



FALKLAND ISLANDS GAZETTE

Supplement

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18 January 2019

No. 1

The following is published in this Supplement —

Travel Credit Scheme Bill 2019

Travel Credit Scheme Bill 2019

(No. of 2019)

ARRANGEMENT OF PROVISIONS

Clause

PART 1: PRELIMINARY

1. Title and commencement
2. Interpretation
3. Application
4. Object of Ordinance

PART 2: ESTABLISHMENT OF SCHEME AND REGISTRATION

5. Establishment of Scheme
6. Termination or suspension of Scheme
7. Qualification for registration
8. Qualification for registration of a child
9. Maintaining registration under the Scheme
10. Application for registration
11. Registration of qualifying person
12. Suspension of registration
13. Cancellation of registration
14. Voluntary removal from database

PART 3: TRAVEL CREDITS

15. Accrual of travel credits
16. Use of travel credits
17. Redeeming travel credits
18. Application to redeem travel credits

PART 4: DETERMINATION OF DISPUTED AWARDS OF TRAVEL CREDITS

19. Determination of disputes
20. Revision of travel credit awards
21. Adjustment of payments

PART 5: GENERAL

22. Notification of change in circumstances
23. False statements
24. Scheme Administrator to issue guidance
25. Subsidiary legislation

“Falkland Islands Government complaints procedure” means the Falkland Islands Government Corporate Complaints Procedure approved by the Executive Council;

“fare” means the money that is paid for travel by a registered person but does not include payments for transfers;

“guidance” means guidance issued by the Scheme Administrator under section 24;

“initial registration” means registration of qualifying persons from the date of commencement of this Ordinance to the cut-off date;

“prescribed” means prescribed in regulations;

“qualifying person” means a person who qualifies to be registered under the Scheme;

“Register” means a Register of Electors referred to in section 9 of the Electoral Ordinance 1988;

“registered person” means a person who is registered in the database;

“registration” means registration in the database;

“regulations” means regulations made under section 25;

“Scheme” means the Travel Credit Scheme established under section 5;

“Scheme Administrator” means the Financial Secretary or the Financial Secretary’s nominated representative;

“status holder” means a person who has Falkland Islands status in terms of section 22 of the Constitution;

“travel” means travel for the purposes of a holiday, recreation or leisure;

“travel credits” means credits that accrue to a registered person under section 15; and

“travel provider” means a person who, in the course of business, provides or arranges travel by air, road or sea, whether as principal or agent.

3. Application

This Ordinance applies to status holders who meet the qualifying requirements for registration in terms of this Ordinance.

4. Object of Ordinance

The object of this Ordinance is to recognise the commitment of status holders who are resident in the Falkland Islands by establishing a scheme under which status holders may register for and accrue travel credits to pay for fares.

PART 2: ESTABLISHMENT OF SCHEME AND REGISTRATION

5. Establishment of Scheme

- (1) There is established a Travel Credit Scheme for the benefit of registered persons to be managed and administered by the Scheme Administrator in terms of this Ordinance.
- (2) The Scheme is funded by money appropriated by an Appropriation Ordinance.

6. Termination or suspension of Scheme

- (1) The Governor may by Order terminate or suspend the Scheme or make changes to the Scheme and the Order may provide for consequential and transitional provisions.
- (2) The Order to terminate the Scheme must give prior notice of the intention to terminate the Scheme and specify the termination date.
- (3) The Order to suspend the Scheme must state the suspension period and the date when the suspension commences.
- (4) Any travel credits accumulated by a registered person on termination or suspension of the Scheme may be claimed and redeemed as prescribed.

7. Qualification for registration

- (1) Subject to subsection (2), the following categories of persons qualify for registration under the Scheme —
 - (a) a status holder who is 18 years or over and, subject to section 9(2), is registered in a Register;
 - (b) a status holder who is a child of 16 years or over but below 18 years; or
 - (c) a status holder who is a child below 16 years;
- (2) To qualify for registration, a person referred to in subsection (1)(b) or (c) must meet the requirements set out in section 8.

8. Qualification for registration of a child

- (1) This section aligns qualification for registration of a child under the Scheme as far as reasonably possible with qualification for the registration of an adult as an elector under section 8 of the Electoral Ordinance 1988.
- (2) To qualify to register under the Scheme, a child referred to in section 7(1)(b) or (c) must satisfy each of the conditions in subsections (3) and (4).
- (3) The first condition is that the child must —

(a) meet the requirements under section 32(1)(a) of the Constitution as if that section applied to the child; and

(b) not fall within the disqualifications under section 32(2)(a) to (c) of the Constitution.

(4) The second condition is that the child must either —

(a) be resident in the Falkland Islands; or

(b) be treated as being resident in the Falkland Islands under section 8A, 8B or 8C of the Electoral Ordinance 1988 as if those sections applied to the child.

(5) For the purposes of subsection (4), reference in the Electoral Ordinance 1988 to —

(a) “the qualifying date” means the date that the child is registered under the Scheme or any other date on which a child’s residence is to be determined under this Ordinance; and

(b) “the qualifying period” must be disregarded.

9. Maintaining registration under the Scheme

(1) To maintain registration under the Scheme, a person referred to in —

(a) section 7(1)(a), must continue to be registered in a Register;

(b) section (7)(1)(b) or (c) must continue to meet the requirements of section 8.

(2) A qualifying person who turns 18 years after registration under the Scheme must be registered in a Register within one year of his or her 18th birthday in order to maintain registration under the Scheme.

10. Application for registration

(1) A qualifying person who is 18 years or over may apply to the Scheme Administrator to be registered under the Scheme.

(2) Subject to subsection (3), the parent or guardian of a child who is a qualifying person may apply to the Scheme Administrator for the registration of that child.

(3) A qualifying person who is 16 years or over but below 18 years may apply to the Scheme Administrator for registration on his or her own behalf.

(4) An application must be in the prescribed form and must give information on such matters as may be prescribed.

(5) A cut-off date for the completion of initial registration is to be prescribed and a qualifying person who registers on or before that date accrues travel credits from a date prescribed under section 15.

11. Registration of qualifying person

- (1) The Scheme Administrator must establish and maintain an up-to-date database of all registered persons.
- (2) The Scheme Administrator must register a qualifying person in the database if the Scheme Administrator is satisfied that all the requirements for registration under this Ordinance are met.
- (3) On registering a qualifying person, the Scheme Administrator must assign a registration number and enter the number against the person's name in the database.
- (4) For the purposes of subsection (3), the Scheme Administrator may use a number that is already being used by the applicant in respect of other matters.
- (5) The Scheme Administrator must open an account for each registered person in his or her individual name regardless of age.

12. Suspension of registration

- (1) The Governor may make regulations providing for the suspension of a person's registration.
- (2) Regulations under subsection (1) may include —
 - (a) grounds for suspension;
 - (b) period of suspension; and
 - (c) consequences of suspension including whether travel credits accrue during the period of suspension.
- (3) A registered person may appeal against a suspension to the Governor within a prescribed period and in the prescribed manner.

13. Cancellation of registration

- (1) The Governor may make regulations providing for the cancellation of a person's registration.
- (2) Regulations under subsection (1) may include —
 - (a) grounds for cancellation;
 - (b) the procedure for cancellation; and
 - (c) the effect of cancellation of registration on accrued travel credits.
- (3) A person may appeal against a cancellation of registration to the Governor within a prescribed period and in the prescribed manner.

(4) A person whose registration is cancelled may apply to re-join the Scheme if the grounds for cancellation no longer apply.

14. Voluntary removal from database

(1) A registered person may request the Scheme Administrator to cancel his or her registration and to remove the registered person's name from the database.

(2) The Scheme Administrator must, as soon as practicable after receipt of a request under subsection (1) and in accordance with subsection (3), cancel the person's registration and remove the person's name from the database.

(3) A person referred to in this section may redeem any travel credits accumulated in his or her account as prescribed.

(4) A person referred to in this section may apply to re-join the Scheme and he or she will accrue credits from the date of re-registration.

PART 3: TRAVEL CREDITS

15. Accrual of travel credits

(1) A registered person will accrue travel credits in accordance with this Ordinance.

(2) The Governor must make regulations regarding —

(a) the date on which a registered person starts to accrue travel credits; and

(b) the maximum number of travel credits that may be accumulated by a registered person.

16. Use of travel credits

(1) Subject to this section, the travel credits that are accumulated by a registered person may only be used to pay for the fare for travel within the Falkland Islands or abroad.

(2) In respect of travel abroad, the travel must originate from the Falkland Islands and, in the case of multi-leg travel, it must be included as part of the same holiday itinerary booked on the same ticket.

(3) Travel credits accumulated by a registered person are not transferable and may only be used by or for the benefit of that registered person.

(4) Except as prescribed under subsection (5), travel credits may not be used to pay for embarkation tax, shipping or cargo costs, transfers, excess baggage charges, travel insurance or any other charges which are not the fare.

(5) Regulations may provide for travel costs for which travel credits may be claimed under the Scheme.

17. Redeeming travel credits

(1) Accumulated travel credits may be redeemed with effect from a prescribed date which may be a date that has passed.

(2) Regulations or guidance must provide for —

(a) procedures for redeeming travel credits and the documentation that must be submitted with a claim;

(b) the method of redeeming travel credits;

(c) the minimum number of travel credits per claim; and

(d) any other related matter.

18. Application to redeem travel credits

(1) Subject to section 17 and subsection (2) —

(a) a registered person may apply in a form approved by the Scheme Administrator to redeem travel credits as reimbursement for the fare for travel undertaken; or

(b) a travel provider may redeem vouchers in advance of travel or after travel in order to pay the fare in respect of a registered person.

(2) The following persons may submit a claim to redeem travel credits —

(a) subject to paragraph (b), a registered person who is 16 years or over in respect of his or her travel credits; and

(b) a parent or guardian on behalf of a registered person who is a child.

PART 4: DETERMINATION OF DISPUTED AWARDS OF TRAVEL CREDITS

19. Determination of disputes

(1) Subject to this Ordinance, claims to redeem travel credits must be made to the Scheme Administrator.

(2) Any question as to the right to travel credits in respect of any person must be decided by the Scheme Administrator.

(3) If a person referred to in subsection (2) is dissatisfied with the decision of the Scheme Administrator, the question must be determined in accordance with the Falkland Islands Government complaints procedures.

20. Revision of travel credit awards

(1) Subject to subsection (2), the Scheme Administrator may revise an award or decision not to award any travel credits or any other decision made by him or her under this Ordinance, if satisfied that the award or decision was erroneous.

(2) A revision under subsection (1) may only be done if —

(a) further information has been brought to the notice of the Scheme Administrator since the date on which the award or decision was made;

(b) the circumstances existing at the time which formed the basis of the award or decision have changed; or

(c) a mistake was made in respect of the circumstances existing at the time the award or decision was made.

(3) Section 19 applies to a dispute arising from any revision or decision not to revise, by the Scheme Administrator under this section.

21. Adjustment of payments

(1) Subject to subsection (2), if an amount is paid in respect of a travel credit and it is found that the amount was not properly paid, the Scheme Administrator may require the amount to be paid back —

(a) if it was paid to a registered person in his or her own right who was not entitled to receive the amount, by that registered person;

(b) if it was paid to a person on behalf of a registered person who was not entitled to receive the amount, by that person; or

(c) if it was paid to a travel provider who was not entitled to receive the amount, by that travel provider.

(2) Any sum that is required to be repaid under this section may be recovered by the Scheme Administrator summarily as a civil debt.

PART 5: GENERAL

22. Notification of change in circumstances

(1) Subject to subsection (2), a registered person must notify the Scheme Administrator if there is a change to the person's circumstances —

(a) which affects the person's entitlement to registration under the Scheme; and

(b) the person knows that the change affects the person's entitlement to registration under the Scheme.

(2) A parent or guardian of a registered person who is a child below 16 years must notify the Scheme Administrator if there is a change to the child's circumstances —

(a) which affects the child's entitlement to registration under the Scheme; and

(b) the parent or guardian knows that the change affects the entitlement of the child to registration under the Scheme.

(3) Notification under this section must be made as soon as reasonably practicable, and in any case not more than 10 working days, after becoming aware of the change.

(4) A person who fails to notify the Scheme Administrator as required under this section commits an offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

23. False statements

A person who, in an application for registration or for the purpose of claiming travel credits knowingly or recklessly —

(a) makes a statement or representation which is false in a material particular;

(b) provides or causes or allows to be provided, a document or information which is false in a material particular; or

(c) withholds any information which is material,

commits an offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

24. Scheme Administrator to issue guidance

(1) The Scheme Administrator may issue guidance for the general administration of the Scheme including for —

(a) arrangements with travel providers;

(b) guidelines for designation of travel providers;

(c) payments of travel credits; or

(d) any matter which is to be prescribed under a provision of this Ordinance but which has not been prescribed.

(2) The Scheme Administrator must arrange for any guidance made under subsection (1) to be approved by the Executive Council and published in the Gazette.

25. Subsidiary legislation

(1) The Governor may make regulations or orders generally for giving effect to the provisions of this Ordinance, and for any matters that may be prescribed under this Ordinance.

(2) Regulations under subsection (1) may provide for the following matters —

- (a) procedures for applications for registration and registration;
- (b) redemption of travel credits on termination or suspension of the Scheme;
- (c) accrual, redemption and forfeiture of travel credits; and
- (d) appeals.

OBJECTS AND REASONS

This Bill establishes a travel credit scheme for the benefit of Falkland Islands status holders who satisfy registration requirements. Persons can apply to join the Scheme and if they meet the registration criteria, their names are entered into a database. Registered persons accrue travel credits under the Scheme and the credits may be used to pay for travel within the Falkland Islands or abroad. Travel credits may only be used to pay for the fare for travel. Travel credits are earned individually and must be used by or for the benefit of the registered person.

The Scheme is administered by a Scheme Administrator who is responsible for registering qualifying persons who apply for registration. An account must be opened for each registered person regardless of age which is credited with the travel credits accrued by that person and debited with those travel credits redeemed.

Part 1 of the Bill contains preliminary provisions. *Clause 2* defines words that are used in the Bill. *Clause 4* is included as a justification for the discriminatory nature of the Scheme in compliance with article 16(6) of the Constitution.

Part 2 establishes the Scheme and provides for the registration of qualifying persons. The Scheme is funded by money appropriated by an Appropriation Ordinance. *Clause 6* allows the Governor to terminate or suspend the Scheme by Order.

Qualification requirements for registration are set out in *clauses 7 and 8*. The first group of qualifying persons are status holders who are registered on a Register of Electors. The second group is made up of status holders who are 16 years or over but below 18 years. They accrue travel credits at the same rate as adults under the Scheme. The third group is status holders who are below 16 years and they must be registered by their parents.

Clause 8 provides for the qualifications required to register a child referred to in clause 7(1)(b) or (c). To the extent reasonably possible, the same criteria for the registration of adults are applied to a child as if the relevant provisions of the Constitution and the Electoral Ordinance apply to

the child. The test for residence for a child is as provided for an adult in sections 8A, 8B and 8C of the Electoral Ordinance 1998.

Clause 9 requires a qualifying person to continue to meet the criteria for registration in order to maintain his or her registration under the Scheme.

Clause 10 provides for applications for registration by qualifying persons. A cut-off date for initial registration is to be prescribed and qualifying persons who register by that date accrue credits from a prescribed date (which allows for persons who register before the cut-off date to accrue credits from a different date from persons who register later).

Clause 11 requires the Scheme Administrator to maintain an up to date database. On registration a person is allocated a number which could be a number already being used by the person for other matters.

Registration can be suspended or cancelled under *clause 12 or 13*. A registered person may also de-register themselves voluntarily under *clause 14*.

Part 3 deals with travel credits. The details of how much a person accrues per day and how the travel credits may be redeemed will be prescribed in regulations. Travel credits must be used to pay for fares only. *Clause 16(4)* sets out certain expenses that may not be paid for by travel credits. Regulations may make further provision regarding the costs that may be covered by travel credits. Travel credits may only be used for the benefit of the registered person and they are not transferable. *Clause 18* sets out the persons who may apply to redeem travel credits.

Part 4 provides for the determination of disputes related to the award of travel credits or other decisions made by the Scheme Administrator. A person who is dissatisfied with the decision of the Scheme Administrator may use the Falkland Islands Government complaints procedure for resolution of the matter. *Clause 21* allows for an adjustment of travel credits where there has been an erroneous payment or overpayment.

Part 5 is a general part. *Clause 22* requires a registered person to inform the Scheme Administrator of changed circumstances which affect his or her entitlement to registration under the Scheme. *Clause 23* makes it an offence for a person to make a false statement in respect of an application for registration or a claim for travel credits. The Scheme Administrator is allowed under *clause 24* to issue guidance for administrative matters under the Scheme. Guidance must be approved by the Executive Council and then published in the Gazette. The Governor may make subsidiary legislation under *clause 25*.



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No. 1

Appointment

Ann Margaret Hunt, Hospital Manager, Health and Social Services Department, 04.01.19.

Pamela Anne Trevillion, Director of Emergency Services and Island Security, Emergency Services Department, 07.01.19.

Mark Laurence Rutherford, Management Accountant, Treasury, 08.01.19.

Barry Thacker, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 09.01.19.

Mariea Catherine Clifford, Matron, Stanley House, Education Department, 14.01.19.

Timothy Dave George, Plumber, Housing Section, Public Works Department, 14.01.19.

Elizka Oelofse, Senior Accounting Assistant, Treasury, 14.01.19.

Simon Leigh Verrechia, Electro-Biomedical Engineering Officer, Health and Social Services Department, 15.01.19.

Roslyn Williams, Clerk, Treasury, 17.01.19.

Stephanie Emma Danielle Burrell, School Nurse, Health and Social Services Department, 18.01.19.

Deborah Elizabeth James, Catering and Textiles Teacher, Falkland Islands Community School, Education Department, 18.01.19.

Lynn Roberts, Social Worker, Health and Social Services Department, 18.01.19.

Simon Peter Browning, Fishery Protection Officer, Fisheries, Natural Resources Department, 21.01.19.

Julie Doris Courtney, Learning Support Assistant, Falkland Islands Community School, Education Department, 21.01.19.

Lee Edward Kenebel, Head of Planning and Building Services, Planning and Building Department, 22.01.19.

Gonzalo Patricio Ibarra Espinoza, Customs and Immigration Officer, Customs and Immigration, Emergency Services Department, 28.01.19.

Joanne Kenebel, Accounting Assistant, Treasury, 28.01.19.

Vasana Tutjavi, Fisheries Observer, Fisheries, Natural Resources Department, 28.01.19.

Christina Marie Robinson, Deputy Head Teacher, Falkland Islands Community School, Education Department, 29.01.19.

Completion of contract

Alan David Moore, Primary Teacher, Infant and Junior School, Education Department, 14.01.19.

Tomasz Boleslaw Zawadowski, Fisheries Observer, Fisheries, Natural Resources Department, 25.01.19.

Renewal of contract

Shazelle Monita Sukhnarain, Licensed Aircraft Engineer, Falkland Islands Government Air Service, Development and Commercial Services Department, 01.01.19.

Alan David Moore, Primary Teacher, Infant and Junior School, Education Department, 15.01.19.

Tomasz Boleslaw Zawadowski, Fisheries Observer, Fisheries, Natural Resources Department, 26.01.19.

Resignation

Stephen Thomas McLean, Accounting Assistant, Treasury, 07.01.19.

Lisa Maria Martin, Administrative Assistant, Health and Social Services Department, 31.01.19.

Retirement

Carol Anderson, Practice Facilitator, Health and Social Services Department, 04.01.19.

Transfer

Clare Frances Crowie, from Dental Nurse to Auxiliary Nurse, Health and Social Services Department, 01.01.19.

Jonas Muza, from Handyperson/Painter to Tyre Fitter, Plant and Vehicle Section, Public Works Department, 02.01.19.

Samantha Davies, from Customs and Immigration Officer, Customs and Immigration, to Police Constable, Royal Falkland Islands Police, Emergency Services Department, 07.01.19.

Michael William McLeod, from Carpenter to Operations Manager (Planned and Responsive), Property and Municipal Section, Public Works Department, 07.01.19.

Sian Sarah Watt, from Receptionist, Leisure Centre, Development and Commercial Services Department to Administration Clerk, Highways Section, Public Works Department, 28.01.19.

Kirsty Michelle Williams, from Young Person's Unit Team Leader, Health and Social Services Department to Housing Officer, Housing Section, Public Works Department, 28.01.19.

NOTICES

No. 1

03 January 2019

Notice made by the Governor pursuant to articles 5, 7 and 74 of the Air Navigation (Overseas Territories) Order 2013, as amended

(a) This Notice is given pursuant to articles 5, 7 and 74 of the Air Navigation (Overseas Territories) Order 2013, as amended ("the Order").

(b) Article 5 of the Order provides for the Governor to publish or provide access to requirements which he considers relevant to determining his satisfaction in respect of certain matters before granting a certificate, licence or other document issued under the provisions of the Order.

(c) I hereby determine pursuant to article 5(3) of the Order that to publish certain requirements in relation to aviation security would be, or would likely to be, detrimental to national security.

(d) Therefore in accordance with article 5(4) of the Order, I make available the document specified in paragraph (g) of this Notice only to persons who, in the opinion of Air Safety Support International Ltd ("ASSI"), have need of that document in order to promote compliance by those persons with its provisions and, in such cases, for ASSI to make that document available in such a manner and in such form as ASSI sees fit, consistent with promoting compliance with that document.

(e) Article 7 provides, inter alia, for the Governor to issue such instructions as are necessary, requisite or expedient for carrying out the Chicago Convention and implementing any Annex thereto and any amendment to the Convention, or any such

Annex made in accordance with the Convention, or generally for regulating and securing the safety of international air navigation.

(f) Article 74 provides for compliance with the Governor's instructions in respect of the operation, safety and security of aircraft and the safety and security of persons and property carried therein and in respect of the instruments and equipment to be installed therein or carried thereon.

(g) The following document as amended or updated from time to time shall constitute those prescriptions, instructions and requirements as aforesaid in relation to the matters specified:

Overseas Territories Aviation Requirements Part 179 Aviation Security Training.

Dated 03 January 2019

R. A. J. MITHAM,
Acting Governor.

No. 2

07 January 2019

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 David Edwards-Moss MBBS DTM&H
Dr Mandy Fry MBBS Mphil DGH DFFP FRCGP
Dr Bernadette M Paver MBBS MRCGP DPD DOccMed
Dr Colin Berry MBBS FRCA
Mr Daniel Archer MBBS LRCP MRRS FDSRCS Max Face
Dr Mary Whittle MB Bch BAO MRCPsych Dip Criminology
Dip Forensic Psy
Mr Henrick Allermann MD
Dr Aooife Ni Mhaoileoin MBChB BAO MRCGP DFSRH
Mr Charles Cox MBBS FRCS FRCOG
Dr Pedro Toscano MD
Mr Quintin Cox MBBS FRCS(Ed) Orth FRCS(Eng)
Dr Matthew Dryden MBBS MD FRCPath FRCPS(Glas)
Dr Ryan Jackson MBBS MRCGP
Dr Tim McInerney BA MBBS FRCPsych Dip Forensic Psy
Dr George Richard Smith BSc MSc MBBS FRCP Dip SEM
Mr Alasdair Mace MBBS DLO FRCS
Mr Duncan McLean MBChB FRCS Ed Urol
Dr Philip Tildsley MBChB FCA MRCA
Dr Alicia Tomkinson MBChB BSc PGDip SEM
Dr Larissa Reader MBChB MPH
Dr Michael Hof MD PhD

Dr Juan Cervera MD Mfyl Speciality
Dr Christopher Peach MBChB MRCS
Dr Andy Burgess MBChB FRCA BSc
Dr Susan Sneddon MBChB MRCGP OCH
Dr Belle Song MD GP
Mr Amol Chitre MBChB FRCS
Mr Paul Ballard MBChB FRCOG
Dr Kristy Fenton MBBS RCPsych
Dr Gwenda Cavill BSc MBChB FRCA
Dr Katherine Solicie (Trainee GP) MD
Dr Sandra Huynh (Trainee GP) MD
Dr Murtaza Kapasi (Trainee GP) MD
Dr Charlotte Dawson (Trainee GP) MD
Dr Sarah Greenwood (Trainee GP) MD
Dr Christine Prudhoe (Trainee GP) MD
Dr Hala Rashed (Pathologist) MBChB FRCPath
Dr Esther Youd (Pathologist) BM FRCPath MSc

Dentists

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

Midwives

Mrs Mandy Heathman SRN SCM
Mrs Claire Louise Young RM
Cecilia Aboyeji RM RN

Dated 07 January 2019

R. E. EDWARDS,
Chief Medical Officer.

No. 3

10 January 2019

X-Change Limited Company Number: 13778

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 10 January 2019

E. J. DENT,
Registrar of Companies.

No. 4

10 January 2019

Hydro-Martech (Falklands) Limited Company Number: 14790

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 10 January 2019

E. J. DENT,
Registrar of Companies.

No. 5

15 January 2019

Supreme Court of the Falkland Islands

Notice under the Administration of Estates Ordinance 1949

Take notice that **Iris Dickson** of 2 Dairy Paddock Road, Stanley died on 25 June 2018.

Whereas **Ronald Edward Dickson** 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 15 January 2019

J. BROOKS,
Registrar, Supreme Court

No. 6

18 January 2019

Judicial Appointments

1. I appoint **Clare Faulds** to be —

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;

Chair of the Disputes Commission under section 98 of the Fisheries (Conservation and Management) Ordinance 2005;

Member and Chair of the Tax Appeal Tribunal under section 180 of the Taxes Ordinance 1997; and

Notary Public under section 47 of the Administration of Justice Ordinance 1949.

2. These appointments have effect from the date of signature and shall remain in force until 22 March 2019, unless terminated sooner.

Dated 18 January 2019

R. A. J. MITHAM,
Acting Governor.

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

Appointment of Acting Judge of the Supreme Court

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

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

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

2. I, Richard Alexander John Mitham, Acting Governor, appoint **Clare Faulds**:

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

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

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

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

5. This appointment is effective from the date of signature until 22 March 2019, unless terminated sooner.

Dated 18 January 2019

R. A. J. MITHAM,
Acting Governor.

Prisons Ordinance 2017
section 13

Appointment of Members of the 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 01 April 2019 and continue in effect for one year expiring on 31 March 2020, unless terminated sooner.

Dated 24 January 2019

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

Education Ordinance 1989
section 57

Academic Year 2019 – 2020
Term Dates

Term One

Wednesday 4 September – Thursday 19 December 2019

Half Term

Monday 28 October – Friday 1 November 2019 (inclusive)

Term Two

Thursday 23 January – Friday 17 April 2020

Half Term

Monday 9 March – Friday 13 March 2020 (inclusive)

Term Three

Monday 4 May – Thursday 6 August 2020

Half Term

Monday 15 June – Friday 19 June 2019 (inclusive)

Public Holidays (schools closed)

Monday 7 October 2019 Peat Cutting Monday

Monday 9 December 2019 Battle Day

Friday 10 April 2020 Good Friday

Professional Development Days for Teaching and Non-Teaching Staff

Monday 2 September 2019

Tuesday 3 September 2019

The equivalent of three further 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 and Camp Education in advance.

Dated 30 January 2019

R. SEDDON,
Director of Education.



FALKLAND ISLANDS GAZETTE

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28 February 2019

No. 2

Appointment

Daniel James Niemerg, Deputy Head Teacher, Falkland Islands Community School, Education Department, 21.01.19.

Andrew Burdon, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 01.02.19.

Robert Stephen Hunt, Theatre Nurse/Operating Department Practitioner, Health and Social Services Department, 01.02.19.

Joanne Lisa Lane-Sansam, Staff Nurse, Health and Social Services Department, 01.02.19.

Georgina Roberts, Fisheries Observer, Fisheries, Natural Resources Department, 01.02.19.

Jessica Briony Jones, Post-Doctoral Research Scientist, Fisheries, Natural Resources Department, 02.02.19.

Catherine Geraldine Clark de Silva Donayre, Deputy Director, Development and Commercial Services Department, 04.02.19.

Geraldine Robyn Alicia Freeland, Staff Nurse, Health and Social Services Department, 04.02.19.

Miriam Ann Newton, Finance/Accounting Assistant, Treasury, 04.02.19.

Paul Christopher Jonas, Plant Operator/Handyperson, Property and Municipal Section, Public Works Department, 11.02.19.

Brandon Keith Greenough, Skilled Handyperson, Property and Municipal Section, Public Works Department, 18.02.19.

Richard James Galey, Health and Safety Adviser, Human Resources Department, 22.02.19.

Richard Flores, Auxiliary Nurse, Health and Social Services Department, 25.02.19.

Completion of contract

Jessica Briony Jones, PHD Intern – Marine Ecology – Loligo Gahi, Fisheries, Natural Resources Department, 01.02.19.

Christopher Paul Reynolds, Plant Mechanical Handyperson/Filtration Plant Operator, Water Section, Public Works Department, 01.02.19.

Ivan Sinclair Porritt, Roads Engineer, Highways Section, Public Works Department, 13.02.19.

Elaine Pattison, Management Accountant, Treasury, 20.02.19.

Renewal of contract

Ivan Sinclair Porritt, Roads Engineer, Highways Section, Public Works Department, 14.02.19.

Resignation

Brandi Michel Brooks, Finance Assistant, Treasury, 08.02.19.

Dayne Lucas Gilson-Clarke Rosas, Apprentice Plumber, Training Centre, Education Department, 13.02.19.

Zena Butler, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 14.02.19.

Simone Ray Ross, Senior Accounting Assistant, Treasury, 20.02.19.

Sian Karen Davies, CMT Policy Co-ordinator, Policy and Economic Development Department, 27.02.19.

Tara Marie Hewitt, Higher Learning Support Assistant, Infant and Junior School, Education Department, 28.02.19.

Bernard Meehan, Senior Fisheries Protection Officer, Fisheries, Natural Resources Department, 28.02.19.

Retirement

Valerie Allan, Auxiliary Nurse, Health and Social Services Department, 26.02.19.

Transfer

Matthew David Anthony Jenkins, from Customs and Immigration Officer, Customs and Immigration, to Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 01.02.19.

NOTICES

No. 10

31 January 2019

Index of Retail Prices

The Index for the quarter ended 31 December 2018 has now been completed.

The Index has increased during the quarter, to 104.820; this equates to a 0.1% increase for the quarter, and a 2.9% increase for the year:

Date	Index	Annual Change	Quarterly change
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%
31.12.18	104.820	2.9%	0.1%

Inflation in the "Fuel and power" category is the major contributor to total increase for the year (2.0 out of 2.9 percentage points), followed by inflation in the "Food and non-alcoholic beverages" market (1.3 percentage points). On the contrary price cuts in the "Communication" market have a strong deflationary effect (-1.2 percentage points).

Dated 31 January 2019

D. RANGHETTI,
for Director of Policy and Economic Development.

No. 11

6 February 2019

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

Take notice that **Thelma Ferguson** of 4A St Mary's Walk, Stanley died on 16 January 2019.

Whereas **John William Ferguson** and **Christina Helen Ormond** 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 6 February 2019

J. BROOKS,
Registrar, Supreme Court

No. 12

15 February 2019

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

Take notice that **Malvina Mary Blizzard** of King Edward VII Memorial Hospital, Stanley died on 13 January 2015.

Whereas **Raymond John Poole** and **Steven Charles Poole** 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 15 February 2019

J. BROOKS,
Registrar, Supreme Court

No. 13

15 February 2019

Southern Harvest (Falkland Islands) Limited Company Number: 10427

Take notice that in accordance with the provisions of section 652A of the Companies Act 1985, the requirements of the said section having been complied with, the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated 15 February 2019

E. J. DENT,
Registrar of Companies.

No. 14

25 February 2019

Application for Falkland Islands Status

Notice is hereby given that:

Sabrina Alejandra Camblor Rodriguez;
Yesenia Fernandez Acosta;
Christopher Paul Locke; and
Nancy Joy Mundin Locke

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 March 2019.

Dated 25 February 2019

J. E. SMITH,
Immigration Officer.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

28 February 2019

No. 2

The following are published in this Supplement —

Statute Law Database (Rectification) Order 2019 (SR&O No 1 of 2019);

Administration of Justice (Payments to Jurors and Witnesses) (Amendment) Rules 2019 (SR&O No 2 of 2019);

Coroners (Amendment) Rules 2019 (SR&O No 3 of 2019);

Fishery Products (Designations)(Amendment) Order 2019 (SR&O No 4 of 2019);

Supplementary Appropriation (2018-2019) Ordinance 2019 (No 1 of 2019);

Crimes (Amendment) Bill 2019;

Criminal Procedure and Evidence (Miscellaneous Amendments) Bill 2019; and

Currency (Amendment) Bill 2019.

SUBSIDIARY LEGISLATION

Statute Law Database (Rectification) Order 2019

S. R. & O. No. 1 of 2019

Made: 14 February 2019

Published:28 February 2019

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 2019.

2. Commencement

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

3. Rectification of defects in the Statute Law Database

(1) This Order rectifies defects in the Statute Law Database.

(2) The rectifications set out in the Schedule are deemed to have effect from 31 July 2017.

SCHEDULE

RECTIFICATION OF THE STATUTE LAW DATABASE

1. Administration of Justice Ordinance 1949

Omit section 48A and Schedule 4 of the Administration of Justice Ordinance 1949.

2. Fisheries (Conservation and Management) Ordinance 2005

Replace section 223(2)(b) of the Fisheries (Conservation and Management) Ordinance 2005 with—

“(b) providing for the remission or refund of any levy, fee or charge payable under any provision of this Ordinance and of any penalty in relation to any such levy, fee or charge payable under this Ordinance;”.

3. Road Traffic (Provisional) Regulations Order 1986

In regulation 5(2) of the Road Traffic (Provisional) Regulations Order 1986, omit “half” and replace with “holds”.

4. Workmen's Compensation Ordinance 1960

Restore the text of section 27 of the Workmen's Compensation Ordinance 1960.

Made 14 February 2019

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

EXPLANATORY NOTE
(not forming part of this Order)

This Order rectifies 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.

Defects are rectified in respect of the following legislation as it appears on the Database:

- *Administration of Justice Ordinance 1949*

The Administration of Justice Ordinance 1949 is rectified by omitting section 48A and Schedule 4, which were repealed.

- *Fisheries (Conservation and Management) Ordinance 2005*

The Fisheries (Conservation and Management) Ordinance 2005 is rectified by replacing the wording of section 223(2)(b); to reflect the correct provision.

- *Road Traffic (Provisional) Regulations Order 1986*

The Road Traffic (Provisional) Regulations Order 1986 is rectified by correcting wording in regulation 5.

- *Workmen's Compensation Ordinance 1960*

The Workmen's Compensation Ordinance 1960 is rectified by restoring the text of section 27, which is currently omitted from the Database.

The rectifications are contained in the schedule to the Order, and the consequent changes to the Database are deemed to have effect on 31 July 2017, which is the date when the Database was first published.

SUBSIDIARY LEGISLATION

Administration of Justice (Payments to Jurors and Witnesses) (Amendment) Rules 2019

S. R. & O. No.: 2 of 2019

Arrangement of Provisions

Rule

1. Title
2. Commencement
3. Rules amend Administration of Justice (Payments to Jurors and Witnesses) Rules 2016
4. Rule 4 amended (Scope of rules and general provisions)
5. Rule 8 amended (Allowances to jurors and witnesses, other than professional or expert, and to others for attendance)
6. Rule 9 amended (Subsistence allowances to jurors, witnesses, other than professional or expert, and to others)

SUBSIDIARY LEGISLATION

Administration of Justice (Payments to Jurors and Witnesses)(Amendment) Rules 2019

S. R. & O. No.: 2 of 2019

Made: 20 February 2019

Published: 28 February 2019

Coming into force: on publication

I make these rules under section 60 of the Administration of Justice 1949, on the advice of the Executive Council.

