 | Sawle | Felicity Anne Hermione | 7 Rex Hunt Road |
| 925 | Sawle | James Christopher | Seaview Cottage, Ross Road |
| 926 | Sawle | Judith Margaret | Seaview Cottage, Ross Road |
| 927 | Sawle | Richard | Seaview Cottage, Ross Road |
| 928 | Senociain Short | Kylie Deborah | 36 Eliza Crescent |
| 929 | Shcherbich | Zhanna Nikolaevna | 13 Biggs Road |
| 930 | Shelbourne | Carolyn Wendy | 39 Brandon Road |
| 931 | Shelbourne | Liam | 39 Brandon Road |
| 932 | Shepherd | Ramsey | 3 Yates Place |
| 933 | Shillitoe | Helena De Fatima | The Brook, Moody Brook |
| 934 | Shillitoe | Roger William | The Brook, Moody Brook |
| 935 | Shillitoe | Stephen Bruce | 4 Mink Park |
| 936 | Short | Alison | 1 Dairy Paddock Road |
| 937 | Short | Andrez Peter | 1 Dairy Paddock Road |
| 938 | Short | Brenda | 11 Barrack Street |
| 939 | Short | Celia Soledad | 7 Pitaluga Place |
| 940 | Short | Christina Ethel | 12 Brandon Road |
| 941 | Short | Emily Christina | 1 Fitzroy Road East |
| 942 | Short | Gavin Phillip | 36 Eliza Crescent |
| 943 | Short | Isabel Rose | 3 Brisbane Road |
| 944 | Short | Marc Peter | 7 Anderson Drive |
| 945 | Short | Marlene Cindy | 9 Pitaluga Place |
| 946 | Short | Montana Tyrone | 4 Dairy Paddock Road |
| 947 | Short | Patrick Warburton | 3 Brisbane Road |
| 948 | Short | Peter Robert | 1 Fitzroy Road East |
| 949 | Short | Richard Edward | 9 Pitaluga Place |
| 950 | Short | Thomas William Frederick | 1 Dairy Paddock Road |
| 951 | Short | Vilma Alicia | 4 Dairy Paddock Road |
| 952 | Simpson | James Alexander Bruce | 7 Racecourse Road |
| 953 | Simpson | John Frederick | 8 Rowlands Rise |
| 954 | Sinclair | Serena Samantha | 24 Callaghan Road |
| 955 | Sinclair | Veronica Joyce | 21 Ross Road West |
| 956 | Skene | Greta Winnora Miller | 22 Ross Road East |
| 957 | Smallwood | Margo Amee | 105 Davis Street |
| 958 | Smallwood | Michael Anthony | 105 Davis Street |
| 959 | Smith | Aidan James | 5A Davies Street |
| 960 | Smith | Andrew John | 11 Fitzroy Road East |
| 961 | Smith | Antony David | 33A Davis Street |
| 962 | Smith | Anya Deirdre | 8 Eliza Crescent |
| 963 | Smith | Colin David | 6 James Street |
| 964 | Smith | Felicity Marie | 5 Brandon Road |
| 965 | Smith | George Patterson | 15 Watson Way |
| 966 | Smith | Gerard Alexander | 8 Barrack Street |

| | | | |
|------|------------|-----------------------------|------------------------------|
| 967 | Smith | Heather | 19 Watson Way |
| 968 | Smith | Ian Lars | 5 Brandon Road |
| 969 | Smith | Ileen Rose | 28 Ross Road West |
| 970 | Smith | James Terence | 3 Fitzroy Road |
| 971 | Smith | Jennifer Ethel | 6 Watson Way |
| 972 | Smith | Jenny Lorraine | 15 Watson Way |
| 973 | Smith | John | 28 Ross Road West |
| 974 | Smith | John Derek | 8 Eliza Crescent |
| 975 | Smith | Kane David | 6 James Street |
| 976 | Smith | Martyn James | 6A Ross Road West |
| 977 | Smith | Natalie Marianne | 6 James Street |
| 978 | Smith | Nora Kathleen | 5 Fitzroy Road East |
| 979 | Smith | Paul | 1 Callaghan Road |
| 980 | Smith | Robin Charles | 19 Watson Way |
| 981 | Smith | Roy Alan | 11 Brandon Road |
| 982 | Smith | Susan | 17 Jersey Road |
| 983 | Socodo | Nicole Denise | 6 Haskard Rise |
| 984 | Socodo | Phoebe Esther | 6 Haskard Rise |
| 985 | Spicer | Mark Anthony | 16 St Mary's Walk |
| 986 | Spicer | Susan | 16 St Marys Walk |
| 987 | Spink | Roger Kenneth | The Brook, Moody Brook |
| 988 | Spruce | Helena Joan | Milestone, 29 Ross Road West |
| 989 | Spruce | Terence George | Milestone, 29 Ross Road West |
| 990 | Stanworth | Andrea | 25 Ross Road West |
| 991 | Stanworth | Andrew James | 25 Ross Road West |
| 992 | Steen | Barbara Ingrid | 39 Ross Road West |
| 993 | Steen | Karen Lucetta | 32 Fitzroy Road |
| 994 | Stenning | Christopher James | 5B Ross Road West |
| 995 | Stenning | Kate Alexandra | 5B Ross Road West |
| 996 | Stenning | Timothy Charles | 5B Ross Road West |
| 997 | Stephenson | Dylan | Moody Valley |
| 998 | Stephenson | Jason | Moody Valley |
| 999 | Stephenson | Katrina | 4 Davis Street |
| 1000 | Stephenson | Zachary | 4 Davis Street |
| 1001 | Stevens | Kelly-Marie | Flat 1, 6 Racecourse Road |
| 1002 | Stevens | Lucy Mary Rose Ellen Doreen | 6 Dairy Paddock Road |
| 1003 | Stevens | Paul Theodore | 6 Dairy Paddock Road |
| 1004 | Stewart | Celia Joyce | 14 Allardyce Street |
| 1005 | Stewart | Duane William | 7 Discovery Close |
| 1006 | Stewart | Hulda Fraser | 24 Ross Road West |
| 1007 | Stewart | Ian Bremner | 34 Ross Road East |
| 1008 | Stewart | Kenneth Barry | Flat 5, 6 Jersey Road |
| 1009 | Stewart | Ross Ian | 34 Ross Road East |
| 1010 | Stewart | Sheila Olga | 34 Ross Road East |

| | | | |
|------|--------------|----------------------------|----------------------------|
| 1011 | Stewart-Reid | Byron Alexander | 7 Fitzroy Road |
| 1012 | Stewart-Reid | Carol Ellen Eva | 7 Fitzroy Road |
| 1013 | Stewart-Reid | Clodagh Erin Georgia | 7 Fitzroy Road |
| 1014 | Strange | Ian John | The Dolphins, Snake Street |
| 1015 | Strange | Maria Marta | The Dolphins, Snake Street |
| 1016 | Stroud | Mark Adrian | 10 Sullivan Street |
| 1017 | Sudder | Carli | 11 Short Street |
| 1018 | Sullivan | Jonathan Francis | Mullet Creek |
| 1019 | Summers | Brian | 1 Ross Road East |
| 1020 | Summers | Colin Owen | 58 Rex Hunt Road |
| 1021 | Summers | Edith Catherine | 5 Dean Street |
| 1022 | Summers | Irvin Gerard | 1 Anderson Drive |
| 1023 | Summers | Jacqueline | 12 Pioneer Row |
| 1024 | Summers | Joanne Elizabeth | 58 Rex Hunt Road |
| 1025 | Summers | Judith Orissa | 1 Ross Road East |
| 1026 | Summers | Michael Kenneth | 6A Brisbane Road |
| 1027 | Summers | Michael Victor | 12 Pioneer Row |
| 1028 | Summers | Rowena Elsie | 5 Allardyce Street |
| 1029 | Summers | Roy | 32 Eliza Crescent |
| 1030 | Summers | Sheila | 1 Anderson Drive |
| 1031 | Summers | Sybella Catherine Ann | 1 Ross Road West |
| 1032 | Summers | Sylvia Jean | 8 Racecourse Road |
| 1033 | Summers | Terence | 1 Ross Road West |
| 1034 | Summers | Tony | 8 Racecourse Road |
| 1035 | Sutcliffe | Lynsey Claire | 1 Moody Street |
| 1036 | Sutcliffe | Michael Ian | 1A Pitaluga Place |
| 1037 | Sutherland | John Gall | 3 Mountain View |
| 1038 | Taylor | Anne Louise | 4 Drury Street |
| 1039 | Taylor | Graham | 55 Fitzroy Road |
| 1040 | Taylor | Ruth Eleanor | 55 Fitzroy Road |
| 1041 | Taylor | Zoe Leigh | 8 Ian Campbell Drive |
| 1042 | Tellez | Tylor Mathew James | 14 John Street |
| 1043 | Thain | John | 8 Davis Street |
| 1044 | Thain | Scott Hayden | 8 Davis Street |
| 1045 | Thain | Stephanie Ann | 8 Davis Street |
| 1046 | Thom | Norma Ann | 92 Davis Street |
| 1047 | Thomas | Andrew Neil | 11 Jersey Road |
| 1048 | Thomas | Jacqueline Joyce | 3 Moody Street |
| 1049 | Thomas | Jane Lilian Louisa | 11 Jersey Road |
| 1050 | Thomas | Justin Paul | 3 Moody Street |
| 1051 | Thorsen | Carol Margaret | 21 John Street |
| 1052 | Thorsen | David Moller | 11 Callaghan Road |
| 1053 | Thorsen | Gloria Penelope | 27A Fitzroy Road |
| 1054 | Thorsen | Kristiane Annergret Helena | 27A Fitzroy Road |

| | | | |
|------|--------------------|--------------------|------------------------------|
| 1055 | Toolan | Rose Mary | 13 Sullivan Street |
| 1056 | Toolan | Samuel Robert | 13 Sullivan Street |
| 1057 | Toolan | Stephen David | 13 Sullivan Street |
| 1058 | Trinidades Burucua | Dahiana | 4 Rex Hunt Road |
| 1059 | Turner | Betty Ann | 8 Fitzroy Road East |
| 1060 | Turner | Howard Guy | 8 Fitzroy Road East |
| 1061 | Turner | Joanne Elizabeth | 61 Fitzroy Road |
| 1062 | Tyrrell | Garry Bernard | 1 Beaver Road |
| 1063 | Tyrrell | Gina Michelle | 1 Beaver Road |
| 1064 | Tyrrell | James Olaf Louis | 1 Beaver Road |
| 1065 | Tyrrell | Tasmin Andrea | 1 Beaver Road |
| 1066 | Ubeda Hernandez | Julio Antonio | 21 Jersey Road |
| 1067 | Vidal Roberts | Lucila Leona | 1 Mountain View |
| 1068 | Villegas | Caroline | 7 Fieldhouse Close |
| 1069 | Villegas | Pedro Francisco | 7 Fieldhouse Close |
| 1070 | Vincent | Janette Mary | 10 Endurance Avenue |
| 1071 | Vincent | Matthew Stephen | 21 Rex Hunt Road |
| 1072 | Vincent | Stephen Lawrence | 10 Endurance Avenue |
| 1073 | Wade | Donald Harold | 4A Jeremy Moore Avenue |
| 1074 | Wallace | Fraser Barrett | 10 John Street |
| 1075 | Wallace | Maria Lilian | 38 Ross Road West |
| 1076 | Wallace | Stuart Barrett | 38 Ross Road West |
| 1077 | Watson | Andrew James | 9 James Street |
| 1078 | Watson | Joanne | 112 Davis Street |
| 1079 | Watson | Paul | 20 Endurance Avenue |
| 1080 | Watson | Ryan Neil | 20 Endurance Avenue |
| 1081 | Watt | Stephen Robert | 7 Hebe Street |
| 1082 | Watts | Patrick James | 13 Brisbane Road |
| 1083 | Webb | Gary Colin | 58 Davis Street |
| 1084 | Webb | Loretta Isobel | 58 Davis Street |
| 1085 | White | Judy Marie | Flat 1 3 Jeremy Moore Avenue |
| 1086 | Whitney | Frederick William | 9 Ross Road |
| 1087 | Whitney | Jason | 15 Ross Road East |
| 1088 | Whitney | Kurt Ian | 2 Pioneer Row |
| 1089 | Whitney | Lana Rose | 22 Eliza Crescent |
| 1090 | Whitney | Susan Joan | 9 Ross Road |
| 1091 | Wilkinson | Carol Rosina | 24 Goss Road |
| 1092 | Wilkinson | David Clive Walter | 24 Goss Road |
| 1093 | Wilks | Bruce Allan | 11 Fieldhouse Close |
| 1094 | Wilks | Susan Jean | 11 Fieldhouse Close |
| 1095 | Williams | Cynthia June | 59 Sandy Woodward Road |
| 1096 | Williams | Glen | 33 Ross Road East |
| 1097 | Williams | Kirsty Michelle | 62 Sandy Woodward Road |
| 1098 | Williams | Margaret Elizabeth | 16 Goss Road |

| | | | |
|------|-------------|-----------------------|-----------------------------|
| 1099 | Williams | Sasha Louise | 59 Sandy Woodward Road |
| 1100 | Williamson | Kathleen Laura | 5 McKay Close |
| 1101 | Williamson | Rachel Mary | 5 McKay Close |
| 1102 | Wilson | Stephen John | 9 Dairy Paddock Road |
| 1103 | Wilson | Tara | 9 Dairy Paddock Road |
| 1104 | Wylie | Ashley Craig Robert | 22 Mink Park |
| 1105 | Wylie | Julian Richard | 1 McKay Close |
| 1106 | Yon | Julian Lemarc Patrick | 3 Davis Street West |
| 1107 | Zuvic-Bulic | Kuzma Mario | Holdfast House, Holdfast Rd |
| 1108 | Zuvic-Bulic | Sharon Marie | Holdfast House, Holdfast Rd |
| 1109 | Zuvic-Bulic | Zoran Mario | Holdfast House, Holdfast Rd |

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

14 May 2018

No. 6

The following are published in this Supplement —

Court Fees (Family Proceedings)(Amendment) Rules 2018 (SR&O No 4 of 2018);

Road Traffic (Fixed Penalty Notices)(Amendment) Regulations 2018 (SR&O No 5 of 2018); and

Statute Law Database (Rectification) Order 2018 (SR&O No 6 of 2018).

SUBSIDIARY LEGISLATION

Court Fees (Family Proceedings) (Amendment) Rules 2018

S. R. & O. No: 4 of 2018

Made: 10 May 2018

Published: 14 May 2018

Coming into force: on publication

I make this order under section 60 of the Administration of Justice Ordinance 1949, on the advice of the Executive Council.

1. Title

These rules are the Court Fees (Family Proceedings) (Amendment) Rules 2018.

2. Commencement

These rules come into force on publication.

3. Amendment of rule 2 -- Application

Rule 2 of the Court Fees (Family Proceedings) Rules 1992 is amended by deleting the words “in the Supreme Court”.

4. Amendment to rule 4 — Fees

Rule 4(7) is amended by adding “(1)” immediately after “paragraph”.

Made 10 May 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE *(not forming part of the rules)*

These rules amend the Court Fees (Family Proceedings) Rules 1992.

Rule 2 is amended to reflect that the rules cover family proceedings in all courts and are not just limited to the Supreme Court. This amendment will ensure that rule 2 is consistent with other rules. Rule 4(7) is amended to provide the cross-reference to the paragraph referred to which specifies fees to be paid.

SUBSIDIARY LEGISLATION

Road Traffic (Fixed Penalty Notices) (Amendment) Regulations 2018

S. R. & O. No: 5 of 2018

Made: 10 May 2018

Published: 14 May 2018

Coming into force: on publication

I make these regulations under section 59 of the Road Traffic Ordinance 1948 on the advice of Executive Council.

1. Title

These regulations are the Road Traffic (Fixed Penalty Notices) (Amendment) Regulations 2018.

2. Commencement

These Regulations come into force on publication.

3. Regulation 11 amended — Hearings

Regulation 11(2)(b) of the Road Traffic (Fixed Penalty Notices) Regulations 2017 is amended by deleting “section 1(1) of the Magistrates’ Courts Act 1980” and replacing it with “section 257(1) of the Criminal Procedure and Evidence Ordinance 2014”.

Made 10 May 2018

N. J. Phillips C. B. E.,
Governor

EXPLANATORY NOTE
(not part of the regulations)

These regulations are made under section 59 of the Road Traffic Ordinance 1948 to amend the Road Traffic (Fixed Penalty Notices) Regulations 2017.

Clause 3 amends regulation 11(2)(b) to correct the cross-reference to the Magistrates’ Courts Act 1980. The correct cross-reference for commencing proceedings on information is now provided for under section 257(1) of the Criminal Procedure and Evidence Ordinance 2014 as the Magistrates’ Courts Act 1980 no longer applies in the Falkland Islands.

SUBSIDIARY LEGISLATION

Statute Law Database (Rectification) Order 2018

S. R. & O. No. 6 of 2018

Made: 10 May 2018

Published: 14 May 2018

Coming into force: on publication

I make this order under section 15(4) of the Law Revision and Publication Ordinance 2017 to give effect to a report of the Attorney General approved by the Legislative Assembly.

1. Title

This order is the Statute Law Database (Rectification) Order 2018.

2. Commencement

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

3. Rectification of Defects in the Statute Law Database

Certain defects in the Statute Law Database must be rectified as set out in the Schedule.

SCHEDULE

RECTIFICATION OF THE STATUTE LAW DATABASE

1. Crimes Ordinance 2014 (No 13 of 2014)

(1) The Crimes Ordinance 2014 as it appears on the Statute Law Database must be amended to reflect all the provisions of the Crimes Ordinance 2014 (Correction) Order 2017 (S.R. & O. No 6 of 2017) and the Crimes (Amendment) Ordinance 2017 (No 5 of 2017).

(2) The amendments are deemed to have effect as if they were included in the original publication of the Crimes Ordinance 2014 on the Statute Law Database on 31 July 2017.

2. Criminal Procedure and Evidence Ordinance 2014 (No 12 of 2014)

(1) The Criminal Procedure and Evidence Ordinance 2014 as it appears on the Statute Law Database must be amended to reflect all the provisions of the Criminal Procedure and Evidence Ordinance (Correction) Order 2017 (S.R. & O. No 5 of 2017) and the Criminal Procedure and Evidence (Amendment) Ordinance 2017 (No 4 of 2017).

(2) The amendments are deemed to have effect as if they were included in the original publication of the Criminal Procedure and Evidence Ordinance 2014 on the database on 31 July 2017.

3. Double Taxation Relief Arrangement (United Kingdom) Order 1996 (S.R. & O. No 37 of 1996)

(1) The Double Taxation Relief Arrangement (United Kingdom) Order 1996 must be incorporated into the database to show the Order as being in force in the Falkland Islands.

(2) The Order is deemed to have effect as if it were included in the original publication of the Statute Law Database on 31 July 2017.

4. Falkland Islands Status Ordinance 1988 (No 12 of 1998)

(1) The Falkland Islands Status Ordinance 1988 as it appears on the Statute Law Database must be amended to reverse amendments purportedly made to sections 2(a), (b), 3(2), and (3) of it by the Falkland Islands Status (Amendment) Ordinance 2017, and the preceding text must be restored; until such time as those amendments are commenced.

(2) The restored text of the Falkland Islands Statute Ordinance 1988 is deemed to have remained in place from 31 July 2017; until such time as it is amended upon commencement of the Falkland Islands Statute (Amendment) Ordinance 2017.

5. Finance and Audit Ordinance 1988 (No 11 of 1988)

(1) Section 43 of the Finance and Audit Ordinance 1988 as it appears on the Statute Law Database must be corrected by omitting “Overseas Territory Regulations” and substituting “Colonial Regulations”.

(2) The amendment is deemed to have effect from the original publication of the Statute Law Database on 31 July 2017.

6. Immigration Ordinance 1999 (No 15 of 1999)

(1) Immigration Ordinance 1999 as it appears on the Statute Law Database must be amended as follows.

(a) section 18AA, as set out in section 5 of the Immigration (Amendment)(No 2) Ordinance 2009 (No 16 of 2009), must be incorporated into the Ordinance; and

(b) the Ordinance must reflect the amending provisions of the Immigration (Amendment) Ordinance 2017 (No 1 of 2017);

(2) The amendments are deemed to have effect as if they were included in the original publication of the Statute Law Database on 31 July 2017.

7. Maritime Safety and Security Ordinance 2009 (No 17 of 2009)

(1) The Maritime Safety and Security Ordinance 2009 must be incorporated into the Statute Law Database to show the Ordinance as being in force in the Falkland Islands.

(2) The Ordinance is deemed to have effect as if it were included in the original publication of the Statute Law Database on 31 July 2017.

8. Retirement Pensions (Prescribed Rates) Regulations 1996 (S.R. & O. No 39 of 1996)

(1) Section 6 of the Retirement Pensions (Prescribed Rates) Regulations 1996 as it appears on the Statute Law Database must reflect the amendment made to it by section 18(c) of the Finance Ordinance 2016 (No 5 of 2016).

(2) The amendment is deemed to have had effect as if it were included in the original publication of the Statute Law Database on 31 July 2017.

Made 10 May 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE *(not forming part of this order)*

This order provides for the rectification of defects in the Statute Law Database.

The Statute Law Database is the authoritative statement of the legislation applying to or in relation to the Falkland Islands by virtue of Ordinance. Section 15 of the Ordinance provides for the rectification of defects in the database following report of such defects to the Legislative Assembly by the Attorney General.

The order provides for the rectification of defects in respect of the following legislation:

- *Crimes Ordinance 2014 (No 13 of 2014)*
- *Criminal Procedure and Evidence Ordinance 2014 (No 12 of 2014)*
- *Double Taxation Relief Arrangement (United Kingdom) Order 1996 (S.R. & O. No 37 of 1996)*
- *Falkland Islands Status Ordinance 1988 (No 12 of 1998)*
- *Finance and Audit Ordinance 1988 (No 11 of 1988)*
- *Immigration Ordinance 1999 (No 15 of 1999)*
- *Maritime Safety and Security Ordinance 2009 (No 17 of 2009)*
- *Retirement Pensions (Prescribed Rates) Regulations 1996 (S.R. & O. No 39 of 1996)*

The majority of matters concern the correction of omissions (of laws in force) from the original publication of the database, which were caused by oversight in compiling the database.

The rectifications to be made are contained in the Schedule to the order.

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FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. 127

31 May 2018

No. 7

Appointment

Marcin Piotr Martychiewicz, Official Veterinarian, Agriculture, Natural Resources Department, 30.04.18.

Mhairi-Anne Eccles, Staff Nurse, Health and Social Services Department, 01.05.18.

Balissa Pepuki Greene, Labour Force Specialist, Policy and Economic Development Department, 01.05.18.

Danielle Greenough, Taxation Data Clerk, Taxation, Treasury, 01.05.18.

Carmen Miranda, Medical Secretary, Health and Social Services Department, 14.05.18.

Lesley Campbell-Stephens, Senior Human Resources Adviser, Human Resources Department, 15.05.18

Chantelle Alexander, Learning Support Assistant, Infant and Junior School, Education Department, 21.05.18.

Nicholas James Faulkner, Company Taxation Officer, Taxation, Treasury, 22.05.18.

Tina Rose Stevens, Senior General Assistant, Health and Social Services Department, 22.05.18.

David Anthony Roberts, Water Supervisor, Water Section, Public Works Department, 28.05.18.

Completion of contract

Tsitsi Chitsiku, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 04.05.18.

Nicholas James Jeffries, Meat Hygiene Inspector, Agriculture, Natural Resources Department, 04.05.18.

Matthew Edward Clint, Science Teacher, Education Department, 31.05.18.

Michael Jean-Luc Gras, Stock Assessment Scientist, Agriculture, Natural Resources Department, 31.05.18.

Renewal of contract

Tsitsi Chitsiku, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 05.05.18.

Resignation

Pilar Angelica Chancks Olivares, Learning Support Assistant, Infant and Junior School, Education Department, 04.05.18.

Julie Chapman, Team Leader, Young Person's Unit, Health and Social Services Department, 18.05.18.

Tansie Rebecca Bonner, Cleaner, Agriculture, Natural Resources Department, 23.05.18.

Transfer

Samuel Cockwell from Water Supervisor, Water Section, Public Works Department to Offshore Safety Adviser, Mineral Resources Department, 01.05.18

Julia Fiddes from Taxation Data Clerk to Assistant Taxation Officer, Taxation, Treasury, 01.05.18.

Stephen Thomas McLean, from Agricultural Assistant (Biosecurity), Agriculture, Natural Resources Department to Accounting Assistant, Treasury, 08.05.18.

John Christopher Rowland from Technical Assistant, Civil Aviation, Law and Regulation Directorate to Aircraft Refueller/Handyperson, Falkland Islands Government Air Service, Development and Commercial Services Department, 28.05.18.

Death in Service

Christopher Peck, Fisheries Protection Officer, Fisheries, Natural Resources Department, 02.05.18.

NOTICES

No. 41

29 March 2018

Falkland Islands Development Corporation Ordinance 2013 *section 8(1)*

Appointment of Vice Chair to Falkland Islands Development Corporation Board

1. Section 8(1)(b) of the Falkland Islands Development Corporation Ordinance 2013 provides for the Governor to appoint a Vice Chair to the Falkland Islands Development Corporation Board.

2. In exercise of my powers under section 8(1)(b) of the Falkland Islands Development Corporation Ordinance 2013, I appoint to the Falkland Islands Development Corporation Board **Andrew Newman** as Vice Chair of the Falkland Islands Development Corporation Board.

3. This appointment has effect from 1 April 2018 and will, unless the appointee resigns by written notice to the Governor, continue in effect until 30 June 2019.

Dated 29 March 2018

R. A. J. MITHAM,
Acting Governor.

No. 42

30 April 2018

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 1 May 2018 until 30 September 2018 inclusive on the following publicly maintainable highways*:

(1) on East Falkland —

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

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

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

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;

the Saladero Road from its junction with the Darwin Road to New Haven Road to its end at Saladero settlement;

the Abattoir Road from its junction with the Stanley to Darwin Road to its end at the Abattoir, and

(2) on West Falkland —

all publicly maintainable highways.

Dated 30 April 2018

C. O. SUMMERS,
Director of Public Works.

**A map showing the publicly maintainable highways affected by this notice is available from the Design Office, Public Works Department.*

No. 43

2 May 2018

Index of Retail Prices

The Index for the quarter ended 31 March 2018 has now been completed.

The Index has increased during the quarter, to 103.066; this equates to a 1.1% increase for the quarter, and a 3.0% increase for the year:

| <i>Date</i> | <i>Index</i> | <i>Annual Change</i> | <i>Quarterly change</i> |
|-------------|--------------|----------------------|-------------------------|
| 31.03.17 | 100.022 | -0.1% | -0.5% |
| 30.06.17 | 100.740 | 1.2% | 0.7% |
| 30.09.17 | 101.616 | 1.5% | 0.9% |
| 31.12.17 | 101.903 | 1.3% | 0.3% |
| 31.03.18 | 103.066 | 3.0% | 1.1% |

Inflation in the “fuel & power” market contributes for two thirds of the total increase for the year (2.0 out of 3.0 percentage points). The 3.0% annual increase is unlikely to reflect the year-on-year inflation rate for 2018 mostly because of price cuts in the “communication” market that can be anticipated will happen before the end of the year.

Dated 2 May 2018

D. RANGHETTI,
for Director of Policy and Economic Development.

No. 44

2 May 2018

Supreme Court of the Falkland Islands
Notice under the Administration of Estates Ordinance 1949
Take notice that **Edward Andrew Robson** died on 30 August 1976.

Whereas **Charlene Rose Rowland** as lawful attorney for **Lily Napier** 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 2 May 2018

J. BROOKS,
Registrar, Supreme Court

No. 45

2 May 2018

Banking Ordinance 1987
section 19B

Audited Accounts of Standard Chartered Bank

Notice is hereby given pursuant to section 19B(1) of the Banking Ordinance 1987, as amended, that the audited accounts of Standard Chartered Bank for the year ended 31 December 2017 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 2 May 2018

S. FENTON,
Chief Executive Officer, Standard Chartered Bank.

No. 46

9 May 2018

Customs Ordinance 2003
section 7

Appointment of Temporary Customs Officer

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **Naomi Margaret Baxter** - Biosecurity Officer - to be a temporary Customs Officer from 9 May 2018.

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

Dated 9 May 2018

R. J. KING,
Collector of Customs.

No. 47

17 May 2018

Customs Ordinance 2003
section 7

Appointment of Temporary Customs Officer

In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **Cpl Robert John Webb** 30051428 to be a temporary Customs Officer from 17 May to 30 November 2018.

Dated 17 May 2018

R. J. KING,
Collector of Customs.

No. 48

18 May 2018

Children Ordinance 2014
section 100A

Special Guardianship Orders – Guidance

1. Section 100A of the Children Ordinance 2014 (No 7 of 2014) provides that the Director of Health and Social Services

may prepare guidance in relation to a matter prescribed under the Ordinance.

2. Notice is hereby given that in accordance with section 100A of the Children Ordinance 2014 the Director of Health and Social Services has prepared guidance with regard to Special Guardianship Orders established under section 18A to section 18F of the Ordinance. Under section 100A the Director is required to make arrangements for such guidance to be made available to all relevant parties. The guidance is available electronically on the Director of Health and Social Services' website:- <http://www.fig.gov.fk/health/social-services/legislation-policies> or in hard copy from the Social Services office.

Dated 18 May 2018

M. A. WHITTINGHAM,
Director, Health and Social Services.

No. 49

21 May 2018

Education Ordinance 1989
section 5

Appointment of Member to Board of Education

1. Section 5(4) of the Education Ordinance 1989 provides for the Governor to appoint a member to the Board of Education from among persons who are parents of a child under the age of twelve years who is a pupil at a school in the Falkland Islands.

2. In exercise of my powers under section 5(4), I appoint **Maryann Barton** to be a member of the Board of Education.

3. This appointment has effect from the date of signature and, in accordance with section 6(2) of the Education Ordinance, continues in effect for three years unless terminated sooner.

Dated 21 May 2018

R. A. J. MITHAM,
Acting Governor.

No. 50

21 May 2018

Application for Falkland Islands Status

Notice is hereby given that:

Sarah May Bo Clarke (nee Lam);
Mark Nicholas Street; and
Mark Rasey

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 22 June 2018.

Dated 21 May 2018

J. E. SMITH,
Immigration Officer.

No. 51

25 May 2018

T J Stevedores Limited
Company Number: 14871

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 25 May 2018

E. J. DENT,
Registrar of Companies.

Published at the Attorney General's Chambers, Stanley, Falkland Islands.
Price: £2.00.

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FALKLAND ISLANDS GAZETTE

Extraordinary

PUBLISHED BY AUTHORITY

Vol. 127

1 June 2018

No. 8

NOTICES

No. 52

1 June 2018

Customs Ordinance 2003
section 113

CUSTOMS RESOLUTION
OF THE LEGISLATIVE ASSEMBLY

(No. 1 of 2018)

RESOLVED by the Legislative Assembly, under section 113 of the Customs Ordinance 2003 on 1 June 2018 as follows —

Resolution to change import duties

1. The following import duties of customs shall be payable—

| Item | Article | Rate of Duty |
|------|----------------------------|--------------|
| (a) | Beer per litre | £0.36 |
| (b) | Cider, Perry etc per litre | £0.36 |

| | | |
|-----|-------------------------------------|-----------|
| (c) | Still and sparkling wines per litre | £0.88 |
| (d) | Fortified wines per litre | £1.06 |
| (e) | Spirituous beverages per litre | £7.20 |
| (f) | Spirits per litre | £13.43 |
| (g) | Tobacco products per kilogram:- | |
| | (i) Cigars | £381.00 |
| | (ii) Cigarettes | £410.39 |
| | (iii) Tobacco | £250.52”. |

2. This Resolution comes into force on 2 June 2018.

3. The Customs Order 1948 is amended to reflect the contents of this Resolution with effect from 2 June 2018.

Dated 1 June 2018

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



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

29 June 2018

No. 7

The following are published in this Supplement —

Supplementary Appropriation (2017-2018) Ordinance 2018 (No 1 of 2018);

Appropriation Ordinance 2018 (No 2 of 2018);

Capital Appropriation Ordinance 2018 (No 3 of 2018); and

Finance Ordinance 2018 (No 4 of 2018).

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Supplementary Appropriation (2017-2018) Ordinance 2018

(No: 1 of 2018)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Withdrawal of additional sum
4. Replenishment of Contingencies Fund

Schedule

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

SUPPLEMENTARY APPROPRIATION (2017-2018) ORDINANCE 2018

(No: 1 of 2018)

(assented to: 12 June 2018)
(commencement: on publication)
(published: 29 June 2018)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of the additional sum of £60,346,489 for the financial year ending 30 June 2018.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2017-2018) Ordinance 2018.

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 £60,346,489 from the Consolidated Fund.

(2) Any additional sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2018 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 No 3-8 of 2017/2018, the Financial Secretary will replenish the fund from the additional sum withdrawn under section 3.

SCHEDULE

| Number | Head of Service | Amount £ |
|---------------|--|--------------------|
| | Operating Budget | |
| 0110 | Development & Commercial Services | 308,700 |
| 0200 | Health & Social Services | 213,000 |
| 0350 | Public Works | 230,050 |
| 0410 | Natural Resources | 446,608 |
| 0600 | Executive Management | 510,387 |
| 0700 | The Treasury | 723,230 |
| | Total Operating Budget | 2,431,975 |
| 0999 | Fund Transfer and Transfer Payments | 57,914,514 |
| | Total Schedule | £60,346,489 |

Passed by the Legislature of the Falkland Islands on 29 May 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Appropriation Ordinance 2018

(No: 2 of 2018)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation

Schedule

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

APPROPRIATION ORDINANCE 2018

(No: 2 of 2018)

(assented to: 12 June 2018)
(commencement: on publication)
(published: 29 June 2018)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of money for the financial year ending 30 June 2019.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Appropriation Ordinance 2018.

2. Commencement

This Ordinance comes into force on publication in the Gazette.

3. Appropriation

- (1) The Financial Secretary may withdraw the sum of £70,567,955 from the Consolidated Fund.
- (2) Any sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2019 for the purpose of supplying the votes set out in the Schedule.

SCHEDULE

| | Operating Budget | Capital Charges | Departmental Expenditure | Less Internal Charges | Net Operating Budget |
|---------------------------------|---------------------|--------------------|-----------------------------|-----------------------------|----------------------------|
| | £ | £ | £ | £ | £ |
| Development and | | | | | |
| 0110 Commercial Services | 6,753,714 | 377,490 | 6,376,224 | 116,982 | 6,259,242 |
| 0120 Human Resources | 1,011,269 | 800 | 1,010,469 | 1,700 | 1,008,769 |
| 0200 Health and Social Services | 12,094,401 | 567,480 | 11,526,921 | 201,060 | 11,325,861 |
| 0250 Education | 7,862,450 | 414,450 | 7,448,000 | 98,090 | 7,349,910 |
| 0350 Public Works | 14,908,557 | 3,530,200 | 11,378,357 | 298,910 | 11,079,447 |
| 0410 Natural Resources | 7,379,680 | 127,950 | 7,251,730 | 272,230 | 6,979,500 |
| 0451 Law and Regulation | 1,841,405 | 3,580 | 1,837,825 | 10,700 | 1,827,125 |
| 0550 Emergency Services | 3,449,638 | 287,030 | 3,162,608 | 48,100 | 3,114,508 |
| 0600 Executive Management | 6,339,981 | 59,150 | 6,280,831 | 21,380 | 6,259,451 |
| 0615 Policy | 959,060 | 0 | 959,060 | 3,940 | 955,120 |
| 0620 Mineral Resources | 582,702 | 3,020 | 579,682 | 3,380 | 576,302 |
| 0700 The Treasury | 3,074,206 | 6,190 | 3,068,016 | 12,250 | 3,055,766 |
| 0997 Oil | 800,000 | 0 | 800,000 | 0 | 800,000 |
| 0999 Islands Plan | 6,993,984 | 0 | 6,993,984 | 0 | 6,993,984 |
| TOTAL OPERATING BUDGET | 74,051,047 | 5,377,340 | 68,673,707 | 1,088,722 | 67,584,985 |
| 0998 Fund Transfers | 2,982,970 | | 2,982,970 | | 2,982,970 |
| TOTAL EXPENDITURE | 77,034,017 | 5,377,340 | 71,656,677 | 1,088,722 | 70,567,955 |

Passed by the Legislature of the Falkland Islands on 1 June 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Capital Appropriation Ordinance 2018

(No: 3 of 2018)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation

Schedule

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

CAPITAL APPROPRIATION ORDINANCE 2018

(No: 3 of 2018)

(assented to: 12 June 2018)

(commencement: on publication)

(published: 29 June 2018)

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 2018.

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, £35,091,041 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 1990.

SCHEDULE

section 3

Capital Programme

| | Financial Year | Financial Year | Total |
|--------------------------------|---------------------|-------------------|-------------------|
| | 2017/18 | 2018/19 | |
| | £ | £ | £ |
| Economic Development | (3,592,791) | 5,975,000 | 2,382,209 |
| Infrastructure and Maintenance | (2,327,372) | 22,819,368 | 20,491,996 |
| Social Investment | (5,719,504) | 17,936,340 | 12,216,836 |
| | <u>(11,639,667)</u> | <u>46,730,708</u> | <u>35,091,041</u> |

Passed by the Legislature of the Falkland Islands on 1 June 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Finance Ordinance 2018

(No: 4 of 2018)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Banking Regulations Order
4. Amendment of British Nationality Ordinance
5. Amendment of Customs (Fees) Regulations
6. Amendment of Falkland Islands Pensions Scheme Ordinance
7. Amendment of Family Allowances Ordinance
8. Amendment of Falkland Islands Status (Application Fees) Regulations
9. Amendment of Harbours Regulations
10. Amendment of Immigration (Fees) Regulations
11. Amendment of Minimum Wage Ordinance
12. Amendment of Retirement Pensions Ordinance
13. Amendment of Retirement Pensions (Prescribed Rates) Regulations
14. Amendment of Taxes Ordinance

Schedule

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

FINANCE ORDINANCE 2018

(No: 4 of 2018)

(assented to: 12 June 2018)
(commencement: in accordance with section 2)
(published: 29 June 2018)

AN ORDINANCE

To increase various allowances, benefits, charges, contributions and fees provided for under the laws of the Falkland Islands; to amend the trivial threshold based on accrued pension fund value; to provide for additional assisted contributors in respect of retirement pension contributions; to amend the Taxes Ordinance and to provide for connected matters.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Finance Ordinance 2018.

2. Commencement

This Ordinance comes into force on 1 July 2018, except where it is provided that particular provisions come into force on a different date.

3. Amendment of Banking Regulations Order

(1) Regulation 4 of the Banking Regulations Order 1989 is amended by omitting “£9,000.00” and replacing it with “£10,000.00”.

(2) The amendment under subsection (1) comes into force on 1 January 2019.

4. Amendment of British Nationality Ordinance

The Schedule to the British Nationality Ordinance 1949 is amended by replacing the Table of Fees with the following —

“TABLE OF FEES

| Matter in which fee may be taken | Amount of fee |
|---|---------------|
| 1. Application under the Act, except an application under section 5, for registration as a British Overseas Territories citizen | |
| (a) application relating to one adult | £910.00 |
| (b) application relating to one child | £810.00 |
| 2. Application for naturalisation as a British Overseas Territories citizen under section 18(1) or 18(2) of the Act | £1,000.00 |
| 3. Registration of a declaration of renunciation of British Overseas Territories citizenship under section 24 of the Act | £372.00 |
| 4. Supply of a certified copy of a notice, certificate, order, declaration or entry, given, granted or made under the Act or any of the former nationality Acts | £20.00 |
| 5. Administering the oath of allegiance for the purposes of the Act | £5.00 |
| 6. Facilitating applications for United Kingdom visas or nationality | £70.00 |
| 7. Taking photographs, set of four | £7.50”. |

5. Amendment of Customs (Fees) Regulations

The Customs (Fees) Regulations 2006 are amended as follows —

(a) in regulation 3 —

(i) by omitting “£80.20” in each place it appears and replacing it with “£82.60”;

(ii) by omitting “£120.30” in each place it appears and replacing it with “£123.90”;

(iii) in paragraph (a)(ii) by omitting “£40.10” and replacing it with “£41.30”; and

(iv) in paragraph (c)(ii) by omitting “£60.15” and replacing it with “£61.95”;

(b) in regulation 4 —

- (i) by omitting “£53.60” in each place it appears and replacing it with “£54.40”;
- (ii) by omitting “£265.80” in each place it appears and replacing it with “£269.80”;
- (iii) in subregulation (3)(a) by omitting “£26.80” and replacing it with “£27.20”; and
- (iv) in subregulation (3)(b) by omitting “£132.90” and replacing it with “£134.90”.

6. Amendment of Falkland Islands Pensions Scheme Ordinance

The Falkland Islands Pensions Scheme Ordinance 1997 is amended in section 28 —

- (a) by omitting and replacing subsection (3A) with the following —

“(3A) A member may elect to receive, in place of any benefit under subsection (1)(a) or (b), a sum equal to the accrued value of the member’s individual account if that value is less than £40,000.”

- (b) in subsection (8) by omitting and replacing all the words after subparagraph (b) with the following —

“and the member may, within 6 months of the deferral date, elect to receive, in place of any benefit under subsection (1)(b), a sum equal to the accrued value of the member’s individual account at that date if that value is less than £40,000.”;

- (c) by omitting and replacing subsection (9) with the following —

“(9) Where a member has elected to defer both the purchase of an annuity and the payment of a lump sum, the member may, within 6 months of the deferral date, elect to receive, in place of any benefit under subsection (1)(a) or (b), a sum equal to the accrued value of the member’s individual account if that value is less than £40,000.”

7. Amendment of Family Allowances Ordinance

Section 3(1) of the Family Allowances Ordinance 1960 is amended by omitting “£68.00” and replacing it with “£75.00”.

8. Amendment of Falkland Islands Status (Application Fees) Regulations

Regulation 2 of the Falkland Islands Status (Application Fees) Regulations 1999 is amended by omitting “£218.00” and replacing it with “£100.00”.

9. Amendment of Harbours Regulations

Schedule 3 to the Harbours Regulations 1944 is amended by omitting paragraph 1 and replacing it with the new paragraph in the Schedule to this Ordinance.

10. Amendment of Immigration (Fees) Regulations

Regulation 3 of the Immigration (Fees) Regulations 2009 is amended as follows —

(a) by omitting paragraph (a) and replacing it with the following —

“(a)(i) for a residence permit under section 16 £23.00

(ii) for renewal or extension of a residence permit under section 16 £0.00”;

(b) by omitting paragraph (b) and replacing it with the following —

“(b)(i) for a work permit under section 17 £23.00

(ii) for renewal or extension of a work permit under section 17 £0.00”;

(c) in paragraph (c) by omitting “£218.00” and replacing it with “£100.00”;

(d) in paragraph (d) by omitting “£22.50” and replacing it with “£23.00”.

11. Amendment of Minimum Wage Ordinance

(1) Section 11(1) of the Minimum Wage Ordinance 2013 is amended by omitting “£6.58” and replacing it with “£6.67”.

(2) The amendment under subsection (1) comes into force on 1 January 2019.

12. Amendment of Retirement Pensions Ordinance

(1) Section 13(4) of the Retirement Pensions Ordinance 1996 is amended by the addition of the following paragraphs after paragraph (b) —

“or

(c) is self-employed and shows to the satisfaction of the Board that his or her income does not exceed the amount prescribed under section 10(4); or

(d) is in receipt of welfare payments as determined by the Department of Social Services and shows to the satisfaction of the Board the number of weeks that the welfare payments were received.”

(2) The assisted contributions made by the Government under section 13 of the Retirement Pensions Ordinance 1996 between 1 July 2015 and the date of commencement of this section in respect of self-employed persons whose income did not exceed the amount prescribed under section 10(4), are deemed to be valid as if they had been provided for in the Finance Ordinance 2015.

13. Amendment of Retirement Pensions (Prescribed Rates) Regulations

(1) The Retirement Pensions (Prescribed Rates) Regulations 1996 are amended —

(a) in regulation 3 as follows —

- (i) in paragraph (a) by omitting “£153.00” and replacing it with “£156.00”;
 - (ii) in paragraph (b) by omitting “£86.70” and replacing it with “£88.43”;
 - (iii) the amendments in subparagraphs (i) and (ii) come into force on 1 July 2018;
- (b) in regulation 5 as follows —
- (i) in subregulation (1)(a) by omitting “£15.75” and replacing it with “£16.75”
 - (ii) in subregulation (1)(b) by omitting “£31.50” and replacing it with “£33.50”;
 - (iii) in subregulation (1)(c) by omitting “£15.75” and replacing it with “£16.75”;
 - (iv) in subregulation (2) by omitting “£15.75” and replacing it with “£16.75”;
 - (v) in subregulation (2A) by omitting “£15.75” and replacing it with “£16.75”;
 - (vi) in subregulation (3)(a) by omitting “£31.50” and replacing it with “£33.50”;
 - (vii) in subregulation (4) by omitting “£31.50” and replacing it with “£33.50”;
- (c) (i) in regulation 6 by omitting “£232.00” and replacing it with “£266.80”;
- (ii) The earnings limits that were applied in 2017 and 2018 are deemed to be valid as if they were set in the respective Finance Ordinances.

(2) The amendments under subsection (1)(b) and (c) come into force on 1 January 2019.

14. Amendment of Taxes Ordinance

(1) Section 8(1) of the Taxes Ordinance 1997 is amended by deleting paragraph (h).

(2) The amendment under subsection (1) is deemed to have come into force on 1 January 2018 in respect of payments made under the Family Allowances Ordinance 1960.

SCHEDULE

New paragraph 1 of Schedule 3 to Harbours Regulations 1944

(section 9)

“1 Harbour dues

| | |
|--|--------|
| (a) Private pleasure yacht (under 50 tons) | £69.00 |
| (b) Other vessels: | |
| Under 15 tons | £69.00 |

| | |
|---|-------------|
| 15 tons or more but under 30 tons | £126.00 |
| 30 tons or more but under 50 tons | £227.00 |
| 50 tons or more but under 800 tons | £343.00 |
| 800 tons or more but under 1,000 tons | £447.00 |
| 1,000 tons or more but under 1,500 tons | £514.00 |
| 1,500 tons or more but under 2,000 tons | £617.00 |
| 2,000 tons or more but under 5,000 tons | £754.00 |
| 5,000 tons or more but under 7,000 tons | £915.00 |
| 7,000 tons or more but under 10,000 tons | £1,371.00 |
| 10,000 tons or more but under 15,000 tons | £1,714.00 |
| 15,000 tons or more but under 20,000 tons | £2001.00 |
| 20,000 tons or more but under 25,000 tons | £2,286.00 |
| 25,000 tons or more but under 30,000 tons | £2,628.00 |
| 30,000 tons or more but under 35,000 tons | £2,971.00 |
| 35,000 tons or more but under 40,000 tons | £3,314.00 |
| 40,000 tons or more but under 50,000 tons | £3,885.00 |
| 50,000 tons or more but under 60,000 tons | £4,571.00 |
| 60,000 tons or more but under 70,000 tons | £5,027.00 |
| 70,000 tons or more but under 80,000 tons | £5,598.00 |
| 80,000 tons or more | £6,171.00”. |

Passed by the Legislature of the Falkland Islands on 1 June 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

Published at the Attorney General's Chambers, Stanley, Falkland Islands
Price: £4.80

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FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. 127

30 June 2018

No. 9

Appointment

Peter John Underdown, Financial Accountant, Treasury, 05.06.18.

Michael Goodwin, Airport Fire Fighter, Falkland Islands Government Air Service, Development and Commercial Services Department, 06.06.18.

John Denzil Woollacott, Pharmacist, Health and Social Services Department, 08.06.18.

Monika Lukomska, Learning Support Assistant, Infant and Junior School, Education Department, 18.06.18.

Paul Alan Joshua, Plant Operator/Handyperson, Materials Section, Public Works Department, 19.06.18.

Lisa Pole-Evans, Technical Assistant, Civil Aviation, Law and Regulation Directorate, 19.06.18.

Aldwin Abrigonda, Plant Operator/Handyperson, Highways Section, Public Works Department, 26.06.18.

Completion of contract

Idah Lorato Motsamai, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 03.06.18.

Carole Coombs, Community Psychiatric Nurse, Health and Social Services Department, 10.06.18.

Lucy Elizabeth Blackmore, Senior Staff Nurse, Health and Social Services Department, 15.06.18.

Shazelle Monita Sukhnarain, Licensed Aircraft Engineer, Falkland Islands Government Air Service, Development and Commercial Services Department, 29.06.18.

Renewal of contract

Carole Coombs, Community Psychiatric Nurse, Health and Social Services Department, 11.06.18.

Lucy Elizabeth Blackmore, Senior Staff Nurse, Health and Social Services Department, 16.06.18.

Shazelle Monita Sukhnarain, Licensed Aircraft Engineer, Falkland Islands Government Air Service, Development and Commercial Services Department, 30.06.18.

Resignation

Nigel Keith Dodd, Administration Clerk, Property and Municipal Section, Public Works Department, 31.05.18.

Naomi Anita Clint, Speech and Language Therapy Assistant, Health and Social Services Department, 01.06.18.

Dominic Summers Jaffray, Fire Fighter, Falkland Islands Government Air Service, Development and Commercial Services Department, 05.06.18.

Chantelle Alexander, Learning Support Assistant, Infant and Junior School, Education Department, 06.06.18.

Ffion Smith, Learning Support Assistant, Falkland Islands Community School, Education Department, 08.06.18.

Ulia Sytchova, Aerodrome Manager, Falkland Islands Government Air Service, Development and Commercial Services Department, 09.06.18.

Retirement

David Morris, Driver/Night Security Officer, Health and Social Services Department, 23.06.18.

Transfer

Henry Mario Guala Romero from Plant Operator/ Handyperson to Shot Firer/Driller, Materials Section, Public Works Department, 01.06.18.

Rhiannon Elinore Didlick-Smith from Personal Assistant to Director, Emergency Services Department to Agriculture Assistant, Natural Resources Department, 21.06.18.

NOTICES

No. 53

19 June 2018

Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance 1949

Take notice that **Michael John Carlos Sackett** of 25 Callaghan Road, Stanley, died on 8 April 2018.

Whereas **Jayne Elizabeth Miller** and **Pauline Sackett** have applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

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

Dated 19 June 2018

J. BROOKS,
Registrar, Supreme Court

No. 54

27 June 2018

Application for Permanent Residence

Notice is hereby given:-

Patricio Andres Balladares Vergara;
Katherine Patricia Reyes Jeria;
Nathan Mark Johnson;
Joanne Marie Harris;
Martin Richard Slater;
Ralph Andrew Regalado;
Ana Risa Regalado;
Camila Ignacia Walton Alfaro;
Melissa Jane Clingham;
Damien Elvis Mark Henry; and
Carlos Gonzalo Fajardo Valdebenito

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

Any person who knows of any reason why a permit should not be granted to any of the above named 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 26 July 2018.

Dated 27 June 2018

J. E. SMITH,
Immigration Officer.



FALKLAND ISLANDS GAZETTE

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Vol. 127

31 July 2018

No. 10

Appointment

Kevin Joseph Loftus, Detective Constable, Royal Falkland Islands Police, Emergency Services Department, 01.07.18.

Christine Lydia Sargent, Personal Assistant/Office Manager, Government Legal Services, Law and Regulation Directorate, 01.07.18.

Ryan Peter Buckett, Apprentice Electrician, Training Centre, Education Department, 02.07.18.

Tessa Linda Davies-Berntsen, Clerk, Administration and Planning Section, Public Works Department, 02.07.18.

Irene-Ann Greentree, General Assistant, Health and Social Services Department, 02.07.18.

Karl Darren Allcock, Detective Sergeant, Royal Falkland Islands Police, Emergency Services Department, 03.07.18.

Maria Veronica Iriate Denis, Fishery Protection Officer, Fisheries, Natural Resources Department, 05.07.18.

Jacqueline Carol Bailey, Detective Constable, Royal Falkland Islands Police, Emergency Services Department, 06.07.18.

Cecil Alexander, Project Manager, Power and Electrical Section, Public Works Department, 09.07.18.

Mark Dalton, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 09.07.18.

Ulrik Eriksen, Night Security Officer, Health and Social Services Department, 09.07.18.

Simon James Griffiths, Project Manager, Health and Social Services Department, 09.07.18.

Completion of contract

Helene Claire Jaumotte, Financial Accountant, Treasury, 01.07.18.

Hannes de Bruin, Service Development Manager, Health and Social Services Department, 03.07.18.

Ruwan Aruna Shantha Peramunugamage, Electro-Biomedical Engineering Officer, Health and Social Services Department, 03.07.18.

Maria Veronica Iriate Denis, Fisheries Observer, Fisheries, Natural Resources Department, 04.07.18.

Della Marie Buck, Senior Staff Nurse, Health and Social Services Department, 13.07.18.

Tracey Jane Forrester, Settlement Teacher, Education Department, 13.07.18.

Lorraine Thorn, Duty Supervisor, Stanley Leisure Centre, Development and Commercial Services Department, 20.07.18.

Robert Maddock, Sports Attendant, Stanley Leisure Centre, Development and Commercial Services Department, 20.07.18.

Nikki Murphy, Social Services Team Leader, Health and Social Services Department, 20.07.18.

Wayne Philip Petty, Internal Auditor, Treasury, 27.07.18.

Renewal of contract

Helene Claire Jaumotte, Financial Accountant, Treasury, 02.07.18.

Hannes de Bruin, Service Development Manager, Health and Social Services Department, 04.07.18.

Della Marie Buck, Senior Staff Nurse, Health and Social Services Department, 14.07.18.

Resignation

Maribel Campos, Residential Support Worker, Health and Social Services Department, 08.07.18.

Henna Karen Lazcano Riquelme, Learning Support Assistant, Infant and Junior School, Education Department, 20.07.18.

Nancy Locke, Personal Assistant, Development and Commercial Services Department, 27.07.18.

Transfer

Barbara Ingrid Steen, from Personal Assistant/Office Manager to Legislation and Gazette Manager, Government Legal Services, Law and Regulation Directorate, 01.07.18.

Harley Dee Berntsen, from Duty Supervisor, Stanley Leisure Centre, Development and Commercial Services Department to Licensing Clerk, Royal Falkland Islands Police, Emergency Services Department, 02.07.18

Michaela Sara Monica Clifford, from Residential Support Worker, Health and Social Services Department to Learning Support Assistant, Infant and Junior School, Education Department, 02.07.18.

Cody Betts-McKay, from Sports Attendant to Duty Supervisor, Stanley Leisure Centre, Development and Commercial Services Department, 05.07.18.

Katherine Reyes-Jeria, from Sports Attendant to Duty Supervisor, Stanley Leisure Centre, Development and Commercial Services Department, 05.07.18.

Martyn Liam Barlow, from Apprenticeship Co-ordinator, Training Centre, Education Department to Engineering Manager, Health and Social Services Department, 13.07.18.

Tobi Akeem Adeoye, from Airport Firefighter, Falkland Islands Government Air Service, Development and Commercial Services Department to Apprentice Electrician, Training Centre, Education Department, 23.07.18.

NOTICES

No. 55

31 May 2018

Public Health Ordinance 1894

section 3

Appointment of Member to Health and Medical Services Committee

1. Section 3(2)(a) of the Public Health Ordinance 1894 provides for the Governor to appoint a member to the Health and Medical Services Committee as nominated by elected members of the Legislative Assembly from among their number.

2. In exercise of my powers under sections 3(2)(a), and as nominated by members of the Legislative Assembly from among their number, I appoint **Roger Kenneth Spink** to be a member of the Health and Medical Services Committee.

3. This appointment has effect from the date of signature below, and continues in effect whilst the appointee remains an elected member of the Legislative Assembly, unless terminated sooner.

Dated 31 May 2018

R. A. J. MITHAM,
Acting Governor.

No. 56

2 June 2018

Currency Ordinance 1987

section 5

Appointment of Commissioners of Currency

1. Section 5(1) of the Currency Ordinance 1987 provides that the Governor shall appoint public offices to be commissioners of currency.

2. In exercise of my powers under section 5(1), I appoint the public offices of:-

Deputy Head of Tax with effect from 21 May 2017; and
Head of Communications with effect from 16 March 2018

to be commissioners of currency.

3. These appointments have effect as indicated above and continue in effect until further appointment by the Governor.

Dated 2 June 2018

R. A. J. MITHAM,
Acting Governor.

No. 57

3 July 2018

Police Ordinance 2000

section 52

Notice of unclaimed property

Take notice that the following items are in the charge of the Royal Falkland Island Police:

| Date found | Description of item |
|-------------------|---|
| unknown | 1x blue and red child's coat |
| 04.07.18 | 1x pink watch |
| 01.06.18 | 1x girl's cream coloured buttoned fleece jacket with 1x pink gloves and 1x pink hat |
| 31.05.18 | £5.00 in cash |
| 29.05.18 | 1x key on fob |
| 10.04.18 | 1x large olive green coat |
| 04.04.18 | small rose coloured gold ring with small stones |
| 31.03.18 | 1x Yale key and 2x mortice locks |
| 09.03.18 | 1x black Fujifilm camera and 1x black Fujifilm bag |
| 06.03.18 | grey heavy duty chain |
| 21.02.18 | 1x black Samsung mobile phone |
| 08.02.18 | 1x black LG mobile and 4,000 Chilean pesos |
| 03.02.18 | 1x black wallet containing £135 and 1 small foreign coin "100" |
| 01.02.18 | 1x silver Vaporlite |
| 01.02.18 | 1x orange Blackberry mobile phone |
| 28.01.18 | 1x Visa credit card in name of Stuart Bott |
| 29.12.17 | 3x keys on fob, 1x black Suzuki ignition key |
| 19.12.17 | 1x peach/pink flowery scarf |
| 10.12.17 | 1x black rucksack with 'dragon' motif, 6x white hand painted stones |
| 06.12.17 | 1x full sized spade with silver handle |
| 28.11.17 | 1x brown Swatch watch |
| 25.11.17 | 1x 5inch black knife |
| 20.11.17 | 1x Alvarion Voice Gateway modem |
| 16.11.17 | 1x black Watch with rubber straps |
| 10.10.17 | 1x key on Falkland Islands keyring |
| 09.10.17 | 1x keyring containing 7x keys |

- 02.10.17 1x pair brown reading glasses
- 20.09.17 1x black Sony Xperia mobile phone
- 05.09.17 1x plastic bag containing 1x pack Benson and Hedges, 1x green lighter, 1x pack of scampi fries and £1.76 in coins
- 30.08.17 1x gold ring
- 07.05.17 1x black 'Belkin' laptop bag, 1x 100 peso coin, 1x 10 peso coin, 6x CDs
- 25.04.17 1x Co-op bank card in name of Aaron D Dyer
- 22.04.17 1x pair black reading glasses
- 17.01.17 1x white iPhone
- 19.12.16 1x pink and white LG mobile phone
- 06.09.16 1x silver coloured necklace with silver coloured ring and small green stone
- 09.07.16 1x white metal 'Next' watch
- 09.07.16 1x blue + white Raleigh bicycle
- 03.03.16 1x black Sony Cyber-Shot camera
- 08.02.16 1x yellow metal charm bracelet
- 18.01.16 1x orange walking pole
- 28.12.15 1x white LG Mobile phone in pink case
- 08.09.15 1x 'Me-To-You' silver coloured bracelet with crystal bear head
- 27.08.15 1x Liberation medal 'Falklands'
- 26.07.15 1x yellow Rotary watch with black leather strap
- 22.07.15 1x Garmin GPS
- 20.07.15 1x pair black framed reading glasses
- 16.06.15 1x silver coloured accessorize watch
- 26.02.15 1x pink coloured watch
- 21.07.14 1x silver flat curb link chain necklace
- 16.06.14 1x 'Pulsar' metal watch
- 21.01.14 1x Samsung mobile phone
- 31.12.13 1x gold/rose gold coloured chain with broken clasp
- 08.08.13 1x black Samsung mobile phone
- 26.06.13 1x Nokia mobile phone
- 26.04.13 1x child blue watch, 1x child white watch, 1x silver keyring, 1x heart+key necklace, 1x coloured ring, 1x black/red ring, 1x dolphin ring
- 29.03.13 1x Centon MC mirror lens in leather case
- 20.03.13 1x black and purple mobile phone
- 14.03.13 1x black LG mobile phone
- 16.10.12 1x pair binoculars
- 24.11.09 1x red Samsung digital camera
- 18.02.09 1x Sony PSP with earphones
- 06.09.07 1x telescopic rifle sight

Any person who may have a claim to such property may lodge a claim in writing to the Magistrate's Court within six months of the publication of this list in the Gazette.

Dated 3 July 2018

J. BROOKS,
Clerk, Magistrates Court.

No. 58

9 July 2018

Weddell Island Limited
Company Number: 11726

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 9 July 2018

E. J. DENT,
Registrar of Companies.

No. 59

10 July 2018

Land Ordinance 1949
section 11A

Notice of Application for Vesting Deed

Notice is given that **Nicholas Alexander Robinson Pitaluga** of Gibraltar Station, East Falkland, Falkland Islands and **Saul Gregory Robinson Pitaluga** of Bougainville, 332A Barkman Road, Wokingham, Berkshire RG41 4DE as directors of **R. M. Pitaluga and Company Limited** have made an application in accordance with section 11A of the Land Ordinance to have executed in their favour a Vesting Deed of land in the north of East Falkland Island extending to 50,580 acres or thereabouts including the seven islands situate in Port Salvador known as Ear Island, Rabbit Island, Centre Island, Big Shag, Little Shag and The Dump which area of land including the seven islands is known as Gibraltar Station (and is also sometimes referred to as Salvador Farm) together with the dwelling houses, shearing shed, garages, outbuildings and all other buildings and structures whatsoever situated in that part of the land known as Salvador Settlement and together also with all fences, pens, cabins and other structures whatsoever wherever they are erected throughout the land.

The applicant's statutory declaration may be inspected by any person at the Registrar General's Office, Town Hall, Stanley during normal working hours for 30 days following the date of publication of this notice.

Notice is given that any person objecting to the vesting of title to the land in the application may, within 30 days following publication of this notice, lodge a notice in writing, specifying the grounds for objection, delivered to the Registrar General.

Notice is hereby given that unless any objection has been received within 30 days following the publication of this notice the Registrar General under the terms of section 11A of the Land Ordinance will execute in favour of R. M Pitaluga and Company Limited a Vesting Deed of the said land.

Dated 10 July 2018

E. J. DENT,
Registrar General.

No. 60

10 July 2018

Police Ordinance 2000
section 4

Designation of Acting Chief Police Officer

1. Section 4(2) of the Police Ordinance 2000 provides that in the absence of the Chief Police Officer the Governor may designate another police officer to carry out the duties of the Chief Police Officer.

2. In exercise of my powers under section 4(2) of the Police Ordinance 2000, I designate **Gary Roberts** to be Acting Chief Police Officer to carry out the duties of the Chief Police Officer in the rank of Inspector.

3. This appointment is effective for the period commencing 24 August to 25 September 2018, unless terminated sooner.

Dated 10 July 2018

R. A. J. MITHAM,
Acting Governor.

No. 61

25 July 2018

Public Accounts Committee Ordinance 2009
section 7

Register of Members' Interests

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

The information is current to 20 July 2018.

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 Ltd
Falklands Post Service Ltd
Falkland Islands Chamber of Commerce
Falkland Islands Development Corporation

MLA Barry Elsby:

None

MLA Mark Pollard:

Unremunerated Director of Stanley Services Ltd
Board Member of FI Meat Company
Board Member of FI Development Corporation
Board Member of Rural Development Strategy
Board Member of SAC

Richard Cockwell:

None

Nadia Knight:

None

2. Remunerated employment, office or profession

Andrea Clausen:

None

MLA Barry Elsby:

Full Time MLA
Non practicing Doctor

MLA Mark Pollard:

Full Time MLA

Richard Cockwell:

Watercolour Artist, Instructor and paint maker

Nadia Knight:

Casual employment
Sales of craft items

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 Barry Elsby:

None

MLA Mark Pollard:

None

Richard Cockwell:

None

Nadia Knight:

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 Barry Elsby:

None

MLA Mark Pollard:

None

Richard Cockwell:

None

Nadia Knight:

None

5. Gifts, benefits and hospitality

Andrea Clausen:

None

MLA Barry Elsby:

None

MLA Mark Pollard:

None

Richard Cockwell:

None

Nadia Knight:

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 Barry Elsby:

Visit to PAC conference in Jamaica 2017 funded by Commonwealth Parliamentary Association

MLA Mark Pollard:

None

Richard Cockwell:

None

Nadia Knight:

None

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

Andrea Clausen:

None

MLA Barry Elsby:

Salary only

MLA Mark Pollard:

None

Richard Cockwell:

None

Nadia Knight:

None

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

Andrea Clausen:

5 Felton Court (jointly with spouse)
3 St Mary's Walk (jointly with spouse)
13 Jeremy Moore Avenue (jointly with spouse)

MLA Barry Elsby:

Own house and land used by us not rented

MLA Mark Pollard:

None

Richard Cockwell:

14 Ross Road West

Nadia Knight:

Leicester Creek Farm

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:

Shareholder of Falkland Islands Tours and Travel Ltd
Shareholder of Falklands Post Service Ltd

MLA Barry Elsby:

None

MLA Mark Pollard:

None

Richard Cockwell:

None

Nadia Knight:

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 Barry Elsby:

Spouse runs a company called Medica South for which I have no involvement and receive no remuneration from it

MLA Mark Pollard:

Trade and Industry/Employment; Training and Immigration –
Portfolio holder
PWD – Deputy Portfolio holder

Richard Cockwell:

Trustee of FI Museum and National Trust

Nadia Knight:

Partner in JK Contracting construction company (with spouse)

Dated 25 July 2018

L. W. HARRIS,
Secretary, Public Accounts Committee.

No. 62

30 July 2018

Application for Naturalisation

Notice is hereby given that **Rosa Adelaida Davis (nee Acosta Ortiz)** 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 24 August 2018.

Dated 30 July 2018

J. E. SMITH,
Immigration Officer.

No. 63 30 July 2018

Animals (Welfare and Protection) Ordinance 2016
section 55

Code of Practice for the Welfare of Animals Kept as Pets

1. Section 55(5)(a) of the Animals (Welfare and Protection) Ordinance 2016 (No. 11 of 2016) provides that the Director appoints a day when a code or revised code comes into force.

2. The Director gives notice that the Code of Practice for the Welfare of Animals Kept as Pets published in Falkland Islands Gazette Supplement number 13 on 23 December 2016 and laid before the Legislative Assembly on 26 July 2018 comes into force on 1 August 2018.

Dated 30 July 2018

S. W. POINTING,
Acting Director of Natural Resources.

No. 64

31 July 2018

Index of Retail Prices

The Index for the quarter ended 30 June 2018 has now been completed.

The Index has increased during the quarter, to 104.413; this equates to a 1.3% increase for the quarter, and a 3.6% increase for the year:

| <i>Date</i> | <i>Index</i> | <i>Annual Change</i> | <i>Quarterly change</i> |
|-------------|--------------|----------------------|-------------------------|
| 30.06.17 | 100.740 | 1.2% | 0.7% |
| 30.09.17 | 101.616 | 1.5% | 0.9% |
| 31.12.17 | 101.903 | 1.3% | 0.3% |
| 31.03.18 | 103.066 | 3.0% | 1.1% |
| 30.06.18 | 104.413 | 3.6% | 1.3% |

Inflation in the “fuel & power” market contributes for about 45% of the total increase for the year (1.6 out of 3.6 percentage points). The 3.6% annual increase is unlikely to reflect the year-on-year inflation rate for 2018 mostly because of price cuts in the “communication” market that can be anticipated will happen before the end of the year.

Dated 31 July 2018

D. RANGHETTI,
for Director of Policy and Economic Development.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

31 July 2018

No. 8

The following are published in this Supplement —

Statute Law Database (Rectification)(No 2) Order 2018 (SR&O No 7 of 2018);

Coins (Circulation) Order 2018 (SR&O No 8 of 2018);

Licensing Ordinance (Amendment of Fees) Order 2018 (SR&O No 9 of 2018);

Road Traffic (Approval of Devices for Breath Testing and Analysis)(Amendment) Order 2018 (SR&O No 10 of 2018); and

Livestock and Meat Products (Animal By-Products)(Amendment) Regulations 2018 (SR&O No 11 of 2018).

SUBSIDIARY LEGISLATION

Statute Law Database (Rectification) (No 2) Order 2018

S. R. & O. No.: 7 of 2018

Made: 16 July 2018

Published: 31 July 2018

Coming into force: on publication

I make this Order under section 15(4) of the Law Revision and Publication Ordinance 2017 to give effect to a report of the Attorney General approved by the Legislative Assembly.

1. Title

This Order is the Statute Law Database (Rectification) (No 2) Order 2018.

2. Commencement

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

3. Rectification of defects in the Statute Law Database

Certain defects in the Statute Law Database must be rectified as set out in the Schedule.

SCHEDULE

RECTIFICATION OF THE STATUTE LAW DATABASE

1. Customs (Importation of Food and Animal Products from South America) Proclamation 2001 (Proclamation No 3 of 2001)

(1) The Customs (Importation of Food and Animal Products from South America) Proclamation 2001 as it appears on the Statute Law Database must be amended to reflect the provisions of the Importation of Food and Animal Products from South America (Amendment) Proclamation 2017.

(2) The amendments are deemed to have effect as if they were included in the original publication of the Customs (Importation of Food and Animal Products from South America) Proclamation 2001 on the Statute Law Database on 31 July 2017.

2. Offshore Installations (Safety Case) Order 2008 (S.R. & O. No 7 of 2008)

(1) The Offshore Installations (Safety Case) Order 2008 as it appears on the Statute Law Database must be amended to reinstate the omissions from the schedule to the Order made when compiling the database.