1. Title

These Rules are the Administration of Justice (Payments to Jurors and Witnesses) (Amendment) Rules 2019.

2. Commencement

These Rules come into force on publication in the *Gazette*.

3. Rules amend Administration of Justice (Payments to Jurors and Witnesses) Rules 2016

These Rules amend the Administration of Justice (Payments to Jurors and Witnesses) Rules 2016.

4. Rule 4 amended (Scope of rules and general provisions)

(1) In rule 4(1)(a), omit “at the instance of the Attorney General”.

(2) In rule 4(1)(c), omit “for the purpose of the prosecution’s case” and “at the instance of the Attorney General”.

(3) In Rule 4(1), omit “conducted by the Attorney General in the discharge of the Attorney General’s functions under section 72 of the Constitution”.

5. Rule 8 amended (Allowances to jurors and witnesses, other than professional or expert, and to others for attendance)

In rule 8(2)(c), omit “the prosecution’s case” and replace it with “a case”.

6. Rule 9 amended (Subsistence allowances to jurors, witnesses, other than professional or expert, and to others)

In rule 9(3)(c), omit “the prosecution’s case” and replace it with “a case”.

Made 20 February 2019

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

EXPLANATORY NOTE
(not forming part of these rules)

Rules 4, 8 and 9 of the Administration of Justice (Payments to Jurors and Witnesses) Rules 2016 are amended so that they apply to both prosecution and defence witnesses.

SUBSIDIARY LEGISLATION

Coroners (Amendment) Rules 2019

S. R. & O. No.: 3 of 2019

Made: 20 February 2019

Published: 28 February 2019

Coming into force: on publication

I make these rules under section 60 of the Administration of Justice Ordinance 1949 on the advice of the Executive Council.

1. Title

These Rules are the Coroners (Amendment) Rules 2019.

2. Commencement

These Rules come into force on publication in the *Gazette*.

3. Rules amend Coroners Rules 1995

These Rules amend the Coroners Rules 1995.

4. Rule 46 amended (Excusal for certain persons and discretionary excusal)

In rule 46(1), omit “Parts I and III of the Schedule to the Jury Ordinance” and replace it with “Schedule 6 to the Criminal Procedure and Evidence Ordinance 2014”.

Made 20 February 2019

N. J. Phillips CBE,
Governor.

EXPLANATORY NOTE

(not forming part of these rules)

These Rules update rule 46 of the Coroners Rules 1995 by omitting a reference to the Jury Ordinance 1949, which has been repealed, and replacing it with a reference to the Criminal Procedure and Evidence Ordinance 2014.

SUBSIDIARY LEGISLATION

Fishery Products (Designations)(Amendment) Order 2019

S.R. & O. No.: 4 of 2019

Made: 22 February 2019

Published: 28 February 2019

Coming into force: on publication

I make this Order under section 35 of the Fishery Products Ordinance 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 2019.

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 omitting —

“Argos Galicia

1007”.

Made 22 February 2019

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

EXPLANATORY NOTE
(not forming part of the order)

This Order deletes the fishing vessel “Argos Galicia” from the Fishery Products (Designations) Order 2014, so has effect to remove designation of the vessel under the Fishery Products Ordinance.

ELIZABETH II



FALKLAND ISLANDS

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

Supplementary Appropriation (2018-2019) Ordinance 2019

(No: 1 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation
4. Replacement of amount withdrawn by authority of Contingencies Warrant

Schedule

ELIZABETH II



FALKLAND ISLANDS

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

SUPPLEMENTARY APPROPRIATION (2018-2019) ORDINANCE 2019

(No: 1 of 2019)

(assented to: 14 February 2019)
(commencement: on publication)
(published: 28 February 2019)

AN ORDINANCE

To authorise the appropriation from the Consolidated Fund of the additional amount of £1,375,690 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 2019.

2. Commencement

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

3. Appropriation

(1) The additional amount of £1,375,690 is appropriated from the Consolidated Fund for the financial year ending 30 June 2019.

(2) The issue of the additional amount from the Consolidated Fund in the amounts necessary to replace an amount in accordance with section 4 and to supply the votes set out in the Schedule is authorised.

4. Replacement of amount withdrawn by authority of Contingencies Warrant

If an amount has been withdrawn from the Contingencies Fund by the authority of Contingencies Warrant No. 5 of 2018-2019, the amount withdrawn must be replaced from the amount appropriated under section 3.

SCHEDULE

Number	Head of Service	Amount £
	Operating Budget	
0200	Health & Social Services	315,940
0410	Natural Resources	128,000
	Total Operating Budget	443,940
0999	Fund Transfer and Transfer Payments	931,750
	Total Schedule	1,375,690

Passed by the Legislature of the Falkland Islands on 31 January 2019.

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.

Crimes (Amendment) Bill 2019

(No: of 2019)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Ordinance amends Crimes Ordinance 2014
4. Section 33 amended (Supplemental provisions)
5. New section 65A (Causing grievous bodily harm by gross negligence)
6. Section 72 amended (Assaulting police officer)
7. New section 72A (Assaulting emergency worker)
8. Section 77 amended (Causing or allowing the death of or harm to a child or vulnerable adult)
9. New sections 85A to 85H
10. Section 107A amended (Offence of breaching non-molestation order)
11. New section 107B (Controlling or coercive behaviour in intimate or family relationships)
12. Section 108 amended (Guidance)
13. Heading to Part 5 amended
14. New section 122A (Corporate endangerment of life)
15. Section 129 amended (Gross breach: factors)
16. Section 130 amended (Application to public bodies)
17. Section 131 amended (Application to police force)
18. Section 133 amended (Power to order breach, etc. to be remedied)
19. Section 134 amended (Power to order conviction, etc. to be publicised)
20. Section 135 amended (Procedure, evidence and sentencing)
21. Section 136 amended (Convictions under this Part and under health and safety legislation)
22. Section 137 amended (Transfer of functions)
23. Section 139 amended (Power to extend section 122 to other organisations)
24. New section 217A (Sexual communication with children)
25. Section 302 amended (Method of notification and related matters)
26. New Part 25A (Terrorist Offences)
27. Section 583 amended (Transitional provisions)
28. Schedule 5 amended (Repealed and disappplied laws)

CRIMES (AMENDMENT) BILL 2019

(No: of 2019)

(assented to: 2019)
(commencement: on publication)
(published: 2019)

A BILL

for

AN ORDINANCE

To amend the Crimes Ordinance 2014.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Crimes (Amendment) Ordinance 2019.

2. Commencement

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

3. Ordinance amends Crimes Ordinance 2014

This Ordinance amends the Crimes Ordinance 2014

4. Section 33 amended (Supplemental provisions)

In section 33(4)(a), omit “section 31(2)” and replace it with “31(4)”.

5. New section 65A (Causing grievous bodily harm by gross negligence)

Insert after section 65 —

“65A. Causing grievous bodily harm by gross negligence

(1) A person commits an offence if the person causes grievous bodily harm to another person by gross negligence.

Penalty: Imprisonment for 14 years or a fine, or both.

(2) An offence against subsection (1) is triable on indictment only.”.

6. Section 72 amended (Assaulting police officer)

(1) In section 72(1), omit “Imprisonment for 1 month or a fine at level 3 on the standard scale, or both.” and replace it with “As provided in subsections (3) to (5).”.

(2) In section 72(2), omit “As provided in subsections (3) to (5).” and replace it with “Imprisonment for 1 month or a fine at level 3 on the standard scale, or both.”.

7. New section 72A (Assaulting emergency worker)

Insert after section 72 —

“72A. Assaulting emergency worker

(1) In this section —

“emergency” means an occurrence that —

- (a) causes, or threatens to cause, loss of life or injury to persons;
- (b) causes, or threatens to cause, loss of or damage to property;
- (c) endangers the safety of the public; or
- (d) causes, or threatens to cause, damage to the environment;

“emergency worker” means any of the following persons who is working in response to an emergency —

- (a) a police officer;
- (b) a member of the police reserve enlisted under section 9 of the Police Ordinance 2000 or any other person employed or engaged to provide services for police purposes;
- (c) an Officer in Charge, prison officer or other prison staff appointed under section 6 of the Prisons Ordinance 2017;
- (d) a person employed or engaged to provide fire or rescue services; or
- (e) a person employed or engaged to provide medical care, including in a para medical capacity;

“employed or engaged” includes —

- (a) providing services as a volunteer or in another capacity that is unpaid; and
- (b) employed or engaged on a full or part-time basis.

(2) To avoid doubt, a reference to an emergency worker includes a reference to a person who is not at work or not on duty but who, in working in response to an emergency, is performing duties which, if the person were at work or on duty, the person would perform in the course of the person’s employment.

(3) A person commits an offence if the person assaults —

- (a) an emergency worker; or

(b) a person assisting an emergency worker.
Penalty: Imprisonment for 12 months or a fine.

(4) A person commits an offence if the person wilfully obstructs —

(a) an emergency worker; or

(b) a person assisting an emergency worker.
Penalty: Imprisonment for 12 months or a fine.

[UK Assaults on Emergency Workers (Offences) Act ss. 1 and 3]”.

8. Section 77 amended (Causing or allowing the death of or harm to a child or vulnerable adult)

In section 77(8), omit “subsection (7)” and replace it with “subsection (1)”.

9. New sections 85A to 85H

Insert after section 85 —

“85A. Definition of CAWN and CAWO

In sections 85B to 85G (inclusive) —

“CAWN” means a child abduction warning notice;

“CAWO” means a child abduction warning order.

85B. Power to issue CAWN

(1) A member of the police force not below the rank of inspector (“the authorising officer”) may issue a CAWN under this section.

(2) A CAWN may be issued to a person (“A”) aged 18 years or over if the authorising officer —

(a) has reasonable grounds for believing that A has without lawful authority or reasonable excuse been found in the company of a child under the age of 18 years (“C”); and

(b) (i) has reasonable grounds for believing that C has, on at least two occasions (including the occasion referred to in paragraph (a)), been reported missing and subsequently found to be in the company of A; or

(ii) has reason to suspect that C’s behaviour is, by reason of association with A, a significant cause for concern.

(3) Before issuing a CAWN, the authorising officer must, in particular, take reasonable steps to gather and consider —

- (a) representations made by the person with lawful authority for C; and
 - (b) representations made by A as to the issuing of the CAWN.
- (4) A CAWN must prohibit A from being in the company of C.

85C. Contents and service of CAWN

(1) A CAWN must state —

- (a) the grounds on which it has been issued;
 - (b) that a constable may arrest A without warrant if the constable has reasonable grounds for believing that A is in breach of the CAWN;
 - (c) that an application for a CAWO under section 85E will be heard within 48 hours of the time of service of the CAWN and a notice of the hearing will be given to A;
 - (d) that the CAWN continues in effect until that application has been determined; and
 - (e) the provisions that a court may include in a CAWO under sections 85E and 85F.
- (2) A CAWN must be in writing and must be served on A personally by a police officer.
- (3) On serving A with a CAWN, the police officer must ask A for an address for the purposes of being given the notice of the hearing of the application for the CAWO.

85D. Breach of CAWN

- (1) A constable may arrest a person without a warrant if the constable has reasonable grounds for believing that the person is in breach of a CAWN.
- (2) A person arrested by virtue of section 85C(1)(b) for a breach of a CAWN must be held in custody and brought before the court which will hear the application for a CAWO under sections 85E and 85F —
- (a) before the end of the period of 24 hours beginning with the time of the arrest; or
 - (b) if earlier, at the hearing of that application.
- (3) If the person is brought before the court by virtue of subsection (2)(a), the court may remand the person.
- (4) If the court adjourns the hearing of the application by virtue of section 85E(8), the court may remand the person.

(5) In calculating when the period of 24 hours mentioned in subsection (2)(a) ends, Christmas Day, any Sunday and any day which is a public holiday in the Falkland Islands are to be disregarded.

85E. Application for a CAWO

(1) If a CAWN has been issued, the Attorney General must apply for a CAWO.

(2) The application must be made by complaint to the Magistrate's Court and any hearing relating to the application will be heard by the Senior Magistrate or, if the Senior Magistrate is not available, three Justices of the Peace.

(3) The application must be heard by the Court no later than 48 hours after the CAWN was served pursuant to section 85C(2).

(4) In calculating when the period of 48 hours mentioned in subsection (3) of this section ends, Christmas Day, any Sunday and any day which is a public holiday in the Falkland Islands are to be disregarded.

(5) A notice of the hearing of the application must be given to A.

(6) The notice is deemed given to A if it is left at the address given by A under section 85C(3).

(7) But if the notice has not been given because no address was given by A under section 85C(3), the court may hear the application for the CAWO if the court is satisfied that reasonable efforts have been made to give A the notice.

(8) The court may adjourn the hearing of the application.

(9) If the court adjourns the hearing, the CAWN continues in effect until the application has been determined.

(10) On the hearing of the application for a CAWO, sections 278 and 279 of the Criminal Procedure and Evidence Ordinance 2014 do not apply in relation to a person for whose protection the CAWO would be made, except where the person has given oral or written evidence at the hearing.

85F. Conditions for, effect and contents of CAWO

(1) The court may make a CAWO if two conditions are met.

(2) The first condition is that the court is satisfied on the balance of probabilities that the criteria in section 85B(2)(a) and (b) are satisfied.

(3) The second condition is that the court thinks that making the CAWO is necessary to protect C from harm as a result of association with A.

- (4) A CAWO prohibits A from doing anything described in the order.
- (5) The only prohibitions that may be included in a CAWO are those necessary to protect C from harm as a result of association with A.
- (6) A CAWO must state that it is a criminal offence to breach the CAWO.
- (7) A CAWO may be in force for —
 - (a) no fewer than 14 days beginning with the day on which it is made; and
 - (b) until the date of the 18th birthday of C.
- (8) A CAWO must state the period for which it is to be in force.

85G. Breach of CAWO

A person in respect of whom a CAWO has been made and who contravenes the order in any respect commits an offence.

Penalty: Imprisonment for 5 years or a fine, or both.

85H. Guidance

(1) The Attorney General may issue guidance relating to the exercise by a police officer of functions under sections 85B to 85G (inclusive).

(2) The guidance must set out the behaviours associated with “giving significant cause for concern”, including, in particular, behaviours associated with giving cause for concern of sexual exploitation or grooming.

(3) A police officer must have regard to any guidance issued under subsection (1) when exercising a function to which the guidance relates.”.

10. Section 107A amended (Offence of breaching non-molestation order)

In section 107A, insert “order” after “non-molestation”.

11. New section 107B (Controlling or coercive behaviour in intimate or family relationships)

Insert after section 107A —

“107B. Controlling or coercive behaviour in intimate or family relationships

(1) A person (A) commits an offence if —

- (a) A repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive;
- (b) at the time of the behaviour, A and B are personally connected;

(c) the behaviour has a serious effect on B; and

(d) A knows or ought to know that the behaviour will have a serious effect on B.

Penalty: Imprisonment for 5 years or a fine, or both.

(2) A and B are “personally connected” if —

(a) A is in an intimate personal relationship with B; or

(b) A and B live together and —

(i) they are members of the same family; or

(ii) they have previously been in an intimate personal relationship with each other.

(3) But A does not commit an offence under this section if at the time of the behaviour in question —

(a) A has responsibility for B, for the purposes of section 5 of the Children Ordinance 2014; and

(b) B is under 16.

(4) A’s behaviour has a “serious effect” on B if —

(a) it causes B to fear, on at least two occasions, that violence will be used against B; or

(b) it causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities.

(5) For the purposes of subsection (1)(d), A “ought to know” that which a reasonable person in possession of the same information would know.

(6) For the purposes of subsection (2)(b)(i), A and B are members of the same family if —

(a) they are, or have been, married to each other;

(b) they are, or have been, civil partners of each other;

(c) they are relatives;

(d) they are both parents of the same child; or

(e) they have, or have had, parental responsibility for the same child.

(7) In subsection (6) —

“child” means a person under the age of 18 years;

“parental responsibility” has the same meaning as in the Children Ordinance 2014;

“relative” means —

(a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse, former spouse, civil partner or former civil partner; or

(b) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood or by marriage or civil partnership) of that person or of that person’s spouse, former spouse, civil partner or former civil partner,

and includes, in relation to a person who is cohabiting or has cohabited with another person, any person who would fall within paragraph (a) or (b) if the parties were married to each other or were civil partners of each other.

(8) In proceedings for an offence under this section it is a defence for A to show that —

(a) in engaging in the behaviour in question, A believed that A was acting in B’s best interests; and

(b) the behaviour was in all the circumstances reasonable.

(9) A is to be taken to have shown the facts mentioned in subsection (8) if —

(a) sufficient evidence of the facts is adduced to raise an issue with respect to them; and

(b) the contrary is not proved beyond reasonable doubt.

(10) The defence in subsection (8) is not available to A in relation to behaviour that causes B to fear that violence will be used against B.

[UK Serious Crime Act 2015 s. 76]”.

12. Section 108 amended (Guidance)

In section 108(1), omit “sections 102 to 109” and replace it with “sections 102 to 107A”.

13. Heading to Part 5 amended

Omit the heading to Part 5 and replace it with —

“CORPORATE MANSLAUGHTER AND ENDANGERMENT OF LIFE”.

14. New section 122A (Corporate endangerment of life)

Insert after section 122 —

“122A. Corporate endangerment of life

(1) An organisation to which this section applies commits the offence of corporate endangerment of life if the way in which its activities are managed or organised —

(a) causes a person (A) grievous bodily harm; and

(b) amounts to a gross breach of a relevant duty of care owed by the organisation to A.

Penalty: A fine.

(2) The organisations to which this section applies are —

(a) a corporation;

(b) a department of the Government (other than an exempt department);

(c) a police force;

(d) a partnership, or a trade union or employers’ association that is an employer.

(3) An organisation commits an offence under this section only if the way in which its activities are managed or organised by its senior management is a substantial element in the breach referred to in subsection (1).

(4) For the purposes of this Part —

(a) “relevant duty of care” has the same meaning given by section 123, read with sections 124 to 128;

(b) a breach of a duty of care by an organisation is a “gross” breach if the act alleged to amount to a breach of that duty falls far below what can reasonably be expected of the organisation in the circumstances; and

(c) “senior management”, in relation to an organisation, means the persons who play significant roles in —

(i) the making of decisions about how the whole or a substantial part of its activities are to be managed or organised; or

(ii) the actual managing or organising of the whole or a substantial part of those activities.

(5) The offence of corporate endangerment of life is triable on indictment only.

(6) This section applies only if the harm resulting in grievous bodily harm is sustained —

(a) in the Falkland Islands (including in its territorial waters);

(b) on a ship or aircraft registered in the Falkland Islands; or

(c) on, under or above an installation in waters to which section 179 of the Criminal Procedure and Evidence Ordinance 2014 applies, or any waters within 500 metres of any such installation.

(7) For the purposes of subsection (6)(b), harm sustained on a ship or aircraft includes harm sustained by a person who —

(a) is no longer on board the ship or aircraft in consequence of the wrecking of it or of some other mishap affecting it or occurring on it; and

(b) sustains the harm in consequence of that event.”.

15. Section 129 amended (Gross breach: factors)

In section 129(2)(b), insert “or grievous bodily harm” after “death”.

16. Section 130 amended (Application to public bodies)

In section 130(3), omit “section 122” and replace it with “sections 122 and 122A”.

17. Section 131 amended (Application to police force)

(1) In section 131(2) and (3), omit “section 122” and replace it with “sections 122 and 122A”.

(2) In section 131(5)(a), omit “section 122” and replace it with “section 122 or 122A”.

18. Section 133 amended (Power to order breach, etc. to be remedied)

(1) In section 133(1) insert “or corporate endangerment of life” after “manslaughter”.

(2) In section 133(1)(a), omit “section 122(1)” and replace it with “section 122(1) or 122A(1)”.

(3) In section 133(1)(b), insert “or grievous bodily harm” after “death”.

19. Section 134 amended (Power to order conviction, etc. to be publicised)

In section 134(1), insert “or corporate endangerment of life” after “manslaughter”.

20. Section 135 amended (Procedure, evidence and sentencing)

In section 135(2) and (3), insert “or corporate endangerment of life” after “manslaughter”.

21. Section 136 amended (Convictions under this Part and under health and safety legislation)

In section 136(1)(a) and (2), insert “or corporate endangerment of life” after “manslaughter”.

22. Section 137 amended (Transfer of functions)

In section 137(1)(a), (3) and (5), insert “or grievous bodily harm” after “death”.

23. Section 139 amended (Power to extend section 122 to other organisations)

In section 139(1), omit “section 122” and replace it with “section 122 or 122A”.

24. New section 217A (Sexual communication with children)

Insert after section 217 —

“217A. Sexual communication with children

(1) A person aged 18 or over (A) commits an offence if —

(a) for the purpose of obtaining sexual gratification, A intentionally communicates with another person (B);

(b) the communication is sexual or is intended to encourage B to make (whether to A or to another) a communication that is sexual; and

(c) B is under 16 and A does not reasonably believe that B is 16 or over.

Penalty: Imprisonment for 2 years or a fine, or both.

(2) For the purposes of this section, a communication is sexual if —

(a) any part of it relates to sexual activity; or

(b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider any part of the communication to be sexual.

(3) In subsection (2)(a), “sexual activity” means an activity that a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider to be sexual.

[UK Sexual Offences Act 2003 s. 15A]”

25. Section 302 amended (Method of notification and related matters)

In section 302(1)(a), omit “cutody” and replace it with “custody”.

26. New Part 25A (Terrorist Offences)

Insert after section 577 —

“PART 25A – TERRORIST OFFENCES

Interpretation of Part

577A. Definitions

In this Part —

“act” includes —

(a) an omission and a course of action;

(b) one or more acts that are part of a series of acts;

- (c) an act for a specific purpose and an act of a general nature;
- (d) an act that occurs in or outside the Falkland Islands; and
- (e) an act that is taken by or for the purposes of an organisation proscribed under an Act;

“article” includes —

- (a) a device or thing for mechanically or electronically storing or recording data; and
- (b) a device or thing by or from which data is capable of being reproduced with or without the aid of another article, device or thing;

“document” includes a photographic record;

“glorification” includes any form of praise or celebration;

“government” means the Government of Falkland Islands or the government of a country outside of the Falkland Islands;

“publication” includes matter that may be listened to or watched;

“publish” includes publish by or through using the internet or other electronic service;

“provide”, in relation to money or other property, includes give, lend or make available, whether or not for consideration;

“service” includes a facility;

“terrorism” means engaging in a terrorist act that —

- (a) is designed to influence a government or an international organisation;
- (b) is designed to intimidate the public; and
- (c) is made for the purpose of advancing a political, religious, racial, ethnic, cultural or ideological cause;

“terrorist act” means one or more acts taken, being taken or threatened to be taken that —

- (a) involve serious violence against a person or serious damage to property, including by the use of firearms or explosives;
- (b) endanger a person’s life (other than the life of the person committing the action);
- (c) create a serious risk to the health or safety of the public;

(d) are designed to interfere seriously with, or to disrupt seriously, an electronic system;
or

(e) as part of a course of action, enable or will enable a terrorist act.

[UK Terrorism Act 2000 s.121]

577B. References in this Part to persons, property and the public

(1) A reference in this Part to a person is a reference to a person in the Falkland Islands or in a country outside the Falkland Islands.

(2) A reference in this Part to property is a reference to property in the Falkland Islands or in a country outside the Falkland Islands.

(3) A reference in this Part to the public includes a reference to people attending a meeting that members of the public may attend, whether the people's admission to the meeting is unconditional, on the payment of a fee or on satisfaction of another condition.

[UK Terrorism Act 2000 s.121]

Offences relating to financing terrorism

577C. Fund raising for terrorism

(1) A person commits an offence if the person —

(a) asks or invites another person to provide money or other property; and

(b) intends, or has reasonable grounds to suspect, that the money or property will or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(2) A person commits an offence if the person —

(a) receives money or other property; and

(b) intends, or has reasonable grounds to suspect, that the money or property will be or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(3) A person commits an offence if the person —

(a) provides money or other property to a person; and

(b) knows, or has reasonable grounds to suspect, that the money or property will or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(4) An offence under this section is triable only on indictment.

(5) In subsection (2)(a), a reference to receiving money or other property is a reference to being given, lent or otherwise provided the money or other property, whether or not for consideration.

[UK Terrorism Act 2000 s. 15]

577D. Possession and use of money or other property for terrorism

(1) A person commits an offence if the person uses money or other property for terrorism.
Penalty: Imprisonment for 14 years or a fine, or both.

(2) A person commits an offence if the person —

(a) possesses money or other property; and

(b) intends to use the money or property for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(3) A person commits an offence if the person —

(a) possesses money or other property; and

(b) has reasonable grounds to suspect that the money or property will or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(4) An offence under this section is triable only on indictment.

[UK Terrorism Act 2000 s. 16]

577E. Entering into funding arrangements for terrorism

(1) A person commits an offence if —

(a) the person enters into, or becomes concerned in, an arrangement;

(b) as a result of the person entering into or becoming concerned in the arrangement, money or other property is, or will be, provided to another person; and

(c) the person knows, or has reasonable grounds to suspect, that the money or property will or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(2) An offence under this section is triable only on indictment.

[UK Terrorism Act 2000 s. 17]

577F. Arrangements to deal with money or other property that funds terrorism

(1) In this section —

“dealing with money or other property” means —

- (a) receiving, possessing or controlling the money or property;
- (b) concealing or attempting to conceal the money or property;
- (c) passing or transferring the money or property to another person; or
- (d) disposing of the money or property in any other way.

(2) A person commits an offence if the person enters into, or becomes concerned in, an arrangement to deal with money or other property that is being used, or is intended to be used, for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(3) It is a defence for a person charged with an offence under this section to prove that the person did not know, and did not have reasonable grounds to suspect, that the arrangement related to money or other property that is being used, or is intended to be used, for terrorism.

(4) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for entering into, or becoming concerned in, the arrangement to deal with money or other property.

(5) An offence under this section is triable on indictment only.

[UK Terrorism Act 2000 s. 18]

Offences relating to information about terrorism

577G. Non-disclosure of information about acts of terrorism

(1) This section applies to a person who has information that the person knows or believes is of material assistance for —

- (a) preventing another person from committing a terrorist act; or
- (b) apprehending, prosecuting or convicting another person in the Falkland Islands for an offence under this Part or under the law of a country outside the Falkland Islands.

(2) The person commits an offence if the person does not disclose the information to a police officer.

Penalty: Imprisonment for 5 years or a fine, or both.

(3) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for not disclosing the information to a police officer.

(4) Proceedings for an offence under this section may be commenced in the Falkland Islands or, subject to subsection (5), in a country outside the Falkland Islands.

(5) Proceedings referred to in subsection (4) may be commenced in a country outside the Falkland Islands if —

(a) the person alleged to have committed the offence was in the country when the person became aware, or at any time after the person became aware, that the person had information referred to in subsection (1); and

(b) the acts constituting the offence constitute an offence under the law in that country.

577H. Collecting, recording, possessing information that may be used for terrorism

(1) A person commits an offence if the person —

(a) collects or records information of a kind likely to be useful to a person committing or preparing for a terrorist act; or

(b) possesses a document containing information referred to in paragraph (a).

Penalty: Imprisonment for 10 years or a fine, or both.

(2) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for collecting or recording the information or possessing the document.

(3) An offence under this section is triable only on indictment.

577I. Disseminating terrorist publications

(1) In this section —

“act” means an act for doing any of the following —

(a) distributing or circulating a terrorist publication;

(b) giving, selling or lending a terrorist publication;

(c) offering a terrorist publication for sale or loan;

(d) transmitting the content of a terrorist publication electronically;

(e) possessing a terrorist publication for the purposes of paragraph (a), (b), (c) or (d);

(f) providing a service by which another person is able to obtain, read, listen to or watch a terrorist publication; or

(g) providing a service by which another person may purchase or loan a terrorist publication or be gifted a terrorist publication;

“lend” or “on loan” includes let on hire;

“terrorist publication” means a publication or part of a publication —

(a) that contains material —

(i) which glorifies committing or preparing for a terrorist act or type of terrorist act (whether a current, future or past act);

(ii) from which a member of the public could reasonably be expected to infer that the act or type of act that is gloried is an act or type of act that the member should emulate; and

(iii) by which it is likely that a member of the public would be directly or indirectly encouraged or induced to commit, prepare for or instigate a terrorist act;

(b) that contains material that is likely to be useful for committing or preparing for a terrorist act; or

(c) that was likely published wholly or mainly for the purpose of being used by a member of the public to commit or prepare for a terrorist act.

(2) A person commits an offence if the person does an act with the intention that an effect of the act is to —

(a) directly or indirectly encourage or otherwise induce another person to commit, prepare for or instigate a terrorist act; or

(b) provide assistance to another person for committing or preparing for a terrorist act.

Penalty: Imprisonment for 7 years or a fine, or both.

(3) A person commits an offence if the person does an act recklessly as to whether, because of the act, the person —

(a) directly or indirectly encourages or otherwise induces another person to commit, prepare for or instigate a terrorist act; or

(b) provides assistance to another person for committing or preparing for a terrorist act.

Penalty: Imprisonment for 7 years or a fine, or both.

(4) In subsections (2) and (3), a reference to an effect of the act includes a reference to a terrorist publication becoming available to a person as a consequence of the act and, because of the availability of the publication to the person, it is likely that the person —

(a) is directly or indirectly encouraged or otherwise induced to commit, prepare for or instigate a terrorist act; or

(b) is provided assistance for committing or preparing for a terrorist act.

(5) In proving the commission of an offence under subsection (2) or (3), the question whether a publication is a terrorist publication must be determined —

(a) as at the time the defendant allegedly carried out the act the subject of the offence; or

(b) having regard to the whole contents of the publication and to the circumstances in which the defendant allegedly carried out the act.

(6) In proving the commission of an offence under subsection (2) or (3), the following is immaterial —

(a) whether all or some of the persons to whom the terrorist publication became available likely understood that the publication —

(i) was directly or indirectly encouraging or otherwise inducing a person to commit, prepare for or instigate a terrorist act; or

(ii) was providing assistance for committing or preparing for a terrorist act; and

(b) whether, as a consequence of the defendant's alleged act, a person was —

(i) directly or indirectly encouraged or otherwise induced to commit, prepare for or instigate a terrorist act; or

(ii) provided assistance for committing or preparing for a terrorist act.

(7) It is a defence for a person charged with an offence under subsection (2)(a) or (3)(a) to show that —

(a) the terrorist publication the subject of the alleged offence did not express the person's views or ideology or the person did not publically express support for the publication;

(b) in the circumstances of the act the subject of the alleged offence, it is clear that the terrorist publication did not express the person's views or ideology or that the person did not publically express support for the publication; and

(c) the defendant did not carry out the alleged act with the intention that an effect of the act was to directly or indirectly encourage or otherwise induce another person to commit, prepare for or instigate a terrorist act.

577J. Use of information to encourage terrorism

(1) A reference in this section to a statement is a reference to a statement which is likely to be understood by one or more members of the public to whom it is made as directly or indirectly encouraging or otherwise inducing the member or members to commit, prepare for or instigate a terrorist act.

(2) For this section, a statement that is likely to be understood by one or more members of the public as directly or indirectly encouraging or otherwise inducing the member or members to commit, prepare for or instigate a terrorist act is a statement —

(a) which glorifies committing or preparing for a terrorist act or a type of terrorist act (whether a current, future or past act); and

(b) from which one or more members of the public could reasonably be expected to infer that the act or type of act that is glorified is an act or type of act that the member should emulate.

(3) A person commits an offence if the person publishes a statement, or causes another person to publish a statement, with the intention of directly or indirectly encouraging or inducing one or more members of the public to commit, prepare for or instigate a terrorist act.

Penalty: Imprisonment for 7 years or a fine, or both.

(4) A person commits an offence if the person publishes a statement, or causes another person to publish a statement and, at the time the statement is published, is reckless as to whether the statement will directly or indirectly encourage or induce one or more members of the public to commit, prepare for or instigate a terrorist act.

Penalty: Imprisonment for 7 years or a fine, or both.

(5) In a proceeding for an offence under this section, a question about how a statement is likely to be understood by a member of the public, or about what a member of the public could reasonably be expected to infer from a statement, must be determined having regard to —

(a) the whole content of the statement;

(b) the circumstances of its publication; and

(c) the manner in which it is published.

(6) It is a defence for a person charged with an offence under this section to show that —

(a) the statement did not express the person's views or ideology or the person did not publically express support for the statement; and

(b) in the circumstances of the statement's publication, it is clear that the statement did not express the person's views or ideology or that the person did not publically express support for the statement.

Other offences relating to terrorism

577K. Possession of article for terrorism

(1) A person commits an offence if the person possesses an article in circumstances which give rise to a reasonable suspicion that the person possesses the article for a purpose connected with committing, preparing for or instigating a terrorist act.

Penalty: Imprisonment for 15 years or a fine, or both.

(2) In proceedings for an offence under this section, the court may assume that the defendant possessed the article if it is proved that an article was —

- (a) on premises at the same time as the accused;
- (b) on premises that the accused was occupying; or
- (c) on premises that the accused habitually used other than as a member of the public.

(3) Subsection (2) does not apply if the defendant proves that the defendant —

- (a) did not know that the article was on the premises; or
- (b) had no control over the article.

(4) If a person charged with an offence under this section possesses the article, it is a defence for the person to prove that the person did not possess the article for a purpose connected with committing, preparing for or instigating a terrorist act.

(5) An offence under this section is triable only on indictment.

577L. Preparing for committing terrorist act

(1) In this section —

“person” means a person who intends to —

- (a) commit a terrorist act; or
- (b) assist another person commit a terrorist act.

(2) A person commits an offence if the person does an act in preparation for giving effect to the person's intention.

Penalty: Imprisonment for life.

(3) An offence under this section is triable only on indictment.”.

27. Section 583 amended (Transitional provisions)

(1) Revoke section 583(2).

(2) In section 583(3), omit “Subsections (1) and (2) do” and replace it with “Subsection (1) does”.

28. Schedule 5 amended (Repealed and disapplied laws)

In Schedule 5, Part A, insert in the appropriate order and format —

“Bribery and Corruption Overseas Ordinance 2006”.

OBJECTS AND REASONS

This Bill amends the Crimes Ordinance 2014 revises and corrects minor errors and inserts new provisions based on developments in the Falkland Islands and in the criminal law in England and Wales to effect procedural amendments and specify new offences.

Clause 1 specifies the title of the Ordinance.

Clause 2 specifies the commencement of the Ordinance.

Clause 3 provides that this Ordinance amends the Crimes Ordinance 2014 which is referred to as “the Ordinance”.

Clause 4 amends section 33 to correct a cross reference.

Clause 5 inserts new section 65A to create an offence of causing grievous bodily harm by gross negligence.

Clause 6 amends section 72 to correct penalties for offences against that section by swapping the penalty specified for subsections (1) and (2).

Clause 7 inserts new section 72A to create an offence for assaulting an emergency worker and is based on the Assaults on Emergency Workers (Offences) Act 2018.

Clause 8 amends section 77 to correct a cross reference.

Clause 9 inserts new sections 85A to 85H to introduce a scheme for safeguarding children from abduction and creates an offence for contravening a child abduction warning order.