(2) The amendments are deemed to have effect as if the text missing from the schedule had been included in the original publication of the Order on the Statute Law Database web-pages on 31 July 2017.

3. Organic Foods Ordinance 2000

(1) The Organic Foods Ordinance 2000 as it appears on the Statute Law Database must be amended to reinstate the omissions from the schedule to the Ordinance made when compiling the database.

(2) The amendments are deemed to have effect as if the text missing from the schedule had been included in the original publication of the Ordinance on the Statute Law Database web-pages on 31 July 2017.

4. Petroleum Survey Licences (Model Clauses) Regulations 1992 (S.R. & O. No 25 of 1992)

(1) The Petroleum Survey Licences (Model Clauses) Regulations 1992 as they appear on the Statute Law Database must be amended to reinstate the omissions from the schedule to the Regulations made when compiling the database.

(2) The amendments are deemed to have effect as if the text missing from the schedule had been included in the original publication of the Regulations on the Statute Law Database web-pages on 31 July 2017.

Made 16 July 2018

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE
(not forming part of this Order)

This Order provides for the rectification of defects in the Statute Law Database.

The Statute Law Database is the authoritative statement of the legislation applying to or in relation to the Falkland Islands by virtue of Ordinance. Section 15 of the Ordinance provides for the rectification of defects in the database following a report of such defects to the Legislative Assembly by the Attorney General.

The Order provides for the rectification of defects in respect of the following legislation as it appears on the database:

- *Customs (Importation of Food and Animal Products from South America) Proclamation 2001 (Proclamation No 3 of 2001)*

The defect concerns omission of an amendment to the proclamation (which was caused by oversight).

The Order also provides for rectification of defects in respect of the following legislation as it appears on the database:

- *Offshore Installations (Safety Case) Order 2008 (S.R. & O. No 7 of 2008)*
- *Organic Foods Ordinance 2000 (No 22 of 2000)*
- *Petroleum Survey Licences (Model Clauses) Regulations 1992 (S.R. & O. No 25 of 1992)*

The defects concern omission of substantive legislative text as displayed on-line (which was caused by a technical fault). The text is correctly included in the version of the legislation which can be downloaded from the database.

The rectifications to be made are contained in the schedule to the Order.

SUBSIDIARY LEGISLATION

Coins (Circulation) Order 2018

S. R. & O. No.: 8 of 2018

Made: 17 July 2018

Published: 31 July 2018

Coming into force: on publication

I make this order under section 22 of the Currency Ordinance 1987 on the advice of Executive Council.

1. Title

This Order is the Coins (Circulation) Order 2018.

2. Commencement

This Order comes into force upon publication in the Gazette.

3. New coins

(1) The minting and issue of the circulation coins described and specified in the schedule to this Order are authorised.

(2) The schedule specifies —

(a) the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1);

(b) the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of the coins; and

(c) the design of the obverse and reverse of the coins.

4. Deemed denomination of circulation coins and their value as legal tender

For the purposes of the Ordinance the circulation coins authorised by this Order will be of 50p denomination and will be legal tender in the Falkland Islands.

Made 17 July 2018

N. J. Phillips C.B.E.,
Governor.

SCHEDULE

Legal tender 50p circulation coins of the Falkland Islands – Penguin Series

| Type | Cupro Nickel – Diamond Finish | Cupro Nickel |
|-------------------------------|--|----------------------------|
| <i>Denomination</i> | 50p | 50p |
| <i>Weight (grams)</i> | 8.00 | 8.00 |
| <i>Diameter (millimetres)</i> | 27.30 | 27.30 |
| <i>Fineness</i> | 75% Cu 25% Ni | 75% Cu 25% Ni |
| <i>Quality</i> | Circulation | Circulation |
| <i>Shape</i> | Equilateral Curve Heptagon | Equilateral Curve Heptagon |
| <i>Edge</i> | Plain | Plain |
| <i>Edition</i> | 7,500 | 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> | Pobjoy Mint Couped Effigy of HM Queen Elizabeth II. | |
| <i>Reverse design</i> | The designs feature an image of the head of each penguin. Wording confirming the breed of each penguin along with the value of the coin will be at the top of each coin. | |

SUBSIDIARY LEGISLATION

Licensing Ordinance (Amendment of Fees) Order 2018

S. R. & O. No: 9 of 2018

Made: 30 July 2018

Published: 31 July 2018

Coming into force: upon publication

I make the following order under section 20(2) of the Licensing Ordinance 1994 on the advice of Executive Council.

1. Title

This Order is the Licensing Ordinance (Amendment of Fees) Order 2018.

2. Commencement

This Order comes into force on publication in the Gazette.

3. Schedule 3 to Licensing Ordinance replaced

Schedule 3 to the Licensing Ordinance 1994 is deleted and replaced with the following —

“SCHEDULE 3

COURT FEES PAYABLE IN CONNECTION WITH JUSTICES’ LICENCES

| | |
|---|---------|
| 1. On an application for the grant of a new justices’ licence (including an application for a transfer) | £70.00 |
| 2. On the grant (including a grant on transfer) or renewal of a justices’ on-licence (other than a Part V licence or an occasional licence) | £100.00 |
| 3. On the grant (including a grant on transfer) or renewal of a Part V licence | £100.00 |
| 4. On the grant (including a grant on transfer) or renewal of a justices’ off-licence | £100.00 |
| 5. On an application for a protection order | £50.00 |
| 6. On the grant of an application for a protection order | £60.00 |
| 7. On an inspection of the register of licences pursuant to section 25(1) | £10.00 |
| 8. On an application for a special hours certificate | £70.00 |
| 9. On the grant of a special hours certificate | £100.00 |
| 10. On an application for a club registration certificate | Nil |
| 11. On the grant or renewal of a club registration certificate | £80.00 |

| | |
|---|--|
| 12. On an application for a children's certificate | Nil |
| 13. On the grant of a children's certificate | £50.00 |
| 14. On an application for a Camp exemption order | Nil |
| 15. On the grant of a Camp exemption order | £20.00 |
| 16. On an application for an extension of permitted hours | £20.00 |
| 17. On the grant of an extension of permitted hours (for every hour or part thereof to which the extension relates) | £15.00 |
| 18. On an application for an occasional licence | £20.00 |
| 19. On the grant of an occasional licence (for every day or part thereof to which the occasional licence relates) | £25.00 (up to a maximum of £70.00 per licence) |
| 20. On an application for a prohibition order | Nil" |

Made 30 July 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE
(not part of the order)

This Order amends the Licensing Ordinance 1994 so as to revoke and replace Schedule 3. Schedule 3 provides for court fees payable in connection with Justices' licences. Section 20(2) empowers the Governor to amend the Schedule by order. The revised fees are intended to reflect the "user pays principle" which is the basis for calculating other court fees.

SUBSIDIARY LEGISLATION

**Road Traffic (Approval of Devices for Breath Testing and Analysis) (Amendment) Order
2018**

S. R. & O. No: 10 of 2018

Made: 30 July 2018

Published: 31 July 2018

Coming into force: upon publication

I make the following order under section 24(1) of the Road Traffic Ordinance 1948 on the advice of Executive Council.

1. Title

This Order is the Road Traffic (Approval of Devices for Breath Testing and Analysis) (Amendment) Order 2018.

2. Commencement

This Order comes into force on publication in the Gazette.

3. Repeal and replacement of Schedule 2

Schedule 2 to the Road Traffic (Approval of Devices for Breath Testing and Analysis) Order 2012 is deleted and replaced with the following —

**“SCHEDULE 2
Approved type of breath analysis device**

1. The type of device known as the Camic Data Master, as manufactured by (or under licence from) Camic (Car and Medical Instrument Company) Limited or any of its successors or assigns.
2. The type of device known as the Lion Intoxilyzer I9000, as manufactured by (or under licence from) Lion Laboratories Limited or any of its successors or assigns.”.

Made 30 July 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE

(not part of the order)

This Order amends the Road Traffic (Approval of Devices for Breath Testing and Analysis) Order 2012 so as to add the Lion Intoxilyzer I9000 breath analysis device in Schedule 2.

SUBSIDIARY LEGISLATION

Livestock and Meat Products (Animal By-Products) (Amendment) Regulations 2018

S. R. & O. No: 11 of 2018

Made: 30 July 2018

Published: 31 July 2018

Coming into force: upon publication

I make the following regulations under section 4 of the Livestock and Meat Products Ordinance 2010, on the advice of the Executive Council.

1. Title

These Regulations are the Livestock and Meat Products (Animal By-Products) (Amendment) Regulations 2018.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Regulation 5 amended: Application

Regulation 5(2) of the Livestock and Meat Products (Animal By-Products) Regulations 2015 is amended by omitting paragraph (g).

4. Regulation 17 amended: Inspections and audits

Regulation 17 of the Livestock and Meat Products (Animal By-Products) Regulations 2015 is amended —

(a) in paragraph (d), by omitting subparagraph (ii) and replacing it with the following —

“(ii) considered to be unfit for human consumption but not as a result of a communicable disease;”;

(b) by deleting paragraph (e) and replacing it with the following —

“(e) that raw pet food is —

(i) produced and packaged in a hygienic manner;

(ii) stored separately from other animal by-products that do not meet the standards required in paragraph (d);

- (iii) stored separately from other animal by-products that are intended for human consumption;
- (iv) clearly labelled as raw pet food for use as pet food only and not for human consumption;
- (v) not subjected to any further processing which will change the original structure of the raw pet food;
- (vi) supplied directly to the pet owner from the place where it is generated, and the records of the sales must be retained for two years; and
- (vii) only produced and sold from approved abattoirs and cutting plants;”.

Made 30 July 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE
(not part of the regulations)

These regulations amend regulations 5 and 17 of the Livestock and Meat Products (Animal By-Products) Regulations 2015. The regulations as drafted do not convey the meaning that was originally intended. The amendments will ensure that there is legislative control over the retail sale and production of raw pet food. Raw pet food must not be produced from meat showing signs of infectious diseases which may be harmful to pet animals or human health. Additional restrictions are placed on its storage, processing and supply.

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31 August 2018

No. 11

Appointment

Samantha Jane Jardine, English Teacher, Falkland Islands Community School, Education Department, 31.07.18.

Sara Jane George, Pharmacy Technician, Health and Social Services Department, 01.08.18.

Jennifer Susan Cullen, Head of Social Services, Health and Social Services Department, 07.08.18.

Gemma Clayphan, Receptionist/Medical Co-Ordinator, Falkland Islands Government Office, Executive Management Department, 13.08.18.

Neil Patrick Clifford, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 13.08.18.

Saphena Anya Jane Berntsen, Apprentice Business Administration, Training Centre, Education Department, 20.08.18.

Dayne Lucas Gilson-Clarke Rosas, Apprentice Plumber, Training Centre, Education Department, 20.08.18.

Ludovic Guillaume Goyot, Fisheries Observer Co-ordinator, Fisheries, Natural Resources Department, 20.08.18.

Rico Dakota Gene Williams, Plant Operator/Handyperson, Property and Municipal Section, Public Works Department, 22.08.18.

Shupikayi Chipunza, Airport Fire Fighter, Falkland Islands Government Air Service, Development and Commercial Services Department, 25.08.18.

Victoria Elizabeth Aitken, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 27.08.18.

Tatyana Goodwin, Apprentice Plumber, Training Centre, Education Department, 27.08.18.

Laura Ellen Barnes, Primary Teacher, Infant and Junior School, Education Department, 31.08.18.

Anita Bhatti, Information and Communications Technology/Computing Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Joshua Terence Ian Brown, Science Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Melanie Rose Connors, Primary Travelling Teacher, Infant and Junior School, Education Department, 31.08.18.

Fiona Ellen Dickson, Science Teacher, Falkland Islands Community School, Education Department, 31.08.18.

John Paul Downie, History Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Eoin Michael Govers, Maths Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Lucy Marie Gutteridge, Primary Teacher, Infant and Junior School, Education Department, 31.08.18.

Lawrence Roy Langford, Primary Travelling Teacher, Infant and Junior School, Education Department, 31.08.18.

Allys Catherine Margaret Ludlow, Geography Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Lynsey Marie Morris, Physical Education Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Nicholas Liam Howard Southgate, Primary Teacher, Infant and Junior School, Education Department, 31.08.18.

Completion of contract

Benjamin Joseph Keningale, Fisheries Observer, Fisheries, Natural Resources Department, 03.08.18.

Diane Simsovic, Director, Policy and Economic Development, Policy Unit, 07.08.18.

Susan Jane Linnell, Health Visitor, Health and Social Services Department, 14.08.18.

David Paul Joseph Bailey, History Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Jennifer Patricia Barclay, Special Educational Needs Coordinator, Education Department, 31.08.18.

Mallory Deborah Barnes, Settlement Teacher, Infant and Junior School, Education Department, 31.08.18.

Paul Barton, Deputy Head Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Linda Flinders, Primary Teacher, Infant and Junior School, Education Department, 31.08.18.

Joanne Claire Ford, Childcare Advisory Teacher, Education Department, 31.08.18.

Michele Louise Gallacher, Information and Communications Technology/Business Studies Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Layla Jennifer Catherine Hanna, Primary Travelling Teacher, Infant and Junior School, Education Department, 31.08.18.

Juliette Diana Horsford, Geography Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Karen Marie Howard, Primary Teacher, Infant and Junior School, Education Department, 31.08.18.

Robert James Howard, Physical Education Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Andrew Jack White, English Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Paul Muncaster, Art Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Lesley Anne King, Primary Teacher, Infant and Junior School, Education Department, 31.08.18.

Peter John Monypenny, Maths Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Charlotte Helen Mountford, Special Educational Needs Teacher, Education Department, 31.08.18.

Karen Wilenee Learmond, Maths Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Katherine Anne Sheppard, Primary Teacher, Infant and Junior School, Education Department, 31.08.18.

Helena Jane Rebecca Simpson, Primary Travelling Teacher, Infant and Junior School, Education Department, 31.08.18.

Hillel Sokolsky, Complex Needs Teacher, Education Department, 31.08.18.

Rachel Sotomayor, Hospitality and Catering/Textiles Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Ann-Marie Tibble, Primary Teacher, Infant and Junior School, Education Department, 31.08.18.

Renewal of contract

Diane Simsovic, Director, Policy and Economic Development, Policy Unit, 08.08.18.

Resignation

Christopher Flinders, School Technician, Falkland Islands Community School, Education Department, 09.08.18.

Octavio Marinovic Dey, Mechanic/Storeperson, Materials Section, Public Works Department, 10.08.18.

Emma Jaffray, Administration Clerk, Highways Section, Public Works Department, 17.08.18.

Transfer

Jonas Muza, from Tyre Fitter to Painter/Handyperson, Plant and Vehicle Section, Public Works Department, 07.08.18.

NOTICES

No. 65

20 April 2018

Falkland Islands Constitution Order 2008

section 81

Appointment of Chair of Public Accounts Committee

1. Section 81(1)(a) of the Falkland Islands Constitution Order 2008 provides for the Governor to appoint a chairperson of the Public Accounts Committee.

2. In exercise of those powers the Governor has extended the appointment of **Andrea Patricia Clausen** as chair of the Public Accounts Committee.

3. This appointment has effect from 20 April 2018 for two years expiring on 19 April 2020, unless terminated sooner.

Dated 20 April 2018

N. LOCKE,
Secretary, Public Accounts Committee.

No. 66

1 August 2018

Retirement Pensions Ordinance 1996

section 3

Appointment of Members of Board of Management

1. Section 3(2) of the Retirement Pensions Ordinance 1996 provides for the Governor to appoint members of the Board of Management.

2. In exercise of those powers the Governor has appointed the following persons to be members of the Board of Management for the period indicated:-

Stephen Paul James Freer – 04.10.17 to 31.12.2019;

Deborah Davidson – 21.12.2017 to 31.12.2019; and

John Frederick Simpson – 21.12.2017 to 31.12.2019.

3. These appointments are deemed to have effect as indicated above, unless terminated sooner.

Dated 1 August 2018

D. M. ALDRIDGE,
for Board of Management.

No. 67

3 August 2018

Livestock Ordinance 1901
section 3

Appointment of Inspectors

1. Section 3 of the Livestock Ordinance 1901 provides that the Governor may appoint duly qualified persons to act as inspectors for the purpose of carrying out the provisions of the Ordinance.

2. In exercise of my powers under section 3, I appoint the following officers of the Department of Natural Resources to be inspectors for the period indicated:-

| | |
|---|--------------------------|
| Adam Leonard Dawes - Senior Agricultural Advisor | 23.09.2017 to 22.09.2019 |
| James Kenneth Bryan - Agricultural Advisor | 23.09.2017 to 22.09.2019 |
| Lucy Ellis - Assistant Agricultural Advisor | 23.09.2017 to 22.09.2019 |
| Stephen William Pointing - Senior Veterinary Officer | 23.09.2017 to 22.09.2019 |
| Zoe Fowler - Veterinary Officer | 23.09.2017 to 22.09.2019 |
| Ross Danely Ralph Milner - Veterinary Officer | 23.09.2017 to 22.09.2019 |
| Susan Helen Street - Agricultural Advisor | 23.09.2017 to 15.04.2018 |
| Daniel Severino Pereira Machin - Agricultural Advisor | 24.04.2018 to 22.09.2019 |

3. These appointments are deemed to have effect as indicated above, unless terminated sooner.

Dated 3 August 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 68

6 August 2018

Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance 1949

Take notice that **Graeme John Hemming**, died on 5 April 2018.

Whereas **Simon David Young** as Official Administrator 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 August 2018

J. BROOKS,
Registrar, Supreme Court

No. 69

6 August 2018

Media Trust Ordinance 1989
section 4

Appointment of Trustees of Media Trust

1. Section 4(1) of the Media Trust Ordinance 1989 provides for the Governor to appoint trustees of the Media Trust.

2. In exercise of those powers the Governor has appointed **Nigel Jon Leach** and **Jennifer Mary Luxton** to be trustees of the Media Trust.

3. These appointments have effect from 6 August 2018 for four years, unless terminated sooner.

Dated 6 August 2018

for Media Trust.

No. 70

20 August 2018

Administration of Justice Ordinance 1949
Schedule 3, Part I, paragraph 3

Revocation of Appointment of Bailiff

1. Paragraph 3(1) of Part I of Schedule 3 to the Administration of Justice Ordinance 1949 provides for the Governor to remove any person from office as bailiff.

2. **Thomas Mark Whistler** was appointed bailiff on 7 March 2014, in exercise of my powers as above I now remove **Thomas Mark Whistler** from office as bailiff with effect from 20 August 2018.

3. **Mark Frederick Dalgarno** was appointed bailiff on 29 September 2016, in exercise of my powers as above I now remove **Mark Frederick Dalgarno** from office as bailiff with effect from 20 August 2018.

4. **Peter Young** was appointed bailiff on 5 April 2016, in exercise of my powers as above I now remove **Peter Young** from office as bailiff with effect from 20 August 2018.

Dated 20 August 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 71

20 August 2018

Administration of Justice Ordinance 1949
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 1949 provides for bailiffs 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 1949, I appoint the following persons to be bailiffs:

Stephen John Dent;
Karen Michella Rozee;
Jane Clement; and
Graham John Didlick.

3. These appointments have effect from 20 August 2018, and continue in effect until further order or revocation.

Dated 20 August 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 72 22 August 2018

Public Accounts Committee Ordinance 2009
section 7

Register of Members' Interests

This information is provided by members of the Public Accounts Committee in accordance with section 7 of the Public Accounts Committee Ordinance.

The information is current to 21 August 2018.

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.

MLA Mark Pollard:

Unremunerated Director of Stanley Services Ltd
Board Member of FI Meat Company
Board Member of FI Development Corporation
Board Member of Rural Development Strategy

2. Remunerated employment, office or profession

MLA Mark Pollard:

Full Time MLA

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

MLA Mark Pollard:

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

MLA Mark Pollard:

None

5. Gifts, benefits and hospitality

MLA Mark Pollard:

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

MLA Mark Pollard:

Visit to PAC seminar in Westminster November 2018 funded by Commonwealth Parliamentary Association, upcoming at time of form completion

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

MLA Mark Pollard:

None

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

MLA Mark Pollard:

2 Kent Road (jointly with spouse)

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

MLA Mark Pollard:

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

MLA Mark Pollard:

Trade and Industry/Employment; Training and Immigration –
Portfolio holder
PWD – Deputy Portfolio holder

Dated 22 August 2018

N. LOCKE,
Secretary, Public Accounts Committee.

Harbours and Ports Ordinance 2017
section 2

Commencement Notice

1. Section 2 of the Harbours and Ports Ordinance 2017 (No. 21 of 2017) provides that the Ordinance comes into force on a date appointed by the Governor by notice in the *Gazette*.

2. I give notice that the Harbours and Ports Ordinance 2017 comes into force on 1 September 2018.

Dated 30 August 2018

N. J. PHILLIPS C.B.E.,
Governor.

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 September 2018.

Dated 31 August 2018

M. A. WHITTINGHAM,
Director, Health and Social Services.

SCHEDULE

Medical and Dental Charges 2018/19

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.

Medical and Dental charges

| Item | Unit price |
|--|--|
| Customs service charge | £78.60 |
| Invoicing and payment processing | £40.56 |
| Inpatient services | |
| Routine (per 24 hours or part of) | £1,085.18 |
| Intensive Care (per 24 hours or part of) | £2,227.75 |
| Isolation Nursing (per 24 hours or part of) | £2,227.75 |
| Surgical services | |
| Time in Theatre: | |
| group 1 - < 30 minutes | £1,865.68 |
| group 2 - 30 mins - < 1 hour | £3,731.35 |
| group 3 - 1 hour - < 2 hours | £5,597.03 |
| group 4 - 2 hours - < 4 hours | £7,462.71 |
| group 5 - > 4 hours | £9,328.38 |
| Outpatient Services | |
| Outpatient appointment < 15 mins | £176.68 |
| outpatient appointment > 15 mins | £353.37 |
| ECG | £141.75 |
| X-rays | £222.94 |
| Copy of X-rays (per copy) | £25.00 |
| Ultrasound Scans | £222.94 |
| Specialist X-rays and Scans in Theatre | £222.94 |
| Physiotherapy (per 10 minute session) | £124.96 |
| House Visit surcharge | £89.70 |
| Prescription drugs | Cost price + 37.5% Minimum £39.50 |
| Pharmacy drugs sales | Cost price + 37.5% |
| Emergency services | |
| A&E attendance | £431.79 |
| Ambulance in the vicinity of Stanley (incl Driver and Nurse) | £234.83 |

| | |
|--|---|
| Ambulance Stanley Airport to KEMH | £347.29 |
| Ambulance KEMH to MPA | £464.70 |
| (cost includes Driver and Nurse. Additional charge of £94.50 per hour for accompanying Doctor) | |
| Emergency Evacuation administration | £608.48 |
| Emergency Evacuation international phone calls | actual cost |
| Laboratory Charges | |
| Food, Water and Environmental | £310.00 |
| Medical Laboratory Tests | £50.00 |
| Public Health Inspection (Insurance Claim) | £100.00 |
| Travel Vaccines | |
| Charge made up of two elements – (1) cost of vaccines and (2) Out Patient appointment | |
| (1) cost of vaccines | Cost price + 37.5% Minimum £39.50 |
| (2) cost of Out Patient appointment | |
| Outpatient appointment < 15 mins | £176.68 |
| Outpatient appointment > 15 mins | £353.37 |
| Outpatient appointment FIG entitled person | £50.00 |
| Medicals (additional 25% charged for out of hours) | |
| ML5 examination | £80.00 |
| ENG1 - pre set charge from UK | £80.00 |
| CAA as per CAA Guidelines | varies |
| Medical (excludes report) | £135.00 |
| Medical Report | £67.50 |
| Fitness to drive | £67.50 |
| Food Handling | £33.75 |
| Immigration | £224.00 plus actual cost of scans required |
| Scan | £222.94 |
| Veterinary Animal request | £33.75 |
| FIG Occ Health ECG | £46.00 |
| Miscellaneous services | |
| Mortuary charge | £725 +£50 per day |
| Certificate of Death | £203.55 |
| Certificate of Repatriation of Remains | £216.20 |
| Visits to Ships: | |
| - FIPASS | £306.71 |
| - Port William/Stanley Harbour | £423.83 |
| - Elsewhere in the territory | £190.79 |
| Walking Stick | £40.00 |
| Crutches | £40.00 |
| Copy of medical records | |

| | |
|--|--|
| Photocopy of Medical Records, less than 50 pages | £32.50 |
| Photocopy of Medical Records, additional pages over 50 | 30p per page plus additional £20 admin |
| Copy of Electronic Medical Records onto memory stick | £30.00 |
| Additional documents scanned, price each | £1.00 |
| Copy of X-Ray | £5.00 |
| Dental Charges | |
| Emergency appointment | £130.89 |
| Crowns | £223.31 |
| Bridges | £386.71 |
| Inlays - per tooth | £223.31 |
| Partial denture - each | £223.31 |
| Full denture | £650.00 |
| Repairs | £16.55 |
| Dental Fitness treatment | £130.89 |
| Dental Fitness letter | £130.89 |

No. 75

31 August 2018

Application for Falkland Islands Status

Notice is hereby given that **Jane Lilian Louisa Thomas** has 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 28 September 2018.

Dated 31 August 2018

J. E. SMITH,
Immigration Officer.

No. 76

31 August 2018

Application for Naturalisation

Notice is hereby given that

Daniel Omar Carcamo Carcamo; and
Luis Rolando Chacon Alvarez

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 28 September 2018.

Dated 31 August 2018

J. E. SMITH,
Immigration Officer.

Published at the Attorney General's Chambers, Stanley, Falkland Islands.
Price: £3.00

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

31 August 2018

No. 9

The following are published in this Supplement —

Employers' Liability (Compulsory Insurance) General Regulations 1996 (Correction) Order 2018 (SR&O No 12 of 2018);

Fishery Products (Designations)(Amendment) Order 2018 (SR&O No 13 of 2018); and

Retirement Pensions (Amendment) Bill 2018.

SUBSIDIARY LEGISLATION

**Employers' Liability (Compulsory Insurance) General Regulations 1996 (Correction)
Order 2018**

S. R. & O. No.: 12 of 2018

Made: 14 August 2018

Published: 31 August 2018

Coming into force: see article 2

IN EXERCISE of my powers under section 93 of the Interpretation and General Clauses Ordinance 1977 I make the following order —

1. Title

This Order may be cited as the Employers' Liability (Compulsory Insurance) General Regulations 1996 (Correction) Order 2018.

2. Commencement

This Order is deemed to have come into force on 1 January 1997.

3. Correction of Employers' Liability (Compulsory Insurance) General Regulations 1996

This Order corrects the Employers' Liability (Compulsory Insurance) General Regulations 1996.

4. Regulation 4 amended

Regulation 4 of the Employers' Liability (Compulsory Insurance) General Regulations 1996 is amended in subregulation (1) by omitting "employee" and replacing it with "employer".

Made 14th August 2018

S. D. Young,
Attorney General.

EXPLANATORY NOTE
(not forming part of the order)

This order corrects a typographical error in the Employers' Liability (Compulsory Insurance) General Regulations 1996.

SUBSIDIARY LEGISLATION

Fishery Products (Designations)(Amendment) Order 2018

S.R. & O. No.: 13 of 2018

Made: 20 August 2018

Published: 31 August 2018

Coming into force: on publication

I make this Order under section 35 of the Fishery Products Ordinance 2006 (No 21 of 2006) without consulting the Executive Council because, in my judgement, the matter is too unimportant.

1. Title

This Order is the Fishery Products (Designations) (Amendment) Order 2018.

2. Commencement

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

3. Fishery Products (Designations) Order 2014 amended

The Fishery Products (Designations) Order 2014 (No 10 of 2014) is amended in Schedule 1 by adding the following new vessel and its approval number, after “Monteferro” —

“Argos Cies

FK1040”.

Made 20 August 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE

(not part of the order)

This Order designates a new fishing vessel under the Fishery Products (Designations) Order 2014. The vessel is Argos Cies.

Retirement Pensions (Amendment) Bill 2018

(No: of 2018)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Retirement Pensions Ordinance
4. Amendment of sections in Schedule
5. Transitional provisions to the Retirement Pensions (Amendment) Ordinance 2018

Schedule

RETIREMENT PENSIONS (AMENDMENT) BILL 2018

(No: of 2018)

(assented to: 2018)

(commencement: 1 January 2020)

(published: 2018)

A BILL

for

AN ORDINANCE

To amend the Retirement Pensions Ordinance 1996 and to provide for connected matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Retirement Pensions (Amendment) Ordinance 2018.

2. Commencement

This Ordinance comes into force on 1 January 2020.

3. Amendment of Retirement Pensions Ordinance

This Ordinance amends the Retirement Pensions Ordinance 1996.

4. Amendment of sections in Schedule

The sections of the Retirement Pensions Ordinance 1996 listed in the first column of the Schedule are amended to the extent shown in the second column of the Schedule.

5. Transitional provisions to Retirement Pensions (Amendment) Ordinance 2018

The amendment to section 4(1) of the Retirement Pensions Ordinance 1996 made by this Ordinance does not affect the entitlement on 1 January 2020 to claim and to receive a retirement pension by a person who reaches the age of 64 years between 1 January 2019 and 31 December 2019.

SCHEDULE

section 4

AMENDED SECTIONS AND EXTENT OF AMENDMENT

| Section | Extent of amendment |
|----------------|-----------------------------|
| 4(1)(b) | Omit 64 and replace with 65 |

| | |
|---------------|---|
| 6(1) and (1A) | Omit 64 and replace with 65 |
| 7(2)(a) | Omit 64 and replace with 65 |
| 10(3) | Omit 64 wherever it appears and replace with 65 |
| 11(1) | Omit 64 and replace with 65 |
| 12(1) | Omit 64 and replace with 65 |
| 12(2) | Omit 64 th and replace with 65 th |
| 13(1)(b) | Omit 64 and replace with 65 |

OBJECTS AND REASONS

This Bill amends the Retirement Pensions Ordinance 1996 so as to increase the age at which a person becomes entitled to a pension from 64 to 65 years. The amendment takes effect on 1 January 2020. The decision to increase the pensionable age is based on an actuarial valuation of the Pensions Equalisation Fund carried out in December 2016 and Executive Council decisions of 2013 and 2017.

Clause 4 provides for a Schedule in which is listed the sections that are amended and the extent of the amendments.

Clause 5 is a transitional provision to cater for persons who turn 64 years between 1 January 2019 and 31 December 2019. Those people are entitled with effect from 1 January 2020 to claim and to receive their pension despite the amendments made by this Bill to section 4(1) of the Retirement Pensions Ordinance 1996.



FALKLAND ISLANDS GAZETTE

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30 September 2018

No. 12

Appointment

Albert Tagnepis, Mechanic, Plant and Vehicle Section, Public Works Department, 29.08.18.

India Lauren Clarke, Learning Support Assistant, Infant and Junior School, Education Department, 31.08.18.

Demi Rose Greenough, Learning Support Assistant, Infant and Junior School, Education Department, 31.08.18.

Frances Wilson, Maths Teacher, Falkland Islands Community School, Education Department, 31.08.18.

Derek Gary McGill, Fox Bay Village Agent, Fox Bay, Public Works Department, 01.09.18.

Dion Sebastian Robertson, Trainee Pilot, Falkland Islands Government Air Service, Development and Commercial Services Department, 01.09.18.

Jordan Daniel Francis, Apprentice Architectural Technician, Training Centre, Education Department, 03.09.18.

Paige Tayler Jennings, Aircraft Fitter, Falkland Islands Government Air Service, Development and Commercial Services Department, 03.09.18.

Adam Lee Mansell, Apprentice Avionics Engineer, Training Centre, Education Department, 03.09.18.

Glyn Scott Morrison, Apprentice Civil Engineer, Training Centre, Education Department, 03.09.18.

Roy Shepherd, Estates Engineering Officer Mechanical, Health and Social Services Department, 03.09.18.

Lesley Cook, Leisure Centre Manager, Leisure Centre, Development and Commercial Services Department, 07.09.18.

Maribel Andrea Campos, Pharmacy Trainee, Health and Social Services Department, 10.09.18.

Nathan Jack Luxton, Apprentice Mechanic, Training Centre, Education Department, 10.09.18.

Alex Rhys Plato, Apprentice Carpenter, Training Centre, Education Department, 10.09.18.

Jesna Mtetwa, Administration Clerk, Property and Municipal Section, Public Works Department, 12.09.18.

Angela Sindy Clarke, Flight Information Service Officer/Operations Controller, Falkland Islands Government Air Services, Development and Commercial Services Department, 17.09.18.

Mariea Catherine Clifford, Station Enquiry Officer, Royal Falkland Islands Police, Emergency Services Department, 17.09.18.

Alan John Crowie, Plant Operator/Handyperson, Materials Section, Public Works Department, 17.09.18.

Alena-Rose Douglas, Station Enquiry Officer, Royal Falkland Islands Police, Emergency Services Department, 19.09.18.

Paul Samuel Cottnam Burry, Detective Constable, Royal Falkland Islands Police, Emergency Services Department, 21.09.18.

Charlotte Bridgette Burry, Staff Nurse, Health and Social Services Department, 25.09.18.

Kerry Ann Middleton, Residential Support Worker, Health and Social Services Department, 26.09.18.

Completion of contract

Sarah Dawn Witherley, Head of Environmental Planning, Development and Commercial Services Department, 07.09.18.

Robyn Diane Culhane, Senior Staff Nurse, Health and Social Services Department, 14.09.18.

Ruth Ayre, Radiographer/Sonographer, Health and Social Services Department, 14.09.18.

Cristina Gonzalez-Fernandez, Pharmacy Technician, Health and Social Services Department, 24.09.18.

Renewal of contract

Jennifer Patricia Barclay, Special Educational Needs Coordinator, Education Department, 01.09.18.

Mallory Deborah Barnes, Settlement Teacher, Infant and Junior School, Education Department, 01.09.18.

Joanne Claire Ford, Childcare Advisory Teacher, Education Department, 01.09.18.

Karen Marie Howard, Primary Teacher, Infant and Junior School, Education Department, 01.09.18.

Robert James Howard, Physical Education Teacher, Falkland Islands Community School, Education Department, 01.09.18.

Lesley Anne King, Primary Teacher, Infant and Junior School, Education Department, 01.09.18.

Charlotte Helen Mountford, Special Educational Needs Teacher, Education Department, 01.09.18.

Paul Muncaster, Art Teacher, Falkland Islands Community School, Education Department, 01.09.18.

Katherine Anne Sheppard, Primary Teacher, Infant and Junior School, Education Department, 01.09.18.

Hillel Sokolsky, Complex Needs Teacher, Education Department, 01.09.18.

Rachel Sotomayor, Hospitality and Catering/Textiles Teacher, Falkland Islands Community School, Education Department, 01.09.18.

Andrew Jack White, English Teacher, Falkland Islands Community School, Education Department, 01.09.18.

Ruth Ayre, Radiographer/Sonographer, Health and Social Services Department, 15.09.18.

Cristina Gonzalez-Fernandez, Pharmacy Technician, Health and Social Services Department, 25.09.18.

Promotion

Robert Ziggy George, from Trainee Licensed Aircraft Engineer to Licensed Aircraft Engineer, Falkland Islands Government Air Service, Development and Commercial Services Department, 17.08.18.

Transfer

Marco Andres Leyton Estrada, from Apprentice Licensed Aircraft Engineer, Falkland Islands Government Air Service, to Sports Attendant, Leisure Centre, Development and Commercial Services Department, 01.09.18.

Uzma Syeda Kazmi, Learning Support Assistant to Cover Supervisor, Falkland Islands Community School, Education Department, 24.09.18.

Resignation

Timothy John Kirby, Design and Technology Teacher, Falkland Islands Community School, Education Department, 01.06.18.

Lee-Ann Butler-Slack, English Teacher, Falkland Islands Community School, Education Department, 03.07.18.

Retirement

Tony Anderson, Filtration Plant Operator, Water Section, Public Works Department, 31.08.18.

NOTICES

No. 77

31 August 2018

Commissioners for Oaths Ordinance 1969 section 2(2)

Appointment of Commissioner for Oaths

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

2. In exercise of my powers under section 2(2), I appoint **Megan Shirley Rebecca Middleton** to be a commissioner for oaths.

3. The scope of this appointment is limited to the administration of the Falkland Islands Government Oath or Affirmation of Secrecy in support of the operation of the Human Resources Department of the Falkland Islands Government.

4. This appointment has effect from the date below, and continues in effect whilst the appointee continues to hold office in the Human Resources Department of the Falkland Islands Government, unless terminated sooner.

Dated 31 August 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 78

1 September 2018

T J Stevedores Limited Company Number: 14871

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 1 September 2018.

Dated 1 September 2018

E. J. DENT,
Registrar of Companies.

No. 79

1 September 2018

Swan Inlet Limited Company Number: 13798

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 1 September 2018.

Dated 1 September 2018

E. J. DENT,
Registrar of Companies.

Land Ordinance 1949
section 11A

Vesting Deed

Further to an application made by **Nicholas Alexander Robinson Pitaluga** of Gibraltar Station, East Falkland, Falkland Islands and **Saul Gregory Robinson Pitaluga** of Bougainville, 332A Barkman Road, Wokingham, Berkshire RG41 4DE as directors of **R. M. Pitaluga and Company Limited**, pursuant to section 11A of the Land Ordinance (notice of which application was published in the Gazette on 31 July 2018) I hereby give notice that I have this day executed a Vesting Deed in the form set out hereafter

“WHEREAS on application having been made to me Elizabeth Jayne Dent, Registrar General pursuant to section 11A of the Land Ordinance 1949 by **Nicholas Alexander Robinson Pitaluga** of Gibraltar Station, East Falkland, Falkland Islands and **Saul Gregory Robinson Pitaluga** of Bougainville, 332A Barkman Road, Wokingham, Berkshire RG41 4DE as directors of **R. M. Pitaluga and Company Limited** I am satisfied that the said **Nicholas Alexander Robinson Pitaluga** and **Saul Gregory Robinson Pitaluga** as directors of **R. M. Pitaluga and Company Limited** are entitled to be registered as the owner in fee simple absolute in possession of the land described in the Schedule to this deed NOW THEREFORE by this deed I do declare that the estate in fee simple absolute in possession of the said land is vested in the said **Nicholas Alexander Robinson Pitaluga** and **Saul Gregory Robinson Pitaluga** as directors of **R. M. Pitaluga and Company Limited** SUBJECT only to such matters as are mentioned in Crown Grants 173, 282, 341 and 519 and to such easements rights privileges and encumbrances as may have been created prior to the date of this deed

SCHEDULE
(Description of land)

ALL THAT piece or parcel of land in the north of East Falkland Island extending to 50,580 acres or thereabouts including the seven islands situate in Port Salvador known as Ear Island, Rabbit Island, Centre Island, Big Shag, Little Shag and The Dump which area of land including the seven islands is known as Gibraltar Station (and is also sometimes referred to as Salvador Farm) together with the dwelling houses, shearing shed, garages, outbuildings and all other buildings and structures whatsoever situated in that part of the land known as Salvador Settlement and together also with all fences, pens, cabins and other structures whatsoever wherever they are erected throughout the land on the plan annexed hereto.”

Any person aggrieved by the decision of the Registrar General to execute a vesting deed in the form set out above may appeal to the Supreme Court within 30 days of the publication in the Gazette of this notice in accordance with the provisions of section 11A of the Land Ordinance 1949.

Dated 3 September 2018

E. J. DENT,
Registrar General.

Education Ordinance 1989
section 5

Appointment of Member to Board of Education

1. Section 5(4) of the Education Ordinance 1989 provides for the Governor to appoint a member to the Board of Education from among persons who are parents of a child under the age of twelve years who is a pupil at a school in the Falkland Islands.
2. In exercise of my powers under section 5(4), I appoint **Cecil Alexander** to be a member of the Board of Education.
3. This appointment has effect from the date of signature and, in accordance with section 6(2) of the Education Ordinance, continues in effect for three years unless terminated sooner.

Dated 5 September 2018

N. J. PHILLIPS C.B.E.,
Governor.

Education Ordinance 1989
section 5

Appointment of Member to Board of Education

1. Section 5(5) of the Education Ordinance 1989 provides for the Governor to appoint a member to the Board of Education from among persons who are parents of a child over the age of eleven years who is a pupil at a school in the Falkland Islands.
2. In exercise of my powers under section 5(5), I appoint **Susan Jean Wilks** to be a member of the Board of Education.
3. This appointment has effect from the date of signature and, in accordance with section 6(2) of the Education Ordinance, continues in effect for three years unless terminated sooner.

Dated 5 September 2018

N. J. PHILLIPS C.B.E.,
Governor.

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 31 July 2018 for two years (expiring 31 July 2020), unless terminated sooner.

Dated 18 September 2018

R. A. J. MITHAM,
Acting Governor.

No. 84 20 September 2018

Falkland Islands Pensions Scheme Ordinance 1997
section 5

Appointment of Members of Pensions Board

1. Section 5(1) of the Falkland Islands Pensions Scheme Ordinance 1997 provides that the Governor shall appoint members to the Pensions Board.

2. In exercise of my powers under section 5(2)(a) I appoint **Andrew Grant McKenzie Irvine** from 1 December 2018 to 30 November 2021 to be a member of the Board.

3. In exercise of my powers under section 5(2)(c) I appoint **Karen Lucetta Steen** from 1 December 2018 to 30 November 2021 to be a member of the Board.

4. In accordance with Schedule 1, Part 1, paragraph 2(3) **Andrew Grant McKenzie Irvine** is chair of the Board.

5. These appointments have effect and continue in effect as detailed above and in accordance with the Falkland Islands Pensions Scheme Ordinance, unless terminated sooner.

Dated 20 September 2018

R. A. J. MITHAM,
Acting Governor.

No. 85 25 September 2018

Police Ordinance 2000
section 52

Notice of unclaimed property

Take notice that the following items are in the charge of the Royal Falkland Island Police:

| Date found | Description of item |
|------------|--|
| 25.08.2017 | 1 x Black Raleigh Airlite AT40 pedal cycle |
| 20.09.2018 | 1 x Red/Silver Diamondback child's pedal cycle |
| 20.08.2012 | 1 x White Raleigh Men's mountain bicycle |
| 20.09.2018 | 1 x White/Black/Red Lynx Bronx child's pedal cycle |
| 24.07.2018 | 1 x Yale style key |
| 31.08.2018 | 1 x Blue woollen glove |

24.08.2018 1 x Black Expedition Shock watch

24.07.2018 1 x watch Bering rose coloured face/rose gold strap

Any person who may have a claim to such property may lodge a claim in writing to the Magistrate's Court within six months of the publication of this list in the Gazette.

Dated 25 September 2018

J. BROOKS,
Clerk, Magistrates Court.

No. 86

26 September 2018

Application for Permanent Residence

Notice is hereby given that the following people have applied to the Principal Immigration Officer to be granted Permanent Residence Permits:

Curtis Rex Peters;
Jennifer Karen Sol;
Belinda Jane Reynolds; and
Christopher Paul Reynolds

Any person who knows of any reason why a permit should not be granted to any of the above named 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 22 October 2018.

Dated 26 September 2018

J. E. SMITH,
Immigration Officer.

No. 87

26 September 2018

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 2019

Total Allowable Effort: 12.2 (Vessel Units)

Dated 26 September 2018

A. J. BARTON,
Director of Natural Resources.

No. 88 26 September 2018

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 2019

Total Allowable Effort: 17.1 (Vessel Units)

Dated 26 September 2018

A. J. BARTON,
Director of Natural Resources.

No. 89 26 September 2018

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 2019

Total Allowable Effort: 26.68 (Vessel Units)

Dated 26 September 2018

A. J. BARTON,
Director of Natural Resources.

No. 90 26 September 2018

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 2019

Total Allowable Effort: 15.3 (Vessel Units)

Dated 26 September 2018

A. J. BARTON,
Director of Natural Resources.

No. 91 26 September 2018

Fisheries (Conservation and Management) Ordinance 2005
section 37

**Notice of Total Allowable Effort –
Squid (*Doryteuthis gahi*) 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 – 28 April 2019

Total Allowable Effort: 27.01 (Vessel Units)

Dated 26 September 2018

A. J. BARTON,
Director of Natural Resources.

No. 92 26 September 2018

Fisheries (Conservation and Management) Ordinance 2005
section 37

**Notice of Total Allowable Effort –
Squid (*Doryteuthis gahi*) 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: 29 July – 30 September 2019

Total Allowable Effort: 27.01 (Vessel Units)

Dated 26 September 2018

A. J. BARTON,
Director of Natural Resources.

No. 93 26 September 2018

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 2019

Total Allowable Catch: 2000 metric tonnes

Dated 26 September 2018

A. J. BARTON,
Director of Natural Resources.

No. 94 26 September 2018

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 2019

Total Allowable Catch: 1040 metric tonnes

Dated 26 September 2018

A. J. BARTON,
Director of Natural Resources.

No. 95 27 September 2018

Land Ordinance 1949
section 11A

Notice of Application for Vesting Deed

Notice is given that **Nicholas Alexander Robinson Pitaluga** of Gibraltar Station, East Falkland, Falkland Islands and **Saul Gregory Robinson Pitaluga** of Bougainville, 332A Barkman Road, Wokingham, Berkshire RG41 4DE as directors of **R. M. Pitaluga and Company Limited** have made an application in accordance with section 11A of the Land Ordinance to have executed in their favour a Vesting Deed of land in the north of East Falkland Island extending to 50,580 acres or thereabouts including the seven islands situate in Port Salvador known as Ear Island, Rabbit Island, Rat Island, Centre Island, Big Shag, Little Shag and The Dump which area of land including the seven islands is known as Gibraltar Station (and is also sometimes referred to as Salvador Farm) together with the dwelling houses, shearing shed, garages, outbuildings and all other buildings and structures whatsoever situated in that part of the land known as Salvador Settlement and together also

with all fences, pens, cabins and other structures whatsoever wherever they are erected throughout the land.

A notice having been published as Notice 59 in Gazette number 10 dated 31 July 2018 in which seven islands were mentioned but six were named, notice is hereby given by the Registrar General that an application in relation to the island known as "Rat Island" contained within the original application is now given.

The applicant's statutory declaration may be inspected by any person at the Registrar General's Office, Town Hall, Stanley during normal working hours for 30 days following the date of publication of this notice.

Notice is given that any person objecting to the vesting of title to the land in the application may, within 30 days following publication of this notice, lodge a notice in writing, specifying the grounds for objection, delivered to the Registrar General.

Notice is hereby given that unless any objection has been received within 30 days following the publication of this notice the Registrar General under the terms of section 11A of the Land Ordinance will execute in favour of R. M Pitaluga and Company Limited a Vesting Deed of the said land.

Dated 27 September 2018

E. J. DENT,
Registrar General.

No. 96 27 September 2018

Planning Ordinance 1991
section 5(2)

**Appointment of Members to
Planning and Building Committee**

1. Section 5(2) of the Planning Ordinance 1991 provides that the Governor shall appoint members to the Planning and Building Committee.

2. In exercise of my powers under section 5(2) I appoint **Baron Brunton-Goss** and **Brian Summers** to be members of the Planning and Building Committee.

3. These appointments have effect on the date given below, and continue in effect for three years from that date, unless terminated sooner.

Dated 27 September 2018

R. A. J. MITHAM,
Acting Governor.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

30 September 2018

No. 10

The following are published in this Supplement —

Law Revision and Publication Ordinance 2017 (Amendment) (No 2) Order 2018 (SR&O No 14 of 2018); and

Statute Law Database (Rectification) (No 3) Order 2018 (SR&O No 15 of 2018).

SUBSIDIARY LEGISLATION

Law Revision and Publication Ordinance 2017 (Amendment) (No 2) Order 2018

S. R. & O. No. 14 of 2018

Made: 3 September 2018

Published: ... 30 September 2018

Coming into force: on publication

I make this Order under section 25(8)(b) of the Law Revision and Publication Ordinance 2017 to give effect to a recommendation of the Statute Law Commissioner approved by the Legislative Assembly.

1. Title

This Order is the Law Revision and Publication Ordinance 2017 (Amendment) (No 2) Order 2018.

2. Commencement

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

3. Amendment of Schedule 1 to the Law Revision and Publication Ordinance

Schedule 1 to the Law Revision and Publication Ordinance 2017 (UK enactments which apply to Falkland Islands) is amended as set out in the Schedule to this Order.

SCHEDULE

1. Amendment of Part 1 of Schedule 1 – Primary Legislation

Part 1 is amended by omitting the entry in respect of the Limitation Act 1980, and replacing it with —

| | | | |
|----------------|------|-----------|--|
| Limitation Act | 1980 | Whole Act | <p>1. The Act continues in force as if the Automated and Electric Vehicles Act 2018 had never been made.</p> <p>2. Nothing in the Act may have effect to:</p> <p>(a) create or define an offence;</p> <p>(b) prescribe the punishment or mode of trial of an offence</p> |
|----------------|------|-----------|--|

2. Amendment of Part 2 of Schedule 1 – Secondary Legislation

Part 2 is amended by —

(a) omitting the entry in respect of the Criminal Procedure Rules 2015 (SI 2018/847).

(b) inserting the following entry in alphabetical order —

| | | | |
|---|------|---|--|
| Electronic Presentment of Instruments (Evidence of Payment and Compensation for Loss) Regulations (SI 2018/832) | 2018 | Whole Regulations except regulation 10 | Regulation 2 is modified to omit paragraph (c) and replace it with: “(c) a day which is a public holiday”. |
|---|------|---|--|

Made 3 September 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE
(not forming part of this Order)

This Order amends Schedule 1 of the Law Revision and Publication Ordinance 2017—

(a) to disapply the Automated and Electric Vehicles Act 2018 to the extent that it applies in the Falkland Islands (ie in respect of amendment of the Limitation Act 1980);

(b) to disapply the Criminal Procedure (Amendment)(No 2) Rules, SI 2018/847 (through the mechanism of disapplication of the Criminal Procedure Rules 2015, SI 2015/1490, which have become redundant since the making of the Criminal Procedure Rules 2018, S.R.& O. 2/2018); and

(c) to modify the application of the Electronic Presentation of Instruments (Evidence of Payment and Compensation for Loss) Regulations 2018, SI 2018/832 (removing the duty on the Financial Secretary to report on the operation of the regulations).

SUBSIDIARY LEGISLATION

Statute Law Database (Rectification) (No 3) Order 2018

S. R. & O. No. 15 of 2018

Made: 3 September 2018

Published: 30 September 2018

Coming into force: on publication

I make this Order under section 15(4) of the Law Revision and Publication Ordinance 2017 to give effect to a report of the Attorney General approved by the Legislative Assembly.

1. Title

This Order is the Statute Law Database (Rectification) (No 3) Order 2018.

2. Commencement

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

3. Rectification of Defects in the Statute Law Database

(1) Certain defects in the Statute Law Database are rectified as set out in the Schedule.

(2) The rectifications are deemed to have effect from 31 July 2017.

SCHEDULE

RECTIFICATION OF THE STATUTE LAW DATABASE

1. Offshore Minerals Ordinance 1994

Sections 23 and 27 to 29 of the Offshore Minerals Ordinance 1994 are restored.

2. Dangerous Goods Ordinance 1987

Section 7(2) of the Dangerous Goods Ordinance 1987 is omitted, and section 7(1) is renumbered section “7”.

3. Rules of the Supreme Court 1949

Schedule C of the Rules of the Supreme Court 1949 is omitted, and Schedule D is restored.

Made 3 September 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE
(not forming part of this Order)

This Order provides for the rectification of defects in the Statute Law Database.

The Statute Law Database is the authoritative statement of the legislation applying to or in relation to the Falkland Islands by virtue of Ordinance. Section 15 of the Ordinance provides for the rectification of defects in the database following report of such defects to the Legislative Assembly by the Attorney General.

The order provides for the rectification of defects in respect of the following legislation as it appears on the database:

- Offshore Minerals Ordinance 1994

The Offshore Minerals Ordinance 1994 is rectified to restore sections 23 and 27 to 29, which were omitted by oversight.

- Dangerous Goods Ordinance 1987

Section 7(2) of the Dangerous Goods Ordinance is omitted, to correct an inaccuracy arising from the Revised Laws of the Falkland Islands (precursor to the database).

- Rules of the Supreme Court 1949

The Rules of the Supreme Court are rectified by omitting Schedule C, which was repealed by the Rules of the Supreme Court (Amendment) Rules 1992, and by restoring Schedule D which has not been repealed, but which was omitted by oversight.

The rectifications to be made are contained in the schedule to the Order, and the amendments to the database are deemed to have effect on 31 July 2017.



FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. 127

31 October 2018

No. 13

Appointment

Rebecca Jane Ross, Accounting Assistant, Treasury, 01.09.18.
Kevin Gerard Coughlan, Internal Auditor, Treasury, 28.09.18.
Andrea Doris Leitmeyer, Plant Operator/Handyperson, Materials Section, Public Works Department, 28.09.18.
Sylvia O'Brien, Staff Nurse, Health and Social Services Department, 28.09.18.
Rodrigo Paragoso, Plant Operator/Handyperson, Materials Section, Public Works Department, 01.10.18.
Jorge Eduardo Ramos Castillejos, Stock Assessment Scientist, Fisheries, Natural Resources Department, 02.10.18.
Jack Royd Hall, Fisheries Observer, Fisheries, Natural Resources Department, 02.10.18.
Derek Henry, Painter/Decorator, Property and Municipal Section, Public Works Department, 02.10.18.
Alywin De Souza Budu House, Residential Support Worker, Young Persons Unit, Health and Social Services Department, 02.10.18.
Colleen Rose Reid, Cook, Stanley House, Education Department, 02.10.18.
Thomas James Watson, Sports Attendant, Leisure Centre, Development and Commercial Services Department, 02.10.18.
Joshua Wheatley, Learning Support Assistant, Falkland Islands Community School, Education Department, 02.10.18.
Carol Adams, Finance Clerk, Education Department, 03.10.18.
Douglas Scott Smith, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 04.10.18.
Joanne Marie Harris, Storeperson, Property and Municipal Section, Public Works Department, 08.10.18.

Kenneth Newton, Night Security Officer, Health and Social Services Department, 12.10.18.

Pamela Young, Primary Travelling Teacher, Infant and Junior School, Education Department, 12.10.18.

Jeremy Mark Bean, Estates Maintenance Officer, Health and Social Services Department, 15.10.18.

Daniel Cant, Apprentice Bio-Medical Engineer, Training Centre, Education Department, 15.10.18.

Geraldine Amanda Roberts, Customs and Immigration Officer, Customs and Immigration, Emergency Services Department, 15.10.18.

Holly Jane Williams, Learning Support Assistant, Infant and Junior School, Education Department, 15.10.18.

Alexa Rachel Peirega, Learning Support Assistant, Infant and Junior School, Education Department, 15.10.18.

Brooklyn Marie Ford, Learning Support Assistant, Infant and Junior School, Education Department, 29.10.18.

Resignation

Leila Melanie Gilding, Learning Support Assistant, Infant and Junior School, Education Department, 19.10.18.

Davina Peck, Houseparent, Stanley House, Education Department, 31.10.18.

Retirement

Falkland Berntsen, Power Station Operator, Power & Electrical Section, Public Works Department, 31.10.18.

Transfer

Jane Elizabeth Barker, from Finance Clerk, Education Department to Personal Assistant, Development and Commercial Services Department, 08.10.18.

NOTICES

No. 97

5 October 2018

Falkland Islands Constitution Order 2008 *section 88*

Administration of Justice Ordinance 1949 *section 26*

Judicial Appointments

1. I appoint **Clare Faulds** to be Acting Senior Magistrate under section 88(4) of the Falkland Islands Constitution Order 2008 (SI 2008/2846) and section 26 of the Administration of Justice Ordinance 1949.

2. This appointment is to have effect from the date of signature and shall remain in force until 16 October 2018, unless terminated sooner.

3. This appointment is without prejudice to the right of the Senior Magistrate, Martine Kushner, to act as Senior Magistrate at any time save for in respect of any matter that the Acting Senior Magistrate is seized of at that time.

Dated 5 October 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 98

5 October 2018

Falkland Islands Constitution Order 2008 *section 89*

Appointment of Acting Judge of the Supreme Court

1. I make this appointment in accordance with section 89 of the Falkland Islands Constitution Order (SI 2008/2846) 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, Nigel Phillips C.B.E., 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 may be 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 the date of signature until 16 October 2018, unless terminated sooner.

Dated 5 October 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 99

10 October 2018

Harbours and Ports Ordinance 2017 *section 4(2)*

Designation Notice

1. Section 4(2) of the Harbours and Ports Ordinance 2017 (No. 21 of 2017) permits the department responsible for maritime, harbours and ports matters (Department of Natural Resources) to be designated as the Falkland Islands Maritime Authority.

2. I designate the **Department of Natural Resources** as the Maritime Authority for the purposes of section 4(2) of the Harbours and Ports Ordinance 2017.

3. The Department of Natural Resources as the Maritime Authority will act on behalf of the Government of the Falkland Islands in accordance with the Conventions of the International Maritime Organisation as the Administration for ships registered in the Falkland Islands, and will discharge such other functions and responsibilities as are referred to in section 4(3) of the Harbours and Ports Ordinance 2017.

Dated 10 October 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 100

11 October 2018

Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance 1949

Take notice that **Lily Ann Johnson** of King Edward VII Memorial Hospital, Stanley, died on 5 July 2018.

Whereas **Violet Rose Clarke** has applied for Letters of Administration with will annexed 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 11 October 2018

J. BROOKS,
Registrar, Supreme Court

Police Ordinance 2000
section 4

Designation of Acting Chief Police Officer

1. Section 4(2) of the Police Ordinance 2000 provides that in the absence of the Chief Police Officer the Governor may designate another police officer to carry out the duties of the Chief Police Officer.

2. In exercise of my powers under section 4(2) of the Police Ordinance 2000, I designate **Gary Roberts** to be Acting Chief Police Officer to carry out the duties of the Chief Police Officer in the rank of Chief Inspector.

3. This appointment is effective for the period commencing 18 December 2018 to 30 January 2019, unless terminated sooner.

Dated 17 October 2018

N. J. PHILLIPS C.B.E.,
Governor.

Public Accounts Committee Ordinance 2009
section 7

Register of Members' Interests

This information is provided by members of the Public Accounts Committee in accordance with section 7 of the Public Accounts Committee Ordinance.

The information is current to 22 October 2018.

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.

MLA Mark Pollard:

Unremunerated Director of South American Atlantic Services Ltd

Unremunerated Director of Stanley Services Ltd

Board Member of FI Meat Company

Board Member of FI Development Corporation

Board Member of Rural Development Strategy

2. Remunerated employment, office or profession

MLA Mark Pollard:

Full Time MLA

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

MLA Mark Pollard:

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

MLA Mark Pollard:

None

5. Gifts, benefits and hospitality

MLA Mark Pollard:

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

MLA Mark Pollard:

Visit to PAC seminar in Westminster November 2018 funded by Commonwealth Parliamentary Association, upcoming at time of form completion

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

MLA Mark Pollard:

None

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

MLA Mark Pollard:

2 Kent Road (jointly with spouse)

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

MLA Mark Pollard:

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

MLA Mark Pollard:

Trade and Industry/Employment; Training and Immigration –
Portfolio holder
PWD – Deputy Portfolio holder

Dated 22 October 2018

N. LOCKE,
Secretary, Public Accounts Committee.

No. 103 23 October 2018

Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance 1949

Take notice that **Edward Andrew Robson** of Stanley, died intestate on 30 August 1976.

Whereas **Lily Napier** 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 23 October 2018

J. BROOKS,
Registrar, Supreme Court

No. 104 29 October 2018

Index of Retail Prices

The Index for the quarter ended 30 September 2018 has now been completed.

The Index has increased during the quarter, to 104.682; this equates to a 0.3% increase for the quarter, and a 3.0% increase for the year:

| <i>Date</i> | <i>Index</i> | <i>Annual Change</i> | <i>Quarterly change</i> |
|-------------|--------------|----------------------|-------------------------|
| 30.09.17 | 101.616 | 1.5% | 0.9% |
| 31.12.17 | 101.903 | 1.3% | 0.3% |
| 31.03.18 | 103.066 | 3.0% | 1.1% |
| 30.06.18 | 104.413 | 3.6% | 1.3% |
| 30.09.18 | 104.682 | 3.0% | 0.3% |

Inflation in the “fuel and power” market is the major contributor to total increase for the year (1.6 out of 3.0 percentage points). Price cuts in the “communication” market has a strong deflationary effect (-1.2 percentage points), not enough however to compensate price increases in other markets (including “food and non-alcoholic beverages”, “alcoholic beverages and tobacco”, “transport” and “clothing and footwear”).

Dated 29 October 2018

D. RANGHETTI,
for Director of Policy and Economic Development.

No. 105 30 October 2018

Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance 1949

Take notice that **Kenneth Frederick Berntsen** of 1 Racecourse Road East, Stanley, died on 15 October 2018.

Whereas **Iain Kenneth Berntsen** 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 30 October 2018

J. BROOKS,
Registrar, Supreme Court



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

31 October 2018

No. 11

The following are published in this Supplement —

Retirement Pensions (Amendment) Ordinance 2018 (No 5 of 2018);

Supplementary Appropriation (2018-2019) Ordinance 2018 (No 6 of 2018);

Retirement Pensions (Prescribed Rates) (Amendment) Regulations 2018 (SR&O No 16 of 2018);

Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018 (No 7 of 2018); and

Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018 (Correction) Order 2018 (No 17 of 2018).

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Retirement Pensions (Amendment) Ordinance 2018

(No: 5 of 2018)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Retirement Pensions Ordinance
4. Amendment of sections in Schedule
5. Transitional provisions to the Retirement Pensions (Amendment) Ordinance 2018

Schedule

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

RETIREMENT PENSIONS (AMENDMENT) ORDINANCE 2018

(No: 5 of 2018)

(assented to: 4 October 2018)
(commencement: 1 January 2020)
(published: 31 October 2018)

AN ORDINANCE

To amend the Retirement Pensions Ordinance 1996 and to provide for connected matters.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Retirement Pensions (Amendment) Ordinance 2018.

2. Commencement

This Ordinance comes into force on 1 January 2020.

3. Amendment of Retirement Pensions Ordinance

This Ordinance amends the Retirement Pensions Ordinance 1996.

4. Amendment of sections in Schedule

The sections of the Retirement Pensions Ordinance 1996 listed in the first column of the Schedule are amended to the extent shown in the second column of the Schedule.

5. Transitional provisions to Retirement Pensions (Amendment) Ordinance 2018

The amendment to section 4(1) of the Retirement Pensions Ordinance 1996 made by this Ordinance does not affect the entitlement on 1 January 2020 to claim and to receive a retirement

pension by a person who reaches the age of 64 years between 1 January 2019 and 31 December 2019.

**SCHEDULE
AMENDED SECTIONS AND EXTENT OF AMENDMENT**

section 4

| Section | Extent of amendment |
|----------------|---|
| 4(1)(b) | Omit 64 and replace with 65 |
| 6(1) and (1A) | Omit 64 and replace with 65 |
| 7(2)(a) | Omit 64 and replace with 65 |
| 10(3) | Omit 64 wherever it appears and replace with 65 |
| 11(1) | Omit 64 and replace with 65 |
| 12(1) | Omit 64 and replace with 65 |
| 12(2) | Omit 64 th and replace with 65 th |
| 13(1)(b) | Omit 64 and replace with 65 |

Passed by the Legislature of the Falkland Islands on 27 September 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

Supplementary Appropriation (2018-2019) Ordinance 2018

(No: 6 of 2018)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Withdrawal of additional sum
4. Replenishment of Contingencies Fund

Schedule

ELIZABETH II



FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,
Governor.

SUPPLEMENTARY APPROPRIATION (2018-2019) ORDINANCE 2018

(No: 6 of 2018)

(assented to: 4 October 2018)
(commencement: on publication)
(published: 31 October 2018)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of the additional sum of £2,474,430 for the financial year ending 30 June 2019.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2018-2019) Ordinance 2018.

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 £2,474,430 from the Consolidated Fund.

(2) Any additional sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2019 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 Warrants numbered 1 and 2 of 2018-2019, the Financial Secretary will replenish the fund from the additional sum withdrawn under section 3.

SCHEDULE

| Number | Head of Service | Amount £ |
|-------------------------------|-----------------------------------|------------------|
| Operating Budget | | |
| 0110 | Development & Commercial Services | 928,469 |
| 0120 | Human Resources | 95,440 |
| 0200 | Health & Social Services | 39,475 |
| 0250 | Education | 245,590 |
| 0350 | Public Works | 241,446 |
| 0410 | Natural Resources | 184,466 |
| 0450 | Law & Regulation | 150,964 |
| 0550 | Emergency Services | 224,647 |
| 0600 | Executive Management | 25,197 |
| 0615 | Policy Unit | 51,369 |
| 0620 | Mineral Resources | 54,570 |
| 0700 | The Treasury | 147,542 |
| 0999 | Island Plan Development | 85,255 |
| Total Operating Budget | | 2,474,430 |
| Total Schedule | | 2,474,430 |

Passed by the Legislature of the Falkland Islands on 27 September 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

SUBSIDIARY LEGISLATION

Retirement Pensions (Prescribed Rates) (Amendment) Regulations 2018

S. R. & O. No: 16 of 2018

Made: 4 October 2018
Published: 31 October 2018
Coming into force: 1 January 2020

I make the following regulations under section 11 of the Retirement Pensions Ordinance 1996, on the advice of the Executive Council.

1. Title

These Regulations are the Retirement Pensions (Prescribed Rates) (Amendment) Regulations 2018.

2. Commencement

These Regulations come into force on 1 January 2020.

3. Regulation 4 amended: Contributions by employers

Regulation 4(1) of the Retirement Pensions (Prescribed Rates) Regulations 1996 is amended by omitting “64” and replacing it with “65”.

Made 4 October 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE *(not part of the regulations)*

These regulations amend the Retirement Pensions (Prescribed Rates) Regulations in regulation 4 by increasing 64 to 65. This brings the regulations in line with the amendment made to the Ordinance whereby the age at which a person becomes eligible to a pension is increased from 64 to 65. This amendment to the regulations will require employers to continue contributing until an employee is 65 years old.

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018

(No: 7 of 2018)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Withdrawal of additional sum
4. Replenishment of Contingencies Fund

Schedule

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

SUPPLEMENTARY APPROPRIATION (2018-2019) (No 2) ORDINANCE 2018

(No: 7 of 2018)

(assented to: 29 October 2018)

(commencement: on publication)

(published: 31 October 2018)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of the additional sum of £36,500 for the financial year ending 30 June 2019.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018.

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 £36,500 from the Consolidated Fund.

(2) Any additional sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2019 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 Warrants numbered 3 of 2018-2019, the Financial Secretary will replenish the fund from the additional sum withdrawn under section 3.

SCHEDULE

| Number | Head of Service | Amount £ |
|---------------|-------------------------------|---------------------------|
| | Operating Budget | |
| 0120 | Human Resources | 4,300 |
| 0550 | Emergency Services | 32,200 |
| | Total Operating Budget | <hr/> 36,500 <hr/> |
| | Total Schedule | <hr/> 36,500 <hr/> |

Passed by the Legislature of the Falkland Islands on 25 October 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

SUBSIDIARY LEGISLATION

Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018 (Correction) Order 2018

S. R. & O. No.: 17 of 2018

Made: 29 October 2018

Published: ... 31 October 2018

Coming into force: see article 2

IN EXERCISE of my powers under section 93 of the Interpretation and General Clauses Ordinance 1977 I make the following order —

1. Title

This Order may be cited as the Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018 (Correction) Order 2018.

2. Commencement

This Order comes into force on publication in the Gazette.

3. Correction of Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018

This Order corrects the Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018.

4. Section 4 amended

Section 4 of the Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018 is amended by omitting “Warrants” and replacing it with “Warrant”.

Made 29 October 2018

S. D. Young,
Attorney General.

EXPLANATORY NOTE (not forming part of the order)

This order corrects a typographical error in the Supplementary Appropriation (2018-2019) (No 2) Ordinance 2018.

Published at the Attorney General's Chambers, Stanley, Falkland Islands
Price: £4.20

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FALKLAND ISLANDS GAZETTE

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30 November 2018

No. 14

Appointment

Fiona Margaret Didlick, Senior Housing Officer, Housing Section, Public Works Department, 01.11.18.

Brando Briones Bababis, Power Station Operator, Power and Electrical Section, Public Works Department, 09.11.18.

Barry Davies, Clerk of Works, Administration and Planning Section, Public Works Department, 09.11.18.

Darrell Christopher Isaac, Mechanic/Fire Fighter, Fire and Rescue, Emergency Services Department, 12.11.18.

Kristiane Annergret Helena Thorsen, Police Constable, Royal Falkland Islands Police, Emergency Services Department, 12.11.18.

John Charles Hilson Didlick, Plumber, Housing Section, Public Works Department, 15.11.18.

Esther Louise Green, Head of Tax, Treasury, 16.11.18.

Sarah Louise Faria, Apprentice Accountancy Technician, Training Centre, Education Department, 21.11.18.

Amalyn Francisco Teodoro, Staff Nurse, Health and Social Services Department, 27.11.18.

Completion of contract

Rachel Sotomayor, Hospitality and Catering/Textiles Teacher, Falkland Islands Community School, Education Department, 02.11.18.

Ian Sargent, Prison Manager, HM Prison, Emergency Services Department, 07.11.18.

Andrew Mark Francis, Head of Finance, Treasury, 17.11.18.

Renewal of contract

Ian Sargent, Prison Manager, HM Prison, Emergency Services Department, 08.11.18.

Andrew Mark Francis, Head of Finance, Treasury, 18.11.18.

Resignation

Cara Ashworth, Administration Officer, Customs and Immigration, Emergency Services Department, 18.10.18.

Margaret Mary Battersby, Quality Assurance Co-ordinator, Training Centre, Education Department, 31.10.18.

Jane Francis, Learning Support Assistant, Infant and Junior School, Education Department, 09.11.18.

Daniel Betts, Labourer, Highways Section, Public Works Department, 12.11.18.