Clause 10 amends section 107A to correctly refer to a non-molestation order.

Clause 11 inserts new section 107B to create an offence for engaging in controlling or coercive behaviour by a person towards another person with whom there is an intimate personal relationship, and is based on section 15A of the Sexual Offences Act 2003.

Clause 12 amends section 108 to correctly refer to sections 102 to 107A.

Clause 13 amends the heading to Part 5 of the Ordinance so include corporate endangerment of life provided for in new section 122A inserted by clause 11.

Clause 14 inserts new section 122A to create an offence of corporate endangerment of life for gross negligence that causes really serious harm, but not death, by an organisation.

Clauses 15, 16, 17, 18, 19, 20, 21, 22, and 23 effect amendments consequential to inserting new section 122A.

Clause 24 inserts new section 217A to create an offence of having a sexual communication with a child and is based on section 15A of the Sexual Offences Act 2003.

Clause 25 effects a typographical amendment to section 302.

Clause 26 inserts new Part 25A to insert 10 new criminal offences dealing with terrorist related activity.

Clause 27 amends section 583 to revoke subsection (2) and remove a reference to subsection (2) in subsection (3) to reflect the practice of charging historic offences.

Clause 28 amends Schedule 5 to the Ordinance to provide for the repeal of the Bribery and Corruption Overseas Ordinance 2006 by listing it in the Schedule.

Criminal Procedure and Evidence (Miscellaneous Amendments) Bill 2019

(No: of 2019)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 – PRELIMINARY

1. Title
2. Commencement

PART 2 – AMENDMENTS OF CRIMINAL PROCEDURE AND EVIDENCE ORDINANCE 2014

3. Amendment of Criminal Procedure and Evidence Ordinance 2014
4. Section 259 amended (Proceedings invalid if defendant did not know of them)
5. Section 299 amended (Choice of mode of trial: supplementary provisions)
6. Section 316 amended (Qualification for jury service – Schedule 6)
7. New section 324A (Summoning for jury service in exceptional circumstances)
8. New section 435A (Observing proceedings by live link)
9. Section 563 amended (Duration of sentences of imprisonment)
10. Sections 566 and 567 revoked
11. Section 569 amended (Court by which suspended sentence may be dealt with)
12. Section 574 revoked
13. Section 583 amended (Revocation of licences and recall of prisoners on licence)
14. Section 585 amended (Warrants for imprisonment)
15. Section 605 amended (Disposal of fines and recognisances)
16. Section 627 amended (Rehabilitated persons and spent convictions)
17. Section 633 amended (Exceptions to rehabilitation – Schedule 11)
18. Section 647 amended (Award of costs)
19. Section 664 amended (Appeals against sentence)
20. Section 671 amended (Prosecution appeal from Magistrate’s Court in respect of rulings and sentence)
21. Schedule 11 amended (Exceptions to rehabilitation)

PART 3 – CONSEQUENTIAL AMENDMENTS OF OTHER ORDINANCES

22. Administration of Justice Ordinance 1949 amended
23. Fisheries (Conservation and Management) Ordinance 2005 amended
24. Licensing Ordinance 1994 amended
25. Misuse of Drugs Ordinance 1987 amended
26. Oil in Territorial Waters Ordinance 1960 amended
27. Road Traffic Ordinance 1948 amended

**CRIMINAL PROCEDURE AND EVIDENCE (MISCELLANEOUS
AMENDMENTS) BILL 2019**

(No: of 2019)

(assented to: 2019)

(commencement: on publication)

(published: 2019)

A BILL

for

AN ORDINANCE

To amend the Criminal Procedure and Evidence Ordinance 2014 and to consequentially amend various other Ordinances to apply consistently with the Criminal Procedure and Evidence Ordinance 2014.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 – PRELIMINARY

1. Title

This Ordinance is the Criminal Procedure and Evidence (Miscellaneous Amendments) Ordinance 2019.

2. Commencement

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

**PART 2 – AMENDMENTS OF CRIMINAL PROCEDURE AND
EVIDENCE ORDINANCE 2014**

3. Amendment of Criminal Procedure and Evidence Ordinance 2014

This Part amends the Criminal Procedure and Evidence Ordinance 2014.

4. Section 259 amended (Proceedings invalid if defendant did not know of them)

In section 259(4), insert “in the Summary Court” after “tried again”.

5. Section 299 amended (Choice of mode of trial: supplementary provisions)

In section 299(1)(g), omit “section 338(1)” and replace it with “section 336(1)”.

6. Section 316 amended (Qualification for jury service – Schedule 6)

In section 316(1)(b)(iii), omit “36 months” and replace it with “12 months”.

7. New section 324A (Summoning for jury service in exceptional circumstances)

After section 324, insert —

“324A. Summoning for jury service in exceptional circumstances

(1) If it appears to a judge that a jury to try an indictment will be, or probably will be, incomplete, the judge may require any persons who are in, or in the vicinity of, the court, to be summoned, without written notice, for jury service up to the number needed to make up a full jury (after allowing for any who may not be qualified under section 316, and for excusals and challenges).

(2) The names of the persons summoned under subsection (1) must be added to the panel for the court sittings and treated as if they were specified on the panel under section 321(1).

(3) If a judge is satisfied that for any reason it is or was not practicable to summon jurors under section 319, the judge may require any persons who are in, or in the vicinity of, the court, to be summoned, without written notice, for jury service up to the number needed to make up a full jury (after allowing for any who may not be qualified under section 316, and for excusals and challenges).

(4) The names of persons summoned under subsection (3) must be treated as if they were specified on a panel prepared for the court sittings under section 321(1).

(5) If a trial is to take place in Stanley, a reference in subsection (1) or (3) to a person being in the vicinity of the court is a reference to the person being within Stanley.”.

8. New section 435A (Observing proceedings by live link)

After section 435, insert —

“435A. Observing proceedings by live link

(1) A court that gives a special measures direction for a witness to give evidence by live link under section 435, may, if it considers it is in the interests of justice to do so, give a direction providing that the witness may, after giving evidence, observe the remainder of the proceedings by live link.

(2) In giving the direction, the court may also provide for the witness to observe the proceedings in the company of a person. The direction must specify who that person is.

(3) In deciding whether to make the direction, and the content of the direction, the court must have regard to the wishes of the witness.

(4) Reference in this section to a live link is a reference to a live link arrangement by which —

(a) the witness is able to see and hear (from a place outside the place where the criminal proceedings are held) a person in the place where the criminal proceedings are held; and

(b) it is not possible for a person to see or hear (from a place outside the place where the witness observes the proceedings) the witness.”.

9. Section 563 amended (Duration of sentences of imprisonment)

(1) In section 563(5), omit “but subject to subsections (6) and (7) as regards partly suspended sentences,”.

(2) Revoke section 563(6) and (7).

10. Sections 566 and 567 revoked

Revoke sections 566 and 567.

11. Section 569 amended (Court by which suspended sentence may be dealt with)

(1) In section 569(1), omit “or a partly suspended sentence”.

(2) In section 569(1)(a), (b) and (c) and (2), omit “or partly suspended sentence”.

12. Section 574 revoked

Revoke section 574.

13. Section 583 amended (Revocation of licences and recall of prisoners on licence)

(1) In section 583(3)(b), omit “section 581(1)” and replace it with “section 582(1).”

(2) Revoke section 583(5).

14. Section 585 amended (Warrants for imprisonment)

In section 585, insert “, or under the hand of the Registrar or Clerk of the Court,” after “at the trial”.

15. Section 605 amended (Disposal of fines and recognisances)

In section 605(1), omit paragraphs (a) and (b) and replace them with —

“(a) firstly, in payment of any damages or compensation so ordered on the conviction to be paid to a person;

(b) secondly, in payment of any costs ordered on the conviction to be paid to the prosecutor;”.

16. Section 627 amended (Rehabilitated persons and spent convictions)

Revoke section 627(5).

17. Section 633 amended (Exceptions to rehabilitation – Schedule 11)

In section 633(8), omit “Section 628(4)” and replace it with “Section 628”.

18. Section 647 amended (Award of costs)

(1) In section 647(1), insert after paragraph (a) —

“(aa) to any person acquitted of any offence, including where the information alleging the offence is withdrawn, dismissed or discontinued;”.

(2) Revoke section 647(4) and replace it with —

“(4) Costs payable to a person pursuant to subsection (1)(aa) are payable out of the Consolidated Fund.”.

(3) Revoke section 647(7).

19. Section 664 amended (Appeals against sentence)

In section 664, insert, after subsection (2) —

“(2A) If the Supreme Court hears an appeal against a sentence passed by the Magistrate’s Court or the Summary Court, the Supreme Court must allow the appeal if the Court thinks that the sentence is manifestly excessive.”.

20. Section 671 amended (Prosecution appeal from Magistrate’s Court in respect of rulings and sentence)

(1) In section 671(1)(b), omit “10 years or more” and replace it with “12 months or more”.

(2) Omit section 671(2)(c) and replace it with —

“(c) that the sentence imposed was unduly lenient.”.

21. Schedule 11 amended (Exceptions to rehabilitation)

(1) In Schedule 11, Part 4, add after paragraph 4 —

“5. Taxi driver’s permits issued under the Road Traffic (Taxi Drivers’ Permits) Order 2013.”.

(2) In Schedule 11, Part 5, add after paragraph 14 —

“15. Proceedings relating to a taxi driver’s permit issued under the Road Traffic (Taxi Drivers’ Permits) Order 2013.”.

PART 3 – CONSEQUENTIAL AMENDMENTS OF OTHER ORDINANCES

22. Administration of Justice Ordinance 1949 amended

(1) This section amends the Administration of Justice Ordinance 1949.

(2) In Schedule 2, paragraph 4, omit “under the Administration of Justice Ordinance 1949” and replace it with “under the Criminal Procedure and Evidence Ordinance 2014”.

23. Fisheries (Conservation and Management) Ordinance 2005 amended

(1) This section amends the Fisheries (Conservation and Management) Ordinance 2005.

(2) Revoke section 2(3).

24. Licensing Ordinance 1994 amended

(1) This section amends the Licensing Ordinance 1994.

(2) Revoke section 76(13).

(3) In Schedule 2, paragraph 3(a), omit “Government Secretary” and replace it with Chief Executive”.

25. Misuse of Drugs Ordinance 1987 amended

(1) This section amends the Misuse of Drugs Ordinance 1987.

(2) Revoke section 23.

26. Oil in Territorial Waters Ordinance 1960 amended

(1) This section amends the Oil in Territorial Waters Ordinance 1960.

(2) Revoke section 6.

27. Road Traffic Ordinance 1948 amended

(1) This section amends the Road Traffic Ordinance 1948.

(2) Revoke section 58.

OBJECTS AND REASONS

This Bill amends —

(a) the Criminal Procedure and Evidence Ordinance 2014 to abolish partly suspended sentences, reinstate the power of talesman, regulate the allocation of cases, reduce the residential qualification to be eligible to sit on a jury and clarify appeals against sentence; and

(b) the Administration of Justice Ordinance 1949, the Fisheries (Conservation and Management) Ordinance 2005, the Licensing Ordinance 1994, the Misuse of Drugs Ordinance 1987, the Oil in Territorial Waters Ordinance 1960 and the Road Traffic Ordinance 1948 consequentially to be consistent with the Criminal Procedure and Evidence Ordinance 2014.

Clause 1 specifies the title of the Ordinance.

Clause 2 specifies the commencement of the Ordinance.

Clause 3 provides that the Ordinance amends the Criminal Procedure and Evidence Ordinance 2014.

Clause 4 amends section 259 of the Criminal Procedure and Evidence Ordinance 2014 to ensure that void proceedings under subsection (1) cannot be tried again in the Summary Court by any of the same justices.

Clause 5 amends section 299 of the Criminal Procedure and Evidence Ordinance 2014 to correct the cross reference to section 336(1).

Clause 6 amends section 316 of the Criminal Procedure and Evidence Ordinance 2014 to change eligibility for jury service to being ordinarily resident in the Falkland Islands for the preceding 12 months.

Clause 7 inserts new section 324A into the Criminal Procedure and Evidence Ordinance 2014 to insert the power to summons for jury service in exceptional circumstances as it was provided for in the repealed Jury Ordinance.

Clause 8 inserts new section 435A into the Criminal Procedure and Evidence Ordinance 2014 to enable witnesses to observe the remainder of proceedings by live link after they have given evidence if the court determines it is in the interests of justice to do so.

Clause 9 amends section 563 of the Criminal Procedure and Evidence Ordinance 2014 to remove references to partly suspended sentences.

Clause 10 repeals sections 566 and 567 of the Criminal Procedure and Evidence Ordinance 2014 to remove the power to pass partly suspended sentences.

Clause 11 amends section 569 of the Criminal Procedure and Evidence Ordinance 2014 to remove references to partly suspended sentences.

Clause 12 repeals section 574 of the Criminal Procedure and Evidence Ordinance 2014 to remove references to partly suspended sentences.

Clause 13 amends section 583 of the Criminal Procedure and Evidence Ordinance 2014 to correct a reference to section 582(1) and remove references to partly suspended sentences.

Clause 14 amends section 585 of the Criminal Procedure and Evidence Ordinance 2014 to include reference to the Registrar or Clerk of the Court and assist court administration.

Clause 15 amends section 605 of the Criminal Procedure and Evidence Ordinance 2014 to correct the order in which payments out of court are to be made so that payment of damages or compensation is to be paid before payment of costs to the prosecutor.

Clause 16 amends section 627 of the Criminal Procedure and Evidence Ordinance 2014 to remove references to partly suspended sentences.

Clause 17 amends section 633 of the Criminal Procedure and Evidence Ordinance 2014 so that it correctly refers to the whole of section 628.

Clause 18 amends section 647 of the Criminal Procedure and Evidence Ordinance 2014 to enable the court to make no fault defence costs orders.

Clause 19 amends section 664 so that the Supreme Court must allow an appeal against a sentence it thinks is manifestly excessive.

Clause 20 amends section 671 to enable the prosecution to appeal a sentence imposed on a person convicted of an offence for which the maximum penalty is imprisonment for 12 months, and to make an appeal on the ground that the sentence is unduly lenient.

Clause 21 amends Schedule 11 of the Criminal Procedure and Evidence Ordinance 2014 so that taxi driver permits are added to the list of exceptions in Part 4 and Part 5.

Clause 22 amends Schedule 2 to the Administration of Justice Ordinance 1949 to omit the reference to that Ordinance and replace it with reference to the Criminal Procedure and Evidence Ordinance 2014.

Clause 23 amends section 2 of the Fisheries (Conservation and Management) Ordinance 2005 to revoke subsection (3) because the jurisdiction of the Summary Court and Magistrate's Court is now under the Criminal Procedure and Evidence Ordinance 2014.

Clause 24 amends the Licensing Ordinance 1994 —

(a) by revoking section 76(13), as the principles for sentencing are now specified in the Criminal Procedure and Evidence Ordinance 2014; and

(b) by omitting the reference to the Government Secretary in Schedule 2 to the Ordinance and replacing it with reference to the Chief Executive.

Clause 25 amends the Misuse of Drugs Ordinance 1987 to repeal section 23 because the manner of trial is now prescribed by the Criminal Procedure and Evidence Ordinance 2014.

Clause 26 amends the Oil in Territorial Waters Ordinance 1960 to repeal section 6 because the jurisdiction of the Summary Court and Magistrate's Court is now under the Criminal Procedure and Evidence Ordinance 2014.

Clause 27 amends the Road Traffic Ordinance 1948 to repeal section 58 because the jurisdiction of the Summary Court and Magistrate's Court is now under the Criminal Procedure and Evidence Ordinance 2014.

Currency (Amendment) Bill 2019

(No: of 2019)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Ordinance amends Currency Ordinance 1987
4. Section 9 amended (Legal tender)

CURRENCY (AMENDMENT) BILL 2019

(No: of 2019)

(*assented to:* 2019)

(*commencement: on publication*)

(*published:* 2019)

A BILL

for

AN ORDINANCE

To amend the Currency Ordinance 1987.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Currency (Amendment) Ordinance 2019.

2. Commencement

This Ordinance comes into force on its publication in the *Gazette*.

3. Ordinance amends Currency Ordinance 1987

This Ordinance amends the Currency Ordinance 1987.

4. Section 9 amended (Legal tender)

In section 9, revoke subsections (1) and (2) and replace them with —

“(1) Subject to subsection (2), a tender of money is a legal tender if it is made in notes and coins that —

(a) have been issued by the Commissioners under this Ordinance;

(b) have not been illegally dealt with as specified in subsection (3); and

(c) have not been called in under section 10.

(2) Notes and coins issued under this Ordinance are legal tender —

(a) in the case of notes, for the payment of the amount tendered;

(b) in the case of coins that have a denomination of £1 or more, for the payment of the amount tendered;

(c) in the case of coins that have a denomination exceeding 10 pence but less than £1, for the payment of an amount not exceeding £10;

(d) in the case of coins have a denomination of 10 pence or less, for the payment of an amount not exceeding £5.”.

OBJECTS AND REASONS

Section 6(1) of the Currency Ordinance 1987 gives the Commissioners of Currency (appointed under section 5(1) of the Ordinance) the sole right to issue currency notes and coins, and section 6(3) of the Ordinance provides that only notes and coins issued by the Commissioners are legal tender. Under section 6(5)(a) of the Ordinance the Commissioners must arrange for the minting of coins in the denominations, weight, form, design and metal composition as are prescribed. Section 9(1) also specifies the amounts of notes and coins that are legal tender.

The Bill amends the Currency Ordinance 1987 to amend section 9 to clarify what is legal tender in the Falkland Islands. Section 9(1) specifies that notes and coins are legal tender if they have been issued by the Commissioners under the Ordinance and have not been illegally dealt with or called. Section 9(2) removes specification of the metallic composition of coins which are legal tender for payment of amounts as specified in that section. It also removes separate specification that the payment of coins of denominations of 2 pence or less are legal tender for up to 20 pence, with the effect that they may be paid for amounts not exceeding £5 under section 9(2)(d).

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FALKLAND ISLANDS GAZETTE

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31 March 2019

No. 3

Appointment

Janice Aldred, Staff Nurse, Health and Social Services Department, 25.02.19.

James Alan Horton, Programme Director, Emergency Services Department, 01.03.19.

Edmond Kamoto, Auxiliary Nurse, Health and Social Services Department, 04.03.19.

Michael Keith Dickson, Plant Operator/Handyperson, Water Section, Public Works Department, 11.03.19.

Emma Louise Yon, Learning Support Assistant, Falkland Islands Community School, Education Department, 12.03.19.

Kelly Marie Clingham, Receptionist, Stanley Leisure Centre, Development and Commercial Services Department, 19.03.19.

Sarah Silene Dalton, Social Work Assistant, Social Services, Health and Social Services Department, 19.03.19.

Carolina Segovia, Carer, Health and Social Services Department, 20.03.19.

Irvine Tamburikayi Muchenjekwa, Handyperson/Painter, Plant and Vehicle Section, Public Works Department, 25.03.19.

Completion of contract

Yvette Sherriff, Practice Nurse, Health and Social Services Department, 26.03.19.

Tony Steven Burman, Detective Constable, Royal Falkland Islands Police, Emergency Services Department, 29.03.19.

Renewal of contract

Yvette Sherriff, Practice Nurse, Health and Social Services Department, 27.03.19.

Resignation

Paul Theodore Stevens, Assistant Foreman, Materials Section, Public Works Department, 15.03.19.

Roslyn Williams, Data Clerk, Taxation, Treasury, 29.03.19.

Transfer

Gabriel Eulogio Ceballos, from Plant Operator/Handyperson to Filtration Plant Operator, Water Section, Public Works Department, 02.02.19.

Rhiannon Elinore Didlick-Smith, from Agriculture Assistant (Bio-Security), Agriculture, Natural Resources Department to Personal Assistant, Emergency Services Department, 18.03.19.

Maria Veronica Iriarte, from Fishery Protection Officer to Scientific Officer (Seabirds and Marine Mammals), Fisheries, Natural Resources Department, 18.03.19.

NOTICES

No. 15

7 March 2019

Marriage Ordinance 1996 section 26

Minister for Solemnisation of Marriage

In exercise of my powers under section 26(2) of the Marriage Ordinance 1996 I Richard Alexander John Mitham Acting Governor of the Falkland Islands hereby appoint **Revd (Flt Lt) Alice Emily Rome McDermott** – British Forces South Atlantic Islands Chaplain – as a minister for the solemnisation of marriages.

Dated 7 March 2019

R. A. J. MITHAM,
Acting Governor.

United Kingdom Statutory Instruments

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

2018 No 1351 – The Burma and Somalia (Sanctions) (Overseas Territories) (Amendment) Order 2018

<http://www.legislation.gov.uk/uksi/2018/1351/contents/made>

2019 No 184 – The Eritrea (Sanctions) (Overseas Territories) (Revocation) Order 2019

<http://www.legislation.gov.uk/uksi/2019/184/contents/made>

2019 No 185 – The Sanctions (Overseas Territories) (Amendment) Order 2019

<http://www.legislation.gov.uk/uksi/2019/185/contents/made>

Dated 13 March 2019

B. I. STEEN,
for Attorney General.

Judicial Appointments

1. I appoint **Clare Faulds** to be —

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;

Chair of the Disputes Commission under section 98 of the Fisheries (Conservation and Management) Ordinance 2005;

Member and Chair of the Tax Appeal Tribunal under section 180 of the Taxes Ordinance 1997; and

Notary Public under section 47 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 17 January 2020, unless terminated sooner.

Dated 18 March 2019

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

Falkland Islands Constitution Order (SI 2008/2846)
*section 89***Appointment of Acting Judge of the Supreme Court**

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

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

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

2. I, Nigel James 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 maybe necessary if the office of the Chief Justice is vacant, or if the holder of that office is for any reason unable to perform the functions of that office.

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

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

5. This appointment is effective from the date of signature until 17 January 2020, unless terminated sooner.

Dated 18 March 2019

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

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

Take notice that **Sandra Kathleen Goss** of 11 Kent Road, Stanley died on 5 October 2018.

Whereas **Simon Peter Miller Goss** has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

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

Dated 21 March 2019

J. BROOKS,
Registrar, Supreme Court

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:

Yanira Nathalie Marin Diaz;
Harrison Christopher Law;
Angelito Lastra and Psyche Lastra (nee Otadoy);
Timothy Dave George;

Morgen Mapepa and Hamunyari Mapepa (nee Gota);
Lee Daniel Summers;
Ross Alun Weir;
Maeve Ann Daly;
Flavia Barrosa de Souza;
Gemma Lastra;
Francisco Domingo Aguila Aguilar; and
Aikeah Albuero (nee Salumbides) and **June Vincent Albuero**.

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 April 2019.

Dated 26 March 2019

J. E. SMITH,
Immigration Officer.



FALKLAND ISLANDS GAZETTE

Extraordinary

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10 April 2019

No. 4

NOTICE

No. 21

4 April 2019

Travel Credit Scheme Ordinance 2019
section 1

Travel Credit Scheme Regulations 2019
regulation 1

Commencement Notice

1. Section 1(2) of the Travel Credit Scheme Ordinance 2019 (“the Ordinance”) provides that the Ordinance comes into operation on a day appointed by the Governor by notice published in the *Gazette*.
2. Section 1(2) of the Travel Credit Scheme Regulations 2019 (“the Regulations”) provides that the Regulations come into force on a day appointed by the Governor by notice in the *Gazette*.
3. I give notice that the Ordinance and the Regulations will come into force on 15 April 2019.

Dated 4 April 2019

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

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FALKLAND ISLANDS GAZETTE

Supplement

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10 April 2019

No. 3

The following are published in this Supplement —

Children (Fostering) Regulations 2019 (SR&O No 5 of 2019);

Children (Care Planning, Placement and Case Review) Regulations 2019 (SR&O No 6 of 2019);

Currency (Coin) Regulations Order 2019 (SR&O No 7 of 2019);

Mental Health (Approved Practitioners) Order 2019 (SR&O No 8 of 2019);

Currency (Coin) Regulations Order (No 2) 2019 (SR&O No 9 of 2019);

Livestock and Meat Products (TSE Control)(Amendment) Regulations 2019 (SR&O No 10 of 2019);

Law Revision and Publication Ordinance 2017 (Amendment) Order 2019 (SR&O No 11 of 2019); and

Supplementary Appropriation (2018-2019)(No 2) Ordinance 2019 (No 2 of 2019).

SUBSIDIARY LEGISLATION

Children (Fostering) Regulations 2019

S. R. & O. No. 5 of 2019

Arrangement of Provisions

PART 1 — Introductory

Regulation

1. Title
2. Commencement
3. Interpretation

PART 2 — Conduct of fostering service

4. Fostering service – manager
5. Arrangements for the protection of children
6. Behaviour management and children missing from foster carer's home
7. Duty to promote contact
8. Health of children placed with foster carers
9. Education, employment and leisure activities of children placed with foster carers
10. Support, training and information for foster carers
11. Records with respect to fostering services

PART 3 — Approval of foster carers

12. Constitution and membership of fostering panel
13. Meetings of fostering panel
14. Functions of fostering panel
15. Assessment of prospective foster carers
16. Approval of foster carers
17. Reviews and termination of approval
18. Case records relating to foster carers and others
19. Register of foster carers
20. Retention and confidentiality of records

PART 4 — Miscellaneous

21. Application of these regulations with modifications to short breaks

SCHEDULES

SUBSIDIARY LEGISLATION

Children (Fostering) Regulations 2019

S. R. & O. No. 5 of 2019

Made:7 March 2019

Published: 10 April 2019

Coming into force: on publication

IN EXERCISE of my powers under section 28(10) as read with sections 28(6), 44(1) and (2) of the Children Ordinance 2014 and paragraphs 13 to 15 of Schedule 2 to the Children Ordinance 2014 and on the advice of Executive Council I make the following regulations —

PART 1 — Introductory

1. Title

These regulations are the Children (Fostering) Regulations 2019.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Interpretation

(1) In these regulations —

“approval” means approval as a foster carer in accordance with regulation 16 and references to a person being approved are to be construed accordingly;

“care plan” means the plan for the future care of a child prepared in accordance with Part 2 of the Children (Care Planning, Placement and Case Review) Regulations 2019;

“central list” means the list referred to in regulation 12(1);

“child protection enquiries” has the meaning given in regulation 5(4);

“Director” means the Director of Health and Social Services;

“foster care agreement” means an agreement referred to in regulation 16(4)(b);

“foster carer” —

(a) means a person (including a person ordinarily known as a foster parent) who is approved as a foster carer under these regulations; and

(b) except in regulations 14 to 18, includes a person with whom a child is placed under regulation 24 of the Children (Care Planning, Placement and Case Review) Regulations 2019 (*temporary approval of a relative, friend or other person connected with the child*);

“fostering panel” means a panel constituted in accordance with regulation 12;

“fostering service” means the fostering service provided by the Crown;

“parent”, in relation to a child, includes any person who has parental responsibility for the child;

“parent and child arrangements” means arrangements made by the Crown for a parent and their child to live with a foster carer, whether or not the parent or the child is placed with the foster carer;

“placement” means any placement of a child with foster carers made by the Crown under section 28 of the Ordinance which is not a placement for adoption;

“placement plan” means the plan for the placement of a child prepared in accordance with regulation 9 of the Children (Care Planning, Placement and Case Review) Regulations 2019;

“placing authority”, in relation to a child, means the Crown;

“social worker” means a person with a social work qualification which is recognised by the Director;

“team leader” means the Social Welfare Department Team Leader appointed under regulation 4 who is responsible for or in charge of leading the Social Welfare team; and

“the Ordinance” means the Children Ordinance 2014.

(2) In these regulations any function conferred on the Crown will be exercised by the Director or officers subordinate to the Director.

PART 2 — Conduct of fostering service

4. Fostering service – manager

The Director must appoint a team leader for the Social Welfare Department to manage the fostering service.

5. Arrangements for the protection of children

(1) The Crown must prepare and implement a written policy which —

(a) is intended to safeguard children placed with foster carers from abuse or neglect; and

(b) sets out the procedure to be followed in the event of any allegation of abuse or neglect in respect of a child.

(2) The written policy must include a statement of measures to be taken to safeguard any child before making parent and child arrangements with any foster carer.

(3) The procedure under paragraph (b) of sub-regulation (1) must provide in particular for —

(a) liaison and co-operation with any overseas authority which is, or may be making a request that child protection enquiries be made in relation to any child placed by the Crown with that authority;

(b) the prompt referral to any overseas authority of any allegation of abuse or neglect affecting any child placed by the Crown with that authority;

(c) notification to the Director of the investigation and outcome of any child protection enquiries involving a child placed by the Crown;

(d) written records to be kept of any allegation of abuse or neglect in respect of a child, and of the action taken in response;

(e) consideration to be given to the measures which may be necessary to protect children placed with foster carers following an allegation of abuse or neglect; and

(f) arrangements to be made for foster carers and children placed by the Crown, to have the address (including email address) and telephone number of —

(i) the team leader; and

(ii) the Director,

for the purposes of referring any concern about child welfare or safety to them.

(4) In this regulation “child protection enquiries” means any enquiries carried out by the Crown in the exercise of any of its functions conferred by or under the Ordinance relating to the protection of children.

6. Behaviour management and children missing from foster carer’s home

(1) The Crown must prepare and implement a written policy on acceptable measures of control, restraint and discipline of children placed with foster carers.

(2) The Crown must take all reasonable steps to ensure that —

(a) no form of corporal punishment is used on any child placed with a foster carer;

(b) no child placed with a foster carer is subject to any measure of control, restraint or discipline which is excessive or unreasonable; and

(c) restraint is used on a child only where it is necessary to prevent injury to the child or other persons, or substantial damage to property.

(3) The Crown must prepare and implement a written procedure to be followed if a child is missing from a foster carer's home.

7. Duty to promote contact

The Crown must, subject to the provisions of the care plan and any court order relating to contact, promote contact between a child placed with a foster carer and the child's parents, relatives and friends unless such contact is not reasonably practicable or consistent with the child's welfare.

8. Health of children placed with foster carers

(1) The Crown must promote the health and development of children placed with foster carers.

(2) In particular the Crown must ensure that each child —

(a) is registered with a general medical practitioner;

(b) has access to such medical, dental, nursing, psychological and psychiatric advice, treatment and other services as may be necessary for the child;

(c) is provided with such individual support, aids and equipment which may be necessary for the child as a result of any particular health needs or disability the child may have; and

(d) is provided with guidance, support and advice on health, personal care and health promotion issues appropriate to the child's needs and wishes.

9. Education, employment and leisure activities of children placed with foster carers

(1) The Crown must promote the educational achievement of children placed with foster carers.

(2) In particular the Crown must —

(a) implement a procedure for monitoring the educational achievement, progress and school attendance of children placed with foster carers;

(b) promote the regular school attendance and participation in school activities of children of compulsory school age placed with foster carers; and

(c) provide foster carers with such information and assistance, including equipment, as may be necessary to meet the educational needs of children placed with them.

(3) The Crown must ensure that any education it provides for any child placed with a foster carer who is of compulsory school age, but who is not attending school, is efficient and suitable to the child's age, ability, aptitude and any special educational needs the child may have.

(4) The Crown must ensure that foster carers promote the leisure interests of children placed with them.

(5) Where any child placed with a foster carer is above compulsory school age, the Crown must assist with the making of, and give effect to, the arrangements made for the child's education, training and employment.

10. Support, training and information for foster carers

(1) The Crown must provide foster carers with such training, advice, information and support, including support outside office hours, as is necessary in the interests of children placed with them.

(2) The Crown must take all reasonable steps to ensure that foster carers are familiar with, and act in accordance with, the policies established in accordance with regulations 5(1) and 6(1) and (3).

(3) The Crown must ensure that, in relation to any child placed or to be placed with a foster carer, the foster carer is given information, which is kept up-to-date, to enable the foster carer to provide appropriate care for the child, and in particular that each foster carer is provided with a copy of the most recent version of the child's care plan as required under regulation 6(3) of the Children (Care Planning, Placement and Case Review) Regulations 2019.

11. Records with respect to fostering services

(1) The Crown must maintain and keep up-to-date the records specified in Schedule 1.

(2) The records referred to in sub-regulation (1) must be retained for at least 15 years from the date of the last entry.

PART 3 — Approval of foster carers

12. Constitution and membership of fostering panel

(1) The Crown must maintain a list of persons who it considers suitable to be members of a fostering panel ("the central list").

(2) A person who is included in the central list may at any time ask to be removed from the central list by giving one month's notice in writing.

(3) Where the Crown is of the opinion that a person included in the central list is unsuitable or unable to remain on the central list, the Crown may remove that person's name from the central list and notify the person in writing.

(4) Subject to sub-regulation (5), the Crown must set up a fostering panel to perform the functions of a fostering panel under these regulations, and must appoint panel members from the central list including —

(a) a person from the central list to be the chairperson of the panel, if possible who is independent of the Crown;

(b) one or two persons from the central list who may act as chairperson if the person appointed under paragraph (a) is absent or if that office is vacant (“vice chairpersons”); and

(c) one or more social workers who have at least three years’ relevant post-qualifying experience.

(5) The Crown must ensure that the fostering panel has sufficient members, and that individual members have between them the experience and expertise necessary, to effectively discharge the functions of the fostering panel.

(6) Any fostering panel member may resign from the fostering panel at any time by giving one month’s notice in writing to the Director.

(7) Where the Director is of the opinion that any member of the fostering panel is unsuitable or unable to continue as a panel member, the Director may terminate that member’s appointment at any time by giving the member notice in writing.

(8) For the purposes of this regulation and regulation 13 a person is not independent of the Crown if —

(a) the person is currently approved by the Crown as a foster carer; or

(b) the person is employed by the Crown for the purposes of any of the Crown’s functions relating to the protection or placement of children.

(9) Any notice given to a person under sub-regulations (3) and (7) is effective from the date specified in the notice

13. Meetings of fostering panel

(1) No business may be conducted by a fostering panel unless at least the following members are present —

(a) either the person appointed as chairperson of the panel or one of the vice chairpersons;

(b) one member who is a social worker who has at least three years’ relevant post-qualifying experience; and

(c) one other member.

(2) A fostering panel must make a written record of all its proceedings and the reasons for its recommendations.

14. Functions of fostering panel

- (1) The functions of the fostering panel in respect of cases referred to it by the Crown are —
 - (a) to consider each application for approval and to recommend whether or not a person is suitable to be a foster carer;
 - (b) where it recommends approval of an application, to recommend any terms on which the approval is to be given;
 - (c) to recommend whether or not a person remains suitable to be a foster carer, and whether or not the terms of the person’s approval (if any) remain appropriate —
 - (i) on the first review carried out in accordance with regulation 17(2); and
 - (ii) on the occasion of any other review, if the relevant report is referred to the fostering panel by the Director in accordance with regulation 17(5); and
 - (d) to consider any case referred to it under regulation 16(7) or 17(9).
- (2) In considering what recommendation to make under sub-regulation (1), the fostering panel—
 - (a) must consider and take into account all of the information passed to it in accordance with regulation 15, 16 or 17;
 - (b) may request the Crown to obtain any other relevant information or to provide such other assistance as the fostering panel considers necessary; and
 - (c) may obtain any legal, medical or other advice as it considers necessary.
- (3) The Crown must obtain such information as the fostering panel considers necessary and send that information to the fostering panel, and provide other assistance as the fostering panel may request, so far as is reasonably practicable.
- (4) The fostering panel must also —
 - (a) advise, where appropriate, on the procedures under which reviews in accordance with regulation 17 are carried out by the Crown, and periodically monitor their effectiveness;
 - (b) oversee the conduct of assessments carried out by the Crown; and
 - (c) give advice, and make recommendations, on such other matters or cases as the Crown may refer to it.
- (5) In this regulation, “recommend” means recommend to the Director.