Camila Ignacia Walton Alfaro, Auxiliary Nurse, Health and Social Services Department, 14.11.18.

Craig Paice, Customs and Immigration Officer, Customs and Immigration, Emergency Services Department, 15.11.18.

Beverley Bates, Deputy Leisure Centre Manager, Leisure Centre, Development and Commercial Services Department, 30.11.18.

Nathan Reginald Eugenio Lowe, Duty Supervisor, Leisure Centre, Development and Commercial Services Department, 30.11.18.

Retirement

David Fyfe, Dental Officer, Health and Social Services Department, 30.11.18.

Transfer

Arlene Dawn March, from Administration Clerk to Quality Assurance Co-ordinator, Training Centre, Education Department, 01.11.18.

Senclair Boybanting, from Auxiliary Nurse to Residential Support Worker, Young Persons Unit, Health and Social Services Department, 01.11.18.

Julie Ann Fisher-Smith, from Customs and Immigration Officer, Customs and Immigration, Emergency Services Department, to Residential Support Worker, Young Persons Unit, Health and Social Services Department, 22.11.18.

NOTICES

No. 106

2 November 2018

Land Ordinance 1949 *section 11A*

Corrective Vesting Deed

Further to an application made by **Nicholas Alexander Robinson Pitaluga** of Gibraltar Station, East Falkland, Falkland Islands and **Saul Gregory Robinson Pitaluga** of Bougainville, 332A Barkham Road, Wokingham, Berkshire RG41 4DE as directors of **R. M. Pitaluga and Company Limited**, pursuant to section 11A of the Land Ordinance (notice of which application was published in the Gazette on 30 September 2018) I hereby give notice that I have this day executed a Corrective Vesting Deed in the form set out hereafter

“WHEREAS on application having been made to me Elizabeth Jayne Dent, Registrar General pursuant to section 11A of the Land Ordinance 1949 by **Nicholas Alexander Robinson Pitaluga** of Gibraltar Station, East Falkland, Falkland Islands and **Saul Gregory Robinson Pitaluga** of Bougainville, 332A Barkham Road, Wokingham, Berkshire RG41 4DE as directors of **R. M. Pitaluga and Company Limited** I am satisfied that the said **Nicholas Alexander Robinson Pitaluga** and **Saul Gregory Robinson Pitaluga** as directors of **R. M. Pitaluga and Company Limited** are entitled to be registered as the owner in fee simple absolute in possession of the land described in the Schedule to this corrective deed NOW THEREFORE by this corrective deed I do declare that the estate in fee simple absolute in possession of the said land is vested in the said **Nicholas Alexander Robinson Pitaluga** and **Saul Gregory Robinson Pitaluga** as directors of **R. M. Pitaluga and Company Limited** SUBJECT only to such matters as are mentioned in Crown Grants 173, 282, 341 and 519 and to such easements rights privileges and encumbrances as may have been created prior to the date of this corrective deed

SCHEDULE (Description of land)

ALL THAT piece or parcel of land in the north of East Falkland Island extending to 50,580 acres or thereabouts including the seven islands situate in Port Salvador known as Ear Island, Rabbit Island, Rat Island, Centre Island, Big Shag, Little Shag and The Dump which area of land including the seven islands is known as Gibraltar Station (and is also sometimes referred to as Salvador Farm) together with the dwelling houses, shearing shed, garages, outbuildings and all other buildings and structures whatsoever situated in that part of the land known as Salvador Settlement and together also with all fences, pens, cabins and other structures whatsoever wherever they are erected throughout the land on the plan annexed hereto.”

Any person aggrieved by the decision of the Registrar General to execute a Corrective Vesting Deed in the form set out above may appeal to the Supreme Court within 30 days of the publication in the Gazette of this notice in accordance with the provisions of section 11A of the Land Ordinance 1949.

Dated 2 November 2018

E. J. DENT,
Registrar General.

No. 107

7 November 2018

United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instrument, published in the United Kingdom by The Stationery Office Limited, is available to view at: <http://www.legislation.gov.uk>

2018 No 1076 – The Sanctions (Overseas Territories) (Amendment of Information Provisions) Order 2018
<http://www.legislation.gov.uk/uksi/2018/1076/contents/made>

This Order amends certain Orders, which relate to the implementation of sanctions measures in the Falkland Islands, and makes specific provision relating to the enforcement of financial sanctions measures.

The Orders being amended contain provisions which impose requirements on certain financial institutions to provide information to the Governor of the Falkland Islands if they know or suspect that a customer is the subject of an asset freeze for the purposes of the relevant financial sanctions regime, or has committed certain offences under the relevant Order.

The amendments made by this Order extend these requirements, including offences associated with failure to comply, to certain businesses and professions, namely auditors, casinos, dealers in precious metals and stones, external accountants, independent legal professionals, real estate agents, tax advisors, and trust or company service providers.

Dated 7 November 2018

B. I. STEEN,
for Attorney General.

No. 108

13 November 2018

Weddell Island Limited **Company Number: 11726**

Notice is hereby given that the above named company was struck off the Register of Companies pursuant to section 353(5) of the Companies Act 1948 with effect from 1 November 2018.

Dated 13 November 2018

E. J. DENT,
Registrar of Companies.

No. 109

19 November 2018

South Harbour Consulting Limited
Company Number: 14252

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 19 November 2018

E. J. DENT,
Registrar of Companies.

No. 110

22 November 2018

Administration of Justice Ordinance 1949
section 4

Justices of the Peace – entry on supplemental list

1. Section 4(3) of the Administration of Justice Ordinance 1949 provides that the Chief Justice may direct the name of any justice of the peace shall be entered on the supplemental list if it is expedient that he or she should cease to exercise judicial functions.

2. In exercise of my powers under section 4(3) I direct that the following names of justices of the peace shall be entered on the supplemental list:

Kristiane Annergret Helena Thorsen; and
Krysteen Alison Ormond.

3. This direction has effect from the date of signature.

Dated 22 November 2018

J. T. LEWIS Q.C.,
Chief Justice.

No. 111

26 November 2018

Police Ordinance 2000
section 52

Notice of unclaimed property

Take notice that the following items are in the charge of the Royal Falkland Island Police:

| Date found | Description of item |
|-------------------|--|
| 29.09.2018 | Samsung J7 mobile phone black - transparent cover |
| 18.10.2018 | ZTE branded smartphone black |
| 19.10.2018 | One pair of pliers |
| 28.10.2018 | Brown leather wallet containing ID cards, correspondence and debit cards |
| 28.10.2018 | Set of two keys with blue tag |
| 28.10.2018 | Yellow handled knife |
| 30.10.2018 | Three keys on bird keyring |
| 11.11.2018 | Nokia mobile phone |

12.11.2018 Crochet poppy and earrings

14.11.2018 Bunch of keys with kangaroo keyring

21.11.2018 Multi-coloured scarf – predominantly blue

Any person who may have a claim to such property may lodge a claim in writing to the Magistrate's Court within six months of the publication of this list in the Gazette.

Dated 26 November 2018

J. BROOKS,
Clerk, Magistrates Court.

No. 112

28 November 2018

Application for Falkland Islands Status

Notice is hereby given that:

Ginalyn Juancho Hawksworth; and
Susan Rae Williams

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 24 December 2018.

Dated 28 November 2018

J. E. SMITH,
Immigration Officer.

No. 113

30 November 2018

Legislative Assembly Standing Rules and Orders 2010
standing order 22

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 standing order 22 of the Falkland Islands Legislative Assembly Standing Rules and Orders 2010.

The information is current to 30 November 2018.

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 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.

Teslyn Siobhan Barkman

1. Nil
2. Member of Legislative Assembly
Occasional commission as an artist
3. Nil
4. Nil
5. Four meals with FIFCA representatives.
6. Brexit work – trip to Global Seafood Expo in Brussels, accommodation funded by FIFCA
7. Nil
8. 23 Rex Hunt Road, Stanley (no income gained)
9. Oscar Rendell (son) interest in Bleaker Island business
10. Nil.

Stacy John Bragger

1. Nil
2. Member of Legislative Assembly
Freelance presenter for Falklands Radio
3. Nil
4. Nil

4

5. Nil
6. Nil
7. Nil
8. 4B Ross Road West, Stanley (no income gained)
9. Nil
10. Nil.

Roger Anthony Edwards

1. Nil
2. Member of Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Overseas Countries and Territories Association, Brussels meeting funded by OCT-EU
Pre-JMC Grenada – funded by United Nations
7. Nil
8. Lake Sullivan Farm, West Falkland
8 Sullivan Street, Stanley
20 Mink Park, Stanley
9. Nil
10. One share in Falkland Farmers.

Barry Elsby

1. Nil
2. Member of Legislative Assembly
Doctor (none-practising)
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Moody Brook House, Stanley (jointly-owned with my wife)
1213 shares in Rockhopper Limited
9. My wife, Bernadette Paver, owns a medical company ('Medica South') - I have no involvement with this company
10. My son has interest in a building company in the Falkland Islands.

Ian Hansen

1. Nil
2. Member of Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. 4-bedroomed house at Hill Cove (no income gained)
9. Shares in Seafish Limited
10. Nil.

Mark John Pollard

1. Unremunerated Director of South American Atlantic Services Ltd
Unremunerated Director of Stanley Services Ltd
Board Member of FI Meat Company
Board Member of FI Development Corporation
Board Member of Rural Development Strategy
2. Member of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. 2 Kent Road, Stanley (jointly-owned with spouse)

9. Nil
10. Nil.

Roger Kenneth Spink

1. Nil
2. Member of the Legislative Assembly
Self-employed – Moody Enterprises
3. Supply of labour to Trant Engineering Limited
4. Nil
5. Nil
6. ICRC Brussels – FCO funded
7. Nil
8. 43 Whyke Marsh, Chichester, West Sussex PO19 8FA
Estate Mrs DSK Spink
9. Nil
10. Chairman of Falkland Conservation (unremunerated)
YMCA board member (unremunerated).

Lucila Leona Vidal-Roberts

1. Nil
2. Member of Legislative Assembly
Falklands Radio
3. Nil
4. Nil
5. Nil
6. CPA Executive representative – all trips relating to this
responsibility is funded by Commonwealth Parliamentary
Association
7. Nil
8. 1 Mountain View, Stanley (no income gained)
9. Nil
10. Nil.

Barry Alan Rowland, Chief Executive

1. Nil
2. Chief Executive, FIG
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. House in UK jointly-owned with spouse – nil income
9. Nil
10. Nil.

James Wilson, Financial Secretary

1. Nil
2. Financial Secretary, FIG
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. House in UK, owned with spouse
9. Nil
10. Spouse is employed as a teacher at FICS.

Simon David Young, Attorney General

1. Nil
2. Attorney General for the Falkland Islands and South
Georgia and South Sandwich Islands
3. Nil
4. Nil
5. Nil

6. Nil
7. Nil
8. Nil
9. Nil
10. Nil.

Keith Robert Biles, Speaker

1. Nil
2. Speaker of the Legislative Assembly
3. Nil
4. Nil
5. Nil
6. Nil
7. Pensioner – Standard Chartered Bank 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
Falkland
Joint Owner – Apartment at 13 North Bank Street,
Edinburgh, Scotland
9. Nil
10. Non-remunerated:
Company Secretary – Energise Group Ltd
Director (Trustee) Falklands Conservation (a UK Limited
Company and Registered Charity)
Share Holdings:
Minority shareholding: Energise Group Ltd
Pecuniary Interest:
Décor Services Ltd.

Claudette Prior MBE, Deputy Speaker

1. Nil
2. FIG pension
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. 1 Goss Road, Stanley (no income gained)
9. Nil
10. Husband (Malcolm Prior) is the Estates Engineering
Officer at the King Edward VII Memorial Hospital.

Dated 30 November 2018

C. Y CLIFFORD,
Clerk of the Legislative Assembly.

No. 114

30 November 2018

Falkland Islands Defence Force Ordinance 1991
section 33

Promotion

His Excellency the Governor is pleased to direct that Captain
Justin Owen McPhee is promoted to the rank of Major with
effect on 30 November 2018.

Dated 30 November 2018

S. HAMPSON,
Director, Human Resources.

Published at the Attorney General's Chambers, Stanley, Falkland Islands.
Price: £2.75

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 29

30 November 2018

No. 12

The following are published in this Supplement —

Fisheries (Individual Transferable Quota Fees) Regulations 2018 (SR&O No 18 of 2018);

Fishing, Transhipment and Export (Licence Fees etc) Regulations 2018 (SR&O No 19 of 2018); and

Child Minding and Day Care Bill 2018.

SUBSIDIARY LEGISLATION

Fisheries (Individual Transferable Quota Fees) Regulations 2018

S. R. & O. No. 18 of 2018

Made: 30 November 2018

Published: 30 November 2018

Coming into force: see regulation 2

I make the following regulations under sections 35 and 223 of the Fisheries (Conservation and Management) Ordinance 2005 on the advice of Executive Council.

1. Title

These regulations are the Fisheries (Individual Transferable Quota Fees) Regulations 2018.

2. Commencement

These regulations come into force on 1 January 2019 and cease to have effect on 31 December 2019.

3. Interpretation

In these regulations —

“Director” means the Director of Fisheries; and

“ITQ” means Individual Transferable Quota.

4. Fees and Payment Schedule

(1) The fees set out in Schedule 1 are the total fees payable in the 2019 calendar year in respect of the entire ITQ granted for the specified fisheries.

(2) The fees payable by each company holding ITQ in a fishery are calculated by reference to the proportion of the total ITQ held by that company.

(3) A company holding ITQ in a fishery must pay the applicable fees in respect of the 2019 calendar year for the ITQ that has been granted to that company.

(4) The fees must be paid on or before the dates specified under Schedule 2.

**SCHEDULE 1
FISHERY FEES**

(regulation 4(1))

| Description of Fishery | Licence Code | Fees (£) |
|-------------------------------|---------------------|----------------------------------|
| Finfish | A | 1,129,012 |
| Squid – Jig or Trawl | B | ITQ not currently granted |
| Squid (Summer) | C | 2,352,105 |
| Skate | F | 222,409 |
| Squid and Restricted Finfish | G | 761,300 |
| Restricted Finfish – Pelagic | S | 60,419 |
| Restricted Finfish | W | 1,146,650 |
| Toothfish – Longline | L | 966,525 |
| Squid (Winter) | X | 4,676,700 |

**SCHEDULE 2
PAYMENT SCHEDULE**

(regulation 4(4))

| Description of Fishery | Licence Code | Payment Schedule |
|-------------------------------|---------------------|--|
| Finfish | A | Quarterly: 31 March, 30 June, 30 September, 17 December |
| Squid (Summer) | C | 30 June |
| Skate | F | Quarterly: 31 March, 30 June, 30 September, 17 December |
| Squid and Restricted Finfish | G | 31 March and 30 June |
| Restricted Finfish - Pelagic | S | 30 September and 17 December |
| Restricted Finfish | W | Quarterly: 31 March, 30 June, 30 September and 17 December |
| Toothfish – Longline | L | Monthly (beginning of each month) |
| Squid (Winter) | X | 17 December |

Made 30 November 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE

These Regulations are made under sections 35 and 223 of the Fisheries (Conservation and Management) Ordinance 2005.

Section 35 provides that sums (payable to the Crown) may be prescribed in relation to Individual Transferable Quota (ITQ) held by a company, and that different sums may be prescribed in relation to different fisheries.

The ITQ fees for 2019 are provided for under *regulation 4* and are set out in Schedule 1. Schedule 2 (the payment Schedule) indicates dates when payments are due in respect of the different fisheries.

SUBSIDIARY LEGISLATION

Fishing, Transhipment and Export (Licence Fees etc) Regulations 2018

S. R. & O. No. 19 of 2018

Made: 30 November 2018

Published: 30 November 2018

Coming into force: see regulation 2

I make the following regulations under sections 41, 42, 46, 223(1), (2)(b) (p) and (y) of the Fisheries (Conservation and Management) Ordinance 2005 on the advice of Executive Council.

1. Title

These regulations are the Fishing, Transhipment and Export (Licence Fees etc) Regulations 2018.

2. Commencement

These regulations come into force on 1 January 2019 and cease to have effect on 31 December 2019.

3. Interpretation

In these regulations —

“Director” means the Director of Fisheries;

“export” has the same meaning as under the Ordinance;

“FIPASS” means the Falkland Interim Port and Storage System as defined under the Falkland Interim Port and Storage System Ordinance 1989;

“*Illex* fishing season” means the period between 15 February and 15 June (inclusive);

“fishing waters” has the same meaning as under the Ordinance;

“Licence Allocation Policy” means the policy relating to *Illex* fishing licences set by Executive Council from time to time;

“refund policy” means the policy referred to in regulation 5;

“the Ordinance” means the Fisheries (Conservation and Management) Ordinance 2005; and

“tranship” means to tranship fish in the fishing waters.

4. *Illex* fishing licences – applications and fees

- (1) All applications for fishing licences in respect of the *Illex* fishery must be made to the Director so as to reach the Director before 7 November 2018 or such earlier date as may be set by the Director and the Director is not bound to consider any application received after this date.
- (2) The fee payable for an *Illex* fishing licence is determined by the formula set out in Part A of Schedule 1.
- (3) The periods within which the licence fees are payable, and the proportions in which the fees are to be paid in each period are specified in Part B of Schedule 1.
- (4) When issuing fishing licences to which these regulations apply, the Director must take into account the Licence Allocation Policy.

5. *Illex* fishing licences - refund policy

- (1) The Director, in consultation with the Financial Secretary, may implement the refund policy in respect of *Illex* fishing licences set out in Schedule 2.
- (2) In any assessment for a refund the Director may take into account —
 - (a) the average catch in any fishing season;
 - (b) the average catch value in any fishing season;
 - (c) the full season catch taken by all licensed vessels;
 - (d) the full high seas catches taken by all licensed vessels; and
 - (e) any other relevant factors.

6. *Illex* fishing- scientific permits

- (1) The Director may issue such number of scientific permits as may be appropriate to verify the presence of *Illex* in any fishing waters.
- (2) The Director must specify in each permit issued the expiry date for the permit.
- (3) The fee payable for a permit is such fee as the Director may determine in each case.

7. Transshipment and export licences

- (1) A licence issued by the Director under section 46 of the Ordinance may authorise transshipment or export or both.
- (2) A licence is valid for such period or periods as stated in it, and the period or periods of validity may be extended by the Director.

(3) A licence is valid only in respect of transshipment in such areas of the fishing waters as are stated in it.

(4) A licence may be stated to be valid only for so long as the licenced vessel remains continuously in the area or areas of the fishing waters to which the licence relates.

8. Transshipment and export licence fees

(1) No licence fee is payable in respect of a transshipment or export licence if the licence is issued only in respect of any of the following matters —

(a) transshipment or export by a fishing vessel holding a fishing licence which permits the vessel to fish in the fishing waters at the time of the transshipment;

(b) transshipment or export by a Falkland Islands fishing vessel;

(c) transshipment by a vessel transshipping at FIPASS, provided that the transshipment involves cargo crossing the dock.

(2) The owner, charterer or operator of a vessel not exempted under sub-regulation (1) must pay a fee of £1,700 in respect of a licence issued under section 46 of the Ordinance.

9. Revocation of the Fisheries (Transshipment and Export)(Fees) Regulations Order 1987

The Fisheries (Transshipment and Export)(Fees) Regulations Order 1987 (S.R. & O. No 27 of 1987) is revoked.

SCHEDULE 1 ILLEX FISHERY FEES

(regulation 4)

PART A Fee Formula

Jigging Vessels:

$$\text{Fee (£)} = \text{£}0.421 * (\text{GT} * (\text{S} + 1.5\text{D})) + 112610$$

GT = Gross Tonnage

S = Number of Single Jigging Machines

D = Number of Double Jigging Machines

Trawling Vessels:

$$\text{Fee (£)} = (4.2672 * \text{GT}) + 122472$$

GT = Gross Tonnage

PART B
Payment Periods and Proportion of Fee Payable

| Payment Period | Proportion of Fee % |
|------------------------|----------------------------|
| 15 February – 15 March | 5% |
| 16 March – 15 May | 85% |
| 16 May – 15 June | 10% |
| Total | 100% |

Explanatory Notes (for guidance only)

A minimum time period of 90% must be purchased.

A 10% deposit must be paid before **25 January 2019**

Payments will be eligible for the ^early payment discounts set out below, providing the payment is made on time by the relevant date (for example in order to receive a 6% early payment discount on the full fee (100%), the entire fee would have to be received by Falkland Islands Government by 31 January 2019).

Letters of Credit must have an expiry date of **31 August 2019** no other date will be accepted.

^early payment discounts are as follows:

6% for payment by 31 January 2019

5% for payment by 31 May 2019 *

4% for payment by 30 June 2019 *

*Payments can be held until these dates but must be guaranteed by an Irrevocable Letter of Credit or equivalent.

Vessel History Discount:

A discount of 1% per year is available for any season fished by the vessel in the last 10 years. The maximum discount which may be claimed is 10%.

SCHEDULE 2
2019 *ILLEX* FISHING LICENCE REFUND POLICY

(regulation 5(1))

(a) Licence Fee Refund Policy

In the event of a poor season the Falkland Islands Government will take account of the average catch in assessing refunds. The refund policy will be based on catch as follows:

| Catch (MT) | Column A Percentage Refund based on catch volume only. For use where average catch ≥ 1000 tonnes | Column B Percentage Refund using catch volume and value. For use where average catch < 1000 tonnes |
|-------------------|---|--|
| > 1500 | No refund | 0% |
| 1500 – 1250 | No refund | 10% |
| 1249 – 1000 | No refund | 25% |
| 999 – 750 | 40% | 40% |
| 749 – 500 | 50% | 50% |
| 499 – 250 | 70% | 70% |
| < 250 | 90% | 90% |

Explanatory Notes (for guidance only)

Referring to the above table if the average catch is 1000 tonnes or exceeds that level there will not be any refund as set out in column A.

If the average catch is less than 1000 tonnes and taking account of catch value results in an ‘adjusted catch’ less than 1500 tonnes the refund levels set out in column B will apply.

An example of the adjusted catch value is set out in the following paragraphs.

(b) Licence Fee Refund Policy – Catch Value

The refund policy is intended to be linked to catch and catch value. The base price used to calculate the figures in the table at (a) above is \$936 per tonne (whole *Illex*). If the 2019 *Illex* price is higher than the current base rate this will be factored into the refund calculation. In any case where the average *Illex* price is above \$936 the calculation will be as follows:

$$(Average Price \$ / \$ 936) * Average Catch = Revised average catch for refund.$$

For example if the 2019 *Illex* price is \$3000 and the average catch is 400 tonnes the calculation will be:

$$(\$3000 / \$936) = 3.2$$

*Average catch (400 tonnes) * 3.2 = 1280 tonnes (This is the adjusted catch figure used for the refund calculation in column B of the table above).*

The adjustment will only be made if the price is above \$936. Price information will be collected from available sources.

(c) Refund Policy to take account of Full Season equivalent catch

The catch total used in the refund policy will take account of full season catches (15 February – 15 June). If the average catch of vessels fishing for 100% of the season exceeds 1000 tonnes there will be no refund for any vessels; including those which have fished for 90% of the season only and whose catches may be less than 1000 tonnes.

(d) Refund Policy to take account of High Seas Catches

The calculation of catch rates and totals in relation to the refund policy will take account of high seas catches taken by licensed vessels during 15 February – 15 June. Owners/operators of licensed vessels wishing to access the refund policy must provide catch reports for any days spent fishing on the high seas during the period of validity of their Falkland Islands fishing licence.

Owner/operators electing not to report high seas catches in accordance with the above may still be eligible for a refund but it is likely to be at a reduced rate compared to the refund policy calculation set out here (to be determined according to the relevant circumstances).

(e) Monitoring of Catch Levels

Falkland Islands Government will be the ultimate arbiter of catch levels and reserves the right to weight the assessment in favour of verified information. In order for this to work vessels may need to undergo additional inspections and give adequate notice of departure from the fishing zone etc.

This will be calculated on the basis of average vessel catch and not on an individual vessel basis.

The refund policy will only apply to vessels which comply with the requirements of catch monitoring. A number of these are covered by mandatory requirements which in any case are covered by the Ordinance such as:

- Full and reliable catch reporting
- Other fishery monitoring reports (Fishcom/end etc)
- Embarkation of an observer if required
- Sufficient notice of intention to leave fishing zones to allow for inspection

Additionally, the refund policy will only apply to fishing vessels which report high seas catches during the fishing season (15 February – 15 June) and conduct transshipment operations in Falkland Island ports and harbours. Vessels not satisfying the criteria set out above will not ordinarily be eligible for a refund. If, in exceptional circumstances, it is determined that a vessel which has not complied should still receive a refund, that refund will be at a reduced rate (to be determined according to the relevant circumstances).

Made 30 November 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE
(not part of these regulations)

These regulations are made under sections 41, 42, 46 and 223 of the Fisheries (Conservation and Management) Ordinance 2005.

Regulations 1 and 2 provide for introductory matters while *regulation 3* provides for interpretation of different words and phrases used within the regulations.

Regulation 4 provides for the application process in connection with the *Illex* fishery, including the date for making applications. It further provides for the licence fees and the formula for calculating the fees; and this is set out in Schedule 1.

Regulation 5 provides for the manner of making *Illex* fishing licence fee refunds. This is set out in Schedule 2 and it is based on a refund policy approved by Executive Council.

Regulation 6 provides for the issue of scientific permits in respect of the *Illex* fishery, including the setting of permit fees.

Regulation 7 makes provision in connection with licences issued for the transshipment and export of fish.

Regulation 8 provides for fees for licences for the transshipment and export of fish, and under sub-regulation (2) sets the fee at £1,700. A Falkland Islands fishing vessel is exempted from paying any transshipment and export fees as well as any vessel with a valid fishing licence. Vessels transshipping fish through FIPASS are also excluded from paying any transshipment fees.

Regulation 9 Revokes the Fisheries (Transshipment and Export)(Fees) Regulations Order 1987 (S.R. & O. No 27 of 1987), which has been overtaken by the fees set under *Regulation 8*.

Child Minding and Day Care Bill 2018

(No. of 2018)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 —PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Child minding and day care
4. Exemptions to section 3

PART 2 —REGISTERS AND DUTY TO REGISTER

5. Register of child minders
6. Duty of child minders to register
7. Register of providers of day care
8. Duty of providers of day care to register

PART 3 —APPLICATION FOR REGISTRATION

9. Application for registration as child minder
10. Requirements for registration as a child minder
11. Application for registration as a provider of day care
12. Requirements for registration as a provider of day care
13. Entry in the register and certificate of registration
14. Conditions on registration
15. Regulations governing activities of registered persons

PART 4 —CANCELLATION AND SUSPENSION OF REGISTRATION

16. Cancellation of registration
17. Suspension of registration
18. Voluntary removal from register
19. Protection of children in an emergency: cancellation of registration
20. Protection of children in an emergency: change to conditions
21. Procedure for taking certain steps
22. Objection by applicant or registered person
23. Appeals
24. Disqualification
25. Consequences of disqualification

PART 5 — INSPECTION

- 26. Inspection
- 27. Powers of entry
- 28. Powers of inspection

PART 6 — INFORMATION

- 29. Director may request information
- 30. Report and supply of information

PART 7 — OFFENCES, CRIMINAL PROCEEDINGS AND FIXED PENALTIES

- 31. Offence of making false or misleading statement
- 32. Offences by corporate bodies
- 33. Offences by unincorporated associations

PART 8 — MISCELLANEOUS

- 34. Fees
- 35. Giving of notices
- 36. Death of registered person
- 37. Director to issue guidance
- 38. Subsidiary legislation

PART 9 — TRANSITIONAL PROVISIONS

- 39. Continuation of child minding and provision of day care
- 40. Application for provisional registration
- 41. Provisional registration
- 42. Extension of time
- 43. Full registration
- 44. Interpretation in this Part

CHILD MINDING AND DAY CARE BILL 2018

(No: of 2018)

(assented to: 2018)
(commencement: in accordance with section 1)
(published: 2018)

A BILL

for

AN ORDINANCE

To provide for the regulation of child minding and day care for children; to provide for the registration of child minders or day care providers and to provide for incidental matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 — PRELIMINARY

1. Short title and commencement

(1) This Ordinance is the Child Minding and Day Care Ordinance 2018.

(2) This Ordinance comes into operation on a day appointed by the Governor by notice published in the *Gazette*.

2. Interpretation

In this Ordinance, unless the context otherwise requires —

“applicant” means a person who applies for registration as a child minder or a day care provider under this Ordinance;

“body corporate” means a company or any other incorporated body;

“child” means a person below the age of 12 years;

“child minder” means a person referred to in section 3(1)(a);

“development” means physical, intellectual, emotional, social or behavioural development;

“Director” means the Director of Education or the Director’s nominated representative;

“domestic premises” means any premises which are used wholly or mainly as a private dwelling;

“employee” means an individual who is employed by a registered person to assist in looking after children on premises.

“harm” means ill-treatment or impairment of health, including impairment suffered from seeing or hearing the ill-treatment of another;

“ill-treatment” includes sexual abuse and any form of ill-treatment which is not physical;

“new condition” means a condition imposed otherwise than at the time of the person’s registration as a child minder or a provider of day care;

“premises” means a place where children are looked after by a child minder or a provider of child care;

“prescribed” means prescribed by order or in regulations;

“provider of day care” means a person referred to in section 3(1)(b);

“registered person” means a person registered under this Ordinance as a child minder or as a provider of day care; and

“unincorporated association” includes sole traders, partnerships, trusts, voluntary organisations or other similarly constituted bodies.

3. Child minding and day care

(1) Subject to section 4, a person who looks after children at any time other than as an employee—

(a) on domestic premises, is a child minder;

(b) on premises other than domestic premises, is a provider of day care.

(2) The Governor may by order amend the definition of “child” to substitute a different age limit.

4. Exemptions to section 3

(1) The Governor may by order specify circumstances when a person is not acting as a child minder or a provider of day care in terms of this Ordinance.

(2) The order under subsection (1) may relate to any of the following matters, among others —

(a) the person who is the child minder or provider of day care;

(b) the child or children for whom the child minding or day care is provided;

(c) the nature of the child minding or day care;

- (d) the premises on which the child minding or day care is provided;
- (e) the times during which the child minding or day care is provided; and
- (f) the arrangements under which the child minding or day care is provided.

PART 2 — REGISTERS AND DUTY TO REGISTER

5. Register of child minders

- (1) The Director must maintain a child minders' register containing a list of all persons who are registered as child minders and the premises on which they are authorised to operate.
- (2) Any person may request to inspect the register maintained under subsection (1) during the hours that the Director's office is open for business.

6. Duty of child minders to register

- (1) A person must not act as a child minder on domestic premises unless that person is registered as a child minder in respect of those premises under section 9(3).
- (2) A person who acts as a child minder in contravention of subsection (1) without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

7. Register of providers of day care

- (1) The Director must maintain a register containing a list of persons who are registered as providers of day care and of the premises on which they are authorised to provide the day care.
- (2) Any person may request to inspect the register maintained under subsection (1) during the hours that the Director's office is open for business.

8. Duty of providers of day care to register

- (1) A person must not provide day care on any premises unless they are registered as a provider of day care on those premises under section 11(3).
- (2) A person who contravenes subsection (1) without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

PART 3 — APPLICATION FOR REGISTRATION

9. Application for registration as child minder

- (1) A person who proposes to act as a child minder must apply to the Director for registration as a child minder.
- (2) An application must —
 - (a) give information on such matters as may be prescribed;

(b) give any other information which the Director may reasonably require the applicant to give; and

(c) be accompanied by the prescribed fee, if any.

(3) The Director must register the applicant if —

(a) the applicant is not disqualified in terms of section 24;

(b) it appears to the Director that all the prescribed requirements for registration as a child minder are satisfied and are likely to continue to be satisfied; and

(c) the applicant has paid the prescribed fee, if any.

(4) The Director must refuse to register an applicant who does not meet the requirements of subsection (3).

10. Requirements for registration as a child minder

The Governor may prescribe requirements for registration as a child minder which may include requirements relating to —

(a) the applicant, the application and its form;

(b) the premises on which the child minding is to be provided;

(c) the number of children to be looked after;

(d) the arrangements for child minding on those premises;

(e) any person who may be looking after children on those premises; or

(f) any other person who may be on those premises.

11. Application for registration as a provider of day care

(1) A person who proposes to provide day care on particular premises must apply to the Director for registration as a provider of day care on those premises.

(2) An application must —

(a) give information on such matters as may be prescribed; or

(b) give any other information which the Director may reasonably require the applicant to give; and

(c) be accompanied by the prescribed fee, if any.

- (3) The Director must register the applicant if —
- (a) the applicant is not disqualified under section 24;
 - (b) it appears to the Director that all the prescribed requirements for registration as a provider of day care are satisfied and are likely to continue to be satisfied; and
 - (c) the applicant has paid the prescribed fee.
- (4) The Director must refuse an application which does not meet the requirements of subsection (3).

12. Requirements for registration as a provider of day care

The Governor may prescribe requirements for registration of providers of day care which may include requirements relating to —

- (a) the applicant, the application and its form;
- (b) the premises on which the children are to be looked after;
- (c) the number of children to be looked after;
- (d) the arrangements for looking after children on those premises;
- (e) any person who may be looking after children on those premises, and
- (f) any other person who may be on those premises.

13. Entry in the register and certificate of registration

- (1) If an application under section 9 is approved, the Director must —
- (a) register the applicant in the child minders' register in respect of the domestic premises applied for; and
 - (b) give the applicant a certificate of registration.
- (2) If an application under section 11 is approved, the Director must —
- (a) register the applicant in the providers of day care register in respect of the premises applied for; and
 - (b) give the applicant a certificate of registration.
- (3) A certificate of registration under subsection (1) or (2) must contain such information as is prescribed.

(4) A registered person must advise the Director of a change in circumstances which requires the amendment of a certificate of registration and if the Director agrees with the changes, he or she must give the registered person an amended certificate.

(5) If the Director is satisfied that a certificate of registration has been lost or destroyed, the Director must give the registered person a copy, on payment of the prescribed fee, if any.

14. Conditions on registration

(1) The Director may impose such conditions as the Director considers necessary on the registration of a child minder or a provider of day care.

(2) The power to impose conditions may be exercised at the time of registration under section 9 or 11 or at any subsequent time after registration.

(3) The Director may at any time vary or remove a condition imposed under this section.

(4) Before varying or imposing new conditions, the Director must comply with sections 21 and 22.

(5) A registered person who without reasonable excuse, fails to comply with a condition imposed under this section commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

15. Regulations governing activities of registered persons

(1) The Governor may make regulations on the activities of registered persons.

(2) Regulations made under subsection (1) may prescribe the following matters, among others—

(a) welfare and development of the children concerned;

(b) suitability to look after, or to be in regular contact with, the children concerned;

(c) qualifications and training;

(d) maximum number of children who may be looked after on premises and the number of persons required to assist in looking after the children;

(e) maintenance, safety and suitability of premises and equipment;

(f) procedures for dealing with complaints;

(g) supervision of employees;

(h) keeping of records;

(i) provision of information;

(j) persons who may live in or visit the premises where child minding or day care is provided; and

(k) hygiene requirements relating to changing rooms, kitchen, sick bay and other areas.

PART 4 — CANCELLATION AND SUSPENSION OF REGISTRATION

16. Cancellation of registration

(1) The Director must cancel a person's registration if it appears that the registered person has become disqualified under section 24 or under section 19.

(2) The Director may cancel a person's registration if any of the following applies —

(a) the requirements for registration that apply under section 10 or 12 are no longer satisfied or will no longer be satisfied;

(b) the registered person has failed to comply with a condition imposed on that person's registration;

(c) the registered person has failed to comply with a requirement imposed on that person by this Ordinance or regulations; or

(d) the registered person has failed to pay the prescribed fee, if any.

(3) Where conditions imposed under section 14 require the registered person to make changes or additions to any services, equipment or premises, registration may only be cancelled —

(a) when the time set for complying with the requirement has expired, and

(b) if it is shown that the defect or insufficiency is due to the fact that the relevant changes or additions have not been made.

(4) A cancellation under this section must be in writing.

(5) The Governor may prescribe other circumstances in which registration may be cancelled.

(6) A registered person may appeal against a cancellation of registration in terms of section 23.

17. Suspension of registration

(1) The Governor may make regulations providing for the suspension of a registered person.

(2) Regulations under subsection (1) may include —

(a) the period of suspension;

(b) the circumstances in which registration may be suspended; or

(c) the circumstances in which a registered person may be suspended at their own request.

(3) A registered person may appeal against a suspension in terms of section 23.

(4) A person must not act as a child minder or a provider of day care on premises at a time when their registration is suspended.

(5) A person who contravenes subsection (4) commits an offence and is liable on conviction to a fine not exceeding level 6 on the standard scale.

18. Voluntary removal from register

(1) A registered person may give notice to the Director requesting to be removed from the register of child minders or register of providers of day care.

(2) Subject to subsection (3), if a registered person gives notice under subsection (1), the Director must remove that person from the relevant register.

(3) The Director must not act under subsection (2) if —

(a) the Director has sent a notice under section 21(3) of an intention to cancel the person's registration and the Director intends to take that step; and

(b) the time within which an appeal under section 23 may be brought has not expired or, if an appeal has been brought, it has not been determined.

(4) A person whose name is removed from the register under subsection (1) must surrender the certificate of registration to the Director.

19. Protection of children in an emergency: cancellation of registration

(1) The Director may cancel a person's registration if it appears on reasonable grounds that a child for whom child minding or day care is being, or may be, provided is suffering, will suffer or is likely to suffer significant harm as a result of the child minding or day care provided.

(2) A cancellation of a registration under subsection (1) may be made without prior notice, must be in writing and takes effect from the time that it is made.

(3) If a cancellation is made under subsection (1), the Director must serve the following on the registered person as soon as is reasonably practicable after the cancellation is made —

(a) the notice of cancellation;

(b) a copy of any written statement in support of the cancellation; and

(c) notice of any right of appeal conferred by section 23.

(4) The documents referred to in subsection (3) may be served on the registered person in terms of section 35.

20. Protection of children in an emergency: change to conditions

(1) Where the Director believes that unless he or she acts against a registered person, a child will suffer or is likely to suffer significant harm as a result of the child minding or day care provided, the Director may vary or remove a condition for the time being in force or impose a new condition.

(2) The Director must inform the registered person in writing of the decision under subsection (1) and the decision takes effect from the time when the notice is served or when the registered person is informed whichever is the earlier.

(3) When informing the registered person, the Director must —

(a) state reasons for believing that the circumstances fall within subsection (1); and

(b) where the Director has varied, removed or imposed a new condition, specify the condition varied, removed or imposed, and explain the right of appeal conferred by section 23.

21. Procedure for taking certain steps

(1) This section applies if the Director proposes to take any of the following steps —

(a) refuse an application for registration;

(b) impose a new condition on a person's registration;

(c) vary or remove any condition imposed on a person's registration;

(d) refuse to grant an application for the variation or removal of any such condition; or

(e) cancel or suspend a person's registration.

(2) This section does not apply to action taken under section 19(1) or 20(1).

(3) The Director must give notice of an intention to take a step mentioned in subsection (1) to the applicant for registration or to a registered person.

(4) A notice under subsection (3) must include the Director's reasons for proposing to take the step and must inform the applicant or registered person of their rights under sections 22 and 23.

(5) Subject to sections 22 and 23, the Director may take the step at the end of 28 days from the day when notice was given and the Director must notify the applicant or registered person of the decision.

22. Objection by applicant or registered person

- (1) The Director must give the person receiving a notice under section 21 (“the recipient”) an opportunity to object within a period specified by the Director in the notice.
- (2) An objection under subsection (1) must be in writing and may be made by the recipient or the recipient’s representative.
- (3) A step taken under paragraph (b), (c) or (e) of section 21(1) does not have effect until —
 - (a) the expiry of the time allowed for an appeal under section 23; or
 - (b) the appeal is determined, and the taking of the step is confirmed.
- (4) A step takes effect immediately where the person concerned notifies the Director that he or she does not intend to object or appeal.
- (5) An applicant may not withdraw an application without the consent of the Director if the Director gives notice that he or she intends to refuse the application.

23. Appeals

- (1) An applicant or a registered person may, within 30 days of receiving a notice under section 21(3), appeal to the Governor against the taking of any of the steps referred to in section 21(1).
- (2) The following persons may also appeal to the Governor —
 - (a) an applicant or a registered person in respect of a determination made by the Director under this Ordinance;
 - (b) a registered person against whom section 19 is applied; and
 - (c) a registered person against whom section 20 is applied.
- (3) On appeal the Governor may —
 - (a) confirm the taking of the step, the determination or the giving of the notice; or
 - (b) direct that the step does not, or ceases to, have effect.
- (4) If the Governor does not confirm the taking of a step referred to in section 21(1)(a) or (e) or the Director’s decision under section 19 or 20, the Governor may do either or both of the following —
 - (a) impose new conditions on the registration of the person concerned; or
 - (b) vary or remove any condition previously imposed on the person’s registration.

24. Disqualification

The Governor may make regulations providing for disqualification from being a child minder, provider of day care or from being employed to perform work that is related to looking after children under this Ordinance.

25. Consequences of disqualification

- (1) A person who is disqualified under section 24 must not —
 - (a) act as a child minder or be directly or indirectly engaged in looking after children; or
 - (b) provide day care or be directly or indirectly involved or engaged in the management of any provision of day care.
- (2) A person must not employ, in connection with the provision of day care or child minding, a person who is disqualified under section 24.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to imprisonment for a term not exceeding one year or to a fine not exceeding level 6 on the standard scale, or both.
- (4) A person who contravenes subsection (2) does not commit an offence under subsection (3) if the person demonstrates in writing to the Director's reasonable satisfaction that the person did not know, and had no reasonable grounds for believing, that the person employed was disqualified.

PART 5 — INSPECTION

26. Inspection

- (1) The Governor may make regulations providing for —
 - (a) inspection of child minding and day care facilities and services, provided by registered persons;
 - (b) inspection of premises prior to registration; and
 - (c) publication of reports of the inspection in such manner as the Governor considers appropriate.
- (2) Regulations may provide for the inspection to be organised by the Director or any other person under arrangement made with the Director.
- (3) Regulations may provide that for purposes of the law of defamation, any report published under the regulations is privileged.
- (4) Regulations made under subsection (3) do not limit any privilege subsisting except as provided in those regulations.

27. Powers of entry

- (1) The Governor may authorise a person to enter any premises on which child minding or day care is provided to exercise the powers given under section 28.
- (2) The Governor may authorise a person to enter any premises if the Governor has reasonable cause to believe that a child is being looked after on those premises in contravention of this Ordinance and that person may exercise the powers given under section 28.
- (3) Authorisation under subsection (1) or (2) may be given for a particular occasion, period or generally and may be given subject to conditions.
- (4) A person exercising any power conferred by this section or section 28 must, on request, produce a duly authenticated document showing their authority.

28. Powers of inspection

- (1) Subject to subsection (3), a person entering premises under section 27 may, subject to any conditions imposed under that section —
 - (a) inspect the premises;
 - (b) inspect, and take copies of any records kept by the child minder or provider of day care and any other documents containing information relating to child minding or provision of day care;
 - (c) seize and remove any document or other material or thing found on the premises which the authorised person has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement under this Ordinance or regulations;
 - (d) take measurements and photographs or make recordings;
 - (e) inspect any children being looked after on the premises, and the arrangements made for their welfare;
 - (f) interview in private any person looking after children, or living or working, on the premises, who consents to be interviewed.
- (2) The power in subsection (1)(b) includes —
 - (a) power to require any person holding or accountable for documents or records kept on the premises to produce them;
 - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.
- (3) The powers in subsection (1)(b) and (c) do not include power —

(a) to require a person to produce any record or document in respect of which a claim to legal professional privilege could be maintained in legal proceedings; or

(b) to take copies of such a record or document or to seize and remove it.

(4) A person authorised for the purposes of section 27, subject to any conditions imposed under that section —

(a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which the person considers is or has been in use in connection with the documents; and

(b) may require a person within subsection (5) to give such reasonable assistance as may be required for the purpose of inspecting the documents, computer or associated apparatus or material.

(5) A person is within this subsection if the person is —

(a) the person by whom or on whose behalf the computer is or has been used; or

(b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.

(6) A person entering premises under section 27, subject to any conditions imposed under that section may require any other person to afford them such facilities and assistance with respect to matters within the other person's control as are necessary to enable them to exercise powers under section 27 or this section.

(7) Any person who, without reasonable excuse, obstructs a person exercising any power under section 27 or this section, or fails to comply with any requirement imposed under this section, commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

PART 6 — INFORMATION

29. Director may request information

The Director may at any time require a registered person to provide information connected with the person's activities as a child minder or provider of day care which the Director considers necessary for the purposes of exercising the Director's functions under this Ordinance.

30. Report and supply of information

(1) The Director must submit an annual report to the Governor with such information as the Director considers necessary and the information must include the number of registered persons, whether or not there have been suspensions or cancellations of registration and any other statistics the Director considers necessary.

(2) The information which may be prescribed for the purposes of this section is information which would assist the Governor in the discharge of their functions under this Ordinance.

(3) The Director may provide information about whether or not a person is registered to a person exercising statutory powers, for purposes connected with the exercise of those functions.

PART 7 — OFFENCES, CRIMINAL PROCEEDINGS AND FIXED PENALTIES

31. Offence of making false or misleading statement

A person who knowingly or recklessly makes a statement which is false or is misleading in a material particular, in an application for registration, commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

32. Offences by corporate bodies

If an offence is committed by a body corporate and is proved to have been committed with the consent or connivance of or attributable to any neglect on the part of any director, manager or other similar officer of that body corporate, or of any person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be proceeded against and punished accordingly.

33. Offences by unincorporated associations

(1) Proceedings for an offence which is alleged to have been committed by an unincorporated association must be brought in the name of the association and not in the name of its members.

(2) For the purpose of proceedings under subsection (1), rules of court relating to the service of documents are to have effect as if the association were a body corporate.

(3) A fine imposed on an unincorporated association on conviction of an offence is to be paid out of the funds of the association.

(4) If an offence by an unincorporated association is shown —

(a) to have been committed with the consent or connivance of one or more officers of the association or members of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the association commit the offence and are liable to be proceeded against and punished accordingly.

PART 8 — MISCELLANEOUS

34. Fees

(1) A registered person may be required to pay a prescribed fee in respect of any functions performed by the Director under this Ordinance.

(2) Regulations may provide for such fee and for circumstances in which the fee may be varied or waived.

35. Giving of notices

(1) A notice under this Ordinance or regulations may be given to the registered person —

- (a) by delivering it to the person in question;
- (b) by sending it by post to the person's last known address; or
- (c) subject to subsection (3), by transmitting it electronically.

(2) A notice is deemed to be properly addressed if it is addressed to the last address notified by the registered person on their application for registration or subsequently.

(3) If the notice is transmitted electronically —

- (a) the registered person must have indicated to the Director their willingness to receive notices transmitted by electronic means and provided a suitable address for that purpose;
- (b) the notice must be sent to the address provided by the registered person; and
- (c) any notice sent in terms of this sub-section will be deemed to have been received by the registered person on the next working day after the day on which it is sent.

(4) An indication of a willingness to receive notices transmitted by electronic means for purposes of subsection (3) may be given generally for the purposes of notices to be given under the Ordinance or these regulations or may be limited to notices of a particular description.

36. Death of registered person

(1) Regulations may —

- (a) provide for this Ordinance to apply with modifications in cases where a person who was the only registered person in respect of the provision of day care at particular premises has died;
- (b) require the personal representatives of a deceased registered person to notify the Director of the death.

(2) Regulations under subsection (1)(a) may in particular —

- (a) provide for the day care to be provided at the premises for a prescribed period by a person who is not registered but is not a disqualified person; and
- (b) include provision for the prescribed period to be extended by such further period as the Director may determine.

37. Director to issue guidance

(1) The Director may issue guidance –

(a) for minimum standards to apply to child minding and provision of day care; or

(b) for any matter which is to be prescribed under a provision of this Ordinance but which has not been prescribed.

(2) The Director must make arrangements for any guidance issued under subsection (1) to be made available to all child minders, providers of day care and other relevant parties. (electronically or in hard copy).

38. Subsidiary legislation

(1) The Governor may make regulations or orders generally for giving effect to this Ordinance, and in particular regulations for —

(a) enforcement, revocation and suspension of registration;

(b) disqualification;

(c) quality of service provided;

(d) governance and management of service provided;

(e) complaints procedures;

(f) measures to be put in place for the protection of children, their welfare, development and healthcare;

(g) what happens when a registered person dies;

(h) safety and hazards;

(i) training requirements for registered persons and persons employed by the provider of day care or child minder; and

(j) any other matter under this Ordinance which requires regulations to be made or to be prescribed.

(2) Regulations under this section may provide that a registered person who without reasonable excuse contravenes, or fails to comply with, any requirement of the regulations, commits an offence and on conviction, is liable to a fine not exceeding level 5 on the standard scale.

PART 9 — TRANSITIONAL PROVISIONS

39. Continuation of child minding or provision of day care

Subject to sections 40, 41 and 42, any person who immediately before the date of commencement of this Ordinance is engaged in looking after children as a child minder or provider of day care, may continue to be engaged as such for a period of not more than 12 months from the date of commencement of this Ordinance.

40. Application for provisional registration

A person referred to in section 39 must apply to the Director in a form approved by the Director for provisional registration as a child minder or provider of day care within 30 days of the commencement of this Ordinance if he or she wishes to continue operating as a child minder or provider of day care during the transitional period.

41. Provisional registration

(1) The Director must within 30 days from the end of the application period, provisionally register the person making an application under section 40 if the person demonstrates that he or she can meet the requirements of sections 9 to 13 to the reasonable satisfaction of the Director.

(2) The Director must, during the transitional period, continuously monitor the operations of a person who has been provisionally registered as a child minder or provider of day care under subsection (1) for the progress he or she is making towards full compliance with the requirements of this Ordinance.

(3) A person who continues engaging in looking after children as a child minder or provider of day care after the application period without having secured provisional registration under subsection (1) commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

42. Extension of time

(1) The Governor may on the recommendation of the Director, by order extend the period of 12 months stated in section 39 generally or for a specific child minder or provider of day care who has been provisionally registered, for the purposes of enabling the person to comply with the requirements of the Ordinance.

(2) A recommendation by the Director under subsection (1) must be guided by the best interests of the children being looked after, both physical and mental.

43. Full registration

On or before the expiry of the transitional period, a person with provisional registration who wishes to continue to operate beyond the transitional period as a child minder or provider of day care, must obtain full registration as such under this Ordinance.

44. Interpretation in this Part

In this Part —

“application period” means the period of 30 days referred to in section 40;

“full registration” means registration as a child minder or provider of day care under this Ordinance.

“provisional registration” means registration of a child minder or a provider of day care under section 41; and

“transitional period” means a period of 12 months from the date of commencement of this Ordinance or any extended period under section 42;

OBJECTS AND REASONS

The Falkland Islands Government recognises that businesses involving children need to be regulated to ensure safeguarding of the children and standardisation of the service. This Ordinance provides for the regulation of child minders and providers of day care. Specific requirements for registration are prescribed in the Ordinance. The Director of Education has the responsibility of registering child minders and providers of day care. The premises where the children are looked after will be assessed for suitability before and after registration.

Part 1 of the Ordinance contains preliminary provisions.

Clause 1 is the short title and provides for commencement on a day appointed by the Governor by notice in the Gazette.

Clause 2 defines certain words used in the Ordinance. A child is defined as a person below the age of 12 years. *Clause 3* sets out what constitutes child minding and day care. A child minder looks after children on domestic premises and a provider of day care does it on other premises. *Clause 4* allows for exemptions to be made. The Governor may by order specify circumstances which do not amount to child minding or provision of day care.

Part 2 provides for registers and the duty to register.

The Director is required to keep a register of child minders and providers of day care. A duty is also imposed on persons wishing to be child minders or providers of day care to register in terms of the Ordinance.

Part 3 provides for the application processes and requirements for registration.

Clauses 9 and 11 deal with applications for registration and confer power to prescribe information that may be required for registration. *Clauses 10 and 12* provide for requirements for registration. Information relating to the applicant and the premises needs to be submitted by an applicant. Fees for registration may be charged.

Clause 14 allows the Director to impose conditions when registering an applicant. *Clause 15* empowers the Governor to make regulations on specific matters listed in that clause including

the suitability of the applicant, welfare and development of the children, maximum number of children to be looked after, supervision of staff, keeping of records etc.

Part 4 provides for cancellation and suspension of registration.

Clauses 16 and 17 regulate cancellation and suspension of registration respectively. The registration of a person who becomes disqualified under *clause 24* must be cancelled. Other discretionary grounds for cancellation are in *sub-clauses 16(2) and (3)*.

Clause 18 allows a registered person to request cancellation of their registration as long as it is not done to avoid an action by the Director. Children must be protected in the event of cancellation or in an emergency. This is provided for in *clauses 19 and 20*. *Clause 21* provides for procedures to be followed when the Director takes certain steps including refusal of registration, imposing a new condition, cancellation of registration etc. *Clause 22* gives the applicant or registered person an opportunity to object to such steps being taken and to appeal to the Governor under *clause 23*.

Disqualification from activities related to looking after children and the consequences are dealt with in *clauses 24 and 25*. Regulations will be made to provide for this in detail.

Part 5 provides for inspections for purposes of regulation and enforcement.

Inspections are essential to monitor the service that is provided and the suitability of the premises. Powers of entry and inspection are given under *clauses 26, 27 and 28*.

Part 6 deals with requests for information.

Clause 29 allows the Director to request information from a registered person for purposes of exercising the Director's functions. *Clause 30* requires the Director to make a quarterly report to the Governor containing prescribed information. The Director may give information regarding the registration status of a person to another person exercising statutory powers.

Part 7 provides for offences and penalties.

This part facilitates enforcement of the Ordinance by making certain conduct punishable.

Part 8 contains miscellaneous provisions.

Clause 34 empowers fees to be levied in respect of functions performed by the Director. *Clause 35* sets out how notices are to be given under the Ordinance. Regulations may be made under *clause 36* to provide for what happens in the event of the death of a registered person. *Clause 37* permits the Director to issue guidance on minimum standards and on other matters set out in the clause. These need to be flexible so as to react to changed circumstances. *Clause 38* is the general regulation making power and it allows the regulations to provide for penalties for non-compliance.

Part 9 contains transitional provisions. *Clause 39* gives up to twelve months to persons already engaged in child minding and provision of day care to comply with the new regulatory regime. It is essential to allow a transitional period after the commencement of the Ordinance. A person who wishes to carry on as a child minder or provider of day care during and after the transitional period, must apply for provisional registration within 30 days of commencement (*clause 40*).

Clause 41 provides that the Director may, within 30 days after the end of the application period grant provisional registration to persons who apply. Before granting provisional registration, the Director must be satisfied that the person applying can meet the requirements of *clauses 9 to 13*. The Director must also continuously monitor the operations of those persons who are provisionally registered for the progress the persons are making towards full registration.

Clause 42 allows the Governor to extend the transitional period either generally or for a specific person for the purpose of enabling the person to comply with the requirements for full registrations. *Clause 43* provides for full registration at the end of the transitional period. Terms used in Part 9 are defined in *clause 44*.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

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No. 13

The following are published in this Supplement —

Members' Remuneration Ordinance (Amendment) Order 2018 (SR&O No 20 of 2018);

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2018 (SR&O No 21 of 2018);

Law Revision and Publication Ordinance 2017 (Amendment) (No 3) Order 2018 (SR&O No 22 of 2018);

Supplementary Appropriation (2018-2019) (No 3) Ordinance 2018 (No 8 of 2018);

Child Minding and Day Care Ordinance 2018 (No 9 of 2018);

Child Minding and Day Care Regulations 2018 (SR&O No 23 of 2018); and

Child Minding and Day Care (Exemption) Order 2018 (SR&O No 24 of 2018).

SUBSIDIARY LEGISLATION

Members' Remuneration Ordinance (Amendment) Order 2018

S. R. & O. No: 20 of 2018

Made: 13 December 2018
Published: 21 December 2018
Coming into force: upon publication

I make the following order under section 9(1) of the Members' Remuneration Ordinance 2009 on the advice of the Executive Council.

1. Title

This Order is the Members' Remuneration Ordinance (Amendment) Order 2018.

2. Commencement

This Order comes into force on publication in the Gazette.

3. Amendment of Schedule – Amounts payable to Members

The Schedule to the Members' Remuneration Ordinance 2009 is amended in paragraph 14(1)(e)(i) by omitting “£25” and replacing it with “£30”.

Made 13 December 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE

(not part of the order)

This Order amends the Schedule to the Members' Remuneration Ordinance so as to replace “£25” with “£30” in paragraph 14(1)(e)(i). Paragraph 14 provides for the telephone and internet expenses that are payable to Members. The effect of the amendment is to increase the amount payable to Members for mobile telephone service from £25 to £30. The increase is a consequence of increases in charges by the service provider (SURE).

SUBSIDIARY LEGISLATION

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2018

S. R. & O. No.: 21 of 2018

Made: 18 December 2018

Published: 21 December 2018

Coming into force: on publication

I make this Order under section 9A of the Taxes and Duties (Special Exemptions) Ordinance 1987 on the advice of the Standing Finance Committee, as required by section 9A(1) of the Ordinance.

1. Title

This Order is the Taxes and Duties (Defence Contractors' Employees Exemption) Order 2018.

2. Commencement

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

3. Interpretation

In this Order —

“designated employer” means an employer listed in Parts 1 or 2 of 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;

“retirement pension contributions” means contributions that an employee is required to pay under the Retirement Pensions Ordinance 1996; and

“the Ordinance” means the Taxes and Duties (Special Exemptions) Ordinance 1987.

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) In respect of a qualifying employee of an employer listed in Part 1 of the Schedule, the exemption applies whether the liability arises before or after this Order comes into force.

(3) In respect of a qualifying employee of the employer listed in Part 2 of the Schedule, the exemption applies only in respect of liabilities arising after 30 September 2018

5. Duration

Nothing in this Order confers any exemption to pay either —

- (a) income tax in relation to earnings after 31 December 2019; or
- (b) retirement pension contributions in respect of employment after that date.

6. Condition: returns

(1) A designated employer must complete a return relating to the relevant income of qualifying employees in respect of each calendar year.

(2) A return under this article must —

- (a) include such particulars as the Commissioner may require;
- (b) be lodged with the Commissioner of Taxes within 60 days of the end of the calendar year to which it relates.

(3) The particulars referred to under sub-article (2)(a) may include the accounts of the designated employer for the period when the relevant income was earned.

7. Revocation

The Taxes and Duties (Defence Contractors’ Employees Exemption)(No 2) Order 2017 (No 34 of 2017) is revoked.

**SCHEDULE
DESIGNATED EMPLOYERS**

(article 3)

PART 1

AAR International Inc.
Agrimarine Limited
Airbus DS 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
Rhicon Piling Limited
Satec Limited
Serco Limited
Services Sound and Vision Corporation
Sodexo Defence Services Limited
Trant Construction Limited
Van Wijngaarden Marine Services b.v.
VolkerStevin Services Limited
VVB Engineering Limited
Westland Helicopters Limited

PART 2

G3 Systems Limited

Made 18 December 2018

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE
(not part of the Order)

Section 9A of the Taxes and Duties (Special Exemptions) Ordinance 1987 gives the Governor power to make orders granting exemptions from income tax and retirement pension contributions to certain individuals engaged in defence based employment.

The exemption set out in article 4 of this Order means that employees who work for one of the designated employers listed in the Schedule are exempt from income tax and retirement pension contributions until the end of 2019, provided that they are engaged in relevant employment (as defined) and that 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 2010 is 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 replaces an earlier Order in similar terms. The effect of article 5 of this Order is to extend the life of the exemption (which would otherwise expire on 31 December 2018) for a further year ending on 31 December 2019.

The Order also designates an additional employer; G3 Systems Limited, for the purposes of the exemption.

Article 4(2) provides that the exemption generally has retrospective effect. Article 4(3) provides that the exemption in relation to employees of G3 Systems Limited has limited retrospective effect.

Under section 9A, orders must be made on the advice of the Standing Finance Committee, and may be subject to lawful conditions. The Standing Finance Committee has advised that an obligation be imposed on companies to complete an employer's return which is provided for in article 6.

SUBSIDIARY LEGISLATION

Law Revision and Publication Ordinance 2017 (Amendment) (No 3) Order 2018

S. R. & O. No. 22 of 2018

Made: 18 December 2018

Published: 21 December 2018

Coming into force: on publication

I make this Order under section 25(8)(b) of the Law Revision and Publication Ordinance 2017 to give effect to a recommendation of the Statute Law Commissioner approved by the Legislative Assembly.

1. Title

This Order is the Law Revision and Publication Ordinance 2017 (Amendment) (No 3) Order 2018.

2. Commencement

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

3. Amendment of Schedule 1 to the Law Revision and Publication Ordinance

Schedule 1 to the Law Revision and Publication Ordinance 2017 (UK enactments which apply to Falkland Islands) is amended as set out in the Schedule to this Order.

SCHEDULE

AMENDMENT OF SCHEDULE 1 TO THE LAW REVISION AND PUBLICATION ORDINANCE 2017

1. Application of Merchant Shipping (Fees) Regulations 2018

In Part 2 of Schedule 1, replace the entries for the Merchant Shipping (Fees) Regulations 2006 (SI 2006/2055) and the Merchant Shipping (Fees) Regulations 2015 (SI 2015/315) with —

| | | | |
|--|------|-------------------|---|
| Merchant Shipping (Fees) Regulations 2018 (SI 2018/1104) | 2018 | Whole Regulations | <p>1. Subject to paragraph 2, the Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.</p> <p>2. The Regulations apply as if the Merchant Shipping (Work in Fishing Convention) (Consequential</p> |
|--|------|-------------------|---|

| | | | |
|--|--|--|--|
| | | | Provisions) Regulations 2018 (SI 2018/1109) had never been made. |
|--|--|--|--|

2. Amendment of application of various Merchant Shipping Regulations

In Part 2 of Schedule 1, replace the entries for the following statutory instruments as set out below —

| | | | |
|---|------|-------------------|--|
| Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations (SI 1997/2962) | 1997 | Whole Regulations | <p>1. Subject to paragraph 2, the Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.</p> <p>2. The Regulations apply as if the Merchant Shipping (Work in Fishing Convention) (Consequential Provisions) Regulations 2018 (SI 2018/1109) had never been made.</p> |
| Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen)(Fishing Vessels) Regulations (SI 1972/919) | 1972 | Whole Regulations | <p>1. Subject to paragraph 2, the Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.</p> <p>2. The Regulations apply as if the Merchant Shipping (Work in Fishing Convention) (Consequential Provisions) Regulations 2018 (SI 2018/1109) had never been made.</p> |
| Merchant Shipping (Provisions and Water) Regulations (SI 1989/102) | 1989 | Whole Regulations | <p>1. Subject to paragraph 2, the Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.</p> <p>2. The Regulations apply as if the Merchant Shipping (Work in Fishing Convention) Regulations 2018 (SI 2018/1106) had never been made.</p> |

| | | | |
|--|------|-------------------|--|
| Merchant Shipping (Repatriation) Regulations 1979 (SI 1979/97) | 1979 | Whole Regulations | <p>1. Subject to paragraph 2, the Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.</p> <p>2. The Regulations apply as if the Merchant Shipping (Work in Fishing Convention) (Consequential Provisions) Regulations 2018 (SI 2018/1109) had never been made.</p> |
| Merchant Shipping (Seamen's Wages and Accounts) (Fishing Vessels) Regulations (SI 1972/1701) | 1972 | Whole Regulations | <p>1. Subject to paragraph 2, the Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.</p> <p>2. The Regulations apply as if the Merchant Shipping (Work in Fishing Convention) (Consequential Provisions) Regulations 2018 (SI 2018/1109) had never been made.</p> |

Made 18 December 2018

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE
(not forming part of this Order)

This Order amends Part 2 of Schedule 1 of the Law Revision and Publication Ordinance 2017 —

(a) to insert reference to the Merchant Shipping (Fees) Regulations 2018 (SI 2018/1104) in substitution for regulations revoked by them; and

(b) to disapply the following regulations, which would otherwise have effect in the Falkland Islands by virtue of section 24 of the Law Revision and Publication Ordinance —

Merchant Shipping (Work in Fishing Convention) Regulations 2018 (SI 2018/1106); and

Merchant Shipping (Work in Fishing Convention) (Consequential Provisions) Regulations 2018 (SI 2018/1109).

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Supplementary Appropriation (2018-2019) (No 3) Ordinance 2018

(No: 8 of 2018)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Withdrawal of additional sum
4. Replenishment of Contingencies Fund

Schedule

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

SUPPLEMENTARY APPROPRIATION (2018-2019) (NO 3) ORDINANCE 2018

(No: 8 of 2018)

(assented to: 18 December 2018)

(commencement: on publication)

(published: 21 December 2018)

AN ORDINANCE

To authorise the withdrawal from the Consolidated Fund of the additional sum of £4,026,584 for the financial year ending 30 June 2019.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2018-2019) (No 3) Ordinance 2018.

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 £4,026,584 from the Consolidated Fund.

(2) Any additional sum withdrawn under subsection (1) may be applied in the financial year ending 30 June 2019 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 No. 4 of 2018-2019, the Financial Secretary will replenish the fund from the additional sum withdrawn under section 3.

SCHEDULE

| Number | Head of Service | Amount £ |
|-------------------------|--|--------------------|
| Operating Budget | | |
| 0110 | Development & Commercial Services | 25,130 |
| 0200 | Health & Social Services | 40,000 |
| 0350 | Public Works | 1,466,650 |
| 0410 | Natural Resources | 17,000 |
| 0615 | Policy Unit | 29,814 |
| | Total Operating Budget | 1,578,594 |
| 0999 | Fund Transfer and Transfer Payments | 2,447,990 |
| | Total Schedule | £4,026,584 |

Passed by the Legislature of the Falkland Islands on 13 December 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Child Minding and Day Care Ordinance 2018

(No. 9 of 2018)

ARRANGEMENT OF PROVISIONS

Section

PART 1—PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Child minding and day care
4. Exemptions to section 3

PART 2—REGISTERS AND DUTY TO REGISTER

5. Register of child minders
6. Duty of child minders to register
7. Register of providers of day care
8. Duty of providers of day care to register

PART 3—APPLICATION FOR REGISTRATION

9. Application for registration as child minder
10. Requirements for registration as a child minder
11. Application for registration as a provider of day care
12. Requirements for registration as a provider of day care
13. Entry in the register and certificate of registration
14. Conditions on registration
15. Regulations governing activities of registered persons

PART 4—CANCELLATION AND SUSPENSION OF REGISTRATION

16. Cancellation of registration
17. Suspension of registration
18. Voluntary removal from register
19. Protection of children in an emergency: cancellation of registration
20. Protection of children in an emergency: change to conditions
21. Procedure for taking certain steps
22. Objection by applicant or registered person
23. Appeals
24. Disqualification
25. Consequences of disqualification

PART 5 — INSPECTION

26. Inspection
27. Powers of entry
28. Powers of inspection

PART 6 — INFORMATION

29. Director may request information
30. Report and supply of information

PART 7 — OFFENCES, CRIMINAL PROCEEDINGS AND FIXED PENALTIES

31. Offence of making false or misleading statement
32. Offences by corporate bodies
33. Offences by unincorporated associations

PART 8 — MISCELLANEOUS

34. Fees
35. Giving of notices
36. Death of registered person
37. Director to issue guidance
38. Subsidiary legislation

PART 9 — TRANSITIONAL PROVISIONS

39. Continuation of child minding and provision of day care
40. Application for provisional registration
41. Provisional registration
42. Extension of time
43. Full registration
44. Interpretation in this Part

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

CHILD MINDING AND DAY CARE ORDINANCE 2018

(No: 9 of 2018)

(assented to:18 December 2018)
(commencement: in accordance with section 1)
(published: 21 December 2018)

AN ORDINANCE

To provide for the regulation of child minding and day care for children; to provide for the registration of child minders or day care providers and to provide for incidental matters.

ENACTED by the Legislature of the Falkland Islands —

PART 1 — PRELIMINARY

1. Short title and commencement

(1) This Ordinance is the Child Minding and Day Care Ordinance 2018.

(2) This Ordinance comes into operation on a day appointed by the Governor by notice published in the *Gazette*.

2. Interpretation

In this Ordinance, unless the context otherwise requires —

“applicant” means a person who applies for registration as a child minder or a day care provider under this Ordinance;

“body corporate” means a company or any other incorporated body;

“child” means a person below the age of 12 years;

“child minder” means a person referred to in section 3(1)(a);

“development” means physical, intellectual, emotional, social or behavioural development;

“Director” means the Director of Education or the Director’s nominated representative;

“domestic premises” means any premises which are used wholly or mainly as a private dwelling;

“employee” means an individual who is employed by a registered person to assist in looking after children on premises.

“harm” means ill-treatment or impairment of health, including impairment suffered from seeing or hearing the ill-treatment of another;

“ill-treatment” includes sexual abuse and any form of ill-treatment which is not physical;

“new condition” means a condition imposed otherwise than at the time of the person’s registration as a child minder or a provider of day care;

“premises” means a place where children are looked after by a child minder or a provider of child care;

“prescribed” means prescribed by order or in regulations;

“provider of day care” means a person referred to in section 3(1)(b);

“registered person” means a person registered under this Ordinance as a child minder or as a provider of day care; and

“unincorporated association” includes sole traders, partnerships, trusts, voluntary organisations or other similarly constituted bodies.

3. Child minding and day care

(1) Subject to section 4, a person who looks after children at any time other than as an employee—

(a) on domestic premises, is a child minder;

(b) on premises other than domestic premises, is a provider of day care.

(2) The Governor may by order amend the definition of “child” to substitute a different age limit.