15. Assessment of prospective foster carers

(1) The Crown may carry out an assessment of any person who applies to become a foster carer and whom the Crown considers may be suitable to become a foster carer, and any such assessment must be carried out in accordance with this regulation.

(2) The Crown —

(a) must obtain the information specified in Schedule 2 relating to a prospective foster carer and any person living in or employed at the same household as the prospective foster carer (whether permanently or temporarily), including any non-resident partner of the prospective foster carer, and any other information the Crown considers relevant;

(b) must interview at least two persons nominated by the prospective foster carer to provide personal references for the prospective foster carer, and prepare written reports of the interviews;

(c) must, except where the prospective foster carer lives and has only lived within the Falkland Islands, consult with, and take into account the views of, any authority in whose area the prospective foster carer has lived if the prospective foster carer has spent periods of time abroad; or

(d) may, where the prospective foster carer was approved as a foster carer by another fostering service provider outside the Falkland Islands and that approval has been terminated, and where the prospective foster carer consents to the inspection, request inspection of the relevant records compiled by that other fostering service provider in relation to the prospective foster carer.

(3) Having regard to the information obtained under sub-regulation (2), the Crown must —

(a) consider whether the prospective foster carer is suitable to be a foster carer and whether the prospective foster carer's household is suitable for any child;

(b) prepare a written report on the prospective foster carer which includes the matters set out in sub-regulation (4); and

(c) refer the report to the fostering panel and notify the prospective foster carer accordingly.

(4) The report referred to in sub-regulation (3) must include the following matters in relation to the prospective foster carer —

(a) the information required by Schedule 2 and any other information the Crown considers relevant;

(b) the Crown's assessment of the prospective foster carer's suitability to be a foster carer;

(c) the Crown's assessment of the suitability of the prospective foster carer's household; and

(d) the Crown's proposals about any terms of the approval.

(5) Subject to sub-regulation (7), the prospective foster carer is not suitable to be a foster carer if the prospective foster carer or any member of the prospective foster carer's household aged 18 or over has been convicted of or has a citable caution in respect of an offence which the Crown considers relevant to determine the prospective foster carer's suitability as a foster carer.

(6) An offence considered relevant for purposes of sub-regulation (5) includes but is not limited to the following —

(a) an offence against a child;

(b) an offence in relation to importation of prohibited goods if these included indecent photographs of children under the age of 18;

(c) any other offence involving bodily injury to a child, and

the expression "offence against a child" has the meaning given to it in Schedule 5.

(7) The Crown may regard a person who falls within sub-regulation (5) as suitable to be a foster carer in relation to a particular child (or children), if the Crown is satisfied that the welfare of that child (or those children) requires it, and either —

(a) the person, or a member of the person's household, is a relative of the child; or

(b) the person is already acting as a foster carer for the child.

(8) For the purposes of these regulations, a person who is living in the prospective foster carer's household in parent and child arrangements, is a member of the prospective foster carer's household.

16. Approval of foster carers

(1) The Director must not approve a person as a foster carer unless —

(a) the Crown has completed its assessment of the suitability of that person and the person's household; and

(b) the fostering panel has considered the application.

(2) The Director must, in deciding whether to approve a person as a foster carer and as to the terms of any approval, take into account the recommendation of the fostering panel.

(3) No member of the fostering panel may take part in any decision made by the Director under sub-regulation (2).

(4) If the Director decides to approve the person as a foster carer, the Director must —

- (a) give the person notice in writing specifying any terms on which the approval is given; and
- (b) require that the person enters into a written agreement covering the matters specified in Schedule 3 (the “foster care agreement”).

(5) If the Director considers that the person is not suitable to be a foster carer, the Director must, subject to sub-regulation (6) —

- (a) give the person written notice that he or she proposes not to approve the person as suitable to be a foster carer (a “qualifying determination”), together with his or her reasons and a copy of the fostering panel’s recommendation; and
- (b) advise the person that, within 28 days of the date of the qualifying determination, the person may submit any written representations that the person wishes to make to the Director.

(6) If, within the period referred to in sub-regulation (5)(b), the Director does not receive any representations, the Director may proceed to make his or her decision.

(7) If within the period referred to in sub-regulation (5)(b) the Director receives any written representations, the Director must —

- (a) refer the case, including such written representations, to the fostering panel for further consideration; and
- (b) make a decision, taking into account any further recommendation made by the fostering panel.

(8) As soon as practicable after making the decision referred to in sub-regulation (6) or (7), the Director must notify the person in writing and —

- (a) if the decision is to approve the person as a foster carer, comply with sub-regulation (4) in relation to that person; or
- (b) if the decision is not to approve the person, provide written reasons for the decision.

17. Reviews and termination of approval

(1) The Director must review the approval of each foster carer in accordance with this regulation.

(2) A review must take place not more than a year after the initial approval, and after that whenever the Director considers it necessary, but at intervals of not more than a year.

(3) When undertaking a review, the Director must —

(a) make enquiries and obtain information on the matters set out under Schedule 4 and such other information as he or she considers necessary in order to review whether the foster carer continues to be suitable to be a foster carer and the foster carer's household continues to be suitable; and

(b) seek and take into account the views of —

(i) the foster carer; and

(ii) any child placed with the foster carer (subject to the child's age and understanding).

(4) At the conclusion of the review, the Director must prepare a written report, setting out whether —

(a) the foster carer continues to be suitable to be a foster carer and the foster carer's household continues to be suitable; and

(b) the terms of the foster carer's approval continue to be appropriate.

(5) The Director must, on the occasion of the first review under this regulation, and may, on any subsequent review, refer the report to the fostering panel for consideration.

(6) If the Director decides, taking into account any recommendation made by the fostering panel, that the foster carer and the foster carer's household continue to be suitable and that the terms of the foster carer's approval continue to be appropriate, the Director must give written notice of his or her decision to the foster carer.

(7) If, taking into account any recommendation made by the fostering panel, the Director is no longer satisfied that the foster carer or the foster carer's household continue to be suitable, or that the terms of the approval continue to be appropriate, the Director must —

(a) give written notice to the foster carer that he or she proposes to terminate, or revise the terms of, the foster carer's approval, together with his or her reasons and a copy of any recommendation made by the fostering panel; and

(b) advise the foster carer that, within 28 days of the date of the notice referred to in subsection (7)(a), the foster carer may submit any written representations that the foster carer wishes to make to the Director.

(8) If, within the period referred to in sub-regulation (7)(b), the Director does not receive any representations, the Director may proceed to make his or her decision.

(9) If, within the period referred to in sub-regulation (7)(b), the Director receives any written representations, the Director must —

(a) refer the case, including such written representations, to the fostering panel for its consideration; and

(b) make a decision, taking into account any recommendation made by the fostering panel.

(10) As soon as practicable after making the decision referred to in sub-regulation (9)(b), the Director must give written notice to the foster carer stating —

(a) that the foster carer and the foster carer's household continue to be suitable, and that the terms of the approval continue to be appropriate;

(b) that the foster carer's approval is terminated from a specified date, and the reasons for the termination; or

(c) the revised terms of the approval and the reasons for the revision.

(11) A foster carer may give notice in writing to the team leader at any time that the foster carer no longer wishes to be a foster carer, in which case the foster carer's approval is terminated with effect from 28 days from the date on which the notice is received by the team leader.

18. Case records relating to foster carers and others

(1) The Director must maintain a case record for each approved foster carer which must include copies of the documents specified in sub-regulation (2) and the information specified in sub-regulation (3).

(2) The documents referred to in sub-regulation (1) are —

(a) the report prepared under regulation 15(3)(b) and any other reports submitted to the fostering panel;

(b) any recommendations made by the fostering panel;

(c) the notice of approval given under regulation 16(4)(a);

(d) the foster care agreement;

(e) any report of a review of approval prepared under regulation 17(4); and

(f) any notice given under regulation 17(10).

(3) The information referred to in sub-regulation (1) must include —

(a) a record of each placement with the foster carer, including the name, age and sex of each child placed, the dates on which each placement began and terminated, and the circumstances of the termination; or

(b) the information obtained in relation to the assessment and approval of the foster carer, and in relation to any review or termination of the approval.

(4) The Crown must maintain a case record for each person with whom a child is placed under a temporary approval under regulation 24(1) of the Children (Care Planning, Placement and Case Review) Regulations 2019, and the record must include in relation to that person —

(a) a record in relation to the placement, including the name, age and sex of each child placed, the date on which the placement began and, if the placement has been terminated, the date and circumstances of the termination; and

(b) the information obtained in relation to the assessment carried out under regulation 24(2) of the Children (Care Planning, Placement and Case Review) Regulations 2019.

(5) The Director must compile a record for each person whom it does not approve as a foster carer, or who withdraws his or her application prior to approval, which must include —

(a) the information obtained in connection with the assessment;

(b) any report submitted to the fostering panel and any recommendation made by the fostering panel; and

(c) any notification given under regulation 16.

19. Register of foster carers

The Crown must maintain a register (a “register of foster carers”) and enter in it the following particulars in relation to each foster carer —

(a) name, address, date of birth and sex of each foster carer including each person with whom it has placed a child under regulation 24 of the Children (Care Planning, Placement and Case Review) Regulations 2019;

(b) the date of approval and of each review of approval; and

(c) the current terms of approval.

20. Retention and confidentiality of records

(1) The case records compiled in relation to a foster carer under regulation 18(1), and any entry relating to that foster carer in the register of foster carers maintained under regulation 19, must be retained for at least 15 years from the date on which the foster carer’s approval is terminated.

(2) The records compiled by the Crown under regulation 18(4) in relation to a person with whom a child is placed under regulation 24 of the Children (Care Planning, Placement and Case Review) Regulations 2019, and any entry relating to such a person in the register of foster carers maintained under regulation 19, must be retained for at least 15 years from the date on which the placement is terminated.

(3) The records compiled under regulation 18(5) must be retained for at least 15 years from the refusal or withdrawal, as the case may be, of the application to become a foster carer.

(4) The requirements in sub-regulations (1) to (3), and in regulation 11, may be complied with by retaining the original written records or copies of the records, or by keeping all or part of the information contained in them in some other accessible form such as a computer record.

(5) Any records or register maintained in accordance with regulation 11, 18 or 19 must be kept securely and may not be disclosed to any person except in accordance with —

(a) any provision of, or made under or by virtue of, a statute;

(b) any court order authorising access to such records; or

(c) any policies relating to the safeguarding of children or adults.

PART 4 — Miscellaneous

21. Application of these regulations with modifications to short breaks

(1) In the circumstances set out in sub-regulation (2), these regulations apply in relation to a child with the modifications set out in sub-regulation (3).

(2) The circumstances are that the child —

(a) is not in the care of the Crown; and

(b) is placed in a series of short-term placements with the same foster carer (“short breaks”), where —

(i) no single placement is intended to last for more than 17 days;

(ii) at the end of each such placement, the child returns to the care of the child’s parent or a person who is not the child’s parent but who has parental responsibility for the child; and

(iii) the short breaks do not exceed 75 days in total in any period of 12 months.

(3) The modifications are that regulations 7, 8(2)(a) and (d), and 9 do not apply in relation to the child.

SCHEDULE 1
Records to be kept by the Crown

(regulation 11(1))

1. A record in the form of a register showing in respect of each child placed with foster carers —
 - (a) the date of the commencement of the placement;
 - (b) the name and address of the foster carer;
 - (c) the date on which the child ceased to be placed there;
 - (d) the child's address prior to the placement;
 - (e) the child's address on leaving the placement; and
 - (f) the statutory provision under which the child is placed with foster carers.
2. A record of all accidents occurring to children whilst placed with foster carers.

SCHEDULE 2

Information as to prospective foster carer and members of the prospective foster carer's household and family including any person living in or employed at the same household as the prospective foster carer

(regulation 15(2)(a))

1. In relation to the prospective foster carer —
 - (a) full name, address and date of birth;
 - (b) details of health (supported by a medical report), personality, marital status and details of current and any previous marriage, civil partnership or similar relationship;
 - (c) particulars of any other adult members of the household;
 - (d) particulars of the children in the family, whether or not members of the household, and any other children in the household;
 - (e) particulars of the prospective foster carer's accommodation;
 - (f) religious persuasion, and capacity to care for a child from any particular religious persuasion;

(g) racial origin, cultural and linguistic background and capacity to care for a child from any particular racial origin or cultural or linguistic background;

(h) past and present employment or occupation, standard of living and leisure activities and interests;

(i) previous experience (if any) of caring for their own and other children;

(j) skills and competence, and potential relevance to the prospective foster carer's capacity to care effectively for a child placed with the prospective foster carer;

(k) the outcome of any request or application made by the prospective foster carer or any other member of the prospective foster carer's household to foster or adopt children, including particulars of any previous approval or refusal of approval relating to the prospective foster carer or to any other member of the household; and

(l) names and addresses of two persons who will provide personal references for the prospective foster carer.

2. An enhanced criminal record and background check as provided by the Royal Falkland Islands Police or where applicable, an equivalent criminal record and background check from any overseas authority where the person has resided outside the Falkland Islands, is required in relation to —

(a) the prospective foster carer;

(b) a member of the prospective foster carer's household and family; and

(c) a person living in or employed at the same household (whether permanently or temporarily).

SCHEDULE 3 **Matters and obligations in foster care agreements**

(regulation 16(4)(b))

1. Matters to be recorded —

(a) the terms of the foster carer's approval;

(b) the support and training to be given to the foster carer;

(c) the procedure for the review of approval of the foster carer;

(d) the procedure and practical arrangements in connection with the placement of children and the matters to be included in any placement plan;

(e) the arrangements for meeting any legal liabilities of the foster carer arising by reason of a placement; and

(f) the procedure available to foster carers for making complaints and representations.

2. Obligations on the foster carer —

(a) to care for any child placed with the foster carer as if the child was a child of the foster carer's family and to promote that child's welfare, having regard to the long and short-term plans for the child;

(b) to give written notice to the Director as soon as is reasonably practicable, with full particulars, of —

(i) any intended change of the foster carer's address;

(ii) any change in the composition of the foster carer's household;

(iii) any other change in the foster carer's personal circumstances and any other event affecting either their capacity to care for any child placed or the suitability of the household; and

(iv) any request or application to adopt children, or a willingness to foster with a view to possible adoption;

(c) not to administer corporal punishment to any child placed with the foster carer;

(d) to ensure that any information relating to a child placed with the foster carer, to the child's family or to any other person, which has been given to them in confidence in connection with a placement, is kept confidential and is not disclosed to any person without the consent of the Director;

(e) to comply with the terms of any placement plan;

(f) to comply with the policies and procedures of the Crown issued under regulations 5 and 6;

(g) to allow access to the child by a social worker at the foster carer's home at any reasonable time; and

(h) to keep the Director informed about the child's progress and to notify the Director as soon as is reasonably practicable of any significant events affecting the child.

SCHEDULE 4
Matters to be considered by the Director in reviewing foster carers

(regulation 17(3)(a))

1. In relation to each child placed with a foster carer —
 - (a) compliance with the child’s care plan;
 - (b) all accidents, injuries and illnesses;
 - (c) any complaints raised by the child and their outcomes;
 - (d) any complaints, allegations or suspicions of abuse or neglect and the outcome of any investigation;
 - (e) details of any child missing from a foster carer’s home;
 - (f) details of the use of any measures of control, restraint or discipline in respect of that child;
 - (g) details of medication, medical treatment or first aid treatment administered to that child; and
 - (h) where applicable, the standard of any education provided by the fostering service.

2. In relation to the foster carer —
 - (a) the foster carer’s recruitment records;
 - (b) the foster carer’s records of assessment;
 - (c) records of fostering panel meetings;
 - (d) records of appraisals; and
 - (e) minutes of the Social Welfare Department’s meetings.

SCHEDULE 5
Offences against a child

(regulation 15(6))

For purposes of regulation 15(6) the offences described below are offences against a child.

1. An offence under any of the following provisions of the Crimes Ordinance 2014 —

- (a) section 56 (Infanticide);
- (b) section 82 (Cruelty to, or neglect of, person under 16);
- (c) section 84 (Abduction of child by parent, etc.);
- (d) sections 207 to 228 and 259 to 262 (Offences against children, prostitution and pornography);
- (e) sections 203 to 206 (Rape and related offences), if the offence was committed in relation to a person under the age of 16;
- (f) section 231 (Sexual activity with a person with a mental disorder impeding choice), if the offence was committed in relation to a person under the age of 16;
- (g) section 232 (Causing or encouraging a person with a mental disorder to engage in sexual activity), if the offence was committed in relation to a person under the age of 16;
- (h) section 235 (Inducement, etc. to procure sexual activity with a person with a mental disorder), if the offence was committed in relation to a person under the age of 16;
- (i) section 236 (Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, etc.), if the offence was committed in relation to a person under the age of 16;
- (j) section 239 (Care workers: Sexual activity with a person with a mental disorder), if the offence was committed in relation to a person under the age of 16;
- (k) section 240 (Care workers: Causing or encouraging sexual activity), if the offence was committed in relation to a person under the age of 16;
- (l) section 246 (Possession of indecent photograph of a youth);
- (m) section 247 (Taking and publishing indecent photographs of youths);
- (n) section 274 (Allowing persons under 16 to be in a brothel).

2. Similar offences committed under the Sexual Offences Ordinance 2005 or any of the Sexual Offences Acts as applied to the Falkland Islands, if the offence was committed in relation to a person under the age of 16.

3. An offence of attempting or conspiring to commit an offence specified above or encouraging, or aiding and abetting, the commission of an offence specified above.

Made 7 March 2019

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE
(this note is not part of the Regulations)

These regulations are made under section 28(10) as read with sections 28(6), 44(1) and (2) of the Children Ordinance 2014 and paragraphs 13 to 15 of Schedule 2 to the Children Ordinance 2014.

The regulations are divided into four parts.

Part 1 has regulations 1, 2 and 3 which deal with introductory matters; title, commencement and definitions.

Part 2 deals with the fostering service and provides as follows:

Regulation 4 deals with the appointment of a Team leader of the Social Welfare Department who manages the fostering service;

Regulation 5 provides for arrangements to be put in place for the protection of children;

Regulation 6 provides for behaviour management and for children who go missing from their foster carers' homes;

Regulation 7 imposes a duty on the Crown to promote contact between a child placed with foster carers and the child's parents, friends and relatives;

Regulation 8 provides for the health requirements for children placed with foster carers;

Regulation 9 provides for the education, employment and leisure activities of children placed with foster carers;

Regulation 10 provides for the support, training and information that must be given to foster carers; and

Regulation 11 requires the Crown to keep up-to-date records, as specified in Schedule 1.

Part 3 deals with the process by which foster carers are approved and provides as follows:

Regulations 12 and 13 provide for the Crown to set up a fostering panel, its membership, qualifications for membership and meetings;

Regulation 14 sets out the fostering panel's main function, which is to consider the suitability of persons as foster carers;

Regulation 15 provides for the assessment of prospective foster carers to be carried out by the Crown;

Regulation 16 provides for the approval of foster carers. Regulation 17 provides for the Crown to review foster carers at least annually after their initial approval and allows for that approval to be terminated where it is necessary to do so;

Regulation 18 provides for the Crown to maintain case records for every approved foster carer and specifies the information to be kept in those records;

Regulation 19 provides for a register of foster carers to be kept by the Crown; and

Regulation 20 provides for the retention and confidentiality of all information relating to foster carers and the register of foster carers;

Part 4 provides for miscellaneous matters.

Regulation 21 sets out modifications to the general fostering regulation requirements applicable when placing children on a short term basis.

The regulations have 5 schedules:

Schedule 1 sets out the specific information to be included in the records required under regulation 11;

Schedule 2 sets out the information which a prospective foster carer must provide, including information in respect of members of the person's household as required under regulation 15(2)(a);

Schedule 3 specifies the information which must be included in a foster care agreement as required under regulation 16(4)(b);

Schedule 4 specifies matters which must be monitored by the Director during the period when a child is placed with a foster carer as well as information relating to the foster carer; and

Schedule 5 specifies sexual offences against a child for the purposes of regulation 15(6).

SUBSIDIARY LEGISLATION

Children (Care Planning, Placement and Case Review) Regulations 2019

S. R. & O. No. 6 of 2019

Arrangement of Provisions

PART 1 — Introductory

Regulation

1. Title and commencement
2. Interpretation
3. Application

PART 2 — Arrangements for looking after a child

4. Care planning
5. Preparation and content of the care plan
6. Review of care plan
7. Health care
8. Contact with a child in care

PART 3 — Placements – general provisions

9. Placement plan
10. Avoidance of disruption in education
11. Placement outside the Falkland Islands — child looked after by the Crown
12. Placement outside the Falkland Islands — child in Crown care
13. Notification of placement
14. Termination of placement by the Crown

PART 4 — Provision for different types of placement

Chapter 1 - Placement of a child in care with a responsible person

15. Application
16. Effect of contact order
17. Assessment of responsible person's suitability to care for a child
18. Decision to place a child under this Chapter
19. Circumstances in which a child may be placed before assessment is completed
20. Support for responsible person

Chapter 2 - Placement with foster carers

21. Meaning of “foster carer”
22. Conditions to be complied with before placing a child with a foster carer
23. Emergency placement with a foster carer
24. Temporary approval of relative, friend or other person connected with the child
25. Expiry of temporary approval

Chapter 3 - Other arrangements

26. General duties of the Crown when placing a child in other arrangements

PART 5 — Visits by the Crown’s representative

27. Frequency of visits
28. Conduct of visits
29. Consequences of visits
30. Advice, support and assistance for the child

PART 6 — Reviews of the child’s case

31. General duty of the Crown to review the child’s case
32. Timing of reviews
33. Conduct of reviews — Crown’s policy on reviews
34. Considerations to which the Crown must have regard
35. Arrangements for implementing decisions arising out of reviews
36. Records of reviews

PART 7 — Arrangements made by the Crown for ceasing to look after a child

37. Arrangements for ceasing to look after a child who is not an eligible child
38. Eligible child
39. General duties
40. Assessment of needs
41. The pathway plan
42. Functions of the personal adviser
43. Independent visitors

PART 8 — Miscellaneous

44. Application of these regulations with modifications to short breaks
45. Records — establishment of records
46. Retention and confidentiality of records

SCHEDULES

SUBSIDIARY LEGISLATION

Children (Care Planning, Placement and Case Review) Regulations 2019

S. R. & O. No. 6 of 2019

Made: 7 March 2019

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Coming into force: on publication

IN EXERCISE of my powers under section 28(10) as read with sections 28(6), 32(3) and (4), 33(1)(a), 38(2), 39(1), (3) and (6), 44(1) and (2), 49(3) and 52(8) of the Children Ordinance 2014, and paragraphs 10 to 13, 14(1)(a), 15, 22(3), (7) and (8) of Schedule 2 to the Children Ordinance 2014, and on the advice of Executive Council I make the following regulations —

PART 1 — Introductory

1. Title and commencement

These regulations are the Children (Care Planning, Placement and Case Review) Regulations 2019 and come into force on publication in the *Gazette*.

2. Interpretation

(1) In these regulations —

“appropriate person” means —

(a) a parent;

(b) a person who is not the child’s parent but has parental responsibility for the child;

(c) a foster carer, where the child is to be placed, or is placed with the foster carer; and

(d) where the child is to be placed, or is placed, in accordance with other arrangements under section 28(6)(c) of the Ordinance, the person who will be responsible for the child under such arrangements;

“care plan” means the plan for the future care of the child prepared in accordance with Part 2;

“child’s case record” means a record referred to in regulation 45(1);

“child’s social worker” means the social worker allocated to a particular child’s case;

“connected person” means a relative, friend or other person connected with the child;

“Director” means the person for the time being appointed as the Director of Health and Social Services;

“eligible child” has the meaning given in paragraph 22(2) of Schedule 2 to the Ordinance;

“full assessment process” means the process set out in regulation 24(2);

“health plan” means the plan referred to in regulation 5(b)(i);

“independent visitor” means the person appointed to be the child’s visitor under section 33 of the Ordinance;

“pathway plan” has the meaning given in section 39(1) of the Ordinance;

“personal adviser” means the personal adviser arranged for the child under paragraph 23 of Schedule 2 to the Ordinance;

“personal education plan” means the plan referred to in regulation 5(b)(ii);

“placement” means —

(a) arrangements made by the Crown for the child in accordance with section 28(2) of the Ordinance, where the child is in the care of the Crown; or

(b) arrangements made by the Crown to provide for the child’s accommodation and maintenance by any of the means specified in section 28(6) of the Ordinance;

“placement plan” means the plan referred to in regulation 9(1)(a);

“representative” means the representative of the Crown who is appointed to visit the child in accordance with arrangements made under section 32(2) of the Ordinance;

“responsible person” means —

(a) the child’s parent;

(b) a person who is not the child’s parent but who has parental responsibility for the child; or

(c) where the child is in the care of the Crown and there was a residence order or special guardianship order in force with respect to the child immediately before the care order was made, a person in whose favour the residence order or special guardianship order was made;

“special educational needs” has the meaning given in section 31 of the Education Ordinance 1989 and “special educational provision” must be construed accordingly;

“team leader” means the head of the social services team appointed under regulation 4 of the Children (Fostering) Regulations 2019;

“temporary approval” means the approval given under regulation 24(1);

“the Ordinance” means the Children Ordinance 2014; and

“working day” means any day other than —

(a) a Saturday or a Sunday; or

(b) a public holiday.

(2) In these regulations —

(a) any reference to a document or other record includes a document or record that is kept or provided in a readily accessible form and includes copies of original documents and electronic methods of recording information; and

(b) any function conferred on the Crown will be exercised by the Director or officers subordinate to the Director.

3. Application

These regulations do not apply in relation to any child who is looked after by the Crown and who has been freed for adoption under the Adoption Act 1976 (as it applies to the Falklands Islands) or any legislation providing for adoption.

PART 2 — Arrangements for looking after a child

4. Care planning

(1) On considering whether a child becomes looked after by the Crown, the Crown must —

(a) assess the child’s needs for services to achieve or maintain a reasonable standard of health or development for the child; and

(b) where a care plan for the child has not already been prepared, prepare such a plan.

(2) Except in the case of a child to whom section 49 of the Ordinance (*care orders: care plans*) applies, the care plan must be prepared before the child is first placed by the Crown or, if it is not practicable to do so, within 10 working days of the start of the first placement.

(3) When assessing the child’s needs under sub-regulation (1), the Crown must consider whether the child’s placement meets the requirements of Parts 3 and 4 of the Ordinance.

(4) Unless sub-regulation (5) applies, the care plan should, so far as is reasonably practicable, be agreed by the Crown with —

(a) any parent of the child and any person who is not the child's parent but who has parental responsibility for the child; or

(b) if there is no such person, the person who was caring for the child immediately before the Crown arranged a placement for the child.

(5) Where the child is aged 16 or over and the child agrees to be provided with accommodation under section 23 of the Ordinance the care plan should be agreed with the child by the Crown.

5. Preparation and content of the care plan

The care plan must include a record of the following information —

(a) the long term plan for the child's upbringing;

(b) the arrangements made by the Crown to meet the child's needs in relation to —

(i) health, including the information set out in paragraph 1 of Schedule 1 ("the health plan");

(ii) education and training, including, so far as reasonably practicable, the information set out in paragraph 2 of Schedule 1 ("the personal education plan");

(iii) emotional and behavioural development;

(iv) identity, with particular regard to the child's religious persuasion, racial origin and cultural and linguistic background;

(v) family and social relationships and in particular the information set out in paragraph 3 of Schedule 1;

(vi) social presentation; and

(vii) self-care skills;

(c) except in a case where the child is in the care of the Crown but is not provided with accommodation by the Crown by any of the means specified in section 28 of the Ordinance, the placement plan; and

(d) details of the wishes and feelings of the persons listed in section 25(5) of the Ordinance about the arrangements referred to in paragraph (b) and the placement plan that have been ascertained and considered in accordance with section 25(5) and (6) of the Ordinance and the wishes and feelings of those persons in relation to any change, or proposed change, to the care plan.

6. Review of care plan

(1) The Crown must keep the child's care plan under review in accordance with Part 6 and, if the Crown is of the opinion some change is required, it must revise the care plan or prepare a new care plan accordingly.

(2) Save as otherwise provided in these regulations, the Crown must not make any significant change to the care plan unless the proposed change has first been considered at a review of the child's case.

(3) Subject to sub-regulation (4), the Crown must give a copy of the care plan —

(a) to the child, unless it would not be appropriate to do so having regard to the child's age and understanding;

(b) to each responsible person;

(c) where the child is to be placed, or is placed, with a foster carer, to the foster carer; and

(d) where the child is to be placed, or is placed, in accordance with other arrangements under section 28(6)(c) of the Ordinance, to the person who will be responsible for the child under such arrangements.

(4) The Crown may decide not to give a copy of the care plan, or a full copy of the care plan, to one or more responsible persons if to do so would not be in the child's best interests.

7. Health care

(1) Before the child is first placed by the Crown or, if that is not reasonably practicable, before the first review of the child's case, the Crown must make arrangements for a registered medical practitioner to —

(a) carry out an assessment of the child's state of health; and

(b) provide a written report of the assessment, addressing the matters specified in paragraph 1 of Schedule 1;

as soon as reasonably practicable.

(2) Sub-regulation (1) does not apply if, within a period of three months immediately preceding the placement, an assessment of the child's state of health has been carried out and the Crown has obtained a written report that meets the requirements of that sub-regulation.

(3) The Crown must make arrangements for a registered medical practitioner or a registered nurse or registered midwife acting under the supervision of a registered medical practitioner to review the child's state of health and provide a written report of each review, addressing the matters specified in paragraph 1 of Schedule 1 —

(a) at least once in every period of six months before the child's fifth birthday; and

(b) at least once in every period of 12 months after the child's fifth birthday.

(4) Sub-regulations (1) and (3) do not apply if the child refuses consent to the assessment, being of sufficient age and understanding to do so.

(5) The Crown must take all reasonable steps to ensure that the child is provided with appropriate health care services, in accordance with the health plan, including —

(a) medical and dental care and treatment; and

(b) advice and guidance on health, personal care and health promotion issues.

8. Contact with a child in care

(1) This regulation applies if the child is in the care of the Crown and the Crown has decided under section 52(6) of the Ordinance to refuse to allow contact that would otherwise be required by virtue of section 52(1) of the Ordinance or an order under section 52 of the Ordinance.

(2) The Crown must immediately give written notification to the following persons of the information specified in sub-regulation (3) ("the specified information") —

(a) the child, unless it is not in the child's best interests or it would not be appropriate to do so having regard to the child's age and understanding;

(b) the child's parent or a person who is not the child's parent but who has parental responsibility for the child;

(c) where, immediately before the care order was made, a person had care of the child by virtue of an order made in exercise of the Supreme Court's inherent jurisdiction with respect to children, that person; and

(d) any other person whose wishes and feelings the Crown considers to be relevant.

(3) The specified information is —

(a) the Crown's decision;

(b) the date of the decision;

(c) the reasons for the decision;

(d) the duration of the decision (if applicable); and

(e) remedies available in case of dissatisfaction.

(4) The Crown may depart from the terms of any order made under section 52 of the Ordinance by agreement with the person in relation to whom the order is made, provided that —

(a) the child, being of sufficient age and understanding, also agrees; and

(b) written notification of the specified information is given within five working days to the persons listed in sub-regulation (2).

(5) Where the Crown has decided to vary or suspend any arrangements made (otherwise than under an order under section 52 of the Ordinance) with a view to affording any person contact with the child, the Crown must immediately give written notification containing the specified information to the persons listed in sub-regulation (2).

(6) The Crown must record any decision made under this regulation in the child's care plan.

PART 3 — Placements – general provisions

9. Placement plan

(1) Subject to sub-regulations (2) and (4), before making arrangements in accordance with section 28 of the Ordinance for the child's placement, the Crown must —

(a) prepare a plan for the placement (“the placement plan”) which —

(i) sets out how the placement will contribute to meeting the child's needs; and

(ii) includes all the matters specified in Schedule 2 as are applicable, having regard to the type of the placement; and

(b) ensure that the child's wishes and feelings have been ascertained so far as possible and given due consideration.

(2) If it is not reasonably practicable to prepare the placement plan before making the placement, the placement plan must be prepared within five working days of the start of the placement.

(3) The placement plan must be agreed with, and signed by, the appropriate person.

10. Avoidance of disruption in education

(1) Subject to sub-regulations (2) and (3), if the child is currently enrolled at a school in the fourth key stage, a decision to make any change to the child's placement that would have the effect of disrupting the arrangements made for the child's education must not be put into effect unless it is in the child's best interests and it has been approved by a nominated officer.

(2) Before approving a decision under sub-regulation (1), the nominated officer must be satisfied that —

(a) the requirements of regulation 9(1)(b) have been complied with; and

(b) the educational provision made for the child at the new placement will promote the child's educational achievement and is consistent with the child's personal education plan.

(3) Sub-regulation (1) does not apply in any case where —

(a) the Crown terminates the child's placement in accordance with regulation 14(3); or

(b) it is necessary for any other reason to change the child's placement in an emergency, and in such a case the Crown must make appropriate arrangements to promote the child's educational achievement as soon as reasonably practicable.

(4) In any case (not falling within sub-regulation (1)) where the Crown proposes making any change to the child's placement that would have the effect of disrupting the arrangements made for the child's education or training, the Crown must as far as reasonably practicable ensure that other arrangements are made for the child's education or training that meet the child's needs and are consistent with the child's personal education plan.

(5) In this regulation —

“nominated officer” means an officer nominated in writing by the Director to make approvals for purposes of this regulation; and

“school” has the meaning given in section 2 of the Education Ordinance 1989.

11. Placement outside the Falkland Islands – child looked after by the Crown

(1) This regulation applies in relation to a child who is looked after by the Crown (as described in section 25 of the Ordinance).

(2) Subject to sub-regulation (3), a decision to place a child outside the Falkland Islands must not be put into effect until it has been approved by the Crown or by the court depending on whether the child is looked after by the Crown by consent or by an order of the court.

(3) Before approving a decision under sub-regulation (1), the Crown must be satisfied that —

(a) the requirements of regulation 9(1)(b) have been complied with;

(b) the placement is the most appropriate placement available for the child and consistent with the child's care plan;

(c) where the child is looked after by the Crown by consent, each responsible person has given consent;

(d) the child's relatives have been consulted, where appropriate; and

(e) where possible, the relevant authority in the receiving country or territory has been notified in order to register any existing order in respect of that child.

(4) The Crown must take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements which would have applied under these regulations had the child been placed in the Falkland Islands, are complied with.

12. Placement outside the Falkland Islands – child in Crown care

(1) This regulation applies if —

(a) a child is in the care of the Crown; and

(b) the Crown makes arrangements to place the child outside the Falkland Islands in accordance with the provisions of section 51(7)(b) of, and paragraph 20(2) of Schedule 2 to the Ordinance.

(2) The Crown must take steps to ensure that, so far as is reasonably practicable, requirements corresponding with the requirements which would have applied under these regulations had the child been placed in the Falkland Islands, are complied with.

(3) The Crown must include in the care plan details of the arrangements it has made to supervise the child's placement

13. Notification of placement

(1) Subject to sub-regulation (3), the Crown must give written notification to the persons listed in sub-regulation (2) of the arrangements for the child's placement before the placement is made or, if the placement is made in an emergency, within five working days of the start of the placement, unless it is not reasonably practicable to do so.

(2) The persons referred to in sub-regulation (1) are —

(a) the child, unless it would not be appropriate to do so having regard to the child's age and understanding;

(b) each responsible person;

(c) if the child is in the care of the Crown, any person who is allowed contact with the child under section 52(1) of the Ordinance and any person who has contact with the child by virtue of an order under section 52 of the Ordinance;

(d) if the child is looked after but is not in the care of the Crown, any person who has contact with the child pursuant to an order made under section 12 of the Ordinance (*residence, contact and other orders with respect to children*);

(e) any person who was caring for the child immediately before the arrangements were made;

(f) the child's registered medical practitioner and, where applicable, the registered medical practitioner with whom the child is to be registered during the placement; and

(g) any educational institution attended by, or person providing education or training for, the child.

(3) The Crown may decide not to give notification to any of the persons listed in paragraphs (b) to (e) if to do so would put the child at risk of significant harm.

14. Termination of placement by the Crown

(1) Subject to sub-regulations (3) and (5), the Crown may only terminate the child's placement following a review of the child's case in accordance with Part 6.

(2) Subject to sub-regulations (3) and (4), before terminating the child's placement, the Crown must —

(a) make other arrangements for the child's accommodation, in accordance with section 28 of the Ordinance;

(b) so far as is reasonably practicable, give written notification of their intention to terminate the placement to —

(i) all the persons to whom notification of the placement was given under regulation 13;

(ii) the person with whom the child is placed; and

(iii) where the child is placed outside the Falkland Islands, the relevant authority in that place.

(3) Where there is an immediate risk of significant harm to the child, or to protect others from serious injury, the Crown must terminate the child's placement, and in those circumstances —

(a) sub-regulation (1) does not apply; and

(b) the Crown must comply with sub-regulation (2) as soon as reasonably practicable.

(4) If it is not reasonably practicable to notify any person in accordance with sub-regulation (2)(b), then the Crown must give written notification to that person through email or any other appropriate means within ten working days of the date on which the placement is terminated, of the fact that the placement has been terminated.

(5) This regulation does not apply where the child's placement is terminated under the following or where any of the following applies —

(a) regulation 19(1)(c);

(b) regulation 23(2);

(c) regulation 25(6); or

(d) section 29 of the Ordinance (*review of child's case before making alternative arrangements for accommodation*).

PART 4 — Provision for different types of placement

Chapter 1 - Placement of a child in care with a responsible person

15. Application

(1) This Chapter applies if the child is in the care of the Crown and the Crown, acting in accordance with section 28(2) of the Ordinance, proposes to place the child with any responsible person.

(2) Nothing in this Chapter requires the Crown to remove the child from the care of any responsible person if the child was already living with such responsible person before a placement decision is made about the child.

16. Effect of contact order

The Crown must not place the child with any responsible person if to do so would be incompatible with any order made by the court under section 52 of the Ordinance.

17. Assessment of responsible person's suitability to care for a child

The Crown must, before deciding to place the child with any responsible person, do the following —

(a) assess the suitability of the responsible person to care for the child, including the suitability of —

(i) the proposed accommodation; and

(ii) all other persons aged 18 and over who are members of the household in which it is proposed that the child will live;

(b) take into account all the matters set out in Schedule 3 in making its assessment;

(c) consider whether, in all the circumstances and taking into account the services to be provided by the Crown, the placement will safeguard and promote the child's welfare and meet the child's needs set out in the care plan; and

(d) review the child's case in accordance with Part 6.

18. Decision to place a child under this Chapter

(1) The decision to place the child with a responsible person must not be put into effect until it has been approved by the Crown, and the child's social worker has prepared a placement plan for the child.

(2) Before approving a decision under sub-regulation (1), the Crown must be satisfied that —

(a) the requirements of regulation 9(1)(b) have been complied with;

(b) the requirements of regulation 17 have been complied with; and

(c) the placement will safeguard and promote the child's welfare.

19. Circumstances in which a child may be placed before assessment is completed

(1) Sub-regulation (2) applies if the Crown does the following —

(a) arrange an interview with any responsible person in order to obtain as much of the information specified in Schedule 3 about the responsible person and the other persons living in the responsible person's household who are aged 18 and over as can be readily ascertained at that interview;

(b) ensure that the assessment and the review of the child's case are completed in accordance with regulation 17 within 15 working days of the child being placed with any responsible person; and

(c) ensure that a decision in accordance with regulation 18 is made and approved within 15 working days after the assessment is completed, and —

(i) if the decision is to confirm the placement, review the placement plan and, if appropriate amend it; and

(ii) if the decision is not to confirm the placement, terminate the placement.

(2) Where the Crown considers it to be necessary and consistent with the child's welfare, before the assessment under regulation 17 is completed the Crown may place the child with any responsible person.

20. Support for responsible person

Where the child is placed, or is to be placed, with any responsible person, the Crown must provide such services and support to the person with whom the child is placed as appear to it to be necessary to safeguard and promote the child's welfare and must record details of those services and support in the child's care plan.

Chapter 2 - Placement with foster carers

21. Meaning of “foster carer”

Where the child is placed jointly with two persons each of whom is approved as a foster carer, any reference in these regulations to a foster carer is to be interpreted as referring equally to both those persons and any requirement to be satisfied by or relating to a particular foster carer must be satisfied by, or treated as relating to, both of them.

22. Conditions to be complied with before placing a child with a foster carer

- (1) This regulation applies where the Crown proposes to place a child with a foster carer.
- (2) The Crown may only place the child with the foster carer if —
 - (a) the foster carer is approved by the Crown under the Children (Fostering) Regulations 2019;
 - (b) the terms of the foster carer’s approval are consistent with the proposed placement; and
 - (c) the foster carer has entered into a foster care agreement with the Crown.

23. Emergency placement with a foster carer

- (1) Where it is necessary to place the child in an emergency, the Crown may place the child with any foster carer who has been approved in accordance with the Children (Fostering) Regulations 2019, even if the terms of that approval are not consistent with the placement, provided that the placement is for no longer than 15 working days.
- (2) When the period of 15 working days referred to in sub-regulation (1) expires, the Director must terminate the placement unless the terms of that person’s approval have been amended to be consistent with the placement.

24. Temporary approval of relative, friend or other person connected with the child

- (1) Where the Crown is satisfied that —
 - (a) the most appropriate placement for the child is with a connected person, notwithstanding that the connected person is not approved as a foster carer; and
 - (b) it is necessary for the child to be placed with the connected person before the connected person’s suitability to be a foster carer has been assessed,

the Crown may approve that person as a foster carer for a temporary period not exceeding 16 weeks (“temporary approval”) provided that the Crown first complies with the requirements of sub-regulation (2).

- (2) Before making a placement under sub-regulation (1), the Crown must —

(a) assess the suitability of the connected person to care for the child, including the suitability of —

(i) the proposed accommodation; and

(ii) all other persons aged 18 and over who are members of the household in which it is proposed that the child will live, taking into account all the matters set out in Schedule 4;

(b) consider whether, in all the circumstances and taking into account the services to be provided by the Crown, the proposed arrangements will safeguard and promote the child's welfare and meet the child's needs as set out in the care plan; and

(c) make immediate arrangements for the suitability of the connected person to be a foster carer to be assessed in accordance with the Children (Fostering) Regulations 2019 ("the full assessment process") before the temporary approval expires.

25. Expiry of temporary approval

(1) Subject to sub-regulation (4), the Crown may extend the temporary approval of a connected person if —

(a) it is likely to expire before the full assessment process is completed; or

(b) the connected person, having undergone the full assessment process, is not approved and seeks a review of the decision in accordance with regulation 16(7) of the Children (Fostering) Regulations 2019.

(2) In a case falling within sub-regulation (1)(a), the Crown may extend the temporary approval once for a further period of up to eight weeks.

(3) In a case falling within sub-regulation (1)(b), the Crown may extend the temporary approval until the outcome of the review is known.

(4) Before deciding whether to extend the temporary approval in the circumstances set out in sub-regulation (1), the Crown must first —

(a) consider whether the placement with the connected person is still the most appropriate placement available; and

(b) seek the views of the fostering panel constituted under regulation 12 of the Children (Fostering) Regulations 2019.

(5) A decision to extend temporary approval must be approved by the Director.

(6) At the end of any temporary approval or at the end of an extension to that period if the connected person has not been approved as a foster carer in accordance with the Children

(Fostering) Regulations 2019, the Crown must terminate the placement after first making other arrangements for the child's accommodation.

Chapter 3 - Other arrangements

26. General duties of the Crown when placing a child in other arrangements

Before placing the child in other accommodation, the Crown must —

- (a) be satisfied that the accommodation is suitable for the child, having regard to the matters set out in Schedule 5; and
- (b) arrange for the child to visit the accommodation unless it is not reasonably practicable.

PART 5 — Visits by the Crown's representative

27. Frequency of visits

(1) As part of their arrangements for supervising the child's welfare, the Crown must ensure that a representative, who may also be the child's social worker, visits the child in accordance with this regulation, wherever the child is living.

(2) Subject to sub-regulations (3) to (6), the Crown must ensure that the representative visits the child —

- (a) within two weeks of the start of any placement;
- (b) at intervals of not more than eight weeks for the first year of any placement; and
- (c) after that —
 - (i) where the placement is intended to last until the child is aged 18, at intervals of not more than three months;
 - (ii) and in any other case, at intervals of not more than eight weeks.

(3) Where regulation 19 applies, the Crown must ensure that the representative visits the child—

- (a) at least once a fortnight until the first review carried out in accordance with Part 6; and
- (b) after that at intervals of not more than eight weeks.

(4) Where regulation 24 applies, or where an interim care order has been made in relation to the child under section 56 of the Ordinance and the child is living with a responsible person, the Crown must ensure that the representative visits the child —

- (a) at least once a fortnight until the first review carried out in accordance with Part 6; and

(b) after that at intervals of not more than six weeks.

(5) Where a care order has been made in relation to the child under section 48 of the Ordinance and the child is living with a responsible person, the Crown must ensure that the representative visits the child —

(a) within two weeks of the making of the care order; and

(b) after that at intervals of not more than eight weeks.

(6) In addition to visits in accordance with sub-regulations (2) to (5), the Crown must ensure that the representative visits the child whenever reasonably requested to do so by —

(a) the child;

(b) where sub-regulations (2), (3) or (4) apply, the appropriate person; or

(c) where sub-regulation (5) applies, the person responsible for the child's living arrangements.

28. Conduct of visits

On each visit, the representative must speak to the child in private unless —

(a) the child, being of sufficient age and understanding to do so, refuses;

(b) the representative considers it inappropriate to do so, having regard to the child's age and understanding; or

(c) the representative is unable to do so.

29. Consequences of visits

Where, as the result of a visit carried out in accordance with this Part, the representative's assessment is that the child's welfare is not adequately safeguarded and promoted by the placement, the Crown must review the child's case in accordance with Part 6.

30. Advice, support and assistance for the child

When making arrangements in accordance with section 32(2)(b) of the Ordinance for advice, support and assistance to be available to the child between the representative's visits, the Crown must ensure that —

(a) the arrangements —

(i) are appropriate having regard to the child's age and understanding; and

(ii) give due consideration to the child's religious persuasion, racial origin, cultural and linguistic background and to any disability the child may have; and

(b) so far as is reasonably practicable having regard to the child's age and understanding, the child knows how to seek appropriate advice, support and assistance from the Crown.

PART 6 — Reviews of the child's case

31. General duty of the Crown to review the child's case

- (1) The Crown must review the child's case in accordance with this Part.
- (2) The Crown must not make any significant change to the child's care plan unless the proposed change has first been considered at a review of the child's case, unless this is not reasonably practicable.
- (3) Nothing in this Part prevents any review of the child's case being carried out at the same time as any other review, assessment or consideration of the child's case under any other provision.

32. Timing of reviews

- (1) The Crown must first review the child's case within 25 working days of the date on which the child becomes looked after.
- (2) The second review must be carried out not more than three months after the first, and subsequent reviews must be carried out at intervals of not more than six months.
- (3) The Crown must carry out a review before the time specified in sub-regulation (1) or (2) if—
 - (a) regulation 29 applies;
 - (b) the Crown considers that the child is, or has been, persistently absent from a placement; or
 - (c) the child is looked after but is not in the care of the Crown; and —
 - (i) the Crown proposes to cease to provide accommodation for the child; and
 - (ii) accommodation will not subsequently be provided for the child by the child's parents (or one of them) or any person who is not the child's parent but who has parental responsibility for the child.

33. Conduct of reviews — Crown's policy on reviews

- (1) The Crown must prepare and implement a written policy regarding the manner in which it will review cases in accordance with this Part.
- (2) The Crown must provide a copy of its policy to —
 - (a) the child, unless it would not be appropriate to do so having regard to the child's age and understanding;

(b) the child's parents, or any person who is not the child's parent but who has parental responsibility for the child; and

(c) any other person whose views the Crown consider to be relevant.

34. Considerations to which the Crown must have regard

The considerations to which the Crown must have regard in reviewing each case are set out in Schedule 6.

35. Arrangements for implementing decisions arising out of reviews

The child's social worker must —

(a) make arrangements to implement decisions made in the course, or as a result, of the review, and

(b) inform the team leader of any significant failure to make such arrangements, or any significant change of circumstances occurring after the review that affects those arrangements.

36. Records of reviews

The Crown must ensure that a written record of the review is prepared, and that the information obtained in the course of the review, details of proceedings at the review meeting, and any decisions made in the course, or as a result, of the review are included in the child's case record.

PART 7 — Arrangements made by the Crown for ceasing to look after a child

37. Arrangements for ceasing to look after a child who is not an eligible child

(1) This regulation applies where the Crown considers ceasing to look after a child.

(2) Before deciding to cease to look after a child the Crown must —

(a) carry out an assessment of the suitability of the proposed arrangements for the child's accommodation and maintenance when the child ceases to be looked after;

(b) carry out an assessment of the services and support that the child and, where applicable a responsible person, might need when the Crown ceases to look after the child;

(c) ensure that the child's wishes, and feelings have been ascertained and given due consideration; and

(d) consider whether, in all the circumstances and taking into account any services or support the Crown intends to provide, ceasing to look after the child will safeguard and promote the child's welfare.

(3) The Crown must include in the child's care plan details of the advice, assistance and support that the Crown intends to provide for the child when the child ceases to be looked after.

(4) Subject to sub-regulation (5), where the child has been a looked after child for at least 20 working days, any decision to cease to look after the child must not be put into effect until it has been approved by the Director.

(5) In any case where a child is aged 16 or 17 and is not in the care of the Crown, the decision to cease to look after the child must not be put into effect until it has been approved by the Director.

(6) Before approving a decision under sub-regulation (4) or (5), the Director must be satisfied that —

- (a) the requirements of regulation 9(1)(b) have been complied with;
- (b) ceasing to look after the child will safeguard and promote the child's welfare;
- (c) the support the Crown intends to provide will safeguard and promote the child's welfare;
- (d) the child's relatives have been consulted, where appropriate; and
- (e) where appropriate, regulations 38 to 41 have been complied with.

38. Eligible child

For the purposes of paragraph 22(3)(b) of Schedule 2 to the Ordinance, if the child is a child to whom regulation 44 applies (short breaks), the child is not an eligible child despite falling within paragraph 22(2) of that Schedule.

39. General duties

If the child is an eligible child, the Crown must —

- (a) assess the child's needs in accordance with regulation 40; and
- (b) prepare the child's pathway plan in accordance with regulation 41.

40. Assessment of needs

(1) The Crown must complete the assessment of the child's needs in accordance with paragraph 22(4) of Schedule 2 to the Ordinance not more than three months after the date on which the child reaches the age of 16 or becomes an eligible child after that age.

(2) In carrying out its assessment of the child's likely needs when the child ceases to be looked after, the Crown must take account of the following considerations —

- (a) the child's state of health (including physical, emotional and mental health) and development;
- (b) the child's continuing need for education, training or employment;

- (c) the support that will be available to the child from the child's parents and other connected persons;
- (d) the child's actual and anticipated financial resources and capacity to manage his or her personal finances independently;
- (e) the extent to which the child possesses the practical and other skills necessary for independent living;
- (f) the child's need for continuing care, support and accommodation;
- (g) the wishes and feelings of —
 - (i) the child;
 - (ii) any parent of the child or any person who is not the child's parent but who has parental responsibility for the child;
 - (iii) the appropriate person; and
- (h) the views of —
 - (i) any person or educational institution that provides the child with education or training;
 - (ii) any person providing health (whether physical, emotional or mental health) or dental care or treatment to the child;
 - (iii) the personal adviser appointed for the child; and
 - (iv) any other person whose views the Crown, or the child, consider may be relevant.

41. The pathway plan

- (1) The pathway plan is the responsibility of the team leader and must be prepared as soon as possible after the assessment of the child's needs and must include, in particular —
 - (a) the child's care plan; and
 - (b) the information referred to in Schedule 7.
- (2) The pathway plan must, in relation to each of the matters referred to in paragraphs 2 to 10 of Schedule 7, set out —
 - (a) the manner in which the Crown proposes to meet the child's needs; and
 - (b) the date by which, and by whom, any action required to implement any aspect of the pathway plan will be carried out.

42. Functions of the personal adviser

The personal adviser's functions in relation to the child are to —

- (a) provide advice (including practical advice) and support;
- (b) participate in reviews of the child's case carried out under Part 6;
- (c) co-ordinate the provision of services and take reasonable steps to ensure the child makes use of such services;
- (d) remain informed about the child's progress and wellbeing; and
- (e) maintain a written record of their contacts with the child.

43. Independent visitors

A person appointed by the Crown as an independent visitor under section 33(1) of the Ordinance is to be regarded as independent of the Crown where the person appointed is not connected with the Crown by virtue of being —

- (a) a member of the Crown's committees or sub-committees, whether elected or co-opted;
- (b) any officer of the Crown employed in relation to the exercise of the functions referred to in section 25 of the Ordinance; or
- (c) a spouse, civil partner or other person (whether of different sex or the same sex) living in the same household as a person falling within paragraph (a) or (b) as the partner of such a person.

PART 8 — Miscellaneous

44. Application of these regulations with modifications to short breaks

(1) The circumstances set out in sub-regulation (2) of these regulations apply with the modifications set out in sub-regulation (3).

(2) The circumstances are that —

- (a) the child is not in the care of the Crown;
- (b) the Crown has arranged to place the child in a series of short-term placements with the same person or in the same accommodation ("short breaks"); and
- (c) the arrangement is such that —
 - (i) no single placement is intended to last for longer than 17 days;

(ii) at the end of each placement, the child returns to the care of its parent or a person who is not the child's parent but who has parental responsibility for the child; and

(iii) the short breaks do not exceed 75 days in total in any period of 12 months.

(3) The modifications are that —

(a) regulation 5 does not apply, but instead the care plan must set out the arrangements made to meet the child's needs with particular regard to —

(i) the child's health and emotional and behavioural development, in particular in relation to any disability the child may have;

(ii) promoting contact between the child and the child's parents or any other person who is not the child's parent but who has parental responsibility for the child, during any period when the child is placed;

(iii) the child's leisure interests; and

(iv) promoting the child's educational achievement;

and must include the name and address of the child's registered medical practitioner, and the information set out in paragraph 3 of Schedule 2, where appropriate;

(b) regulations 7, 9, 13 and 45(2)(b) do not apply;

(c) regulation 27(2) does not apply, but instead the Crown must ensure that a representative visits the child on days when the child is in fact placed, at regular intervals to be agreed with the team leader and the child's parents (or any person who is not the child's parent but who has parental responsibility for the child) and recorded in the care plan before the start of the first placement, and in any event —

(i) the first visit must take place within three months of the start of the first placement, or as soon as practicable after that; and

(ii) subsequent visits must take place at intervals of not more than six months, for as long as the short breaks continue;

(d) regulation 32 does not apply, but instead —

(i) the Crown must review the child's case within six months of the start of the first placement; and

(ii) the second and subsequent reviews must be carried out at intervals of not more than twelve months.

45. Records — establishment of records

(1) The Crown must establish and maintain a written case record for the child (“the child’s case record”), if one is not already in existence.

(2) The child’s case record must include —

(a) the child’s care plan, including any changes made to the care plan and any subsequent plans;

(b) reports obtained under regulation 7;

(c) any other document created or considered as part of any assessment of the child’s needs, or of any review of the child’s case;

(d) any court order relating to the child; and

(e) details of any arrangements that have been made by the Crown under which any of the Crown’s functions in relation to the child are discharged by a different organisation.

46. Retention and confidentiality of records

(1) The Crown must retain the child’s case record either —

(a) until the seventy-fifth anniversary of the child’s birth; or

(b) if the child dies before attaining the age of 18, for fifteen years beginning with the date of the child’s death.

(2) The Crown must secure the safe keeping of the child’s case record and take any necessary steps to ensure that information contained in it is treated as confidential subject only to —

(a) any provision of, or made under or by virtue of, a statute under which access to such a record or information may be obtained or given;

(b) any court order under which access to such a record or information may be obtained or given; and

(c) any policy that the Governor may make on information sharing.

SCHEDULE 1

Care plans

(regulation 5)

1. Information to be included in the health plan

(1) The child’s state of health including the child’s physical, emotional and mental health.

- (2) The child's health history including, so far as practicable, the child's family's health history.
- (3) The effect of the child's health and health history on the child's development.
- (4) Existing arrangements for the child's medical and dental care including —
 - (a) routine checks of the child's general state of health, including dental health;
 - (b) treatment for, and monitoring of, identified health (including physical, emotional and mental health) or dental care needs;
 - (c) preventive measures such as vaccination and immunisation;
 - (d) screening for defects of vision or hearing; and
 - (e) advice and guidance on promoting health and effective personal care.
- (5) Any planned changes to existing medical and dental care arrangements.
- (6) The role of the appropriate person, and of any other person who cares for the child, in promoting the child's health.

2. Information to be included in the personal education plan

- (1) The child's educational and training history, including information about educational institutions attended and the child's attendance and conduct record, the child's academic and other achievements, and the child's special educational needs, if any.
- (2) Existing arrangements for the child's education and training, including details of any special educational provision and any other provision made to meet the child's particular educational or training needs, and to promote the child's educational achievement.
- (3) Any planned changes to existing arrangements for the child's education or training and, where any changes to the arrangements are necessary, provision made to minimise disruption to that education or training.
- (4) The child's leisure interests.
- (5) The role of the appropriate person, and of any other person who cares for the child, in promoting the child's educational achievements and leisure interests.

3. Family and social relationships

- (1) If the child has a sibling for whom the Crown or another authority is providing accommodation, and the children have not been placed together, the arrangements made to promote contact between them, so far as is consistent with each child's welfare.

(2) If the child is looked after by, but is not in the care of, the Crown, details of any order relating to the child made under section 12 of the Ordinance.

(3) If the child is in the care of the Crown, details of any order relating to the child made under section 52 of the Ordinance (*parental contact etc with children in care*).

(4) Any other arrangements made to promote and maintain contact in accordance with paragraph 16 of Schedule 2 to the Ordinance, so far as is reasonably practicable and consistent with the child's welfare, between the child and —

(a) any parent of the child or any person who is not the child's parent but who has parental responsibility for the child; and

(b) any other connected person.

(5) Where section 33(1) of the Ordinance applies, the arrangements made to appoint an independent visitor for the child or, if appropriate, the fact that section 33(6) of the Ordinance applies, that fact.

SCHEDULE 2

Matters to be dealt with in the placement plan

(regulation 9)

1. Interpretation

In this Schedule, "parent" or "parents" includes any person who is not the child's parent but who has parental responsibility for the child.

2. Information to be included in the child's placement plan

(1) How on a day to day basis, the child will be cared for and the child's welfare will be safeguarded and promoted by the appropriate person.

(2) Any arrangements made for contact between the child and any parent, and between the child and any other connected person including, if appropriate —

(a) the reasons why contact with any such person would not be reasonably practicable or would not be consistent with the child's welfare;

(b) if the child is not in the care of the Crown, details of any order made under section 12 of the Ordinance;

(c) if the child is in the care of the Crown, details of any order relating to the child made under section 52 of the Ordinance; and

(d) the arrangements for notifying any changes in the contact arrangements.

(3) The arrangements made for the child's health (including physical, emotional and mental health) and dental care including —

(a) the name and address of the child's registered medical and dental practitioners and, where applicable, any registered medical or dental practitioner with whom the child is to be registered following the placement; and

(b) any arrangements for the giving or withholding of consent to medical or dental examination or treatment for the child.

(4) The arrangements made for the child's education and training including —

(a) the name and address of any school at which the child is a registered pupil;

(b) the name of the designated teacher at the school (if applicable); and

(c) the name and address of any other educational institution that the child attends, or of any other person who provides the child with education or training.

(5) The arrangements made for the representative to visit the child in accordance with Part 5, the frequency of visits and the arrangements made for advice, support and assistance to be available to the child between visits in accordance with regulation 27.

(6) If an independent visitor is appointed, the arrangements made for the independent visitor to visit the child.

(7) The circumstances in which the placement may be terminated and the child removed from the appropriate person's care in accordance with regulation 14.

(8) The name and contact details of —

(a) the child's independent visitor (if one is appointed);

(b) the representative; and

(c) if the child is an eligible child, the personal adviser appointed for the child.

3. Additional information to be included where the child is placed with a parent

(1) Details of support and services to be provided to a parent during the placement.

(2) The obligation on a parent to notify the Crown of any relevant change in circumstances, including any intention to change address, any changes in the household in which the child lives, and of any serious incident involving the child.

(3) The obligation on the parent to ensure that any information relating to the child or the child's family or any other person given in confidence to the parent in connection with the placement is

kept confidential, and that such information is not disclosed to any person without the consent of the Crown and is in accordance with any information sharing policy made by the Governor.

(4) The arrangements for requesting a change to the placement plan.

(5) The circumstances in which the placement will be terminated in accordance with regulation 19(1)(c)(ii).

4. Additional information to be included where the child is placed with a foster carer or in other arrangements

(1) The type of accommodation to be provided and the address.

(2) Where —

(a) the Crown has, or is notified of, child protection concerns relating to the child; or

(b) the child has gone missing from the placement or from any previous placement,

the day to day arrangements put in place by the appropriate person to keep the child safe or to prevent the child from going missing.

(3) The child's personal history, religious persuasion, cultural and linguistic background, and racial origin.

(4) Where the child is not in the care of the Crown —

(a) the respective responsibilities of the Crown and the child's parents;

(b) any delegation of responsibility to the Crown for the child's day to day care there has been by the child's parents;

(c) the expected duration of the arrangements and the steps which should be taken to bring the arrangements to an end, including arrangements for the child to return to live with the child's parents; and

(d) where the child is aged 16 or over and agrees to being provided with accommodation under section 23 of the Ordinance, that fact.

(5) The Crown's arrangements for the financial support of the child during the placement.

(6) Where the child is placed with a foster carer, the obligation on the foster carer to comply with the terms of the foster care agreement made under the Children (Fostering) Regulations 2019.

SCHEDULE 3

Matters to be taken into account when assessing the suitability of a responsible person to care for the child

(regulation 17(b))

1. In respect of a responsible person —

(a) the responsible person's capacity to care for children and in particular in relation to the child to —

(i) provide for the child's physical needs and appropriate medical and dental care;

(ii) protect the child adequately from harm or danger, including from any person who presents a risk of harm to the child;

(iii) ensure that the home environment is safe for the child;

(iv) ensure that the child's emotional needs are met and the child is provided with a positive sense of self, including any particular needs arising from the child's religious persuasion, racial origin and cultural and linguistic background, and any disability the child may have;

(v) promote the child's learning and intellectual development through encouragement, cognitive stimulation and the promotion of educational success and social opportunities;

(vi) enable the child to regulate the child's emotions and behaviour, including by modelling appropriate behaviour and interactions with others; and

(vii) provide a stable family environment to enable the child to develop and maintain secure attachments to the responsible person and other persons who provide care for the child;

(b) the responsible person's state of health including that responsible person's physical, emotional and mental health and medical history including any current or past issues of domestic violence, substance misuse or mental health problems;

(c) the responsible person's family relationships and the composition of the responsible person's household, including particulars of —

(i) the identity of all other members of the household, including their age and the nature of their relationship with the responsible person and with each other, including any sexual relationship;

(ii) any relationship with any person who is a parent of the child;

(iii) other adults not being members of the household who are likely to have regular contact with the child; and

(iv) any current or previous domestic violence between members of the household, including the responsible person;

(d) the responsible person's family history, including —

(i) particulars of the responsible person's childhood and upbringing including the strengths and difficulties of the responsible person's parents or other persons who cared for the responsible person;

(ii) the responsible person's relationships with the responsible person's parents and siblings, and their relationships with each other;

(iii) the responsible person's educational achievement and any specific learning difficulty or disability;

(iv) a chronology of significant life events; and

(v) particulars of other relatives and their relationships with the child and the responsible person;

(e) particulars of any criminal offences of which the responsible person has been convicted or in respect of which the responsible person has been cautioned;

(f) the responsible person's past and present employment and other sources of income; and

(g) the nature of the neighbourhood in which the responsible person's home is situated and the resources available in the community to support the child and the responsible person.

2. In respect of members of the responsible person's household aged 18 and over, so far as is practicable, all the particulars specified in paragraph 1 except sub-paragraphs (d), (f) and (g).

SCHEDULE 4

Matters to be taken into account when assessing the suitability of a connected person to care for the child

(regulation 24(2)(a))

1. In respect of the connected person —

(a) the nature and quality of any existing relationship with the child;

(b) their capacity to care for children and in particular in relation to the child to —

(i) provide for the child's physical needs and appropriate medical and dental care;

(ii) protect the child adequately from harm or danger including from any person who presents a risk of harm to the child;

(iii) ensure that the accommodation and home environment is suitable with regard to the age and developmental stage of the child;

(iv) promote the child's learning and development; and

(v) provide a stable family environment which will promote secure attachments for the child, including promoting positive contact with the parent (or a person who is not the child's parent but has parental responsibility for the child) and other connected persons, unless to do this is not consistent with the duty to safeguard and promote the child's welfare;

(c) their state of health including their physical, emotional and mental health and medical history and any current or past issues of domestic violence, substance misuse or mental health problems;

(d) their family relationships and the composition of their household, including particulars of—

(i) the identity of all other members of the household, including their age and the nature of their relationship with the connected person and with each other, including any sexual relationship;

(ii) any relationship with any person who is a parent of the child;

(iii) any relationship between the child and other members of the household;

(iv) other adults not being members of the household who are likely to have regular contact with the child; and

(v) any current or previous domestic violence between members of the household, including the connected person;

(e) their family history, including —

(i) particulars of their childhood and upbringing including the strengths and difficulties of their parents or other persons who cared for them;

(ii) their relationships with their parents and siblings, and their relationships with each other;

(iii) their educational achievement and any specific learning difficulty or disability;

(iv) a chronology of significant life events; and

- (v) particulars of other relatives and their relationships with the child and the connected person;
- (f) particulars of any criminal offences of which they have been convicted or in respect of which they have been cautioned;
- (g) their past and present employment and other sources of income; and
- (h) the nature of the neighbourhood in which their home is situated and resources available in the community to support the child and the connected person.

SCHEDULE 5
Other placement accommodation arrangements

(regulation 26(a))

Matters to be considered before placing a child in accommodation in an unregulated setting as provided for under section 28(6) of the Ordinance —

1. In respect of the accommodation, the —
 - (a) facilities and services provided;
 - (b) state of repair;
 - (c) safety;
 - (d) suitability of staff;
 - (e) location;
 - (f) support;
 - (g) tenancy status; and
 - (h) the financial commitments involved for the child and their affordability.
2. In respect of the child, the child's —
 - (a) views about the accommodation;
 - (b) understanding of their rights and responsibilities in relation to the accommodation; and
 - (c) understanding of funding arrangements.

SCHEDULE 6

Considerations to which the Crown must have regard when reviewing the child's case

(regulation 34)

1. The effect of any change in the child's circumstances since the last review, in particular of any change made by the Crown to the child's care plan, whether decisions taken at the last review have been successfully implemented, and if not, the reasons for that.
2. Whether the Crown should seek any change in the child's legal status.
3. Whether there is a long term plan for the child's upbringing within regulation 5(a).
4. The arrangements for contact and whether there is any need for changes to the arrangements in order to promote contact between the child and the parent or a person who is not the child's parent but has parental responsibility for the child, or between the child and other connected persons.
5. Whether the child's placement continues to be the most appropriate available, and whether any change to the placement plan or any other aspects of the arrangements made to provide the child with accommodation is, or is likely to become, necessary or desirable before the next review of the child's case.
6. The child's educational needs, progress and development and whether any change to the arrangements for the child's education or training is, or is likely to become, necessary or desirable to meet the child's particular needs and to promote the child's educational achievement before the next review of the child's case, having regard to the advice of any person who provides the child with education or training, (in particular the designated teacher of any school at which the child is a registered pupil).
7. The child's leisure interests.
8. The report of the most recent assessment of the child's state of health obtained in accordance with regulation 7 and whether any change to the arrangements for the child's health care is, or is likely to become, necessary or desirable before the next review of the child's case, having regard to the advice of any health care professional received since the date of that report, (in particular the child's registered medical practitioner).
9. Whether the child's needs related to the child's identity are being met and whether any particular change is required, having regard to the child's religious persuasion, racial origin and cultural background.
10. Whether the arrangements made in accordance with regulation 30 continue to be appropriate and understood by the child.
11. Whether any arrangements need to be made for the time when the child will no longer be looked after by the Crown.

12. The child's wishes and feelings about any aspect of the case and in particular about any changes the Crown has made since the last review or proposes to make to the child's care plan.

13. Where regulation 27(3) applies, the frequency of the representative's visits.

SCHEDULE 7

Matters to be dealt with in the pathway plan

(regulation 41(2))

1. The name of the child's personal adviser.

2. The nature and level of contact and personal support to be provided to the child, and by whom.

3. Details of the accommodation the child is to occupy when the child ceases to be looked after.

4. The plan for the child's continuing education or training when the child ceases to be looked after.

5. How the Crown will assist the child in obtaining employment or other purposeful activity or occupation.

6 Whether the child's placement safeguards and promotes the child's welfare, and whether any safeguarding concerns have been raised.

7. The support to be provided to enable the child to develop and sustain appropriate family and social relationships.

8. A programme to develop the practical and other skills the child needs to live independently.

9. The financial support to be provided to enable the child to meet accommodation and maintenance costs.

10. The child's health care needs, including any physical, emotional or mental health needs and how they are to be met when the child ceases to be looked after.

11. The Crown's contingency plans for action to be taken in the event that the pathway plan ceases to be effective for any reason.

Made 7 March 2019

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE
(this note is not part of the Regulations)

These Regulations are made under section 28(10) as read with sections 28(6), 32(3) and (4), 33(1)(a), 38(2), 39(1), (3) and (6), 44(1) and (2), 49(3) and 52(8) of the Children Ordinance 2014, and paragraphs 10 to 13, 14(1)(a), 15, 22(3), (7) and (8) of Schedule 2 to the Children Ordinance 2014.

The Regulations are divided into 8 parts.

Part 1 has regulations 1, 2 and 3 which deal with introductory matters; title, commencement and definitions as well as an application provision.

Part 2 deals with arrangements for looking after a child and provides as follows:

Regulation 4 deals with care plans;

Regulation 5 deals with the details that need to go into the care plan and these are detailed under Schedule 1;

Regulation 6 provides for the review of the care plan;

Regulation 7 provides for assessments to be made by registered medical practitioners to determine the child's state of health before placement; and

Regulation 8 provides for the process for contact with a child in care.