4. Exemptions to section 3

- (1) The Governor may by order specify circumstances when a person is not acting as a child minder or a provider of day care in terms of this Ordinance.
- (2) The order under subsection (1) may relate to any of the following matters, among others —
 - (a) the person who is the child minder or provider of day care;
 - (b) the child or children for whom the child minding or day care is provided;
 - (c) the nature of the child minding or day care;
 - (d) the premises on which the child minding or day care is provided;
 - (e) the times during which the child minding or day care is provided; and
 - (f) the arrangements under which the child minding or day care is provided.

PART 2 — REGISTERS AND DUTY TO REGISTER

5. Register of child minders

- (1) The Director must maintain a child minders' register containing a list of all persons who are registered as child minders and the premises on which they are authorised to operate.
- (2) Any person may request to inspect the register maintained under subsection (1) during the hours that the Director's office is open for business.

6. Duty of child minders to register

- (1) A person must not act as a child minder on domestic premises unless that person is registered as a child minder in respect of those premises under section 9(3).
- (2) A person who acts as a child minder in contravention of subsection (1) without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

7. Register of providers of day care

- (1) The Director must maintain a register containing a list of persons who are registered as providers of day care and of the premises on which they are authorised to provide the day care.
- (2) Any person may request to inspect the register maintained under subsection (1) during the hours that the Director's office is open for business.

8. Duty of providers of day care to register

- (1) A person must not provide day care on any premises unless they are registered as a provider of day care on those premises under section 11(3).

(2) A person who contravenes subsection (1) without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

PART 3 — APPLICATION FOR REGISTRATION

9. Application for registration as child minder

(1) A person who proposes to act as a child minder must apply to the Director for registration as a child minder.

(2) An application must —

(a) give information on such matters as may be prescribed;

(b) give any other information which the Director may reasonably require the applicant to give; and

(c) be accompanied by the prescribed fee, if any.

(3) The Director must register the applicant if —

(a) the applicant is not disqualified in terms of section 24;

(b) it appears to the Director that all the prescribed requirements for registration as a child minder are satisfied and are likely to continue to be satisfied; and

(c) the applicant has paid the prescribed fee, if any.

(4) The Director must refuse to register an applicant who does not meet the requirements of subsection (3).

10. Requirements for registration as a child minder

The Governor may prescribe requirements for registration as a child minder which may include requirements relating to —

(a) the applicant, the application and its form;

(b) the premises on which the child minding is to be provided;

(c) the number of children to be looked after;

(d) the arrangements for child minding on those premises;

(e) any person who may be looking after children on those premises; or

(f) any other person who may be on those premises.

11. Application for registration as a provider of day care

(1) A person who proposes to provide day care on particular premises must apply to the Director for registration as a provider of day care on those premises.

(2) An application must —

(a) give information on such matters as may be prescribed; or

(b) give any other information which the Director may reasonably require the applicant to give; and

(c) be accompanied by the prescribed fee, if any.

(3) The Director must register the applicant if —

(a) the applicant is not disqualified under section 24;

(b) it appears to the Director that all the prescribed requirements for registration as a provider of day care are satisfied and are likely to continue to be satisfied; and

(c) the applicant has paid the prescribed fee.

(4) The Director must refuse an application which does not meet the requirements of subsection (3).

12. Requirements for registration as a provider of day care

The Governor may prescribe requirements for registration of providers of day care which may include requirements relating to —

(a) the applicant, the application and its form;

(b) the premises on which the children are to be looked after;

(c) the number of children to be looked after;

(d) the arrangements for looking after children on those premises;

(e) any person who may be looking after children on those premises, and

(f) any other person who may be on those premises.

13. Entry in the register and certificate of registration

(1) If an application under section 9 is approved, the Director must —

(a) register the applicant in the child minders' register in respect of the domestic premises applied for; and

(b) give the applicant a certificate of registration.

(2) If an application under section 11 is approved, the Director must —

(a) register the applicant in the providers of day care register in respect of the premises applied for; and

(b) give the applicant a certificate of registration.

(3) A certificate of registration under subsection (1) or (2) must contain such information as is prescribed.

(4) A registered person must advise the Director of a change in circumstances which requires the amendment of a certificate of registration and if the Director agrees with the changes, he or she must give the registered person an amended certificate.

(5) If the Director is satisfied that a certificate of registration has been lost or destroyed, the Director must give the registered person a copy, on payment of the prescribed fee, if any.

14. Conditions on registration

(1) The Director may impose such conditions as the Director considers necessary on the registration of a child minder or a provider of day care.

(2) The power to impose conditions may be exercised at the time of registration under section 9 or 11 or at any subsequent time after registration.

(3) The Director may at any time vary or remove a condition imposed under this section.

(4) Before varying or imposing new conditions, the Director must comply with sections 21 and 22.

(5) A registered person who without reasonable excuse, fails to comply with a condition imposed under this section commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

15. Regulations governing activities of registered persons

(1) The Governor may make regulations on the activities of registered persons.

(2) Regulations made under subsection (1) may prescribe the following matters, among others—

(a) welfare and development of the children concerned;

(b) suitability to look after, or to be in regular contact with, the children concerned;

(c) qualifications and training;

- (d) maximum number of children who may be looked after on premises and the number of persons required to assist in looking after the children;
- (e) maintenance, safety and suitability of premises and equipment;
- (f) procedures for dealing with complaints;
- (g) supervision of employees;
- (h) keeping of records;
- (i) provision of information;
- (j) persons who may live in or visit the premises where child minding or day care is provided; and
- (k) hygiene requirements relating to changing rooms, kitchen, sick bay and other areas.

PART 4 — CANCELLATION AND SUSPENSION OF REGISTRATION

16. Cancellation of registration

- (1) The Director must cancel a person's registration if it appears that the registered person has become disqualified under section 24 or under section 19.
- (2) The Director may cancel a person's registration if any of the following applies —
 - (a) the requirements for registration that apply under section 10 or 12 are no longer satisfied or will no longer be satisfied;
 - (b) the registered person has failed to comply with a condition imposed on that person's registration;
 - (c) the registered person has failed to comply with a requirement imposed on that person by this Ordinance or regulations; or
 - (d) the registered person has failed to pay the prescribed fee, if any.
- (3) Where conditions imposed under section 14 require the registered person to make changes or additions to any services, equipment or premises, registration may only be cancelled —
 - (a) when the time set for complying with the requirement has expired, and
 - (b) if it is shown that the defect or insufficiency is due to the fact that the relevant changes or additions have not been made.
- (4) A cancellation under this section must be in writing.

- (5) The Governor may prescribe other circumstances in which registration may be cancelled.
- (6) A registered person may appeal against a cancellation of registration in terms of section 23.

17. Suspension of registration

- (1) The Governor may make regulations providing for the suspension of a registered person.
- (2) Regulations under subsection (1) may include —
 - (a) the period of suspension;
 - (b) the circumstances in which registration may be suspended; or
 - (c) the circumstances in which a registered person may be suspended at their own request.
- (3) A registered person may appeal against a suspension in terms of section 23.
- (4) A person must not act as a child minder or a provider of day care on premises at a time when their registration is suspended.
- (5) A person who contravenes subsection (4) commits an offence and is liable on conviction to a fine not exceeding level 6 on the standard scale.

18. Voluntary removal from register

- (1) A registered person may give notice to the Director requesting to be removed from the register of child minders or register of providers of day care.
- (2) Subject to subsection (3), if a registered person gives notice under subsection (1), the Director must remove that person from the relevant register.
- (3) The Director must not act under subsection (2) if —
 - (a) the Director has sent a notice under section 21(3) of an intention to cancel the person's registration and the Director intends to take that step; and
 - (b) the time within which an appeal under section 23 may be brought has not expired or, if an appeal has been brought, it has not been determined.
- (4) A person whose name is removed from the register under subsection (1) must surrender the certificate of registration to the Director.

19. Protection of children in an emergency: cancellation of registration

- (1) The Director may cancel a person's registration if it appears on reasonable grounds that a child for whom child minding or day care is being, or may be, provided is suffering, will suffer or is likely to suffer significant harm as a result of the child minding or day care provided.

(2) A cancellation of a registration under subsection (1) may be made without prior notice, must be in writing and takes effect from the time that it is made.

(3) If a cancellation is made under subsection (1), the Director must serve the following on the registered person as soon as is reasonably practicable after the cancellation is made —

(a) the notice of cancellation;

(b) a copy of any written statement in support of the cancellation; and

(c) notice of any right of appeal conferred by section 23.

(4) The documents referred to in subsection (3) may be served on the registered person in terms of section 35.

20. Protection of children in an emergency: change to conditions

(1) Where the Director believes that unless he or she acts against a registered person, a child will suffer or is likely to suffer significant harm as a result of the child minding or day care provided, the Director may vary or remove a condition for the time being in force or impose a new condition.

(2) The Director must inform the registered person in writing of the decision under subsection (1) and the decision takes effect from the time when the notice is served or when the registered person is informed whichever is the earlier.

(3) When informing the registered person, the Director must —

(a) state reasons for believing that the circumstances fall within subsection (1); and

(b) where the Director has varied, removed or imposed a new condition, specify the condition varied, removed or imposed, and explain the right of appeal conferred by section 23.

21. Procedure for taking certain steps

(1) This section applies if the Director proposes to take any of the following steps —

(a) refuse an application for registration;

(b) impose a new condition on a person's registration;

(c) vary or remove any condition imposed on a person's registration;

(d) refuse to grant an application for the variation or removal of any such condition; or

(e) cancel or suspend a person's registration.

(2) This section does not apply to action taken under section 19(1) or 20(1).

(3) The Director must give notice of an intention to take a step mentioned in subsection (1) to the applicant for registration or to a registered person.

(4) A notice under subsection (3) must include the Director's reasons for proposing to take the step and must inform the applicant or registered person of their rights under sections 22 and 23.

(5) Subject to sections 22 and 23, the Director may take the step at the end of 28 days from the day when notice was given and the Director must notify the applicant or registered person of the decision.

22. Objection by applicant or registered person

(1) The Director must give the person receiving a notice under section 21 ("the recipient") an opportunity to object within a period specified by the Director in the notice.

(2) An objection under subsection (1) must be in writing and may be made by the recipient or the recipient's representative.

(3) A step taken under paragraph (b), (c) or (e) of section 21(1) does not have effect until —

(a) the expiry of the time allowed for an appeal under section 23; or

(b) the appeal is determined, and the taking of the step is confirmed.

(4) A step takes effect immediately where the person concerned notifies the Director that he or she does not intend to object or appeal.

(5) An applicant may not withdraw an application without the consent of the Director if the Director gives notice that he or she intends to refuse the application.

23. Appeals

(1) An applicant or a registered person may, within 30 days of receiving a notice under section 21(3), appeal to the Governor against the taking of any of the steps referred to in section 21(1).

(2) The following persons may also appeal to the Governor —

(a) an applicant or a registered person in respect of a determination made by the Director under this Ordinance;

(b) a registered person against whom section 19 is applied; and

(c) a registered person against whom section 20 is applied.

(3) On appeal the Governor may —

(a) confirm the taking of the step, the determination or the giving of the notice; or

(b) direct that the step does not, or ceases to, have effect.

(4) If the Governor does not confirm the taking of a step referred to in section 21(1)(a) or (e) or the Director's decision under section 19 or 20, the Governor may do either or both of the following —

(a) impose new conditions on the registration of the person concerned; or

(b) vary or remove any condition previously imposed on the person's registration.

24. Disqualification

The Governor may make regulations providing for disqualification from being a child minder, provider of day care or from being employed to perform work that is related to looking after children under this Ordinance.

25. Consequences of disqualification

(1) A person who is disqualified under section 24 must not —

(a) act as a child minder or be directly or indirectly engaged in looking after children; or

(b) provide day care or be directly or indirectly involved or engaged in the management of any provision of day care.

(2) A person must not employ, in connection with the provision of day care or child minding, a person who is disqualified under section 24.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to imprisonment for a term not exceeding one year or to a fine not exceeding level 6 on the standard scale, or both.

(4) A person who contravenes subsection (2) does not commit an offence under subsection (3) if the person demonstrates in writing to the Director's reasonable satisfaction that the person did not know, and had no reasonable grounds for believing, that the person employed was disqualified.

PART 5 — INSPECTION

26. Inspection

(1) The Governor may make regulations providing for —

(a) inspection of child minding and day care facilities and services, provided by registered persons;

(b) inspection of premises prior to registration; and

(c) publication of reports of the inspection in such manner as the Governor considers appropriate.

(2) Regulations may provide for the inspection to be organised by the Director or any other person under arrangement made with the Director.

(3) Regulations may provide that for purposes of the law of defamation, any report published under the regulations is privileged.

(4) Regulations made under subsection (3) do not limit any privilege subsisting except as provided in those regulations.

27. Powers of entry

(1) The Governor may authorise a person to enter any premises on which child minding or day care is provided to exercise the powers given under section 28.

(2) The Governor may authorise a person to enter any premises if the Governor has reasonable cause to believe that a child is being looked after on those premises in contravention of this Ordinance and that person may exercise the powers given under section 28.

(3) Authorisation under subsection (1) or (2) may be given for a particular occasion, period or generally and may be given subject to conditions.

(4) A person exercising any power conferred by this section or section 28 must, on request, produce a duly authenticated document showing their authority.

28. Powers of inspection

(1) Subject to subsection (3), a person entering premises under section 27 may, subject to any conditions imposed under that section —

(a) inspect the premises;

(b) inspect, and take copies of any records kept by the child minder or provider of day care and any other documents containing information relating to child minding or provision of day care;

(c) seize and remove any document or other material or thing found on the premises which the authorised person has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement under this Ordinance or regulations;

(d) take measurements and photographs or make recordings;

(e) inspect any children being looked after on the premises, and the arrangements made for their welfare;

(f) interview in private any person looking after children, or living or working, on the premises, who consents to be interviewed.

(2) The power in subsection (1)(b) includes —

(a) power to require any person holding or accountable for documents or records kept on the premises to produce them;

(b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(3) The powers in subsection (1)(b) and (c) do not include power —

(a) to require a person to produce any record or document in respect of which a claim to legal professional privilege could be maintained in legal proceedings; or

(b) to take copies of such a record or document or to seize and remove it.

(4) A person authorised for the purposes of section 27, subject to any conditions imposed under that section —

(a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which the person considers is or has been in use in connection with the documents; and

(b) may require a person within subsection (5) to give such reasonable assistance as may be required for the purpose of inspecting the documents, computer or associated apparatus or material.

(5) A person is within this subsection if the person is —

(a) the person by whom or on whose behalf the computer is or has been used; or

(b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.

(6) A person entering premises under section 27, subject to any conditions imposed under that section may require any other person to afford them such facilities and assistance with respect to matters within the other person's control as are necessary to enable them to exercise powers under section 27 or this section.

(7) Any person who, without reasonable excuse, obstructs a person exercising any power under section 27 or this section, or fails to comply with any requirement imposed under this section, commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

PART 6 — INFORMATION

29. Director may request information

The Director may at any time require a registered person to provide information connected with the person's activities as a child minder or provider of day care which the Director considers necessary for the purposes of exercising the Director's functions under this Ordinance.

30. Report and supply of information

(1) The Director must submit an annual report to the Governor with such information as the Director considers necessary and the information must include the number of registered persons, whether or not there have been suspensions or cancellations of registration and any other statistics the Director considers necessary.

(2) The information which may be prescribed for the purposes of this section is information which would assist the Governor in the discharge of their functions under this Ordinance.

(3) The Director may provide information about whether or not a person is registered to a person exercising statutory powers, for purposes connected with the exercise of those functions.

PART 7 — OFFENCES, CRIMINAL PROCEEDINGS AND FIXED PENALTIES

31. Offence of making false or misleading statement

A person who knowingly or recklessly makes a statement which is false or is misleading in a material particular, in an application for registration, commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

32. Offences by corporate bodies

If an offence is committed by a body corporate and is proved to have been committed with the consent or connivance of or attributable to any neglect on the part of any director, manager or other similar officer of that body corporate, or of any person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be proceeded against and punished accordingly.

33. Offences by unincorporated associations

(1) Proceedings for an offence which is alleged to have been committed by an unincorporated association must be brought in the name of the association and not in the name of its members.

(2) For the purpose of proceedings under subsection (1), rules of court relating to the service of documents are to have effect as if the association were a body corporate.

(3) A fine imposed on an unincorporated association on conviction of an offence is to be paid out of the funds of the association.

(4) If an offence by an unincorporated association is shown —

(a) to have been committed with the consent or connivance of one or more officers of the association or members of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the association commit the offence and are liable to be proceeded against and punished accordingly.

PART 8 — MISCELLANEOUS

34. Fees

(1) A registered person may be required to pay a prescribed fee in respect of any functions performed by the Director under this Ordinance.

(2) Regulations may provide for such fee and for circumstances in which the fee may be varied or waived.

35. Giving of notices

(1) A notice under this Ordinance or regulations may be given to the registered person —

(a) by delivering it to the person in question;

(b) by sending it by post to the person's last known address; or

(c) subject to subsection (3), by transmitting it electronically.

(2) A notice is deemed to be properly addressed if it is addressed to the last address notified by the registered person on their application for registration or subsequently.

(3) If the notice is transmitted electronically —

(a) the registered person must have indicated to the Director their willingness to receive notices transmitted by electronic means and provided a suitable address for that purpose;

(b) the notice must be sent to the address provided by the registered person; and

(c) any notice sent in terms of this sub-section will be deemed to have been received by the registered person on the next working day after the day on which it is sent.

(4) An indication of a willingness to receive notices transmitted by electronic means for purposes of subsection (3) may be given generally for the purposes of notices to be given under the Ordinance or these regulations or may be limited to notices of a particular description.

36. Death of registered person

(1) Regulations may —

(a) provide for this Ordinance to apply with modifications in cases where a person who was the only registered person in respect of the provision of day care at particular premises has died;

(b) require the personal representatives of a deceased registered person to notify the Director of the death.

(2) Regulations under subsection (1)(a) may in particular —

(a) provide for the day care to be provided at the premises for a prescribed period by a person who is not registered but is not a disqualified person; and

(b) include provision for the prescribed period to be extended by such further period as the Director may determine.

37. Director to issue guidance

(1) The Director may issue guidance –

(a) for minimum standards to apply to child minding and provision of day care; or

(b) for any matter which is to be prescribed under a provision of this Ordinance but which has not been prescribed.

(2) The Director must make arrangements for any guidance issued under subsection (1) to be made available to all child minders, providers of day care and other relevant parties. (electronically or in hard copy).

38. Subsidiary legislation

(1) The Governor may make regulations or orders generally for giving effect to this Ordinance, and in particular regulations for —

(a) enforcement, revocation and suspension of registration;

(b) disqualification;

(c) quality of service provided;

(d) governance and management of service provided;

(e) complaints procedures;

(f) measures to be put in place for the protection of children, their welfare, development and healthcare;

(g) what happens when a registered person dies;

(h) safety and hazards;

(i) training requirements for registered persons and persons employed by the provider of day care or child minder; and

(j) any other matter under this Ordinance which requires regulations to be made or to be prescribed.

(2) Regulations under this section may provide that a registered person who without reasonable excuse contravenes, or fails to comply with, any requirement of the regulations, commits an offence and on conviction, is liable to a fine not exceeding level 5 on the standard scale.

PART 9 — TRANSITIONAL PROVISIONS

39. Continuation of child minding or provision of day care

Subject to sections 40, 41 and 42, any person who immediately before the date of commencement of this Ordinance is engaged in looking after children as a child minder or provider of day care, may continue to be engaged as such for a period of not more than 12 months from the date of commencement of this Ordinance.

40. Application for provisional registration

A person referred to in section 39 must apply to the Director in a form approved by the Director for provisional registration as a child minder or provider of day care within 30 days of the commencement of this Ordinance if he or she wishes to continue operating as a child minder or provider of day care during the transitional period.

41. Provisional registration

(1) The Director must within 30 days from the end of the application period, provisionally register the person making an application under section 40 if the person demonstrates that he or she can meet the requirements of sections 9 to 13 to the reasonable satisfaction of the Director.

(2) The Director must, during the transitional period, continuously monitor the operations of a person who has been provisionally registered as a child minder or provider of day care under subsection (1) for the progress he or she is making towards full compliance with the requirements of this Ordinance.

(3) A person who continues engaging in looking after children as a child minder or provider of day care after the application period without having secured provisional registration under subsection (1) commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

42. Extension of time

(1) The Governor may on the recommendation of the Director, by order extend the period of 12 months stated in section 39 generally or for a specific child minder or provider of day care who has been provisionally registered, for the purposes of enabling the person to comply with the requirements of the Ordinance.

(2) A recommendation by the Director under subsection (1) must be guided by the best interests of the children being looked after, both physical and mental.

43. Full registration

On or before the expiry of the transitional period, a person with provisional registration who wishes to continue to operate beyond the transitional period as a child minder or provider of day care, must obtain full registration as such under this Ordinance.

44. Interpretation in this Part

In this Part —

“application period” means the period of 30 days referred to in section 40;

“full registration” means registration as a child minder or provider of day care under this Ordinance.

“provisional registration” means registration of a child minder or a provider of day care under section 41; and

“transitional period” means a period of 12 months from the date of commencement of this Ordinance or any extended period under section 42.

Passed by the Legislature of the Falkland Islands on 13 December 2018.

CHERIE YVONNE CLIFFORD.,
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.,
Clerk of the Legislative Assembly.

SUBSIDIARY LEGISLATION

Child Minding and Day Care Regulations 2018

S. R. & O. No: 23 of 2018

ARRANGEMENT OF PROVISIONS

PART 1 : INTRODUCTORY

1. Title and commencement
2. Interpretation

PART 2 : APPLICATION FOR REGISTRATION

3. Application for registration
4. Certificate of registration

PART 3 : INFORMATION AND DOCUMENTATION REQUIRED FOR REGISTRATION AS CHILD MINDER

5. Information about an applicant to be a child minder
6. Information to be provided by child minder
7. Central record about other persons, employees or staff
8. Information about other persons on premises
9. Documents to be submitted

PART 4 : INFORMATION AND DOCUMENTATION REQUIRED FOR REGISTRATION AS PROVIDER OF DAY CARE

10. Information about an applicant to be provider of day care
11. Responsible individual
12. Information about the person in charge
13. Information about the service to be provided

PART 5 : SUITABILITY OF REGISTERED PERSON, PERSON IN CHARGE ETC

14. Suitability for registration
15. Appointment of a person in charge
16. Suitability of person in charge
17. General requirements for registered person
18. Notification of offences
19. Death of registered provider of day care

20. Death of a childminder

PART 6 : GENERAL REQUIREMENTS AND ENFORCEMENT

21. Requirement to comply with regulations and regard to minimum standards
22. Statement of purpose
23. Quality of service
24. Assessment of service
25. Compliance notice

PART 7 : ACTIVITIES OF REGISTERED PERSONS

26. Safeguarding and promotion of welfare
27. Food provided for children
28. Arrangements for the protection of children
29. Behaviour management, discipline and restraint
30. Health needs of children
31. Hazards and safety
32. Use and storage of medicines
33. Staffing and employees
34. Suitability of employees
35. Disciplinary procedure for staff and employees
36. Keeping of records
37. Information to be notified
38. Complaints
39. Handling complaints
40. Fitness of premises
41. Fire precautions

PART 8 : SUSPENSION OF A PERSON'S REGISTRATION

42. Power to suspend registration
43. Period of suspension
44. Notice of suspension
45. Delivery of notices
46. Lifting of suspension
47. Rights of appeal
48. Voluntary suspension
49. Grounds for disqualification

SUBSIDIARY LEGISLATION

Child Minding and Day Care Regulations 2018

S. R. & O. No. 23 of 2018

Made: 18. December 2018

Published: 21 December 2018

Coming into force: see regulation 1

I make these regulations under section 38 of the Child Minding and Day Care Ordinance 2018 on the advice of the Executive Council.

PART 1 : INTRODUCTORY

1. Title and commencement

(1) These regulations are the Child Minding and Day Care Regulations 2018.

(2) These regulations come into force on a day appointed by the Governor by notice in the *Gazette*.

2. Interpretation

In these regulations —

“criminal record certificate” means an enhanced criminal record certificate issued by the Police which includes suitability information relevant to looking after children;

“fire and rescue authority” means the Falkland Islands Fire and Rescue Service;

“guidance” means guidance issued by the Director under section 37 of the Ordinance;

“minimum standards” means the minimum standards issued by the Director in guidance;

“organisation” means a body corporate or an unincorporated association;

“person in charge” means the individual appointed by a registered person to be in full day-to-day charge of looking after children on the relevant premises;

“Police” means the Royal Falkland Islands Police referred to in the Police Ordinance 2000;

“relevant premises” or “premises” means premises on which a child minder or a provider of day care looks after children;

“responsible individual” means, in respect of an organisation, a director, manager or other similar officer of a body corporate, or an officer or member of the governing body of an unincorporated association, in either case who is responsible for the supervision of the operations of the registered person; and

“statement of purpose” means the statement compiled in terms of regulation 22.

PART 2 : APPLICATION FOR REGISTRATION

3. Application for registration

(1) An application for registration as a child minder under section 9(1) of the Ordinance must —

- (a) be in writing and in a form approved by the Director;
- (b) be sent or delivered to the Director’s office; and
- (c) include the information and documentation referred to in Part 3.

(2) An application for registration as a provider of day care under section 11(1) of the Ordinance must —

- (a) be in writing and in a form approved by the Director;
- (b) be sent or delivered to the Director’s office; and
- (c) include the information and documentation referred to in Part 4 and as the context permits, in Part 3.

4. Certificate of registration

A certificate of registration must contain the following particulars —

- (a) address and telephone number of the Director’s office;
- (b) the name of the person who has been registered;
- (c) the address of the premises at which the child minder or provider of day care will look after children;
- (d) the name of the person in charge, where one has been appointed;
- (e) where the registration is subject to any conditions, details of the conditions;
- (f) date of registration;
- (g) a statement that if the child minder or provider of day care contravenes the conditions imposed, the registration may be cancelled; and

(h) a statement that the certificate relates only to the person to whom it is issued and may not be transferred to another person.

PART 3 : INFORMATION AND DOCUMENTATION REQUIRED FOR REGISTRATION AS CHILD MINDER

5. Information about an applicant to be a child minder

The applicant for registration as a child minder must provide —

(a) their full name (and any alias or any former name), date of birth, address and telephone number;

(b) details of their professional or technical qualifications and experience, so far as such qualifications and experience are relevant to looking after children or supervising staff or employees who assist in looking after children;

(c) details of their full employment history, including —

(i) a satisfactory written explanation of any gaps in employment;

(ii) where any previous employment or position has involved work with children, so far as reasonably practicable, verification of the reason why the employment or position ended; and

(iii) the name and address of any present employer and, where relevant, of any previous employers within the last five years;

(d) the name and address of two referees —

(i) who are not relatives of the applicant;

(ii) each of whom is able to provide a reference as to the applicant's competence to look after children; and

(iii) where possible, one of whom is the applicant's most recent employer; and

(e) details of any business that the applicant carries on or has carried on.

6. Information to be provided by child minder

(1) The applicant for registration as a child minder must provide the name, address, telephone number (if any) and electronic mail address (if any) of the premises at which the children are to be looked after, together with a description of the premises and the facilities provided or to be provided.

(2) The applicant must also include —

- (a) a statement of purpose;
 - (b) the hours during which the applicant proposes to act as a child minder;
 - (c) a description of the area in which the premises are located and details as to access to the premises.
- (3) The application must include a statement as to the security arrangements, including arrangements for purposes of —
- (a) safeguarding access to information held at the premises; and
 - (b) restricting access from adjacent premises, or if the premises form part of a building, access from other parts of the building.
- (4) The application must state whether other business or activity is, or will be, carried on in the premises at the same time as children are looked after and, if so, details of the business or activity.
- (5) The application must include the number or approximate number of children who will be looked after, and their ages.

7. Central record about other persons, employees or staff

- (1) The applicant must maintain for inspection a central record in respect of persons other than the applicant, who look after or are to look after children and the record must contain the following information —
- (a) the person's name (and any alias and former name) and date of birth;
 - (b) the person's duties and responsibilities;
 - (c) whether the person is or is intended to be resident in the premises;
 - (d) if the person is a relative of the applicant, the relationship to the applicant;
 - (e) whether the person works or is intended to work, on a full-time or part-time basis and, if on a part-time basis, the number of hours per week that the person will work;
 - (f) the date on which the person commenced, or is intended to commence, work; and
 - (g) information as to that person's qualifications, experience and skills in so far as they are relevant to the work that the person is to perform in looking after children.
- (2) The applicant must include a statement that they are satisfied as to the authenticity of the qualifications, and has verified the experience and skills, referred to in sub-regulation (1)(g).

- (3) The statement by the applicant must include information regarding —
- (a) the suitability of the person’s qualifications for the work that the person is to perform in looking after children;
 - (b) whether the person has the skills necessary for such work; and
 - (c) the person’s fitness to work and to have regular contact with children.
- (4) The applicant must further include —
- (a) a statement by the person as to the state of his or her physical or mental health;
 - (b) a statement by the applicant that they believe that the person is physically and mentally fit for purposes of the work which that person is to perform;
 - (c) a statement by the applicant as to whether or not they are satisfied as to the person’s identity, the means by which the applicant has satisfied themselves and whether the applicant has obtained a copy of the person’s birth certificate or passport;
 - (d) confirmation by the applicant that he or she has a recent photograph of the person; and
 - (e) a statement by the applicant that he or she has obtained —
 - (i) two references relating to the person and that the applicant is satisfied as to the authenticity of those references;
 - (ii) a full employment history, together with a satisfactory written explanation of any gaps in the person’s employment; and
 - (iii) where the person’s previous employment or position has involved work with children, and so far as reasonably practicable, verification of the reason why the employment or position ended.
- (5) The applicant may request the person referred to in this regulation to undergo an occupational health assessment for the purposes of satisfying the applicant of the requirements of this regulation.

8. Information about other persons on premises

- (1) The applicant must submit the full name (and any alias and former name) date of birth and address of every person other than the applicant and a person referred to in regulation 7, who has attained the age of 16 years and —
- (a) lives on the premises;
 - (b) works on the premises; or

(c) is otherwise present on the premises;

and has, or is likely to have, regular contact with the children.

(2) A person who works on the premises includes a person who works on a voluntary basis.

9. Documents to be submitted

(1) The applicant must submit the following documents —

(a) the applicant's birth certificate or passport and a recent photograph of the applicant;

(b) a report by a registered medical practitioner as to whether the applicant is physically and mentally fit to look after children or where the applicant is unable to get the medical report, a statement by the applicant as to the state of their physical and mental health;

(c) a certificate of insurance in respect of liability which may be incurred by the applicant in respect of death, injury, public liability, damage or other loss occurring in relation to the proposed child minding as provided in guidance; and

(d) a criminal record certificate in respect of the applicant.

(2) The applicant may be required by the Director to submit a criminal record certificate in respect of every other person who looks after or is intended to look after the children where appropriate.

(3) Where a criminal record certificate is not available in respect of persons mentioned in sub-regulation (2), the applicant must submit a written statement that those persons will be appropriately supervised at all times when they are in contact with a child.

(4) A criminal record certificate is valid for a period of 3 years from the date of issue after which a new certificate must be obtained and submitted to the Director.

PART 4 : INFORMATION AND DOCUMENTATION REQUIRED FOR REGISTRATION AS PROVIDER OF DAY CARE

10. Information about an applicant to be provider of day care

(1) Regulations 5, 7, 8 and 9 apply to an applicant to be a provider of day care with the necessary changes as the context permits.

(2) Where an applicant is an organisation, the following must be submitted as appropriate —

(a) the name, address and telephone number of the applicant;

(b) in the case of a company, its registered office or principal office and its registered number; and

(c) in the case of an organisation which is a registered charity, its charity number.

11. Responsible individual

(1) An organisation must nominate a responsible individual and the following must be submitted in respect of that individual —

(a) their full name (and any alias and former name), date of birth, address and telephone number; and

(b) details of their professional or technical qualifications and their experience, so far as such qualifications and experience are relevant to the provision, or supervision of the provision, of day care.

(2) Details of the responsible individual's full employment history must be submitted, including—

(a) a satisfactory written explanation of any gaps in employment;

(b) where any previous employment or position has involved work with children, so far as reasonably practicable, verification of the reason why the employment or position ended;

(c) the name and address of any present employer and, where relevant, of any previous employers within the last five years;

(d) the name and address of two referees —

(i) who are not relatives of the responsible individual;

(ii) each of whom is able to provide a reference as to the responsible individual's competence to look after children; and

(iii) where possible one of whom is the responsible individual's most recent employer.

12. Information about the person in charge

Regulation 11 applies with the necessary changes, where a person in charge has been appointed.

13. Information about the service to be provided

(1) The applicant must provide —

(a) the name, address, telephone number facsimile number (if any) and electronic mail address (if any) of the premises at which the children are to be looked after;

(b) a description of the premises and the facilities provided or to be provided; and

(c) a statement as to whether the premises are purpose-built or have been converted for use as premises at which children are looked after.

- (2) The applicant must also include —
 - (a) a statement of purpose;
 - (b) the proposed hours for which the applicant wishes to act as a provider of day care; and
 - (c) a description of the area in which the premises are located and details as to access to the premises.
- (3) The application must include a statement as to the security arrangements, including arrangements for purposes of —
 - (a) safeguarding access to information held at the premises; and
 - (b) restricting access from adjacent premises, or when the premises form part of a building, access from other parts of the building.
- (4) The application must state whether other business or activity is, or will be, carried on in the premises at the same time as children are looked after and if so, details of the business or activity.
- (5) The application must include the number or approximate number of children to be looked after and their ages.

PART 5 : SUITABILITY OF REGISTERED PERSON, PERSON IN CHARGE ETC

14. Suitability for registration

- (1) A person must not register or act as a child minder and a person must not register or act as a provider of day care, whether alone or in partnership with other persons, unless they are suitable to look after children.
- (2) A person is suitable to look after children if the person, to the satisfaction of the Director —
 - (a) has integrity and is of good character;
 - (b) has the qualifications, skills and experience necessary to look after children;
 - (c) is physically and mentally fit to look after children; and
 - (d) has submitted full and satisfactory information and documentation in respect of the matters specified in Part 3 or 4.
- (3) An organisation, is suitable to look after children if —
 - (a) the organisation has given notice to the Director of the name, address and position in the organisation of the responsible individual;

(b) the responsible individual satisfies the requirements set out in sub-regulation (2); and

(c) full and satisfactory information and documentation has been submitted in relation to that organisation in respect of matters specified in Part 3 or 4.

15. Appointment of a person in charge

(1) An organisation must appoint a suitable individual to be the person in charge of looking after children if —

(a) the responsible individual is not or does not intend to be in full day-to-day charge of the day care; or

(b) the registered person is an individual and they are not or do not intend to be in full day-to-day charge.

(2) Where a registered person appoints a person in charge, they must —

(a) ensure that the person is suitable to be in charge of the business; and

(b) immediately give notice to the Director of the date on which the person in charge will commence work.

16. Suitability of person in charge

A person is suitable for appointment as the person in charge if the person meets the requirements set out in regulation 14(2).

17. General requirements for registered person

(1) The registered person must act with sufficient care, competence and skill, having regard to the number and needs (including the needs arising from any disability) of the children they are looking after and the need to safeguard and promote the children's welfare.