Part 3 provides for general provisions regarding placements:

Regulation 9 provides for the making of placement plans which must set out information detailing how the placement will meet the child's needs, as specified in Schedule 2;

Regulation 10 provides that any placement must be such that it does not disrupt a child's education;

Regulation 11 provides for placements of children outside the Falkland Islands where those children are looked after by the Crown while regulation 12 provides for the placement of children in Crown care outside the Falkland Islands;

Regulation 13 provides for notifications to be given by the Crown to different categories of people connected with the child before it can make any placement of the child; and

Regulation 14 provides for the termination of placements by the Crown.

Part 4 provides for different types of placements and has 3 Chapters:

Chapter 1 covers placements of children in care with parents, persons with parental responsibility or persons in whose favour residence orders or special guardianship orders are made.

Regulation 15 sets out the different categories of people to whom the Chapter applies;

Regulation 16 provides for the effect of contact orders made under section 52 of the Ordinance on placements;

Regulation 17 provides for assessments to be carried out to determine the suitability of any responsible person (as defined) before a child is placed with them. Schedule 3 sets out the matters to be taken into account when making the assessments;

Regulation 18 provides for all decisions to place a child with responsible persons to be approved by the Crown;

Regulation 19 specifies the different circumstances where a child may be placed before an assessment under regulation 17 is completed. One of the requirements is that the person with whom the child will be placed must be interviewed so that as much of the information set out under Schedule 3 as possible is gathered about the person (including persons living in the household with the person); and

Regulation 20 places a duty on the Crown to provide a responsible person with services and support to safeguard and promote the child's welfare and to ensure the details set out in the child's care plan are met.

Chapter 2 covers placements with foster carers

Regulation 21 defines a foster carer;

Regulation 22 lays down conditions which must be complied with before a child is placed with a foster carer;

Regulation 23 provides for emergency placements;

Regulation 24 provides for temporary approvals of persons connected with the child where that is necessary in advance of a full assessment of their suitability as a foster carer. Schedule 4 sets out matters to be taken into account when assessing the suitability of a connected person to care for the child; and

Regulation 25 provides for the expiry or extension of temporary approvals.

Chapter 3 deals with other arrangements that may be made to place children. Schedule 5 sets out matters which must be considered before placing any child in those other arrangements.

Part 5 provides for visits to be made to a placed child by a representative of the Crown.

Regulation 27 specifies the frequency of visits;

Regulation 28 provides for the conduct of visits and that the representative must speak to the child in private;

Regulation 29 provides for the Crown to carry out reviews where the representative's visit has revealed that a child's welfare is not being adequately safeguarded or promoted; and

Regulation 30 provides for the Crown to make the necessary arrangements to provide advice, support and assistance to the child in between visits by the Crown representative.

Part 6 provides for the requirements for carrying out reviews.

Regulation 31 places a general duty on the Crown to review a child's case in accordance with the requirements of Part 6;

Regulation 32 specifies timelines when reviews must be done, with the first review to be done within 25 working days from the date the child becomes looked after;

Regulation 33 provides for the Crown to set down a policy for the conduct of reviews with a requirement for the Crown to share copies of the policy with specified persons;

Regulation 34 requires the Crown to have regard to the matters set out in Schedule 6 when making assessments; and

Regulation 35 deals with arrangements which must be made to implement decisions arising from reviews, and regulation 36 requires written records of reviews to be included in a child's case records.

Part 7 provides for arrangements which must be made by the Crown when it ceases to look after a child:

Regulation 37 provides for arrangements to be made by the Crown where the child is not looked after by the Crown and is not an eligible child;

Regulation 38 provides the details required under paragraph 22(3) of Schedule 2 to the Ordinance relating to eligible children;

Regulation 39 sets out the general duties of the Crown in assessing children's needs and in the preparation of pathway plans;

Regulations 40 lays down specific considerations which the Crown must take into account when assessing the needs of a child who ceases to be looked after and becomes an eligible child;

Regulation 41 provides for the team leader to prepare a pathway plan as soon as an assessment of the child's needs under regulation 40 is completed. Schedule 7 lists the matters which must be included in the pathway plan;

Regulation 42 provides for the functions of an independent personal adviser; and

Regulation 43 provides for independent visitors.

Part 8 provides for miscellaneous matters as follows –

Regulation 44 provides for specific modifications to be made to the regulations where short term placements are made to enable short breaks of respite to carers; and

Regulation 45 sets out the information which must be included in a child's case records and regulation 46 provides for the retention and confidentiality of those records, specifying the periods for which records must be retained. It also provides for the Governor to make a policy on information sharing.

SUBSIDIARY LEGISLATION

Currency (Coin) Regulations Order 2019

S. R. & O. No: 7 of 2019

Made: 13 March 2019

Published:..... 10 April 2019

Coming into force: on publication

I make these regulations by order under section 22 of the Currency Ordinance 1987 on the advice of Executive Council.

1. Title

These Regulations are the Currency (Coin) Regulations Order 2019.

2. Commencement

These Regulations come into force upon publication in the *Gazette*.

3. Prescribed denomination, weight, form, design, metal composition of coins

For the purposes of section 6(5)(a) of the Currency Ordinance 1987, the Commissioners may arrange the minting of a coin that —

- (a) is of the denomination of 5 pence;
- (b) is 3.25g in weight;
- (c) has the following form —
 - (i) diameter of 18.00 mm;
 - (ii) remedy of 0.013 g;
 - (iii) a milled edge finish;
- (d) has the following design (as set out in the Schedule) —
 - (i) obverse design is 5 pence 2019 Queen Elizabeth II portrait (Raphael Maklouf 2016);
 - (ii) reverse design is a black-browed albatross; and
- (e) is made of nickel plated steel (NiPS).

Made 13 March 2019

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

SCHEDULE



EXPLANATORY NOTE

(not forming part of the regulations)

Section 6(1) of the Currency Ordinance 1987 gives the Commissioners of Currency (appointed under section 5(1) of the Ordinance) the sole right to issue currency notes and coins, which under section 6(3) of the Ordinance have legal tender. Under section 6(5)(a) of the Ordinance the Commissioners must arrange for the minting of coins in the denominations, weight, form, design and made of the metal or metals as are prescribed. Section 9(1)(d) and (e) also specify requirements relating to coins that have legal tender.

Section 22(a) of the Ordinance gives the Governor in Council the power to make regulations by order to prescribe anything that is required to be prescribed by the Ordinance. Section 6(5) requires the prescription of the denomination, weight, form, design and metal composition of coins that the Commissioners arrange to be minted.

This Order makes regulations prescribing the denomination, weight, form, design and metal composition of the 5 pence coin for the purposes of section 6(5)(a) of the Ordinance.

SUBSIDIARY LEGISLATION

Mental Health (Approved Practitioners) Order 2019

S. R. & O. No. 8 of 2019

Made: 1 April 2019

Published: 10 April 2019

Coming into force: on publication

I make this order under section 91 of the Mental Health Ordinance 2010 —

(a) after consulting the Chief Medical Officer on the appropriate qualifications, training and experience required by different classes of professionals for initial inclusion and to keep their name on the list of approved practitioners, as required by section 91(4); and

(b) without consulting Executive Council because, in my judgement, the matter is too unimportant to require consultation with Executive Council.

1. Title

This order is the Mental Health (Approved Practitioners) Order 2019.

2. Commencement

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

3. Approved doctors

Each person named in Schedule 1 is a medical practitioner who is an approved doctor for the purposes of the Ordinance.

4. Approved professionals

Each person named in Schedule 2 is a nurse, social worker or other professional who is an approved professional for the purposes of the Ordinance.

5. Revocation of Order

The Mental Health (Approved Practitioners) Order 2017 is revoked.

SCHEDULE 1 - APPROVED DOCTORS

Dr Rebecca Edwards

Dr Mukhtar Uqaili

Mr Ahmed Cheema

Dr David Edwards Moss

Dr Mary Whittle

Dr Maciej Stronczak

Dr Tim McInerny
Dr Fraser Gibb
Dr Doug Johnson
Dr Belle Song
Dr Rosasharn Browne
Dr Sophie Foxen
Dr Jennifer Russell
Dr Arthur Allison

SCHEDULE 2 - APPROVED PROFESSIONALS

Janice Vanessa Dent
Mandy Gail Heathman
Phillip Kelly
Karen Rimicans
Kristina Vincent
Althea Maria Biggs
Carole Coombs
Rebecca Dickens
Alex Moreton
Jennifer Reece
Lucy Blackmore
Mick Norman
Mark Valenzuela
Della Buck
Mary Winwood
Edith Chimhandamba
Claire Young
Jenny Cullen
Joanne Hooper
Laura Stevens
Nathan Murphy
Lynn Roberts

Made 1 April 2019

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

EXPLANATORY NOTE
(not forming part of the order)

Section 91(1) of the Mental Health Ordinance 2010 provides that the Governor may, by Order, approve doctors as medical practitioner for the purposes of the Ordinance. Schedule 1 of this order contains a list of medical practitioners approved by the Governor as approved doctors.

Section 91(2) provides that the Governor may, by Order, approve a nurse, social worker or other professional as an approved professional for the purposes of the Ordinance. Schedule 2 of this order contains a list of nurses, social workers and other professionals approved by the Governor as approved professionals.

Under the terms of section 3 of the Ordinance approved doctors and approved professionals are approved practitioners for the purposes of the Ordinance.

As required by section 91(4), before making the list of approved doctors and approved professionals, the Governor consulted the Chief Medical Officer on the appropriate qualifications, training and experience required by different classes of professionals for initial inclusion on the list, and to keep their name on the list.

Article 5 revokes the Mental Health (Approved Practitioners) Order 2017 which is replaced by this amended list.

SUBSIDIARY LEGISLATION

Currency (Coin) Regulations Order (No. 2) 2019

S. R. & O. No: 9 of 2019

Made: 4 April 2019

Published:..... 10 April 2019

Coming into force: on publication

I make these regulations by order under section 22 of the Currency Ordinance 1987 on the advice of Executive Council.

1. Title

This Order is the Currency (Coin) Regulations Order (No. 2) 2019.

2. Commencement

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

3. Prescribed denomination, weight, form, design, metal composition of coins

For the purposes of section 6(5)(a) of the Currency Ordinance 1987, the Commissioners may arrange the minting of a coin that —

- (a) is of the denomination of 1 pence;
- (b) is 3.56 g in weight;
- (c) has the following form —
 - (i) diameter of 20.30 mm;
 - (ii) a plain edge finish;
- (d) has the following design (as set out in the Schedule) —
 - (i) obverse design is Pobjoy Mint Effigy of H.M. Queen Elizabeth II;
 - (ii) reverse design is two Gentoo penguins with their nest; and
 - (iii) the value “1” and the year of issue is shown on the reverse side; and
- (e) is made of copper plated steel.

Made 4 April 2019

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

SCHEDULE



EXPLANATORY NOTE

(not forming part of the regulations)

Section 6(1) of the Currency Ordinance 1987 gives the Commissioners of Currency (appointed under section 5(1) of the Ordinance) the sole right to issue currency notes and coins, and section 6(3) of the Ordinance provides that only notes and coins issued by the Commissioners are legal tender. Under section 6(5)(a) of the Ordinance the Commissioners must arrange for the minting of coins in the denominations, weight, form, design and metal composition as are prescribed. Section 9 also specifies requirements relating to amounts of notes and coins having legal tender.

Section 22(a) of the Ordinance gives the Governor in Council the power to make regulations by order to prescribe anything that is required to be prescribed by the Ordinance. Section 6(5)(a) requires the prescription of the denomination, weight, form, design and metal composition of coins that the Commissioners arrange to be minted.

This Order makes regulations prescribing the denomination, weight, form, design and metal composition of a 1 pence coin for the purposes of section 6(5)(a) of the Ordinance.

SUBSIDIARY LEGISLATION

Livestock and Meat Products (TSE Control) (Amendment) Regulations 2019

S. R. & O. No: 10 of 2019

Made: 4 April 2019

Published: 10 April 2019

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 (TSE Control) (Amendment) Regulations 2019.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Regulation 10 amended: Specified risk material

Regulation 10 of the Livestock and Meat Products (TSE Control) Regulations 2015 is amended—

(a) by omitting subparagraph (1)(c) and replacing it with the following —

“(c) the tonsils, the last four metres of the small intestine, the caecum and the mesentery of animals of all ages;”;

(b) by omitting sub-regulation (2) and replacing it with the following —

“(2) Any tissue derived from the skull including the brain and eyes, and the spinal cord of ovine and caprine animals aged over 12 months or which have a permanent incisor erupted through the gum, are designated as specified risk material.”

Made 4 April 2019

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

EXPLANATORY NOTE
(not part of the Regulations)

These Regulations amend regulation 10 of the Livestock and Meat Products (TSE Control) Regulations 2015. The European Union legislation (Regulation (EC 999/2001) on which the Falkland Islands regulations are based has been amended to change the tissues listed as specified risk material. Consequently the Falkland Islands regulations need to be amended to reflect those changes. These Regulations amend the Livestock and Meat Products (TSE Control) Regulations to align them with EU legislation.

SUBSIDIARY LEGISLATION

Law Revision and Publication Ordinance 2017 (Amendment) Order 2019

S. R. & O. No. 11 of 2019

Made: 4 April 2019

Published: 10 April 2019

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 2019.

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 in accordance with the Schedule to this Order.

SCHEDULE

Amendment of Part 2 of Schedule 1 – Secondary Legislation

Part 2 is amended by —

(a) omitting the entry in respect of the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996 (SI 1996/2154); and

(b) inserting the following entry in alphabetical order —

Merchant Shipping (Prevention of Oil Pollution) Regulations (SI 2019/42)	2019	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
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Made 4 April 2019

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 reflect the application of the Merchant Shipping (Prevention of Pollution) Regulations 2019 (SI 2019/42), which replace the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996 (SI 1996/2154).

ELIZABETH II



FALKLAND ISLANDS

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

Supplementary Appropriation (2018-2019) (No 2) Ordinance 2019

(No: 2 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation
4. Replacement of amount withdrawn by authority of Contingencies Warrant

Schedule

ELIZABETH II



FALKLAND ISLANDS

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

SUPPLEMENTARY APPROPRIATION (2018-2019) (NO. 2) ORDINANCE 2019

(No: 2 of 2019)

(assented to: 4 April 2019)
(commencement: on publication)
(published: 10 April 2019)

AN ORDINANCE

To authorise the appropriation from the Consolidated Fund of the additional amount of £2,766,540 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 2019.

2. Commencement

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

3. Appropriation

(1) The additional amount of £2,766,540 is appropriated from the Consolidated Fund for the financial year ending 30 June 2019.

(2) The issue of the additional amount from the Consolidated Fund in the amounts necessary to replace an amount in accordance with section 4 and to supply the votes set out in the Schedule is authorised.

4. Replacement of amount withdrawn by authority of Contingencies Warrant

If an amount has been withdrawn from the Contingencies Fund by the authority of Contingencies Warrants Nos. 6 and 7 of 2018-2019, the amount withdrawn must be replaced from the amount appropriated under section 3.

SCHEDULE

Number	Head of Service	Amount £
	Operating Budget	
0110	Development & Commercial Services	116,540
0350	Public Works	332,000
	Total Operating Budget	448,540
0999	Fund Transfer and Transfer Payments	2,318,000
	Total Schedule	2,766,540

Passed by the Legislature of the Falkland Islands on 28 March 2019.

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.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

10 April 2019

No. 4

The following are published in this Supplement —

Crimes (Amendment) Ordinance 2019 (No 3 of 2019);

Criminal Procedure and Evidence (Miscellaneous Amendments) Ordinance 2019 (No 4 of 2019);

Travel Credit Scheme Ordinance 2019 (No 5 of 2019); and

Travel Credit Scheme Regulations 2019 (SR&O No 12 of 2019).

ELIZABETH II



FALKLAND ISLANDS

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

Crimes (Amendment) Ordinance 2019

(No: 3 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Ordinance amends Crimes Ordinance 2014
4. Section 33 amended (Supplemental provisions)
5. New section 65A (Causing grievous bodily harm by gross negligence)
6. Section 72 amended (Assaulting police officer)
7. New section 72A (Assaulting emergency worker)
8. Section 77 amended (Causing or allowing the death of or harm to a child or vulnerable adult)
9. New sections 85A to 85H
10. Section 107A amended (Offence of breaching non-molestation order)
11. New section 107B (Controlling or coercive behaviour in intimate or family relationships)
12. Section 108 amended (Guidance)
13. Heading to Part 5 amended
14. New section 122A (Corporate endangerment of life)
15. Section 129 amended (Gross breach: factors)
16. Section 130 amended (Application to public bodies)
17. Section 131 amended (Application to police force)
18. Section 133 amended (Power to order breach, etc. to be remedied)
19. Section 134 amended (Power to order conviction, etc. to be publicised)
20. Section 135 amended (Procedure, evidence and sentencing)
21. Section 136 amended (Convictions under this Part and under health and safety legislation)

22. Section 137 amended (Transfer of functions)
23. Section 139 amended (Power to extend section 122 to other organisations)
24. New section 217A (Sexual communication with children)
25. Section 302 amended (Method of notification and related matters)
26. New Part 25A (Terrorist Offences)
27. Section 583 amended (Transitional provisions)
28. Schedule 5 amended (Repealed and disapplied laws)

ELIZABETH II



FALKLAND ISLANDS

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

CRIMES (AMENDMENT) ORDINANCE 2019

(No: 3 of 2019)

(assented to: 4 April 2019)

(commencement: on publication)

(published: 10 April 2019)

AN ORDINANCE

To amend the Crimes Ordinance 2014.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Crimes (Amendment) Ordinance 2019.

2. Commencement

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

3. Ordinance amends Crimes Ordinance 2014

This Ordinance amends the Crimes Ordinance 2014

4. Section 33 amended (Supplemental provisions)

In section 33(4)(a), omit “section 31(2)” and replace it with “31(4)”.

5. New section 65A (Causing grievous bodily harm by gross negligence)

Insert after section 65 —

“65A. Causing grievous bodily harm by gross negligence

(1) A person commits an offence if the person causes grievous bodily harm to another person by gross negligence.

Penalty: Imprisonment for 14 years or a fine, or both.

(2) An offence against subsection (1) is triable on indictment only.”.

6. Section 72 amended (Assaulting police officer)

(1) In section 72(1), omit “Imprisonment for 1 month or a fine at level 3 on the standard scale, or both.” and replace it with “As provided in subsections (3) to (5).”.

(2) In section 72(2), omit “As provided in subsections (3) to (5).” and replace it with “Imprisonment for 1 month or a fine at level 3 on the standard scale, or both.”.

7. New section 72A (Assaulting emergency worker)

Insert after section 72 —

“72A. Assaulting emergency worker

(1) In this section —

“emergency” means an occurrence that —

- (a) causes, or threatens to cause, loss of life or injury to persons;
- (b) causes, or threatens to cause, loss of or damage to property;
- (c) endangers the safety of the public; or
- (d) causes, or threatens to cause, damage to the environment;

“emergency worker” means any of the following persons who is working in response to an emergency —

- (a) a police officer;
- (b) a member of the police reserve enlisted under section 9 of the Police Ordinance 2000 or any other person employed or engaged to provide services for police purposes;
- (c) an Officer in Charge, prison officer or other prison staff appointed under section 6 of the Prisons Ordinance 2017;
- (d) a person employed or engaged to provide fire or rescue services; or
- (e) a person employed or engaged to provide medical care, including in a para medical capacity;

“employed or engaged” includes —

(a) providing services as a volunteer or in another capacity that is unpaid; and

(b) employed or engaged on a full or part-time basis.

(2) To avoid doubt, a reference to an emergency worker includes a reference to a person who is not at work or not on duty but who, in working in response to an emergency, is performing duties which, if the person were at work or on duty, the person would perform in the course of the person’s employment.

(3) A person commits an offence if the person assaults —

(a) an emergency worker; or

(b) a person assisting an emergency worker.

Penalty: Imprisonment for 12 months or a fine.

(4) A person commits an offence if the person wilfully obstructs —

(a) an emergency worker; or

(b) a person assisting an emergency worker.

Penalty: Imprisonment for 12 months or a fine.

[UK Assaults on Emergency Workers (Offences) Act ss. 1 and 3]”.

8. Section 77 amended (Causing or allowing the death of or harm to a child or vulnerable adult)

In section 77(8), omit “subsection (7)” and replace it with “subsection (1)”.

9. New sections 85A to 85H

Insert after section 85 —

“85A. Definition of CAWN and CAWO

In sections 85B to 85G (inclusive) —

“CAWN” means a child abduction warning notice;

“CAWO” means a child abduction warning order.

85B. Power to issue CAWN

(1) A member of the police force not below the rank of inspector (“the authorising officer”) may issue a CAWN under this section.

(2) A CAWN may be issued to a person (“A”) aged 18 years or over if the authorising officer —

(a) has reasonable grounds for believing that A has without lawful authority or reasonable excuse been found in the company of a child under the age of 18 years (“C”); and

(b) (i) has reasonable grounds for believing that C has, on at least two occasions (including the occasion referred to in paragraph (a)), been reported missing and subsequently found to be in the company of A; or

(ii) has reason to suspect that C’s behaviour is, by reason of association with A, a significant cause for concern.

(3) Before issuing a CAWN, the authorising officer must, in particular, take reasonable steps to gather and consider —

(a) representations made by the person with lawful authority for C; and

(b) representations made by A as to the issuing of the CAWN.

(4) A CAWN must prohibit A from being in the company of C.

85C. Contents and service of CAWN

(1) A CAWN must state —

(a) the grounds on which it has been issued;

(b) that a constable may arrest A without warrant if the constable has reasonable grounds for believing that A is in breach of the CAWN;

(c) that an application for a CAWO under section 85E will be heard within 48 hours of the time of service of the CAWN and a notice of the hearing will be given to A;

(d) that the CAWN continues in effect until that application has been determined; and

(e) the provisions that a court may include in a CAWO under sections 85E and 85F.

(2) A CAWN must be in writing and must be served on A personally by a police officer.

(3) On serving A with a CAWN, the police officer must ask A for an address for the purposes of being given the notice of the hearing of the application for the CAWO.

85D. Breach of CAWN

(1) A constable may arrest a person without a warrant if the constable has reasonable grounds for believing that the person is in breach of a CAWN.

(2) A person arrested by virtue of section 85C(1)(b) for a breach of a CAWN must be held in custody and brought before the court which will hear the application for a CAWO under sections 85E and 85F —

(a) before the end of the period of 24 hours beginning with the time of the arrest; or

(b) if earlier, at the hearing of that application.

(3) If the person is brought before the court by virtue of subsection (2)(a), the court may remand the person.

(4) If the court adjourns the hearing of the application by virtue of section 85E(8), the court may remand the person.

(5) In calculating when the period of 24 hours mentioned in subsection (2)(a) ends, Christmas Day, any Sunday and any day which is a public holiday in the Falkland Islands are to be disregarded.

85E. Application for a CAWO

(1) If a CAWN has been issued, the Attorney General must apply for a CAWO.

(2) The application must be made by complaint to the Magistrate's Court and any hearing relating to the application will be heard by the Senior Magistrate or, if the Senior Magistrate is not available, three Justices of the Peace.

(3) The application must be heard by the Court no later than 48 hours after the CAWN was served pursuant to section 85C(2).

(4) In calculating when the period of 48 hours mentioned in subsection (3) of this section ends, Christmas Day, any Sunday and any day which is a public holiday in the Falkland Islands are to be disregarded.

(5) A notice of the hearing of the application must be given to A.

(6) The notice is deemed given to A if it is left at the address given by A under section 85C(3).

(7) But if the notice has not been given because no address was given by A under section 85C(3), the court may hear the application for the CAWO if the court is satisfied that reasonable efforts have been made to give A the notice.

(8) The court may adjourn the hearing of the application.

(9) If the court adjourns the hearing, the CAWN continues in effect until the application has been determined.

(10) On the hearing of the application for a CAWO, sections 278 and 279 of the Criminal Procedure and Evidence Ordinance 2014 do not apply in relation to a person for whose protection the CAWO would be made, except where the person has given oral or written evidence at the hearing.

85F. Conditions for, effect and contents of CAWO

(1) The court may make a CAWO if two conditions are met.

(2) The first condition is that the court is satisfied on the balance of probabilities that the criteria in section 85B(2)(a) and (b) are satisfied.

(3) The second condition is that the court thinks that making the CAWO is necessary to protect C from harm as a result of association with A.

(4) A CAWO prohibits A from doing anything described in the order.

(5) The only prohibitions that may be included in a CAWO are those necessary to protect C from harm as a result of association with A.

(6) A CAWO must state that it is a criminal offence to breach the CAWO.

(7) A CAWO may be in force for —

(a) no fewer than 14 days beginning with the day on which it is made; and

(b) until the date of the 18th birthday of C.

(8) A CAWO must state the period for which it is to be in force.

85G. Breach of CAWO

A person in respect of whom a CAWO has been made and who contravenes the order in any respect commits an offence.

Penalty: Imprisonment for 5 years or a fine, or both.

85H. Guidance

(1) The Attorney General may issue guidance relating to the exercise by a police officer of functions under sections 85B to 85G (inclusive).

(2) The guidance must set out the behaviours associated with “giving significant cause for concern”, including, in particular, behaviours associated with giving cause for concern of sexual exploitation or grooming.

(3) A police officer must have regard to any guidance issued under subsection (1) when exercising a function to which the guidance relates.”

10. Section 107A amended (Offence of breaching non-molestation order)

In section 107A, insert “order” after “non-molestation”.

11. New section 107B (Controlling or coercive behaviour in intimate or family relationships)

Insert after section 107A —

“107B. Controlling or coercive behaviour in intimate or family relationships

(1) A person (A) commits an offence if —

(a) A repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive;

(b) at the time of the behaviour, A and B are personally connected;

(c) the behaviour has a serious effect on B; and

(d) A knows or ought to know that the behaviour will have a serious effect on B.

Penalty: Imprisonment for 5 years or a fine, or both.

(2) A and B are “personally connected” if —

(a) A is in an intimate personal relationship with B; or

(b) A and B live together and —

(i) they are members of the same family; or

(ii) they have previously been in an intimate personal relationship with each other.

(3) But A does not commit an offence under this section if at the time of the behaviour in question —

(a) A has responsibility for B, for the purposes of section 5 of the Children Ordinance 2014; and

(b) B is under 16.

(4) A’s behaviour has a “serious effect” on B if —

(a) it causes B to fear, on at least two occasions, that violence will be used against B; or

(b) it causes B serious alarm or distress which has a substantial adverse effect on B’s usual day-to-day activities.

(5) For the purposes of subsection (1)(d), A “ought to know” that which a reasonable person in possession of the same information would know.

(6) For the purposes of subsection (2)(b)(i), A and B are members of the same family if —

- (a) they are, or have been, married to each other;
- (b) they are, or have been, civil partners of each other;
- (c) they are relatives;
- (d) they are both parents of the same child; or
- (e) they have, or have had, parental responsibility for the same child.

(7) In subsection (6) —

“child” means a person under the age of 18 years;

“parental responsibility” has the same meaning as in the Children Ordinance 2014;

“relative” means —

- (a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson or granddaughter of that person or of that person’s spouse, former spouse, civil partner or former civil partner; or
- (b) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood or by marriage or civil partnership) of that person or of that person’s spouse, former spouse, civil partner or former civil partner,

and includes, in relation to a person who is cohabiting or has cohabited with another person, any person who would fall within paragraph (a) or (b) if the parties were married to each other or were civil partners of each other.

(8) In proceedings for an offence under this section it is a defence for A to show that —

- (a) in engaging in the behaviour in question, A believed that A was acting in B’s best interests; and
- (b) the behaviour was in all the circumstances reasonable.

(9) A is to be taken to have shown the facts mentioned in subsection (8) if —

- (a) sufficient evidence of the facts is adduced to raise an issue with respect to them; and

(b) the contrary is not proved beyond reasonable doubt.

(10) The defence in subsection (8) is not available to A in relation to behaviour that causes B to fear that violence will be used against B.

[UK Serious Crime Act 2015 s. 76]”.

12. Section 108 amended (Guidance)

In section 108(1), omit “sections 102 to 109” and replace it with “sections 102 to 107A”.

13. Heading to Part 5 amended

Omit the heading to Part 5 and replace it with —

“CORPORATE MANSLAUGHTER AND ENDANGERMENT OF LIFE”.

14. New section 122A (Corporate endangerment of life)

Insert after section 122 —

“122A. Corporate endangerment of life

(1) An organisation to which this section applies commits the offence of corporate endangerment of life if the way in which its activities are managed or organised —

(a) causes a person (A) grievous bodily harm; and

(b) amounts to a gross breach of a relevant duty of care owed by the organisation to A.
Penalty: A fine.

(2) The organisations to which this section applies are —

(a) a corporation;

(b) a department of the Government (other than an exempt department);

(c) a police force;

(d) a partnership, or a trade union or employers’ association that is an employer.

(3) An organisation commits an offence under this section only if the way in which its activities are managed or organised by its senior management is a substantial element in the breach referred to in subsection (1).

(4) For the purposes of this Part —

(a) “relevant duty of care” has the same meaning given by section 123, read with sections 124 to 128;

(b) a breach of a duty of care by an organisation is a “gross” breach if the act alleged to amount to a breach of that duty falls far below what can reasonably be expected of the organisation in the circumstances; and

(c) “senior management”, in relation to an organisation, means the persons who play significant roles in —

(i) the making of decisions about how the whole or a substantial part of its activities are to be managed or organised; or

(ii) the actual managing or organising of the whole or a substantial part of those activities.

(5) The offence of corporate endangerment of life is triable on indictment only.

(6) This section applies only if the harm resulting in grievous bodily harm is sustained —

(a) in the Falkland Islands (including in its territorial waters);

(b) on a ship or aircraft registered in the Falkland Islands; or

(c) on, under or above an installation in waters to which section 179 of the Criminal Procedure and Evidence Ordinance 2014 applies, or any waters within 500 metres of any such installation.

(7) For the purposes of subsection (6)(b), harm sustained on a ship or aircraft includes harm sustained by a person who —

(a) is no longer on board the ship or aircraft in consequence of the wrecking of it or of some other mishap affecting it or occurring on it; and

(b) sustains the harm in consequence of that event.”.

15. Section 129 amended (Gross breach: factors)

In section 129(2)(b), insert “or grievous bodily harm” after “death”.

16. Section 130 amended (Application to public bodies)

In section 130(3), omit “section 122” and replace it with “sections 122 and 122A”.

17. Section 131 amended (Application to police force)

(1) In section 131(2) and (3), omit “section 122” and replace it with “sections 122 and 122A”.

(2) In section 131(5)(a), omit “section 122” and replace it with “section 122 or 122A”.

18. Section 133 amended (Power to order breach, etc. to be remedied)

(1) In section 133(1) insert “or corporate endangerment of life” after “manslaughter”.

(2) In section 133(1)(a), omit “section 122(1)” and replace it with “section 122(1) or 122A(1)”.

(3) In section 133(1)(b), insert “or grievous bodily harm” after “death”.

19. Section 134 amended (Power to order conviction, etc. to be publicised)

In section 134(1), insert “or corporate endangerment of life” after “manslaughter”.

20. Section 135 amended (Procedure, evidence and sentencing)

In section 135(2) and (3), insert “or corporate endangerment of life” after “manslaughter”.

21. Section 136 amended (Convictions under this Part and under health and safety legislation)

In section 136(1)(a) and (2), insert “or corporate endangerment of life” after “manslaughter”.

22. Section 137 amended (Transfer of functions)

In section 137(1)(a), (3) and (5), insert “or grievous bodily harm” after “death”.

23. Section 139 amended (Power to extend section 122 to other organisations)

In section 139(1), omit “section 122” and replace it with “section 122 or 122A”.

24. New section 217A (Sexual communication with children)

Insert after section 217 —

“217A. Sexual communication with children

(1) A person aged 18 or over (A) commits an offence if —

(a) for the purpose of obtaining sexual gratification, A intentionally communicates with another person (B);

(b) the communication is sexual or is intended to encourage B to make (whether to A or to another) a communication that is sexual; and

(c) B is under 16 and A does not reasonably believe that B is 16 or over.

Penalty: Imprisonment for 2 years or a fine, or both.

(2) For the purposes of this section, a communication is sexual if —

(a) any part of it relates to sexual activity; or

(b) a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider any part of the communication to be sexual.

(3) In subsection (2)(a), “sexual activity” means an activity that a reasonable person would, in all the circumstances but regardless of any person’s purpose, consider to be sexual.

[UK Sexual Offences Act 2003 s. 15A]”

25. Section 302 amended (Method of notification and related matters)

In section 302(1)(a), omit “cutody” and replace it with “custody”.

26. New Part 25A (Terrorist Offences)

Insert after section 577 —

“PART 25A – TERRORIST OFFENCES

Interpretation of Part

577A. Definitions

In this Part —

“act” includes —

- (a) an omission and a course of action;
- (b) one or more acts that are part of a series of acts;
- (c) an act for a specific purpose and an act of a general nature;
- (d) an act that occurs in or outside the Falkland Islands; and
- (e) an act that is taken by or for the purposes of an organisation proscribed under an Act;

“article” includes —

- (a) a device or thing for mechanically or electronically storing or recording data; and
- (b) a device or thing by or from which data is capable of being reproduced with or without the aid of another article, device or thing;

“document” includes a photographic record;

“glorification” includes any form of praise or celebration;

“government” means the Government of Falkland Islands or the government of a country outside of the Falkland Islands;

“publication” includes matter that may be listened to or watched;

“publish” includes publish by or through using the internet or other electronic service;

“provide”, in relation to money or other property, includes give, lend or make available, whether or not for consideration;

“service” includes a facility;

“terrorism” means engaging in a terrorist act that —

- (a) is designed to influence a government or an international organisation;
- (b) is designed to intimidate the public; and
- (c) is made for the purpose of advancing a political, religious, racial, ethnic, cultural or ideological cause;

“terrorist act” means one or more acts taken, being taken or threatened to be taken that —

- (a) involve serious violence against a person or serious damage to property, including by the use of firearms or explosives;
- (b) endanger a person’s life (other than the life of the person committing the action);
- (c) create a serious risk to the health or safety of the public;
- (d) are designed to interfere seriously with, or to disrupt seriously, an electronic system;
or
- (e) as part of a course of action, enable or will enable a terrorist act.

[UK Terrorism Act 2000 s.121]

577B. References in this Part to persons, property and the public

(1) A reference in this Part to a person is a reference to a person in the Falkland Islands or in a country outside the Falkland Islands.

(2) A reference in this Part to property is a reference to property in the Falkland Islands or in a country outside the Falkland Islands.

(3) A reference in this Part to the public includes a reference to people attending a meeting that members of the public may attend, whether the people’s admission to the meeting is unconditional, on the payment of a fee or on satisfaction of another condition.

[UK Terrorism Act 2000 s.121]

Offences relating to financing terrorism

577C. Fund raising for terrorism

(1) A person commits an offence if the person —

- (a) asks or invites another person to provide money or other property; and

(b) intends, or has reasonable grounds to suspect, that the money or property will or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(2) A person commits an offence if the person —

(a) receives money or other property; and

(b) intends, or has reasonable grounds to suspect, that the money or property will be or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(3) A person commits an offence if the person —

(a) provides money or other property to a person; and

(b) knows, or has reasonable grounds to suspect, that the money or property will or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(4) An offence under this section is triable only on indictment.

(5) In subsection (2)(a), a reference to receiving money or other property is a reference to being given, lent or otherwise provided the money or other property, whether or not for consideration.

[UK Terrorism Act 2000 s. 15]

577D. Possession and use of money or other property for terrorism

(1) A person commits an offence if the person uses money or other property for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(2) A person commits an offence if the person —

(a) possesses money or other property; and

(b) intends to use the money or property for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(3) A person commits an offence if the person —

(a) possesses money or other property; and

(b) has reasonable grounds to suspect that the money or property will or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(4) An offence under this section is triable only on indictment.

[UK Terrorism Act 2000 s. 16]

577E. Entering into funding arrangements for terrorism

(1) A person commits an offence if —

(a) the person enters into, or becomes concerned in, an arrangement;

(b) as a result of the person entering into or becoming concerned in the arrangement, money or other property is, or will be, provided to another person; and

(c) the person knows, or has reasonable grounds to suspect, that the money or property will or may be used for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(2) An offence under this section is triable only on indictment.

[UK Terrorism Act 2000 s. 17]

577F. Arrangements to deal with money or other property that funds terrorism

(1) In this section —

“dealing with money or other property” means —

(a) receiving, possessing or controlling the money or property;

(b) concealing or attempting to conceal the money or property;

(c) passing or transferring the money or property to another person; or

(d) disposing of the money or property in any other way.

(2) A person commits an offence if the person enters into, or becomes concerned in, an arrangement to deal with money or other property that is being used, or is intended to be used, for terrorism.

Penalty: Imprisonment for 14 years or a fine, or both.

(3) It is a defence for a person charged with an offence under this section to prove that the person did not know, and did not have reasonable grounds to suspect, that the arrangement related to money or other property that is being used, or is intended to be used, for terrorism.

(4) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for entering into, or becoming concerned in, the arrangement to deal with money or other property.

(5) An offence under this section is triable on indictment only.

[UK Terrorism Act 2000 s. 18]

Offences relating to information about terrorism

577G. Non-disclosure of information about acts of terrorism

(1) This section applies to a person who has information that the person knows or believes is of material assistance for —

(a) preventing another person from committing a terrorist act; or

(b) apprehending, prosecuting or convicting another person in the Falkland Islands for an offence under this Part or under the law of a country outside the Falkland Islands.

(2) The person commits an offence if the person does not disclose the information to a police officer.

Penalty: Imprisonment for 5 years or a fine, or both.

(3) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for not disclosing the information to a police officer.

(4) Proceedings for an offence under this section may be commenced in the Falkland Islands or, subject to subsection (5), in a country outside the Falkland Islands.

(5) Proceedings referred to in subsection (4) may be commenced in a country outside the Falkland Islands if —

(a) the person alleged to have committed the offence was in the country when the person became aware, or at any time after the person became aware, that the person had information referred to in subsection (1); and

(b) the acts constituting the offence constitute an offence under the law in that country.

577H. Collecting, recording, possessing information that may be used for terrorism

(1) A person commits an offence if the person —

(a) collects or records information of a kind likely to be useful to a person committing or preparing for a terrorist act; or

(b) possesses a document containing information referred to in paragraph (a).

Penalty: Imprisonment for 10 years or a fine, or both.

(2) It is a defence for a person charged with an offence under this section to prove that the person had a reasonable excuse for collecting or recording the information or possessing the document.

(3) An offence under this section is triable only on indictment.

577I. Disseminating terrorist publications

(1) In this section —

“act” means an act for doing any of the following —

- (a) distributing or circulating a terrorist publication;
- (b) giving, selling or lending a terrorist publication;
- (c) offering a terrorist publication for sale or loan;
- (d) transmitting the content of a terrorist publication electronically;
- (e) possessing a terrorist publication for the purposes of paragraph (a), (b), (c) or (d);
- (f) providing a service by which another person is able to obtain, read, listen to or watch a terrorist publication; or
- (g) providing a service by which another person may purchase or loan a terrorist publication or be gifted a terrorist publication;

“lend” or “on loan” includes let on hire;

“terrorist publication” means a publication or part of a publication —

- (a) that contains material —
 - (i) which glorifies committing or preparing for a terrorist act or type of terrorist act (whether a current, future or past act);
 - (ii) from which a member of the public could reasonably be expected to infer that the act or type of act that is gloried is an act or type of act that the member should emulate; and
 - (iii) by which it is likely that a member of the public would be directly or indirectly encouraged or induced to commit, prepare for or instigate a terrorist act;
- (b) that contains material that is likely to be useful for committing or preparing for a terrorist act; or
- (c) that was likely published wholly or mainly for the purpose of being used by a member of the public to commit or prepare for a terrorist act.

(2) A person commits an offence if the person does an act with the intention that an effect of the act is to —

(a) directly or indirectly encourage or otherwise induce another person to commit, prepare for or instigate a terrorist act; or

(b) provide assistance to another person for committing or preparing for a terrorist act.

Penalty: Imprisonment for 7 years or a fine, or both.

(3) A person commits an offence if the person does an act recklessly as to whether, because of the act, the person —

(a) directly or indirectly encourages or otherwise induces another person to commit, prepare for or instigate a terrorist act; or

(b) provides assistance to another person for committing or preparing for a terrorist act.

Penalty: Imprisonment for 7 years or a fine, or both.

(4) In subsections (2) and (3), a reference to an effect of the act includes a reference to a terrorist publication becoming available to a person as a consequence of the act and, because of the availability of the publication to the person, it is likely that the person —

(a) is directly or indirectly encouraged or otherwise induced to commit, prepare for or instigate a terrorist act; or

(b) is provided assistance for committing or preparing for a terrorist act.

(5) In proving the commission of an offence under subsection (2) or (3), the question whether a publication is a terrorist publication must be determined —

(a) as at the time the defendant allegedly carried out the act the subject of the offence; or

(b) having regard to the whole contents of the publication and to the circumstances in which the defendant allegedly carried out the act.

(6) In proving the commission of an offence under subsection (2) or (3), the following is immaterial —

(a) whether all or some of the persons to whom the terrorist publication became available likely understood that the publication —

(i) was directly or indirectly encouraging or otherwise inducing a person to commit, prepare for or instigate a terrorist act; or

(ii) was providing assistance for committing or preparing for a terrorist act; and

(b) whether, as a consequence of the defendant's alleged act, a person was —

(i) directly or indirectly encouraged or otherwise induced to commit, prepare for or instigate a terrorist act; or

(ii) provided assistance for committing or preparing for a terrorist act.

(7) It is a defence for a person charged with an offence under subsection (2)(a) or (3)(a) to show that —

(a) the terrorist publication the subject of the alleged offence did not express the person's views or ideology or the person did not publically express support for the publication;

(b) in the circumstances of the act the subject of the alleged offence, it is clear that the terrorist publication did not express the person's views or ideology or that the person did not publically express support for the publication; and

(c) the defendant did not carry out the alleged act with the intention that an effect of the act was to directly or indirectly encourage or otherwise induce another person to commit, prepare for or instigate a terrorist act.

577J. Use of information to encourage terrorism

(1) A reference in this section to a statement is a reference to a statement which is likely to be understood by one or more members of the public to whom it is made as directly or indirectly encouraging or otherwise inducing the member or members to commit, prepare for or instigate a terrorist act.

(2) For this section, a statement that is likely to be understood by one or more members of the public as directly or indirectly encouraging or otherwise inducing the member or members to commit, prepare for or instigate a terrorist act is a statement —

(a) which glorifies committing or preparing for a terrorist act or a type of terrorist act (whether a current, future or past act); and

(b) from which one or more members of the public could reasonably be expected to infer that the act or type of act that is gloried is an act or type of act that the member should emulate.

(3) A person commits an offence if the person publishes a statement, or causes another person to publish a statement, with the intention of directly or indirectly encouraging or inducing one or more members of the public to commit, prepare for or instigate a terrorist act.

Penalty: Imprisonment for 7 years or a fine, or both.

(4) A person commits an offence if the person publishes a statement, or causes another person to publish a statement and, at the time the statement is published, is reckless as to

whether the statement will directly or indirectly encourage or induce one or more members of the public to commit, prepare for or instigate a terrorist act.

Penalty: Imprisonment for 7 years or a fine, or both.

(5) In a proceeding for an offence under this section, a question about how a statement is likely to be understood by a member of the public, or about what a member of the public could reasonably be expected to infer from a statement, must be determined having regard to —

- (a) the whole content of the statement;
- (b) the circumstances of its publication; and
- (c) the manner in which it is published.

(6) It is a defence for a person charged with an offence under this section to show that —

- (a) the statement did not express the person's views or ideology or the person did not publically express support for the statement; and
- (b) in the circumstances of the statement's publication, it is clear that the statement did not express the person's views or ideology or that the person did not publically express support for the statement.

Other offences relating to terrorism

577K. Possession of article for terrorism

(1) A person commits an offence if the person possesses an article in circumstances which give rise to a reasonable suspicion that the person possesses the article for a purpose connected with committing, preparing for or instigating a terrorist act.

Penalty: Imprisonment for 15 years or a fine, or both.

(2) In proceedings for an offence under this section, the court may assume that the defendant possessed the article if it is proved that an article was —

- (a) on premises at the same time as the accused;
- (b) on premises that the accused was occupying; or
- (c) on premises that the accused habitually used other than as a member of the public.

(3) Subsection (2) does not apply if the defendant proves that the defendant —

- (a) did not know that the article was on the premises; or
- (b) had no control over the article.

(4) If a person charged with an offence under this section possesses the article, it is a defence for the person to prove that the person did not possess the article for a purpose connected with committing, preparing for or instigating a terrorist act.

(5) An offence under this section is triable only on indictment.

577L. Preparing for committing terrorist act

(1) In this section —

“person” means a person who intends to —

- (a) commit a terrorist act; or
- (b) assist another person commit a terrorist act.

(2) A person commits an offence if the person does an act in preparation for giving effect to the person’s intention.

Penalty: Imprisonment for life.

(3) An offence under this section is triable only on indictment.”.

27. Section 583 amended (Transitional provisions)

(1) Revoke section 583(2).

(2) In section 583(3), omit “Subsections (1) and (2) do” and replace it with “Subsection (1) does”.

28. Schedule 5 amended (Repealed and disappplied laws)

In Schedule 5, Part A, insert in the appropriate order and format —

“Bribery and Corruption Overseas Ordinance 2006”.

Passed by the Legislature of the Falkland Islands on 28 March 2019.

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.

Criminal Procedure and Evidence (Miscellaneous Amendments) Ordinance 2019

(No: 4 of 2019)

ARRANGEMENT OF PROVISIONS

Section

PART 1 – PRELIMINARY

1. Title
2. Commencement

PART 2 – AMENDMENTS OF CRIMINAL PROCEDURE AND EVIDENCE ORDINANCE 2014

3. Amendment of Criminal Procedure and Evidence Ordinance 2014
4. Section 259 amended (Proceedings invalid if defendant did not know of them)
5. Section 299 amended (Choice of mode of trial: supplementary provisions)
6. Section 316 amended (Qualification for jury service – Schedule 6)
7. New section 324A (Summoning for jury service in exceptional circumstances)
8. New section 435A (Observing proceedings by live link)
9. Section 563 amended (Duration of sentences of imprisonment)
10. Sections 566 and 567 revoked
11. Section 569 amended (Court by which suspended sentence may be dealt with)
12. Section 574 revoked
13. Section 583 amended (Revocation of licences and recall of prisoners on licence)
14. Section 585 amended (Warrants for imprisonment)
15. Section 605 amended (Disposal of fines and recognisances)
16. Section 627 amended (Rehabilitated persons and spent convictions)

17. Section 633 amended (Exceptions to rehabilitation – Schedule 11)
18. Section 647 amended (Award of costs)
19. Section 664 amended (Appeals against sentence)
20. Section 671 amended (Prosecution appeal from Magistrate’s Court in respect of rulings and sentence)
21. Schedule 11 amended (Exceptions to rehabilitation)

PART 3 – CONSEQUENTIAL AMENDMENTS OF OTHER ORDINANCES

22. Administration of Justice Ordinance 1949 amended
23. Fisheries (Conservation and Management) Ordinance 2005 amended
24. Licensing Ordinance 1994 amended
25. Misuse of Drugs Ordinance 1987 amended
26. Oil in Territorial Waters Ordinance 1960 amended
27. Road Traffic Ordinance 1948 amended

ELIZABETH II



FALKLAND ISLANDS

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

**CRIMINAL PROCEDURE AND EVIDENCE (MISCELLANEOUS
AMENDMENTS) ORDINANCE 2019**

(No: 4 of 2019)

(assented to: 4 April 2019)

(commencement: on publication)

(published: 10 April 2019)

AN ORDINANCE

To amend the Criminal Procedure and Evidence Ordinance 2014 and to consequentially amend various other Ordinances to apply consistently with the Criminal Procedure and Evidence Ordinance 2014.

ENACTED by the Legislature of the Falkland Islands —

PART 1 – PRELIMINARY

1. Title

This Ordinance is the Criminal Procedure and Evidence (Miscellaneous Amendments) Ordinance 2019.

2. Commencement

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

**PART 2 – AMENDMENTS OF CRIMINAL PROCEDURE AND
EVIDENCE ORDINANCE 2014**

3. Amendment of Criminal Procedure and Evidence Ordinance 2014

This Part amends the Criminal Procedure and Evidence Ordinance 2014.

4. Section 259 amended (Proceedings invalid if defendant did not know of them)

In section 259(4), insert “in the Summary Court” after “tried again”.

5. Section 299 amended (Choice of mode of trial: supplementary provisions)

In section 299(1)(g), omit “section 338(1)” and replace it with “section 336(1)”.

6. Section 316 amended (Qualification for jury service – Schedule 6)

In section 316(1)(b)(iii), omit “36 months” and replace it with “12 months”.

7. New section 324A (Summoning for jury service in exceptional circumstances)

After section 324, insert —

“324A. Summoning for jury service in exceptional circumstances

(1) If it appears to a judge that a jury to try an indictment will be, or probably will be, incomplete, the judge may require any persons who are in, or in the vicinity of, the court, to be summoned, without written notice, for jury service up to the number needed to make up a full jury (after allowing for any who may not be qualified under section 316, and for excusals and challenges).

(2) The names of the persons summoned under subsection (1) must be added to the panel for the court sittings and treated as if they were specified on the panel under section 321(1).

(3) If a judge is satisfied that for any reason it is or was not practicable to summon jurors under section 319, the judge may require any persons who are in, or in the vicinity of, the court, to be summoned, without written notice, for jury service up to the number needed to make up a full jury (after allowing for any who may not be qualified under section 316, and for excusals and challenges).

(4) The names of persons summoned under subsection (3) must be treated as if they were specified on a panel prepared for the court sittings under section 321(1).

(5) If a trial is to take place in Stanley, a reference in subsection (1) or (3) to a person being in the vicinity of the court is a reference to the person being within Stanley.”.

8. New section 435A (Observing proceedings by live link)

After section 435, insert —

“435A. Observing proceedings by live link

(1) A court that gives a special measures direction for a witness to give evidence by live link under section 435, may, if it considers it is in the interests of justice to do so, give a direction providing that the witness may, after giving evidence, observe the remainder of the proceedings by live link.

(2) In giving the direction, the court may also provide for the witness to observe the proceedings in the company of a person. The direction must specify who that person is.

(3) In deciding whether to make the direction, and the content of the direction, the court must have regard to the wishes of the witness.

(4) Reference in this section to a live link is a reference to a live link arrangement by which —

(a) the witness is able to see and hear (from a place outside the place where the criminal proceedings are held) a person in the place where the criminal proceedings are held; and

(b) it is not possible for a person to see or hear (from a place outside the place where the witness observes the proceedings) the witness.”.

9. Section 563 amended (Duration of sentences of imprisonment)

(1) In section 563(5), omit “but subject to subsections (6) and (7) as regards partly suspended sentences,”.

(2) Revoke section 563(6) and (7).

10. Sections 566 and 567 revoked

Revoke sections 566 and 567.

11. Section 569 amended (Court by which suspended sentence may be dealt with)

(1) In section 569(1), omit “or a partly suspended sentence”.

(2) In section 569(1)(a), (b) and (c) and (2), omit “or partly suspended sentence”.

12. Section 574 revoked

Revoke section 574.

13. Section 583 amended (Revocation of licences and recall of prisoners on licence)

(1) In section 583(3)(b), omit “section 581(1)” and replace it with “section 582(1).

(2) Revoke section 583(5).

14. Section 585 amended (Warrants for imprisonment)

In section 585, insert “, or under the hand of the Registrar or Clerk of the Court,” after “at the trial”.

15. Section 605 amended (Disposal of fines and recognisances)

In section 605(1), omit paragraphs (a) and (b) and replace them with —

“(a) firstly, in payment of any damages or compensation so ordered on the conviction to be paid to a person;

(b) secondly, in payment of any costs ordered on the conviction to be paid to the prosecutor;”.

16. Section 627 amended (Rehabilitated persons and spent convictions)

Revoke section 627(5).

17. Section 633 amended (Exceptions to rehabilitation – Schedule 11)

In section 633(8), omit “Section 628(4)” and replace it with “Section 628”.

18. Section 647 amended (Award of costs)

(1) In section 647(1), insert after paragraph (a) —

“(aa) to any person acquitted of any offence, including where the information alleging the offence is withdrawn, dismissed or discontinued;”.

(2) Revoke section 647(4) and replace it with —

“(4) Costs payable to a person pursuant to subsection (1)(aa) are payable out of the Consolidated Fund.”.

(3) Revoke section 647(7).

19. Section 664 amended (Appeals against sentence)

In section 664, insert, after subsection (2) —

“(2A) If the Supreme Court hears an appeal against a sentence passed by the Magistrate’s Court or the Summary Court, the Supreme Court must allow the appeal if the Court thinks that the sentence is manifestly excessive.”.

20. Section 671 amended (Prosecution appeal from Magistrate’s Court in respect of rulings and sentence)

(1) In section 671(1)(b), omit “10 years or more” and replace it with “12 months or more”.

(2) Omit section 671(2)(c) and replace it with —

“(c) that the sentence imposed was unduly lenient.”.

21. Schedule 11 amended (Exceptions to rehabilitation)

(1) In Schedule 11, Part 4, add after paragraph 4 —

“5. Taxi driver’s permits issued under the Road Traffic (Taxi Drivers’ Permits) Order 2013.”.

(2) In Schedule 11, Part 5, add after paragraph 14 —

“15. Proceedings relating to a taxi driver’s permit issued under the Road Traffic (Taxi Drivers’ Permits) Order 2013.”.

PART 3 – CONSEQUENTIAL AMENDMENTS OF OTHER ORDINANCES

22. Administration of Justice Ordinance 1949 amended

- (1) This section amends the Administration of Justice Ordinance 1949.
- (2) In Schedule 2, paragraph 4, omit “under the Administration of Justice Ordinance 1949” and replace it with “under the Criminal Procedure and Evidence Ordinance 2014”.

23. Fisheries (Conservation and Management) Ordinance 2005 amended

- (1) This section amends the Fisheries (Conservation and Management) Ordinance 2005.
- (2) Revoke section 2(3).

24. Licensing Ordinance 1994 amended

- (1) This section amends the Licensing Ordinance 1994.
- (2) Revoke section 76(13).
- (3) In Schedule 2, paragraph 3(a), omit “Government Secretary” and replace it with Chief Executive”.

25. Misuse of Drugs Ordinance 1987 amended

- (1) This section amends the Misuse of Drugs Ordinance 1987.
- (2) Revoke section 23.

26. Oil in Territorial Waters Ordinance 1960 amended

- (1) This section amends the Oil in Territorial Waters Ordinance 1960.
- (2) Revoke section 6.

27. Road Traffic Ordinance 1948 amended

- (1) This section amends the Road Traffic Ordinance 1948.
- (2) Revoke section 58.

Passed by the Legislature of the Falkland Islands on 28 March 2019.

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.

Travel Credit Scheme Ordinance 2019

(No. 5 of 2019)

ARRANGEMENT OF PROVISIONS

Section

PART 1: PRELIMINARY

1. Title and commencement
2. Interpretation
3. Application
4. Object of Ordinance

PART 2: ESTABLISHMENT OF SCHEME AND REGISTRATION

5. Establishment of Scheme
6. Termination or suspension of Scheme
7. Qualification for registration
8. Qualification for registration of a child
9. Maintaining registration under the Scheme
10. Application for registration
11. Registration of qualifying person
12. Suspension of registration
13. Cancellation of registration
14. Voluntary removal from database

PART 3: TRAVEL CREDITS

15. Accrual of travel credits
16. Use of travel credits
17. Redeeming travel credits
18. Application to redeem travel credits

PART 4: DETERMINATION OF DISPUTED AWARDS OF TRAVEL CREDITS

19. Determination of disputes
20. Revision of travel credit awards
21. Adjustment of payments

PART 5: GENERAL

22. Notification of change in circumstances
23. False statements
24. Scheme Administrator to issue guidance
25. Subsidiary legislation

ELIZABETH II



FALKLAND ISLANDS

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

TRAVEL CREDIT SCHEME ORDINANCE 2019

(No: 5 of 2019)

(assented to: 4 April 2019)
(commencement: in accordance with section 1)
(published: 10 April 2019)

AN ORDINANCE

To establish a travel credit scheme for the benefit of Falkland Islands status holders; to provide for the administration of that scheme; to provide for the accrual and redemption of travel credits; and to provide for connected matters.

ENACTED by the Legislature of the Falkland Islands —

PART 1: PRELIMINARY

1. Title and commencement

(1) This Ordinance is the Travel Credit Scheme Ordinance 2019.

(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 otherwise stated or the context otherwise requires —

“abuse of the Scheme” means to obtain unintended financial benefits from the Scheme by engaging in conduct as prescribed;

“account” means a record or statement of travel credits accrued, redeemed or forfeited by a registered person;

“applicant” means a person who applies for registration under this Ordinance;

“child” means a person who is below 18 years;

“claim” means an application to redeem travel credits;

“cut-off date” means the prescribed date on which the initial registration must be complete;

“database” means the database for registered persons established and maintained under section 11;

“Falkland Islands Government complaints procedure” means the Falkland Islands Government Corporate Complaints Procedure approved by the Executive Council;

“fare” means the money that is paid for travel by a registered person but does not include payments for transfers;

“guidance” means guidance issued by the Scheme Administrator under section 24;

“initial registration” means registration of qualifying persons from the date of commencement of this Ordinance to the cut-off date;

“prescribed” means prescribed in regulations;

“qualifying person” means a person who qualifies to be registered under the Scheme;

“Register” means a Register of Electors referred to in section 9 of the Electoral Ordinance 1988;

“registered person” means a person who is registered in the database;

“registration” means registration in the database;

“regulations” means regulations made under section 25;

“Scheme” means the Travel Credit Scheme established under section 5;

“Scheme Administrator” means the Financial Secretary or the Financial Secretary’s nominated representative;

“status holder” means a person who has Falkland Islands status in terms of section 22 of the Constitution;

“travel” means travel for the purposes of a holiday, recreation or leisure;

“travel credits” means credits that accrue to a registered person under section 15; and

“travel provider” means a person who, in the course of business, provides or arranges travel by air, road or sea, whether as principal or agent.

3. Application

This Ordinance applies to status holders who meet the qualifying requirements for registration in terms of this Ordinance.

4. Object of Ordinance

The object of this Ordinance is to recognise the commitment of status holders who are resident in the Falkland Islands by establishing a scheme under which status holders may register for and accrue travel credits to pay for fares.

PART 2: ESTABLISHMENT OF SCHEME AND REGISTRATION

5. Establishment of Scheme

(1) There is established a Travel Credit Scheme for the benefit of registered persons to be managed and administered by the Scheme Administrator in terms of this Ordinance.

(2) The Scheme is funded by money appropriated by an Appropriation Ordinance.

6. Termination or suspension of Scheme

(1) The Governor may by Order terminate or suspend the Scheme or make changes to the Scheme and the Order may provide for consequential and transitional provisions.

(2) The Order to terminate the Scheme must give prior notice of the intention to terminate the Scheme and specify the termination date.

(3) The Order to suspend the Scheme must state the suspension period and the date when the suspension commences.

(4) Any travel credits accumulated by a registered person on termination or suspension of the Scheme may be claimed and redeemed as prescribed.

7. Qualification for registration

(1) Subject to subsection (2), the following categories of persons qualify for registration under the Scheme —

(a) a status holder who is 18 years or over and, subject to section 9(2), is registered in a Register;

(b) a status holder who is a child of 16 years or over but below 18 years; or

(c) a status holder who is a child below 16 years;

(2) To qualify for registration, a person referred to in subsection (1)(b) or (c) must meet the requirements set out in section 8.

8. Qualification for registration of a child

(1) This section aligns qualification for registration of a child under the Scheme as far as reasonably possible with qualification for the registration of an adult as an elector under section 8 of the Electoral Ordinance 1988.

(2) To qualify to register under the Scheme, a child referred to in section 7(1)(b) or (c) must satisfy each of the conditions in subsections (3) and (4).

(3) The first condition is that the child must —

(a) meet the requirements under section 32(1)(a) of the Constitution as if that section applied to the child; and

(b) not fall within the disqualifications under section 32(2)(a) to (c) of the Constitution.

(4) The second condition is that the child must either —

(a) be resident in the Falkland Islands; or

(b) be treated as being resident in the Falkland Islands under section 8A, 8B or 8C of the Electoral Ordinance 1988 as if those sections applied to the child.

(5) For the purposes of subsection (4), reference in the Electoral Ordinance 1988 to —

(a) “the qualifying date” means the date that the child is registered under the Scheme or any other date on which a child’s residence is to be determined under this Ordinance; and

(b) “the qualifying period” must be disregarded.

9. Maintaining registration under the Scheme

(1) Subject to section 13, to maintain registration under the Scheme, a person referred to in —

(a) section 7(1)(a), must continue to be registered in a Register;

(b) section (7)(1)(b) or (c) must continue to meet the requirements of section 8.

(2) A qualifying person who turns 18 years after registration under the Scheme must be registered in a Register within one year of his or her 18th birthday in order to maintain registration under the Scheme.

10. Application for registration

(1) A qualifying person who is 18 years or over may apply to the Scheme Administrator to be registered under the Scheme.

(2) Subject to subsection (3), the parent or guardian of a child who is a qualifying person may apply to the Scheme Administrator for the registration of that child.

(3) A qualifying person who is 16 years or over but below 18 years may apply to the Scheme Administrator for registration on his or her own behalf.

(4) An application must be in the prescribed form and must give information on such matters as may be prescribed.

(5) A cut-off date for the completion of initial registration is to be prescribed and a qualifying person who registers on or before that date accrues travel credits from a date prescribed under section 15.

11. Registration of qualifying person

(1) The Scheme Administrator must establish and maintain an up-to-date database of all registered persons.

(2) The Scheme Administrator must register a qualifying person in the database if the Scheme Administrator is satisfied that all the requirements for registration under this Ordinance are met.

(3) On registering a qualifying person, the Scheme Administrator must assign a registration number and enter the number against the person's name in the database.

(4) For the purposes of subsection (3), the Scheme Administrator may use a number that is already being used by the applicant in respect of other matters.

(5) The Scheme Administrator must open an account for each registered person in his or her individual name regardless of age.

12. Suspension of registration

(1) The Governor may make regulations providing for the suspension of a person's registration.

(2) Regulations under subsection (1) may include —

(a) grounds for suspension;

(b) period of suspension; and

(c) consequences of suspension including whether travel credits accrue during the period of suspension.

(3) A registered person may appeal against a suspension to the Governor within a prescribed period and in the prescribed manner.

13. Cancellation of registration

(1) The Governor may make regulations providing for the cancellation of a person's registration.

(2) Regulations under subsection (1) may include —

- (a) grounds for cancellation;
- (b) the procedure for cancellation; and
- (c) the effect of cancellation of registration on accrued travel credits.

(3) A person may appeal against a cancellation of registration or against a ban to re-join the Scheme to the Governor within a prescribed period and in the prescribed manner.

(4) A person whose registration is cancelled for reasons other than abuse of the Scheme may apply to re-join the Scheme if the grounds for cancellation no longer apply.

(5) Regulations under subsection (2) may provide for the banning of a person who is found to have abused the Scheme from re-joining the Scheme.

14. Voluntary removal from database

(1) A registered person may request the Scheme Administrator to cancel his or her registration and to remove the registered person's name from the database.

(2) The Scheme Administrator must, as soon as practicable after receipt of a request under subsection (1) and in accordance with subsection (3), cancel the person's registration and remove the person's name from the database.

(3) A person referred to in this section may redeem any travel credits accumulated in his or her account as prescribed.

(4) A person referred to in this section may apply to re-join the Scheme and he or she will accrue credits from the date of re-registration.

PART 3: TRAVEL CREDITS

15. Accrual of travel credits

(1) A registered person will accrue travel credits in accordance with this Ordinance.

(2) The Governor must make regulations regarding —

- (a) the date on which a registered person starts to accrue travel credits; and
- (b) the maximum number of travel credits that may be accumulated by a registered person.

16. Use of travel credits

(1) Subject to this section, the travel credits that are accumulated by a registered person may only be used to pay for the fare for travel within the Falkland Islands or abroad.

(2) In respect of travel abroad, the travel must originate from the Falkland Islands and, in the case of multi-leg travel, it must be included as part of the same holiday itinerary booked on the same ticket.

(3) Travel credits accumulated by a registered person are not transferable and may only be used by or for the benefit of that registered person.

(4) Except as prescribed under subsection (5), travel credits may not be used to pay for embarkation tax, shipping or cargo costs, transfers, excess baggage charges, travel insurance or any other charges which are not the fare.

(5) Regulations may provide for travel costs for which travel credits may be claimed under the Scheme.

17. Redeeming travel credits

(1) Accumulated travel credits may be redeemed with effect from a prescribed date which may be a date that has passed.

(2) Regulations or guidance must provide for —

(a) procedures for redeeming travel credits and the documentation that must be submitted with a claim;

(b) the method of redeeming travel credits;

(c) the minimum number of travel credits per claim; and

(d) any other related matter.

18. Application to redeem travel credits

(1) Subject to section 17 and subsection (2) —

(a) a registered person may apply in a form approved by the Scheme Administrator to redeem travel credits as reimbursement for —

(i) the fare for travel undertaken; or

(ii) the fare for travel that has been independently booked and paid for in advance of travel;

(b) a travel provider may redeem vouchers in advance of travel or after travel in order to pay the fare in respect of a registered person; and

(c) travel credits may not be redeemed more than two years in advance of travel.

(2) The following persons may submit a claim to redeem travel credits —

(a) subject to paragraph (b), a registered person who is 16 years or over in respect of his or her travel credits; and

(b) a parent or guardian on behalf of a registered person who is a child.

PART 4: DETERMINATION OF DISPUTED AWARDS OF TRAVEL CREDITS

19. Determination of disputes

(1) Subject to this Ordinance, claims to redeem travel credits must be made to the Scheme Administrator.

(2) Any question as to the right to travel credits in respect of any person must be decided by the Scheme Administrator.

(3) If a person referred to in subsection (2) is dissatisfied with the decision of the Scheme Administrator, the question must be determined in accordance with the Falkland Islands Government complaints procedures.

20. Revision of travel credit awards

(1) Subject to subsection (2), the Scheme Administrator may revise an award or decision not to award any travel credits or any other decision made by him or her under this Ordinance, if satisfied that the award or decision was erroneous.

(2) A revision under subsection (1) may only be done if —

(a) further information has been brought to the notice of the Scheme Administrator since the date on which the award or decision was made;

(b) the circumstances existing at the time which formed the basis of the award or decision have changed; or

(c) a mistake was made in respect of the circumstances existing at the time the award or decision was made.

(3) Section 19 applies to a dispute arising from any revision or decision not to revise, by the Scheme Administrator under this section.

21. Adjustment of payments

(1) Subject to subsection (2), if an amount is paid in respect of a travel credit and it is found that the amount was not properly paid, the Scheme Administrator may require the amount to be paid back —

(a) if it was paid to a registered person in his or her own right who was not entitled to receive the amount, by that registered person;

(b) if it was paid to a person on behalf of a registered person who was not entitled to receive the amount, by that person; or

(c) if it was paid to a travel provider who was not entitled to receive the amount, by that travel provider.

(2) Any sum that is required to be repaid under this section may be recovered by the Scheme Administrator summarily as a civil debt.

PART 5: GENERAL

22. Notification of change in circumstances

(1) Subject to subsection (2), a registered person must notify the Scheme Administrator if there is a change to the person's circumstances —

(a) which affects the person's entitlement to registration under the Scheme; and

(b) the person knows that the change affects the person's entitlement to registration under the Scheme.

(2) A parent or guardian of a registered person who is a child below 16 years must notify the Scheme Administrator if there is a change to the child's circumstances —

(a) which affects the child's entitlement to registration under the Scheme; and

(b) the parent or guardian knows that the change affects the entitlement of the child to registration under the Scheme.

(3) Notification under this section must be made as soon as reasonably practicable, and in any case not more than 10 working days, after becoming aware of the change.

(4) A person who fails to notify the Scheme Administrator as required under this section commits an offence and is liable on conviction to a fine not exceeding level 1 on the standard scale.

23. False statements

A person who, in an application for registration or for the purpose of claiming travel credits knowingly or recklessly —

(a) makes a statement or representation which is false in a material particular;

(b) provides or causes or allows to be provided, a document or information which is false in a material particular; or

(c) withholds any information which is material,

commits an offence and is liable on conviction to a fine not exceeding level 2 on the standard scale.

24. Scheme Administrator to issue guidance

(1) The Scheme Administrator may issue guidance for the general administration of the Scheme including for —

- (a) arrangements with travel providers;
- (b) guidelines for designation of travel providers;
- (c) payments of travel credits; or
- (d) any matter which is to be prescribed under a provision of this Ordinance but which has not been prescribed.

(2) The Scheme Administrator must arrange for any guidance made under subsection (1) to be approved by the Governor and published in the Gazette.

25. Subsidiary legislation

(1) The Governor may make regulations or orders generally for giving effect to the provisions of this Ordinance, and for any matters that may be prescribed under this Ordinance.

(2) Regulations under subsection (1) may provide for the following matters —

- (a) procedures for applications for registration and registration;
- (b) redemption of travel credits on termination or suspension of the Scheme;
- (c) accrual, redemption and forfeiture of travel credits;
- (d) cancellation, and deferment of travel;
- (e) reimbursement of Scheme as a result of failure to travel;
- (f) sanction for abuse of the Scheme; and
- (g) appeals.

Passed by the Legislature of the Falkland Islands on 28 March 2019.

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

Travel Credit Scheme Regulations 2019

S. R. & O. No. 12 of 2019

Arrangement of Provisions

Regulation

1. Title and commencement
 2. Interpretation
 3. Application to register
 4. Accounts
 5. Dates when travel credits accrue
 6. Accrual of travel credits
 7. Forfeiture of travel credits
 8. Claims for travel credits
 9. Designation of travel providers
 10. Payment for travel and proof of travel
 11. Failure to travel
 12. Travel credits on suspension or termination of Scheme
 13. Suspension of registration
 14. Cancellation of registration
 15. Notice of cancellation or suspension of registration
 16. Lifting of suspension
 17. Appeals
 18. Delivery of notices
- Schedule (Application forms)

SUBSIDIARY LEGISLATION

Travel Credit Scheme Regulations 2019

S. R. & O. No: 12 of 2019

Made: 4 April 2019

Published: 10 April 2019

Coming into force: in accordance with regulation 1

I make the following regulations under section 25 of the Travel Credit Scheme Ordinance 2019 on the advice of the Executive Council.