(2) Where a person in charge has been appointed, the registered person must ensure that the person fulfils the requirements set out in sub-regulation (1).

(3) A child minder, an individual provider of day care or a person in charge must undertake such training as is appropriate to ensure that he or she has the necessary knowledge and skills.

(4) Where the registered person is an organisation, it must ensure that the responsible individual undertakes such training as is appropriate to ensure that he or she has the knowledge and skills necessary for looking after children or alternatively that a person in charge is appointed.

18. Notification of offences

Where the registered person, the person in charge or the responsible individual is convicted of a criminal offence (whether in the Falkland Islands or elsewhere) the registered person must immediately notify the Director in writing of —

- (a) the date and place of the conviction;
- (b) the offence of which the person was convicted; and
- (c) the penalty imposed on the person.

19. Death of registered provider of day care

(1) If more than one person is registered as a provider of day care in respect of premises and one dies, the surviving registered person must within 14 days of the death notify the Director in writing of the death of the other person.

(2) If only one person is registered as a provider of day care in respect of premises and that person dies, his or her personal representative must notify the Director in writing —

(a) of that death within 14 days; and

(b) of the intentions of the personal representative regarding the future running of the day care within 28 days of the death of the registered person.

(3) Subject to sub-regulation (5), the personal representatives of a deceased person may carry on the provision of day care without being registered —

(a) for a period not exceeding 28 days from the death of the registered person; and

(b) for any further period as may be determined in terms of sub-regulation (4).

(4) The Director may determine a period, not exceeding one year from the date of the death of a registered person, for purposes of sub-regulation (3)(b) and must notify any such determination to the personal representatives in writing.

(5) The personal representatives must appoint a person in charge to provide or manage the day care during the period in which they carry on providing day care, in terms of sub-regulation (3), without being registered.

20. Death of a child minder

If a person who is registered as a child minder dies, his or her personal representative must notify the Director in writing within 14 days of the death of the registered person.

PART 6 : GENERAL REQUIREMENTS AND ENFORCEMENT

21. Requirement to comply with regulations and regard to minimum standards

(1) A registered person must meet all the requirements of these regulations as they apply to that person and have regard to the needs of each child.

(2) Where there is more than one registered person in respect of the same premises for day care, anything that is required to be done by a registered person can be done by one of the registered persons.

(3) The registered person must have regard to the minimum standards issued by the Director which relate to the service provided by the registered person.

22. Statement of purpose

(1) An applicant must compile a written statement of purpose with respect to the child minding and provision of day care which is consistent with the Ordinance and has regard to minimum standards.

(2) A statement of purpose must consist of —

(a) a statement of aims and objectives;

(b) a statement as to the age-range, sex and number of children for whom care or minding is intended to be provided when registered and as to the range of needs that the person intends to meet;

(c) a statement as to the facilities and services to be provided or made available to children;

(d) a statement as to the activities to be provided and the language or languages through which the activities will be carried out; and

(e) a statement of the terms and conditions upon which the children will be looked after.

(3) When registered, the person must ensure that they perform their duties in a manner which is consistent with the statement of purpose.

(4) The registered person must keep under review and where necessary, revise the statement of purpose.

(5) The Director may inspect the statement of purpose at any time after registration to ensure that the statement complies with the Ordinance.

23. Quality of service

(1) The registered person must make suitable arrangements to establish and maintain a system for monitoring, reviewing and improving the quality of service given.

(2) The quality of service must be reviewed annually and as part of the review, the registered person must obtain the views of the children, depending on their level of understanding, the parents and the persons employed to look after the children.

(3) Within 30 days following a review, the registered person must prepare a report of findings and submit a copy of that report in a format approved by the Director to the Director and on request to the parents and to persons employed to look after the children.

24. Assessment of service

(1) The Director may at any time request a registered person to undertake an assessment of the service they provide to children within a time and in a format stated in the request.

(2) The registered person must take reasonable steps to ensure that the assessment is neither misleading nor inaccurate.

25. Compliance notice

(1) The Director may at any time give notice to a registered person to take any action that in the Director's view, is necessary to ensure compliance with the Ordinance.

(2) The Director may specify a timescale within which the registered person must take the action referred to in subsection (1) and the registered person must advise the Director of the completion of the action.

PART 7 : ACTIVITIES OF REGISTERED PERSONS

26. Safeguarding and promotion of welfare

(1) The registered person must look after children in such a way as to promote and make proper provision for the welfare, education, development, supervision and where appropriate, treatment of the children.

(2) The registered person must ensure that every person who has attained the age of 16 years and lives or works on the premises, including a voluntary worker, and has or is likely to have regular contact with the children, is suitable to have such contact with the children.

(3) The registered person must confirm to the Director that each person referred to in sub-regulation (2) has obtained a criminal record certificate.

(4) The registered person must make suitable arrangements to ensure, with regard to the children he or she is looking after that —

(a) the children's privacy and dignity are respected;

(b) the children's wishes and feelings are taken into account; and

(c) due regard is paid to their age, disability, gender reassignment, race, religion or belief, sex, culture and linguistic background.

27. Food provided for children

(1) Where food is provided to children, the registered person must ensure that —

(a) the food which is served is —

- (i) in adequate quantities and at appropriate intervals;
- (ii) properly prepared, wholesome and nutritious;
- (iii) suitable for their needs and meets their reasonable preferences; and
- (iv) sufficiently varied;

(b) any special dietary need is met which is due to the child's health, religious persuasion, racial origin or cultural background; and

(c) the persons who are responsible for food preparation have undergone training in food handling hygiene.

(2) The registered person must ensure that the children they are looking after have access to fresh drinking water at all times.

28. Arrangements for the protection of children

(1) The registered person must draw up and implement a written policy which —

- (a) is intended to safeguard the children from abuse or neglect;
- (b) sets out the procedure to be followed in the event of any allegation of abuse or neglect; and
- (c) provides for the procedure to be followed in the event of a child being lost or not being collected.

(2) The procedure under sub-regulation (1) must provide for —

- (a) liaison and co-operation with any government department which is or may be making child protection enquiries in relation to a child;
- (b) the prompt referral to the relevant government department of any allegations of abuse or neglect affecting a child;
- (c) the keeping of written records of any allegation of abuse or neglect, and of any action taken in response;
- (d) consideration to be given in each case to the measures which may be necessary to protect children following an allegation of abuse or neglect;
- (e) a requirement for any person looking after children to report promptly concerns about the welfare or safety of a child to one of the following —

- (i) the registered person;
- (ii) a police officer;
- (iii) person in charge; or
- (iv) a social worker; and

(f) arrangements giving persons looking after children, access at all times and in an appropriate form, to information which would enable them to contact the Police, the registered person, person in charge, responsible person or social workers concerning the welfare or safety of such children.

29. Behaviour management, discipline and restraint

(1) No measure of control, restraint or discipline which is excessive, unreasonable or contrary to sub-regulation (5) may be used on children.

(2) The registered person must draw up and implement a written behaviour management policy setting out —

- (a) the measures of control, restraint and discipline which may be used on the premises; and
- (b) the means whereby appropriate behaviour is to be promoted on those premises.

(3) Only such measures of control, restraint and discipline as are provided for in the behaviour management policy may be used on children.

(4) The registered person must keep under review the behaviour management policy.

(5) It is unlawful for corporal punishment of any child to be imposed or carried out by a registered person, staff or an employee in consequence of any act or omission of the child at the relevant premises.

(6) Subject to sub-regulation (7), none of the following measures (nor a threat to use them) may be used on children —

- (a) a restriction on a child's contact or communication with their parents subject to the provisions of a court order relating to contact between the child and any person;
- (b) any excessive punishment relating to the consumption or deprivation of food or drink;
- (c) a requirement that a child wear distinctive or inappropriate clothes;
- (d) the use or withholding of medication or medical or dental treatment as a disciplinary measure;

- (e) the intentional deprivation of sleep;
- (f) intimate physical examination of a child;
- (g) withholding of any aids or equipment needed by a disabled child; or
- (h) a measure involving a child in the imposition of the measure against another child or the punishment of a group of children for the behaviour of an individual child.

(7) Nothing in this regulation prohibits the taking of action —

- (a) by, or in line with the instructions of, a registered medical or dental practitioner which is necessary to protect the health of a child; or
- (b) immediately necessary to prevent injury to any person or serious damage to property.

30. Health needs of children

The registered person must promote and protect the health of children and must in particular ensure that —

- (a) each child is provided with such individual support as may be required in the light of any special health needs, allergy or disability of the child; and
- (b) at all times, at least one person looking after the children has a recognised qualification in first aid.

31. Hazards and safety

The registered person must ensure that —

- (a) all parts of the relevant premises to which children have access are, so far as reasonably practicable, free from hazards to the children's safety;
- (b) any activities in which children participate are, so far as possible, free from avoidable risks; and
- (c) unnecessary risks to the health or safety of children are identified and so far as possible eliminated.

32. Use and storage of medicines

(1) The registered person must make suitable arrangements for the safekeeping of any medicine on relevant premises and in particular must ensure that —

- (a) children are prevented from having unsupervised access to medicine;
- (b) any medicine is administered as prescribed, to the child for whom it is prescribed, and to no other child; and

(c) a written record is kept of the administration of medicine to a child, including the date and circumstances of its administration, by whom it was administered (including medicinal products that the child is permitted to administer to himself or herself) and a record of a parent's consent.

(2) In this regulation, "prescribed" means prescribed by a doctor for the medical treatment of a single child or by a dentist for the dental treatment of a single child as authorised under section 7 of the Misuse of Drugs Ordinance 1987.

33. Staffing and employees

The registered person must ensure that there is at all times, a sufficient number of suitably qualified, skilled and experienced persons looking after the children, having regard to the statement of purpose and the number and needs (including any needs arising from any disability) and need to safeguard and promote the health and welfare of any children.

34. Suitability of employees

(1) Subject to sub-regulation (5), the registered person must not employ under a contract of employment nor allow a volunteer, to look after children unless that person is suitable.

(2) A person who works for a registered person is suitable for purposes of sub-regulation (1) if the person meets the requirements of regulation 14(2) and is not disqualified under the Ordinance or these regulations.

(3) Subject to sub-regulation (4), the registered person must ensure that no person starts work on the relevant premises until such time as the requirements set out in sub-regulation (2) have been complied with or verified through references from, or checks on, previous employment.

(4) The registered person may apply to the Director for an exemption from sub-regulation (3) where —

(a) in the reasonable opinion of the registered person, the circumstances are exceptional;

(b) the prospective employee has provided a written declaration of the details of any criminal offences of which that person has been convicted including convictions which are spent or in respect of which they have been cautioned;

(c) in the reasonable view of the registered person, the interests of the service will not be met unless the person is appointed; and

(d) the registered person has identified any possible risks and has mitigated those risks.

(5) The Director may grant an exemption if satisfied that the registered person ensures that the employee is appropriately supervised while carrying out their duties pending receipt of any outstanding information.

35. Disciplinary procedure for staff and employees

The registered person must operate a disciplinary procedure which, in particular —

- (a) provides for the suspension, and the taking of other action short of suspension, in relation to an employee where appropriate in the interests of the safety or welfare of children;
- (b) provides that the failure on the part of an employee to report an incident of abuse, or suspected abuse of a child is a ground on which disciplinary proceedings may be instituted.

36. Keeping of records

(1) The registered person must maintain and keep at the relevant premises records in relation to the following matters while the children are being looked after by the registered person —

- (a) the name, home address and telephone number of —
 - (i) the registered person, the responsible individual, person in charge and every other person living, working or employed on the relevant premises;
 - (ii) any other person who will regularly be in unsupervised contact with the children;
 - (iii) the child's parent;
 - (iv) every current member of the committee or governing body in the case of an unincorporated association or every director of a body corporate; and
 - (v) any other matter that is required to be recorded under these regulations; and
- (b) the name, home address, date of birth and sex of each child and a daily record of the names of the children, their hours of attendance and the names of the persons who looked after them.

(2) The registered person must preserve the records referred to in sub-regulation (1) as appropriate, for a period of three years from the date on which the last entry was made and must make the records available to the Director for inspection, promptly on request.

(3) Where a registered person ceases to act as a child minder or provider of day care, the registered person must ensure that the records are kept securely for a period of three years from the date on which they cease to operate and must make the records available at the request of the Director for inspection during that period.

37. Information to be notified

(1) A registered person must notify the Director as appropriate or as relevant to their operations, of —

- (a) a change in the person in charge or responsible individual;

(b) anyone new looking after children on the relevant premises;

(c) anyone new living or working on those premises, whose work is done in the part of the premises in which children are looked after or who works on premises at times when children are being looked after;

(d) a change of the chair, any director, officer, secretary, treasurer or person holding a comparable position in the organisation;

(e) any change in the facilities used on the relevant premises, including changes in the number of rooms, their functions, the number of lavatories and washbasins, any separate facilities for adult workers and access to the premises for cars.

(2) A registered person must further notify the Director as applicable, of —

(a) a change in the name or home address of the registered person or in the name or address of the registered or principal office;

(b) a change in the type of service provided by the registered person;

(c) a change in the hours during which day care or child minding is provided;

(d) the outbreak at the relevant premises of any serious infectious or notifiable disease;

(e) a serious illness of, or the death of, any child or other person on the premises;

(f) any allegations of serious harm or injury to a child committed by a person looking after children at the premises or by a person living, working or employed on the premises;

(g) any abuse or neglect alleged to have taken place on the premises;

(h) any event which may affect the suitability of the registered person to look after children or the suitability of a person living, working or employed on the premises to be in regular contact with children;

(i) the conviction of any offence of a person living, working or employed on the premises or employed by the registered person; or

(j) any other significant event which is likely to affect the welfare of any child on the premises.

(3) The information to be provided under sub-regulation (1) is the new person's date of birth, full name, any former names or aliases used by them and home address.

(4) Notification must be made where it is reasonably practicable, in advance of the event occurring and in all other cases, as soon as reasonably practicable, but not later than 14 days after the event has occurred.

(5) The registered person must without delay notify the parent of a child of any significant incident affecting the child's welfare and must make the records maintained under regulation 36, in so far as they relate to a child, available for inspection by that child's parent unless to do so would place the child's health or welfare at risk.

38. Complaints

(1) The registered person must have a written complaints procedure appropriate to the needs of the children which includes the procedure to be followed where a parent has a complaint or in the event of a child being lost or not being collected.

(2) The complaints procedure must include provision for the consideration of complaints by the registered person and a copy in an appropriate format must be made available to the children, their parents, staff or employees and to the Director.

(3) The registered person must ensure that employees are appropriately trained in how the complaints procedure works.

(4) The complaints procedure must include the name, address and telephone number of the Director and the procedure for making complaints to the Director.

39. Handling complaints

(1) The complaints procedure must be underpinned by the principle that the welfare of the child is safeguarded and account must be taken of the ascertainable wishes and feelings of the child.

(2) When a complaint is made, the registered person may, where appropriate, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(3) The registered person must advise the complainant of their right to complain to the Director at any time.

(4) The registered person must keep a written record of any complaint made to them, the outcome of the investigation and the action taken in response.

40. Fitness of premises

(1) The registered person must only use premises that comply with the Ordinance and are in a location and of a physical design and layout which are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person must ensure that all parts of relevant premises used by children are —

(a) adequately lit, heated and ventilated;

- (b) secure from unauthorised access;
- (c) suitably furnished and equipped;
- (d) of sound construction and kept in good structural repair externally and internally;
- (e) clean and reasonably decorated and maintained; and
- (f) equipped with what is reasonably necessary, and adapted as reasonably necessary, in order to meet the needs arising from the disability of any child.

(3) The registered person must ensure that the premises are kept free from offensive odours and must make suitable arrangements for the disposal of general and clinical waste.

(4) The registered person must ensure that when children are looked after in indoor premises, there are available for use by the children in conditions of appropriate privacy for the number and sex of children —

- (a) a sufficient number of washbasins supplied with hot and running water; and
- (b) a sufficient number of lavatories which are suitable for children.

(5) The registered person must ensure that where food is provided on the premises, that there are suitable and sufficient facilities and equipment for the preparation storage and consumption of food on the relevant premises.

41. Fire precautions

The registered person must, in relation to relevant premises —

- (a) take adequate precautions against the risk of fire, including the provision and maintenance of fire prevention and detection equipment;
- (b) provide adequate means of escape in the event of a fire;
- (c) make adequate arrangements —
 - (i) for detecting, containing and extinguishing fires and giving warning of a fire;
 - (ii) for evacuation in the event of a fire; and
 - (iii) for reviewing fire precautions, and testing fire precaution and detection equipment, at suitable intervals;
- (d) make arrangements for persons looking after children on relevant premises to receive suitable training in fire prevention;

(e) ensure that the persons looking after children, and so far as is practicable, the children themselves are aware of the procedure to be followed in case of a fire by means of fire drills and practices at suitable intervals; and

(f) consult with the fire and rescue authority about the matters described in this regulation.

PART 8 : SUSPENSION OF A PERSON'S REGISTRATION

42. Power to suspend registration

The Director may suspend the registration of a child minder or provider of day care —

(a) if the Director has reasonable cause to believe that the continued provision of child minding or provision of day care by that person exposes, or may expose one or more of the children looked after by that person to the risk of harm; and

(b) for the purpose of allowing time for the circumstances giving rise to the belief to be investigated and if necessary for steps to be taken to reduce or eliminate the risk of harm.

43. Period of suspension

(1) The Director may suspend a registered person for a period not exceeding 6 weeks.

(2) The Director may not suspend a person's registration on the same or substantially the same grounds for a period exceeding 12 weeks in aggregate within any period of twelve months unless—

(a) it has not been reasonably practicable to complete the investigation or carry out the steps under regulation 42; or

(b) the Director has started cancellation proceedings against the registered person under section 19 of the Ordinance, and the cancellation has not yet been finalised.

44. Notice of suspension

The Director must give the registered person notice of a suspension and the notice must —

(a) include reasons for the decision and specify when the suspension takes effect;

(b) include details of the registered person's right of appeal against suspension;

(c) identify circumstances referred to in regulation 42 which apply to the suspension.

45. Delivery of notices

A notice under this Part will be delivered in terms of section 35 of the Ordinance.

46. Lifting of suspension

(1) The Director may lift the suspension of a registered person at any time if the Director has reasonable cause to believe that the grounds for suspension no longer apply.

(2) A person whose registration has been suspended may, at any time, make a request in writing to the Director for the suspension to be lifted.

(3) Where the Director decides to lift or to refuse to lift a registered person's suspension, he or she must notify the registered person of the decision within 2 working days of making the decision by sending a notice to the registered person.

(4) A notice to refuse to lift a suspension must include reasons for the decision and inform the registered person of their right of appeal against the decision.

(5) A decision by the Director to lift a suspension takes effect on a date specified in the notice.

47. Rights of appeal

Appeals will be dealt with in terms of section 23 of the Ordinance.

48. Voluntary suspension

(1) A registered person may request the Director to suspend his or her registration as a child minder or a provider of day care.

(2) A request for voluntary suspension must —

(a) be made in writing, giving reasons for requesting voluntary suspension;

(b) have a date on which the suspension is proposed to begin and end;

(c) include such information or documents as may reasonably support the request for voluntary suspension; and

(d) be sent or delivered to the Director not less than 5 working days before the proposed date for the commencement of the suspension.

(3) The Director must suspend or extend the period of suspension of registration where a request complies with this section.

(4) The Director must not suspend a registered person under sub-regulation (3) where —

(a) the Director has sent or has given the registered person notice of their decision to suspend that person from the register in terms of regulation 42;

(b) the registered person has been suspended under regulation 42 and has made a written request that the suspension be lifted and that request has not yet been determined, or has appealed and the appeal has not yet been finalised.

(5) The Director must send written confirmation to the registered person that they have suspended the registration of the child minder or provider of day care in accordance with the request for voluntary suspension.

(6) A registered person whose registration is suspended may before the termination of the suspension, give notice in writing requesting the Director to lift the voluntary suspension in advance of the termination date or to extend the voluntary suspension for a further period specified in the notice.

(7) A voluntary suspension under this regulation does not prevent the Director from exercising the power to suspend that person's registration under regulation 42.

49. Grounds for disqualification

(1) A person is disqualified from registration as a child minder, provider of day care or from being engaged as an employee if the person has been convicted of, or has a citable caution in respect of, an offence referred to in subsection (2) or such other offence as the Director considers relevant to determining the person's suitability to be registered as a child minder, provider of child care or to be an employee.

(2) Offences for the purposes of subsection (1) are offences listed in Part 10 of the Crimes Ordinance 2014 or any other offence to which a person may be sentenced to imprisonment for 12 months or more.

(3) Subject to sub-regulations (4) and (5), a person is disqualified from registration as a child minder, provider of day care or from being engaged as an employee if he or she —

(a) lives in the same household as another person who satisfies the grounds for disqualification under sub-regulation (1); or

(b) lives in a household in which another person who satisfies the grounds for disqualification under sub-regulation (1) is employed.

(4) A person is not disqualified under sub-regulation (3) if the person demonstrates in writing to the Director's satisfaction that he or she did not know, and had no reasonable grounds for believing that he or she was living in the same household as a person referred to in sub-regulation (3)(a) or (b).

(5) A person may not be disqualified under sub-regulation (3) if the person has disclosed the fact giving rise to the disqualification to the Director and the Director has consented in writing, in consultation with the Attorney General, to the person not being disqualified and the Director has not withdrawn that consent.

Made 18 December 2018

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE
(not forming part of these regulations)

The regulations set out in more detail the registration processes and procedures for child minders and providers of day care.

Part 1 is introductory and regulation 1 provides for commencement on a date fixed by the Governor by notice in the Gazette. This is consistent with the provisions of the Ordinance to ensure a smooth transition. Some terms that are used in the regulations are defined in regulation 2.

Part 2 provides for applications for registration. Applications must be in writing to the Director of Education. A certificate of registration with particulars specified in regulation 4 is issued to a successful applicant.

Part 3 contains details of the information and documentation required for registration as a child minder. The information relates to the applicant, staff and other persons who may be resident on the property who are more than 16 years of age. The applicant must submit a birth certificate, passport, recent photo, medical report, certificate of insurance and where required, a criminal record certificate. **Regulation 8** requires information about other persons on the premises who are over 16 years of age and who are likely to have contact with the children being looked after. This is in line with good safeguarding practices.

Part 4 deals with information and documentation required for registration as a provider of day care. An applicant for registration could be an individual, a body corporate or unincorporated body. Specific requirements are set out for the different providers of day care. The responsible individual, who could be the director or secretary of the organisation, must submit information about themselves. A person in charge may be appointed for the day-to-day running of the business where the responsible individual does not do it. Information relating to the responsible person or a person in charge must be submitted with an application.

Part 5 provides for suitability of a registered person, person in charge etc. Persons to be registered as child minders or providers of day care must meet suitability requirements. Integrity and good character are a requirement as well as physical and mental fitness and these are set out in **Regulation 14(2)**. Character references will be obtained to assist in ascertaining suitability. Criminal offences and convictions must be notified. **Regulations 19 and 20** deal with what happens in the event of the death of a registered provider of day care who is an individual or of a child minder.

Part 6 deals with general requirements and enforcement provisions. **Regulation 21** provides for a general requirement to comply with the regulations. The Director is empowered under the Ordinance to issue guidance with minimum standards to be taken into account by the registered persons. A registered person must compile a statement of purpose which must be informed as much as possible by the minimum standards. The registered person must institute quality control measures and must continuously assess the service that they provide.

Part 7 deals with safeguarding issues and matters related to safety of the children. A registered person must ensure that the welfare of the children is primary in the provision of care. The children's privacy, dignity, wishes and feelings generally must be respected, regulation 26.

Regulation 27 regulates the food that is provided to the children. Arrangements for the protection of children are dealt with in regulation 28. The registered person must draw up and implement a safeguarding policy with reporting structures in cases of breach. The behaviour of children needs to be managed and disciplinary measures must not be excessive. The health needs of the children must also be catered for. Medicine must be stored and administered correctly where a child is on medication.

This part further requires that records are kept by the registered person for matters set out in regulation 36. If there is a change regarding staff and matters set out in regulation 36, the registered person must inform the Director. A complaints procedure must be put in place which can be used by parents as well. Generally premises where the registered person operates must be suitable in terms of safety and access.

Part 8 deals with suspension of a registered person. This part provides for the circumstances giving rise to suspension and the procedures for suspension. Suspension may also be at the instigation of the registered person. A suspended person may appeal to the Governor under section 23 of the Ordinance. Regulation 48 provides for voluntary suspension. A registered person may request the Director to suspend his or her registration. The Director must not allow voluntary suspension if it is intended to avoid certain action by the Director.

Regulation 49 provides for grounds for disqualification. A person who has committed an offence under Part 10 of the Crimes Ordinance 2014 or such other offence as the Director considers relevant or has been sentenced to imprisonment for a period of 12 months or more, is disqualified. Living in a household with a disqualified person may also lead to disqualification.

SUBSIDIARY LEGISLATION

Child Minding and Day Care (Exemption) Order 2018

S. R. & O. No: 24 of 2018

Made: 18 December 2018

Published: 21 December 2018

Coming into force: upon publication

I make the following order under section 4 of the Child Minding and Day Care Ordinance 2018 on the advice of Executive Council.

PART I: PRELIMINARY

1. Title

This Order is the Child Minding and Day Care (Exemption) Order 2018.

2. Commencement

This Order comes into force on a date appointed by the Governor by notice in the *Gazette*.

3. Interpretation

In this Order —

“child in care” means a child who is in care of the Crown by virtue of a care order or an order under section 23 of the Children Ordinance 2014;

“domestic premises” means any premises which are used wholly or mainly as a private dwelling;

“foster parent” includes a person with whom a child has been placed under Part 3 of the Children Ordinance 2014 or any other foster parent or foster care arrangement in terms of that Ordinance;

“Ordinance” means the Child Minding and Day Care Ordinance 2018;

“parent” includes a person who has parental responsibility for a child;

“payment” means a payment of money or money’s worth but does not include the provision of goods and services;

“premises” includes any area and any vehicle;

“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 or civil partnership);

“school” has the same meaning as given in the Education Ordinance 1989;

“sibling group” includes half brothers and sisters; and

“special guardian” means a special guardian appointed under section 18A of the Children Ordinance 1914.

PART II: CHILD MINDING EXEMPTIONS

4. Child minding on domestic premises

A person who looks after a child on domestic premises, whether for reward or not, in circumstances described in articles 5 to 8 does not act as a child minder.

5. Parent, relative, special guardian and foster parent

A person looking after a child does not act as a child minder if the person is —

(a) a parent, special guardian or a relative of the child; or

(b) a foster parent for the child.

6. Employee

A person who is employed by parents to look after a child or sibling group to the exclusion of other children and mainly in the parents’ domestic premises does not act as a child minder.

7. Time and period limitation

(1) A person does not act as a child minder where the period, or the total of the periods, in any one day in which the person looks after children does not exceed two hours.

(2) A person does not act as a child minder if the person looks after a child during the period between 6pm and 2am the following day.

8. Friends

A person does not act as a child minder when looking after a child or children in the course of friendship with the parents of that child or children and no payment is made for the service.

PART III: DAY CARE EXEMPTIONS

9. Care on premises other than domestic premises

A person who provides day care for children in circumstances described in articles 10 to 17 on premises other than domestic premises is not a provider of day care for the purposes of the Ordinance.

10. Care provided for fewer than six days in a calendar year

A person does not provide day care where the care is provided on fewer than six days in a calendar year and the person has notified the Director in writing before the first occasion on which the care is provided in that year.

11. Period of two hours a day

A person does not provide day care where the period or the total of the periods in any one day on which children are cared for on the premises does not exceed two hours.

12. Young person's unit

A person does not provide day care where the care is provided to a child in care in accommodation provided by the Crown under the Children Ordinance 2014.

13. Institutional care

A person does not provide day care where —

- (a) the child is a hosted child or in private boarding within the meaning of the Children Ordinance 2014;
- (b) the care is provided to a child in a hostel or in a recreational facility;
- (c) the care is provided to a child accommodated in a care home or a hospital as a patient; or
- (d) the care is provided in a residential family centre as part of the activity of the establishment in question, whether by the provider of the establishment directly or by a person employed on the provider's behalf.

14. Hotel, guest house or other establishment

A person does not provide day care where the care is provided at a hotel, guest house or other similar establishment for a child staying in that establishment where —

- (a) the provision only takes place between 6pm and 2am; and
- (b) the person, or any individual employed by the person who is providing the care is doing so for no more than two different persons requiring the service at the same time.

15. Parent, relative, special guardian and foster parent

A person looking after a child does not act as a provider of day care if the person looks after a child on premises other than domestic premises and is —

- (a) a parent, special guardian or a relative of the child; or
- (b) a foster parent for the child.

16. Care to children at a school

A person does not provide day care where the care is provided to children at a school and the care is incidental to the provision of education.

17. Coaching and tuition in activities

(1) Subject to paragraph (2), a person does not provide day care when coaching or providing

tuition in an activity of a type listed in paragraph (3) and the care provided to them is incidental to that coaching or tuition.

(2) The exemption in this article does not apply if —

(a) the children are below the age of five and they attend for longer than four hours per day;
or

(b) the person offers coaching or tuition in more than two of the types of activity listed in paragraph (3).

(3) The types of activity are —

(a) sport;

(b) performing arts;

(c) arts and crafts;

(d) youth clubs;

(e) school study or homework support; or

(f) religious or cultural study.

PART IV: GENERAL EXEMPTION

18. Exemption of Mount Pleasant School

Any child minding or provision of day care that takes place at Mount Pleasant School is exempted from compliance with the Ordinance.

Made 18 December 2018

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE

(not part of the order)

This Order provides for circumstances that do not amount to child minding or provision of day care for the purpose of the Child Minding and Day Care Ordinance 2018.

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No. 15

Appointment

Justin Owen McPhee, Commanding Officer, Falkland Islands Defence Force, Emergency Services Department, 01.12.18.

Bobby Sumgaysay, Plant Operator/Handyperson, Highways Section, Public Works Department, 01.12.18.

Nelson Ariel Hernandez Casanova, Customs and Immigration Officer, Customs and Immigration, Emergency Services Department, 03.12.18.

Caroline Villegas, Office Manager, Training Centre, Education Department, 03.12.18.

Camila Ignacia Walton Alfaro, Residential Support Worker Young Persons Unit, Health and Social Services Department, 07.12.18.

Alexandra Sally Birmingham, Learning Support Assistant, Falkland Islands Community School, Education Department, 11.12.18.

Completion of contract

Matthew Grahame Aston, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 07.12.18.

Karen Marie Howard, Primary Teacher, Infant and Junior School, Education Department, 31.12.18.

Shazelle Monita Sukhnarain, Licensed Aircraft Engineer, Falkland Islands Government Air Service, Development and Commercial Services Department, 31.12.18.

Resignation

Dennis Summers, Plant Operator/Handyperson, Highways Section, Public Works Department, 21.12.18.

Nicole Dawn Jaffray, Clerk, Highways Section, Public Works Department, 24.12.18.

Mariea Catherine Clifford, Station Enquiry Officer, Royal Falkland Islands Police, Emergency Services Department, 30.12.18.

Retirement

Peter Biggs, Commanding Officer, Falkland Islands Defence Force, Emergency Services Department, 30.11.18.

Pauline McCormick, Home Help, Health and Social Services Department, 31.12.18.

Rose Jaffray, Matron, Stanley House, Education Department, 31.12.18.

Transfer

Errol Barry Gordon Goss, from Customs and Immigration Officer to Clerk, Customs and Immigration, Emergency Services Department, 01.12.18.

Danielle Louise Greenough, from Clerk, Tax Office, Treasury to House Parent, Stanley House, Education Department, 01.12.18.

Sarah Shepherd, from Clerk to Customs and Immigration Officer, Customs and Immigration, Emergency Services Department, 01.12.18.

NOTICES

No. 115 3 December 2018

Museum and National Trust Ordinance 1991 *section 4*

Appointment of Member of Museum and National Trust

1. Section 4(1) of the Museum and National Trust Ordinance 1991 provides that the Governor shall appoint members to the Museum and National Trust on the advice of Executive Council.
2. In exercise of my powers under section 4(1) and having taken advice from Executive Council I appoint **Paul Ellis** from 1 December 2018 to 30 November 2021 to be a member of the Museum and National Trust.
3. This appointment has effect and continues in effect as detailed in paragraph 2 above and in accordance with the Museum and National Trust Ordinance, unless terminated sooner.

Dated 3 December 2018

N. J. PHILLIPS C.B.E.,
Governor.

No. 116 18 December 2018

Child Minding and Day Care Ordinance 2018 **Child Minding and Day Care Regulations 2018; and** **Child Minding and Day Care (Exemption) Order 2018**

Commencement Notice

1. Section 1(2) of the Child Minding and Day Care Ordinance 2018 (“the Ordinance”) provides that the Ordinance comes into operation on a day appointed by the Governor by notice published in the *Gazette*.
2. Regulation 1(2) of the Child Minding and Day Care Regulations 2018 (“the Regulations”) provide that the Regulations come into force on a day appointed by the Governor by notice in the *Gazette*.
3. Article 2 of the Child Minding and Day Care (Exemption) Order 2018 (“the Order”) provides that the Order comes into force on a date appointed by the Governor by notice in the *Gazette*.
4. I give notice that the Ordinance, the Regulations and the Order come into force on 15 January 2019.

Dated 18 December 2018

R. A. J. MITHAM,
Acting Governor.

No. 117

18 December 2018

United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instrument, published in the United Kingdom by The Stationery Office Limited, is available to view at:
<http://www.legislation.gov.uk>

2018 No 1361 – The Chemical Weapons (Sanctions) (Overseas Territories) Order 2018
<http://www.legislation.gov.uk/ukxi/2018/1361/contents/made>

This Order gives effect in the Falkland Islands (and other specified Overseas Territories) to restrictive measures against the proliferation and use of chemical weapons, which were adopted by the Council of the European Union on 15 October 2018.

Article 10 requires the Governor to publish (in any form) a list of designated persons. There are currently no designated persons under this regime, in the event designated persons are added they will be included on the HM Treasury consolidated list: <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>

Dated 18 December 2018

B. I. STEEN,
for Attorney General.

No. 118

18 December 2018

Application for Permanent Residence

Notice is hereby given that the following people have applied to the Principal Immigration Officer to be granted Permanent Residence Permits:

Isabel Margaret Simon;
Claire Anne-Marie Sim;
Nathan Mark Johnson;
Joanne Marie Harris;
Brendon Lee;
Serg’s Louie Deloso;
Wladimir Orlando Bruna Figueroa;
Carlos Gonzalo Fajardo Valdebenito;
Jose Marlon Maban; and
Yanira Nathalie Marin Diaz

Any person who knows of any reason why a permit should not be granted to any of the above named 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 22 January 2019.

Dated 18 December 2018

J. E. SMITH,
Immigration Officer.

No. 119

24 December 2018

Application for Naturalisation

Notice is hereby given that:

Mukhtar Ahmad Uqaili; and
Syeda Uzma Kazmi

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 28 January 2019.

Dated 24 December 2018

J. E. SMITH,
Immigration Officer.

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