1. Title and commencement

(1) These regulations are the Travel Credit Scheme Regulations 2019.

(2) These regulations come into force on a day appointed by the Governor by notice in the *Gazette*.

2. Interpretation

In these regulations —

“aborted travel” means travel which fails to take place as set out in regulation 11(1);

“designated travel provider” means a travel provider who is designated by the Scheme Administrator under regulation 9(1);

“Principal Immigration Officer” means the Principal Immigration Officer appointed under the Immigration Ordinance 1999; and

“the Statistician” means the Statistician referred to in the Statistics Ordinance 2010.

3. Application to register

(1) An application for registration under the Scheme —

(a) must be in the relevant form set out in the Schedule;

(b) must be sent or delivered to the Scheme Administrator;

(c) if applicable, must include the applicant’s electoral number under the Electoral Ordinance; and

- (d) must, if required, include the documentation referred to in sub-regulation (6).
- (2) An application form under sub-regulation (1) must include the following particulars —
- (a) name and address of the applicant;
 - (b) email address and telephone number of the applicant, if available;
 - (c) in the case of an application on behalf of a child, the name, address and date of birth of the child;
 - (d) date of application;
 - (e) a statement that the applicant will comply with all the requirements and conditions of registration under the Ordinance; and
 - (f) a statement that the applicant is a status holder.
- (3) A qualifying person whose name appears in a Register does not need to include any documents in support of his or her application.
- (4) Subject to any law relating to privacy or confidentiality of information, the Scheme Administrator may use information in a Register and from records kept by the Principal Immigration Officer, the Statistician and other Government departments to verify information in an application.
- (5) A question regarding whether or not a person is a status holder must be resolved by the Principal Immigration Officer.
- (6) An application by or on behalf of a child —
- (a) must be supported by a statement by the parent or guardian that the child is resident in the Falkland Islands and any one of the following documents —
 - (i) a copy of his or her Falkland Islands Status Certificate issued under the Immigration Ordinance 1999; or
 - (ii) a copy of his or her Passport displaying Falkland Islands Status number; and
 - (b) may be supported by —
 - (i) a copy of his or her birth certificate; or
 - (ii) any other documents as may be requested by the Scheme Administrator.

4. Accounts

(1) The Scheme Administrator must maintain in the account a record of travel credits that have been accrued, accumulated, redeemed or forfeited by a registered person.

(2) A registered person may request a record of travel credits in his or her account and the Scheme Administrator must provide the information as soon as is reasonably practicable but not more than 10 working days after receiving the request.

5. Dates when travel credits accrue

(1) Subject to this regulation and regulation 6 —

(a) a registered person accrues travel credits from the date of registration; or

(b) a person who is born after 1 July 2018 accrues travel credits from the date of birth provided that the person is registered within 6 months of his or her birth, failing which accrual of travel credits is from date of registration.

(2) A qualifying person who registers on or before the cut-off date accrues travel credits from 1 July 2018.

(3) The cut-off date for the initial registration referred to in section 10(5) of the Ordinance is 14 June 2019.

6. Accrual of travel credits

(1) A registered person who is 16 years or over —

(a) accrues travel credits at the rate of £1.00 per day; and

(b) may accumulate a maximum of £1,826.00 in his or her account and no further credits may be accrued until the accumulated travel credits have been reduced below the maximum.

(2) A registered person who is a child below 16 years —

(a) accrues travel credits at the rate of £0.50 per day; and

(b) may accumulate a maximum of £913.00 in his or her account and no further credits may be accrued until the accumulated travel credits have been reduced below the maximum.

7. Forfeiture of travel credits

(1) Travel credits which are accumulated in the account of a registered person will be forfeited if—

(a) the registered person dies; or

(b) the person's registration —

- (i) is cancelled because the registered person abused the Scheme; or
- (ii) subject to subsection (2), is cancelled for any other reason.

(2) A person whose registration is cancelled for any reason other than that of abusing the Scheme may redeem his or her accumulated travel credits within six months of cancellation of registration to avoid forfeiture.

8. Claims for travel credits

- (1) Subject to sub-regulation (2), a registered person may claim accumulated travel credits from 1 July 2019.
- (2) At the time of claiming travel credits the person's registration must not have been suspended or cancelled.
- (3) Travel credits may not be redeemed in advance of their accrual.
- (4) The minimum amount of travel credits per claim by a registered person is £50.00.
- (5) To qualify for a claim for travel credits, travel by a registered person must involve a journey of a minimum of 10 miles.
- (6) There is no limit on the number of times that claims for travel credits may be made subject to the total value of travel credits in the registered person's account.
- (7) A registered person must not arrange travel more than two years in advance of the date of claiming the travel credits to pay for the fare.

9. Designation of travel providers

- (1) The Scheme Administrator must designate travel providers for the purposes of this Ordinance and must publish a list of the designated travel providers in a way that makes it accessible to members of the public.
- (2) The Scheme Administrator must comply with guidelines in guidance when designating travel providers.

10. Payment for travel and proof of travel

- (1) Payment for fares must be made to a travel provider or a registered person by way of reimbursement in accordance with guidance or this regulation.
- (2) A registered person who is 16 years or over, or a person who is the parent or guardian of a child, may be reimbursed for a fare paid by the registered person or by the parent or guardian provided that the amount of the reimbursement must not exceed the travel credits accumulated in the registered person's or child's account on the date he or she paid the fare.

(3) As an alternative to subsection (2), a registered person may be issued with vouchers of a value of some or all of his or her travel credits and he or she may use the vouchers to pay a designated travel provider for a fare in advance of travel, and the travel provider may be reimbursed by the Scheme for the value of the vouchers.

(4) The Scheme Administrator may request a registered person to produce satisfactory proof of booking, payment and travel by the registered person in respect of which he or she claimed or is claiming travel credits.

11. Aborted travel

(1) Travel is considered to have aborted if —

(a) it is booked by a registered person either independently or through a designated travel provider;

(b) travel credits are redeemed for the fare; and

(c) the registered person fails to travel to the same destination as booked within 14 days of the date originally booked for the travel.

(2) A registered person must claim a refund for aborted travel from the travel provider and subject to sub-regulation (3), reimburse the Scheme with the amount that was refunded within 60 days of the date that the travel was originally booked to take place.

(3) A designated travel provider who arranged travel that aborted must reimburse the Scheme directly with the amount to be refunded.

(4) The Scheme Administrator must credit the registered person's account with the amount reimbursed under sub-regulation (1).

12. Travel credits on suspension or termination of Scheme

Any travel credits in the account of a registered person on termination or suspension of the Scheme may be claimed and redeemed within a period stated in the termination or suspension Order by the Governor.

13. Suspension of registration

(1) The Scheme Administrator may suspend a person's registration on the following grounds —

(a) if the registered person has been sentenced to a term of custody by a court in any country;
or

(b) in order to allow the Scheme Administrator time to investigate if the person still qualifies for registration and to investigate any grounds for cancellation

(2) Suspension from the Scheme under —

(a) sub-regulation (1)(a) must be for the period of the custodial sentence; and

(b) sub-regulation (1)(b) must be for such period as determined by the Scheme Administrator.

(3) A registered person referred to —

(a) in sub-regulation (1)(a) does not accrue travel credits for the period of suspension and any accumulated travel credits are frozen until the suspension is lifted; or

(b) in sub-regulation (1)(b) continues to accrue travel credits during the period of suspension but may not claim or redeem any travel credits during the period of suspension.

(4) After an investigation under sub-regulation (1)(b), if the Scheme Administrator decides —

(a) to cancel registration, the Scheme Administrator must allow the registered person to redeem any accumulated travel credits in accordance with regulation 7(2); or

(b) not to cancel registration, the Scheme Administrator must confirm and credit the person's account, with the travel credits accrued during the period of suspension.

14. Cancellation of registration

(1) The Scheme Administrator must cancel a person's registration if satisfied that —

(a) the registered person no longer meets the requirements under section 7 or, if the person is a child, section 8 of the Ordinance; or

(b) the registered person has abused the Scheme.

(2) A cancellation of registration must be in writing.

(3) Cancellation of registration takes effect at the expiry of the appeal period if the registered person does not appeal or on the date of the decision on appeal if the appeal fails.

(4) A registered person abuses the Scheme if he or she —

(a) claims travel credits for a fare;

(b) receives a refund from a travel provider for aborted travel; and

(c) fails to reimburse the Scheme in accordance with regulation 11.

(5) A person whose registration is cancelled on account of abusing the Scheme is prohibited from re-joining the Scheme.

15. Notice of cancellation or suspension of registration

The Scheme Administrator must give the registered person notice of a cancellation or suspension of registration and the notice must —

- (a) give reasons for the cancellation or suspension;
- (b) include details of the registered person's right of appeal against the cancellation or suspension; and
- (c) in the case of suspension, include the period of suspension.

16. Lifting of suspension

- (1) The Scheme Administrator must lift the suspension of a registered person at any time if he or she is satisfied that the grounds for suspension no longer apply.
- (2) Where the Scheme Administrator decides to lift a registered person's suspension, he or she must notify the registered person of the decision within five working days.
- (3) A decision by the Scheme Administrator to lift a suspension takes effect on the date specified in the notice.

17. Appeals

- (1) A registered person who is aggrieved by a decision of the Scheme Administrator —
 - (a) to suspend his or her registration;
 - (b) to cancel his or her registration; or
 - (c) related to such suspension or cancellation;

may appeal within 10 working days of the date of the notice of suspension or cancellation by making representations in writing to the Governor.

- (2) The Governor must promptly consider any representations made under sub-regulation (1) and notify the appellant and the Scheme Administrator of the decision on the appeal.
- (3) If the Governor allows an appeal under sub-regulation (1), the Scheme Administrator must lift the suspension or reinstate the registration and credit the registered person's account with the travel credits which would have accrued during the relevant period.

18. Delivery of notices

- (1) A notice under the Ordinance or these regulations may be given to a registered person —
 - (a) by delivering it to the registered person;
 - (b) by sending it by post; or

(c) subject to sub-regulation (3), by transmitting it electronically.

(2) A notice is deemed to be properly addressed if it is addressed to the last address of the registered person as stated in their application for registration or as subsequently notified to the Scheme Administrator.

(3) If the notice is transmitted electronically —

(a) the registered person must have indicated to the Scheme Administrator a willingness to receive notices transmitted by electronic means and provided a suitable address for that purpose;

(b) the notice must be sent to the electronic address provided by the registered person; and

(c) any notice sent in terms of this sub-regulation will be deemed to have been received by the registered person on the next working day after the day on which it is sent.

APPLICATION TO REGISTER ON TRAVEL CREDIT SCHEME 18 YEARS AND OVER

***ARE YOU REGISTERED ON THE FALKLAND ISLANDS REGISTER OF ELECTORS EITHER WITH THE CAMP CONSTITUENCY OR STANLEY CONSTITUENCY?**

YES NO

** To qualify to register for the Travel Credit Scheme you must be on the Register of Electors.*

If No, please state date when application was sent to Registrar General: _____

1. Applicant's Details

Full Name:	
Address:	
Date of Birth:	
Electoral Number: Tax Identification Number (TIN):	
Falkland Islands Status holder: Date status obtained (if after 1 July 2018):	Yes / No
Land Telephone Number:	
Mobile Number:	
E-mail Address:	

Preferred method of contact:	Telephone Mobile E-mail Post
-------------------------------------	--

2. Declaration

I certify that:

2.1 To the best of my knowledge and belief, all information contained in this application is true and accurate.

2.2 When requested I will provide the Treasury with any updated information requested for the continuity of my registration under the Scheme.

2.3 I understand that my registration may be assessed regularly to satisfy the Treasury that I continue to comply with the Travel Credit Scheme Ordinance 2019.

2.4 I am aware that it is an offence not to declare any changes in my circumstances that affect my entitlement to registration under the Scheme, within 10 working days from the date of change.

2.5 I am also aware that I may be liable to prosecution if I knowingly or recklessly make a false statement in this application or in a claim for travel credits.

2.6 I will comply with all the requirements and conditions of registration under the Ordinance.

Name: _____

Signature: _____ Date: _____

When you have completed this form, send it to: **The Treasury, Travel Credit Scheme, Stanley** or email: travelcreditscheme@sec.gov.fk

FOR TREASURY USE ONLY

Date	
Added by	

Received by 14 June 2019	YES		NO	
--------------------------	-----	--	----	--

APPLICATION TO REGISTER ON TRAVEL CREDIT SCHEME 16 TO 18 YEARS

1. Applicant's Details

Full Name:	
Address:	
Date of Birth:	
Residence status*:	
Falkland Islands Status holder:	Yes / No
Date Status obtained (if after 1 July 2018):	
Land Telephone Number:	
Mobile Number:	
E-mail Address:	
Preferred method of contact:	Telephone Mobile E-mail Post

**To qualify for the Travel Credit Scheme you must have Falkland Islands Status and be resident in the Falkland Islands*

2. Please indicate which documents (copies) you have attached to support the application

Please tick

Passport (displaying Falkland Islands Status number): OR	
Falkland Islands Status Certificate:	

Please note that when you turn 18 years, you will have 12 months to register on the Register of Electors or your registration under the Scheme will be cancelled.

3. Declaration:

I certify that:

3.1 To the best of my knowledge and belief, all information contained in this application and in the accompanying statements and documents is true and accurate.

3.2 When requested I will provide the Treasury with any updated information for the continuity of my registration.

3.3 I understand that my registration may be assessed regularly to satisfy the Treasury that I continue to comply with the Travel Credit Scheme Ordinance 2019.

3.4 I am aware that it is an offence not to declare any changes in my circumstances that affect my entitlement to registration under the Scheme, within 10 working days from the date of change.

3.5 I am also aware that I may be liable to prosecution if I knowingly and recklessly make a false statement in this application or in a claim for travel credits.

3.6 I will comply with all the requirements and conditions of registration under the Ordinance.

Name of applicant: _____

Signature applicant: _____ Date: _____

*When you have completed this form, send it, together with copies of all documents required e.g. passport copies to: **The Treasury, Travel Credit Scheme, Stanley** or email: travelcreditscheme@sec.gov.fk*

FOR TREASURY USE ONLY

TIN	
Date	
Added by	

Received by 14 June 2019	YES		NO	
--------------------------	-----	--	----	--

APPLICATION TO REGISTER ON TRAVEL CREDIT SCHEME UNDER 16 YEARS

1. Details of Child to be registered

Full Name of Child:	
Address:	
Child's Date of Birth:	
Child's residence status*:	
Falkland Islands Status holder:	Yes / No
Date Status obtained (if after 1 July 2018):	

** To qualify for the Travel Credit Scheme the child must have Falkland Islands Status and be resident in the Falkland Islands.*

2. Please indicate which documents (copies) you have attached to support the application

Please tick

Passport (displaying Falkland Islands Status number): OR	
Falkland Islands Status Certificate:	

3. Details of Parent(s)/Legal Guardian(s)

Relationship to Child**:	
Full Name:	
Address:	
Land Telephone Number:	

Mobile Number:	
E-mail Address:	
Preferred method of contact:	Telephone Mobile E-mail Post

Relationship to Child**:	
Full Name:	
Address:	
Land Telephone Number:	
Mobile Number:	
E-mail Address:	
Preferred method of contact:	Telephone Mobile E-mail Post

*** Parent/Guardian must have full or joint custody of the child, in the case of guardianship please provide proof.*

4. Declaration

I the undersigned parent/guardian certify that:

4.1 To the best of my knowledge and belief, all information contained in this application and in the accompanying statements and documents are true and accurate.

4.2 When requested I will provide the Treasury with any updated information requested for the continuity of the child's registration under the Scheme.

4.3 I understand that the application may be assessed regularly to satisfy the Treasury that the child continues to comply with the Travel Credit Scheme Ordinance 2019.

4.4 I am aware that it is an offence not to declare any changes in circumstances that affect the child's entitlement to registration under the Scheme, within 10 working days from the date of change.

4.5 I am also aware that I may be liable to prosecution if I knowingly and recklessly make a false statement in this application or in a claim for travel credits.

4.6 I will comply with all the requirements and conditions of registration under the Ordinance.

All parents/guardians listed above must sign below

Name of applicant: _____

Signature applicant: _____ Date: _____

Name of applicant: _____

Signature applicant: _____ Date: _____

*When you have completed this form, send it, together with copies of all documents required e.g. passport copies to: **The Treasury, Travel Credit Scheme, Stanley** or email: travelcreditscheme@sec.gov.fk*

FOR TREASURY USE ONLY	
TIN	
Date	
Added by	

Received by 14 June 2019	YES		NO	
--------------------------	-----	--	----	--

Made 4 April 2019

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

EXPLANATORY NOTE
(not part of the regulations)

These regulations provide for certain administrative and procedural arrangements related to the Travel Credit Scheme Ordinance 2019. Further arrangements will be contained in guidance.

Regulation 3 provides for the application procedure including the details that must be supplied by an applicant. Application forms are included in the Schedule. A qualifying person whose name is in a Register of Electors does not have to submit any supporting documents. An application on behalf of a child must comply with the requirements in regulation 3(6). A qualifying person who is 16 years or over may submit his or her own application for registration.

The Scheme Administrator must maintain a record of travel credits accrued, redeemed or forfeited (regulation 4). A registered person may request a statement of his or her record of travel credits and the Scheme Administrator must provide the information within 10 working days.

The cut-off date for initial registration is 14 June 2019. All qualifying persons who register by that date accrue credits with effect from 1 July 2018. Any other qualifying person (except an infant) accrues travel credits with effect from the date of registration. A child born after 1 July 2018 who is registered within six months of birth, accrues travel credits from the date of birth. A person who qualifies for registration after the cut-off date accrues travel credits with effect from the date of registration (regulation 5).

A registered person who is 16 years or over accrues travel credits at the rate of £1.00 per day and may accumulate up to a maximum of £1,826.00. A child below 16 years accrues travel credits at the daily rate of £0.50 and may accumulate up to a maximum of £913.00 (regulation 6). A registered person who has accumulated the maximum number of travel credits cannot accrue further travel credits until he or she has used some of the travel credits to reduce the number below the maximum. Travel credits accumulated by a person who dies or whose registration is cancelled (including voluntary cancellation) are forfeited in accordance with regulation 7. A person whose registration is cancelled for reasons other than abuse of the Scheme is allowed six months in which to redeem his or her travel credits before the travel credits are forfeited.

Regulation 8 provides for claims for travel credits. Travel credits may start to be claimed from 1 July 2019. A registered person must still meet the qualifying criteria on the date of claiming travel credits. A minimum of £50.00 worth of travel credits must be claimed at any one time. A claim for travel must relate to a journey of not less than ten miles. Claims can be made any

number of times as long as the registered person has sufficient travel credits in his or her account.

Regulation 9 deals with designation of travel providers. Regulation 10 provides for payment for travel credits. Payment may be made to the registered person, parent or guardian after booking and payment for travel. Alternatively vouchers may be issued to a registered person who must use them to pay a designated travel provider. The Scheme Administrator may require a registered person to produce proof of travel. Where travel is cancelled after payment using travel credits, the amount to be paid back is the amount refunded by the travel provider (regulation 11).

Regulation 12 provides for termination or suspension of the Scheme and what happens to travel credits in that eventuality.

Cancellation and suspension of a person's registration must follow the process in regulations 13 to 16. A notice must be given setting out the reasons for the suspension or cancellation. Appeals are to the Governor in accordance with regulation 17. Notices are delivered in terms of regulation 18. Application forms are prescribed in the Schedule as required by the Ordinance.

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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

30 April 2019

No. 5

The following are published in this Supplement —

Currency (Amendment) Ordinance 2019 (No 6 of 2019);

Currency (Coin) Regulations Order (No. 3) 2019 (SR&O No 13 of 2019); and

Supplementary Appropriation (2018-2019)(No. 3) Ordinance 2019 (No 7 of 2019).

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Currency (Amendment) Ordinance 2019

(No: 6 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Ordinance amends Currency Ordinance 1987
4. Section 9 amended (Legal tender)

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

CURRENCY (AMENDMENT) ORDINANCE 2019

(No: 6 of 2019)

(assented to: 26 April 2019)

(commencement: on publication)

(published: 30 April 2019)

AN ORDINANCE

To amend the Currency Ordinance 1987.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Currency (Amendment) Ordinance 2019.

2. Commencement

This Ordinance comes into force on its publication in the *Gazette*.

3. Ordinance amends Currency Ordinance 1987

This Ordinance amends the Currency Ordinance 1987.

4. Section 9 amended (Legal tender)

In section 9, revoke subsections (1) and (2) and replace them with —

“(1) Subject to subsection (2), a tender of money is a legal tender if it is made in notes and coins that —

- (a) have been issued by the Commissioners under this Ordinance;
 - (b) have not been illegally dealt with as specified in subsection (3); and
 - (c) have not been called in under section 10.
- (2) Notes and coins issued under this Ordinance are legal tender —
- (a) in the case of notes, for the payment of the amount tendered;
 - (b) in the case of coins that have a denomination of £1 or more, for the payment of the amount tendered;
 - (c) in the case of coins that have a denomination exceeding 10 pence but less than £1, for the payment of an amount not exceeding £10;
 - (d) in the case of coins have a denomination of 10 pence or less, for the payment of an amount not exceeding £5.”.

Passed by the Legislature of the Falkland Islands on 28 March 2019.

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

Currency (Coin) Regulations Order (No. 3) 2019

S. R. & O. No: 13 of 2019

Made: 25 April 2019

Published: 30 April 2019

Coming into force: on publication

I make these regulations by order under section 22 of the Currency Ordinance 1987 on the advice of Executive Council.

1. Title

This Order is the Currency (Coin) Regulations Order (No. 3) 2019.

2. Commencement

This Order comes into force on publication in the Gazette.

3. Prescribed denomination, weight, form, design, metal composition of coins

For the purposes of section 6(5)(a) of the Currency Ordinance 1987, the Commissioners may arrange the minting of a coin that —

- (a) is of the denomination of 2 pence;
- (b) is 7.13 g in weight;
- (c) has the following form —
 - (i) diameter of 25.90 mm;
 - (ii) a plain edge finish;
- (d) has the following design (as set out in the Schedule) —
 - (i) obverse design is Pobjoy Mint Effigy of H.M. Queen Elizabeth II;
 - (ii) reverse design is an Upland Goose; and
 - (iii) the value “2” and the year of issue is shown on the reverse side; and
- (e) is made of copper plated steel.

Made 25 April 2019

R. A. J. Mitham,
Acting Governor.

SCHEDULE



EXPLANATORY NOTE

(not forming part of the regulations)

Section 6(1) of the Currency Ordinance 1987 gives the Commissioners of Currency (appointed under section 5(1) of the Ordinance) the sole right to issue currency notes and coins, and section 6(3) of the Ordinance provides that only notes and coins issued by the Commissioners are legal tender. Under section 6(5)(a) of the Ordinance the Commissioners must arrange for the minting of coins in the denominations, weight, form, design and metal composition as are prescribed. Section 9 also specifies requirements relating to amounts of notes and coins having legal tender.

Section 22(a) of the Ordinance gives the Governor in Council the power to make regulations by order to prescribe anything that is required to be prescribed by the Ordinance. Section 6(5)(a) requires the prescription of the denomination, weight, form, design and metal composition of coins that the Commissioners arrange to be minted.

This Order makes regulations prescribing the denomination, weight, form, design and metal composition of a 2 pence coin for the purposes of section 6(5)(a) of the Ordinance.

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Supplementary Appropriation (2018-2019) (No. 3) Ordinance 2019

(No: 7 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation
4. Replacement of amount withdrawn by authority of Contingencies Warrant

Schedule

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

SUPPLEMENTARY APPROPRIATION (2018-2019) (NO. 3) ORDINANCE 2019

(No: 7 of 2019)

(assented to: 26 April 2019)
(commencement: on publication)
(published: 30 April 2019)

AN ORDINANCE

To authorise the appropriation from the Consolidated Fund of the additional amount of £282,000 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 2019.

2. Commencement

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

3. Appropriation

(1) The additional amount of £282,000 is appropriated from the Consolidated Fund for the financial year ending 30 June 2019.

(2) The issue of the additional amount from the Consolidated Fund in the amounts necessary to replace an amount in accordance with section 4 and to supply the votes set out in the Schedule is authorised.

4. Replacement of amount withdrawn by authority of Contingencies Warrant

If an amount has been withdrawn from the Contingencies Fund by the authority of Contingencies Warrant No. 8 of 2018-2019, the amount withdrawn must be replaced from the amount appropriated under section 3.

SCHEDULE

Number	Head of Service	Amount £
0999	Fund Transfer and Transfer Payments	<u>282,000</u>
	Total Schedule	<u>282,000</u>

Passed by the Legislature of the Falkland Islands on 25 April 2019.

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
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FALKLAND ISLANDS GAZETTE

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30 April 2019

No. 5

Appointment

Nicole Dawn Jaffray, Administration Assistant, Health and Social Services Department, 01.04.19.

Marvin Thomas Clarke, Plant Operator/Handyperson, Highways Section, Public Works Department, 03.04.19.

Abby Poynter, Team Leader Young Person's Unit, Health and Social Services Department, 04.04.19.

Ellis Nia Smith, Staff Nurse, Health and Social Services Department, 08.04.19.

Rhys Cottle, Medical Officer, Health and Social Services Department, 12.04.19.

Debra Mujaji, Carer, Health and Social Services Department, 15.04.19.

Katie Louise Chapman, Police Constable, Royal Falkland Islands Police, Emergency Services Department, 23.04.19.

Daniel Neil Constantine, Mechanic, Materials Section, Public Works Department, 23.04.19.

David John O'Neill, Director, Health and Social Services Department, 23.04.19.

Completion of contract

Jennifer Patricia Barclay, Special Educational Needs Co-ordinator, Education Department, 12.04.19.

Layla Jennifer Catherine Hanna, Primary Teacher, Infant and Junior School, Education Department, 12.04.19.

Joanne Elizabeth Hooper, Advanced Childcare Practitioner, Health and Social Services Department, 27.04.19.

Ross Danely Ralph Milner, Veterinary Officer, Agriculture, Natural Resources Department, 30.04.19.

Renewal of contract

Jennifer Patricia Barclay, Special Educational Needs Co-ordinator, Education Department, 13.04.19.

Layla Jennifer Catherine Hanna, Primary Teacher, Infant and Junior School, Education Department, 13.04.19.

Joanne Elizabeth Hooper, Advanced Childcare Practitioner, Health and Social Services Department, 28.04.19.

Resignation

Kathleen Laura Williamson, Primary Care Support Assistant, Health and Social Services Department, 21.03.19.

Pamela Young, Primary Travelling Teacher, Infant and Junior School, Education Department, 12.04.19.

Janiqua Dawes, Administrative Assistant, Secretariat, 26.04.19.

Kathryn Ann Appleby, Senior Houseparent, Stanley House, Education Department, 30.04.19.

Transfer

Julie Doris Courtney, from Learning Support Assistant, Infant and Junior School to Senior Houseparent, Stanley House, Education Department, 29.04.19.

NOTICES

No. 22

4 April 2019

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 2018 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 4 April 2019

S. FENTON,
Chief Executive Officer, Standard Chartered Bank.

No. 23 10 April 2019

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, acting in his discretion, 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 24 May to 2 July 2019, unless terminated sooner.

Dated 10 April 2019

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

No. 24 10 April 2019

South Harbour Consulting Limited
Company Number: 14252

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 March 2019.

Dated 10 April 2019

E. J. DENT,
Registrar of Companies.

No. 25 10 April 2019

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

Take notice that **Eric Ernest Albert Decroliere** of Fox Bay, West Falkland Islands died on 19 March 2019.

Whereas **Carrie Madeline Helen Decroliere** 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 10 April 2019

J. BROOKS,
Registrar, Supreme Court

No. 26 15 April 2019

Travel Credit Scheme Ordinance 2019
section 24

Travel Credit Scheme Guidance

In accordance with section 24 of the Travel Credit Scheme Ordinance 2019 the Scheme Administrator may issue guidance for the general administration of the Scheme including for:

- (a) arrangements with travel providers;
- (b) guidelines for designation of travel providers;
- (c) payments of travel credits; or
- (d) any matter which is to be prescribed under a provision of this Ordinance but which has not been prescribed.

Any guidance issued must be approved by the Governor and published in the Gazette. The Guidance as issued by the Scheme Administrator is published at the end of this Gazette.

Dated 15 April 2019

J. A. WILSON,
Financial Secretary.

No. 27 24 April 2019

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 2019 until 30 September 2019 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 24 April 2019

C. O. SUMMERS,
Director of Public Works.

No. 28

26 April 2019

Index of Retail Prices

The Index for the quarter ended 31 March 2019 has now been completed.

The Index has increased during the quarter, to 105.395; this equates to a 0.5% increase for the quarter, and a 2.3% increase for the year:

<i>Date</i>	<i>Index</i>	<i>Annual change</i>	<i>Quarterly change</i>
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%
31.12.18	104.820	2.9%	0.1%
31.03.19	105.395	2.3%	0.5%

Inflation in the "Fuel and power" category is the major contributor to total increase for the year (1.2 out of 2.3 percentage points), followed by inflation in the "Food and non-alcoholic beverages" market (0.8 percentage points). On the contrary, price cuts in the "Communication" market have a strong deflationary effect (-1.2 percentage points).

Dated 26 April 2019

D. RANGHETTI,
for Director of Policy and Economic Development.

TRAVEL CREDIT SCHEME GUIDANCE

April 2019

1. Introduction

The Falkland Islands Government (FIG) is committed to improving the quality of life of Falkland Islanders and has pledged, in the 2018-2022 Islands Plan, to support the social and economic development of the Islands. One element of that programme is the introduction of a Travel Credit Scheme.

It is acknowledged that holidays and access to travel bring about improvements in individuals' and families' physical and mental health and other advantages. The aim of the Travel Credit Scheme is to offset some of the costs associated with travel, by allowing eligible individuals to accumulate travel credits which can be redeemed against specific travel costs. As a result, it will be easier for Falkland Islanders to travel both within the Islands and further afield.

This guidance is issued under section 24 of the Travel Credit Scheme Ordinance 2019.

2. General description of scheme

- The Travel Credit Scheme administrator will be the Financial Secretary, and any queries in relation to the Scheme should be addressed to email:- travelcreditscheme@sec.gov.fk.
- The Travel Credit Scheme is only open to Falkland Island Status holders who meet the requirements for registration. The Scheme is not open to Falkland Island Permanent Resident Permit holders.
- To join the Travel Credit Scheme, an application to be registered must be made (see section 3 below). Initial registration will be between 15 April 2019 and 14 June 2019, and persons who register during the initial registration accrue travel credits from 1 July 2018.
- On successful registration, persons will accrue travel credits which can be used for travel (see section 4 below).
- Accumulated travel credits may be redeemed either by reimbursement for costs for travel already undertaken, reimbursement for travel booked independently and paid for, or by the use of vouchers to be redeemed by a designated travel provider (see section 5 below).

The Scheme Administrator will cancel a person's registration if the person no longer meets any of the requirements for registration as paraphrased above (in this guidance (see section 6)).

3. Registration

3.1 Who can register?

- Individuals with Falkland Islands status aged 18 years and over:
Applies on their own behalf. Must be on the register of electors.
- Individuals with Falkland Islands Status aged 16 to 18 years:
May apply on their own behalf, or parents may apply for them. Must be resident in the Falkland Islands at the time of application (see note 1).
- Individuals with Falkland Islands Status aged 16 years and under:

Parent or guardian of child applies on their behalf. Must be resident in the Falkland Islands at the time of application (see note 1).

3.2 How to register:

- Initial registration period starts 15 April 2019 and ends on 14 June 2019 (the ‘cut-off date’). Those individuals who apply within the initial application period and are successful will accrue travel credits from 1 July 2018.
- Those individuals who apply for registration after 14 June 2019 and are successful will accrue travel credits from the date of registration.
- To apply to join the Travel Credit Scheme, please send in a completed registration form (see Appendix A) to the scheme administrator by email to travelcreditscheme@gov.sec.fk or by post to The Treasury, Travel Credit Scheme, Stanley. Forms can be obtained from the Scheme Administrator by calling 28400.
- The application should be supported by the documents listed on the Registration form if applicable.
- Application forms will be assessed by the Scheme Administrator within 10 working days. If an application is successful confirmation will be sent using your preferred method of contact as stated on your form, applicants will also be notified if an application is unsuccessful.

4. Accruing of Travel Credits

- Registered persons will accumulate travel credits at £1 per day if aged 16 years or over and 50p per day if aged under 16 years.
- A person’s account can reach a maximum of £1,826 for those who are 16 years and over and £913 for the under 16s. These amounts equate to 5 years’ worth of travel credits. Please note that children’s travel credits are accumulated in their own name and not the name of parents or guardians.

5. Redeeming Travel Credits

Individuals will be able to draw down travel credits from 1 July 2019. Redemption of travel credits can occur in three ways by application to the Scheme Administrator (email to travelcreditscheme@gov.sec.fk):

- **Reimbursement for costs for travel already undertaken:** Making a claim to the Scheme Administrator with the necessary documents including proof of travel either by email (see above) or by submitting the documents by post to The Treasury, Travel Credit Scheme, Stanley.
- **Reimbursement for costs for travel booked independently and paid for:** Making a claim to the Scheme Administrator with the necessary documents including proof of payment. The travel date must be within two years of the claim being made. Claims can be made either by email (see above) or by submitting the documents by post to The Treasury, Travel Credit Scheme, Stanley.

If travel aborts after a claim has been made from the Travel Credit Scheme, the registered person must obtain a refund from the travel provider. The amount refunded must be reimbursed to the scheme within 60 days of the date when travel was originally booked to be undertaken. ‘Aborting’ in this context means failure to travel to the same destination within 14 days of the date originally booked for the travel in the claim.

- **Use of vouchers for travel to be undertaken:** A registered person would obtain a quote for travel from a designated travel provider (note 2) and would request a voucher for the appropriate amount from the Scheme Administrator. The voucher would be presented to the designated travel provider by email from

the Scheme Administrator within 5 working days of the application, in advance of travel for use by the registered person. If a registered person fails to travel for any reason, any cancellation charges incurred by the travel provider will be recovered through the deduction of travel credits from the registered person's account.

Please note the following rules in relation to claims:

- Travel Credits accrued may not be paid as cash other than as reimbursement for costs paid in respect of travel booked or travel taken.
- Travel Credits accumulated by a registered person are not transferable and may only be used for the benefit of that person.
- Any claim must relate to travel originating in the Falkland Islands (note 3 provides a list of items that cannot be claimed for).
- Any claim must be for a minimum of £50 per registered person.
- Any claim must be for travel of at least 10 miles.
- Any claim on behalf of a child by an adult can only be made in respect of travel by the child. If claims are made by different persons in respect of the same child, the claims will be processed in order of the date on which they are received.

6. Cancellation or Suspension of Registration

- The Scheme Administrator must cancel a person's registration if the person no longer meets any of the requirements for registration as paraphrased in this guidance. This would include for example an adult no longer being registered on the electoral register, or a child ceasing to be resident in the Falkland Islands. If a registered child is leaving the Falkland Islands to take up residence in another country, a parent or guardian, should contact the Scheme Administrator (email to travelcreditscheme@gov.sec.fk) to explain the situation. In some circumstances a child may be considered to be resident in the Falkland Islands even if they are no longer physically living in the Islands (for example if the absence is for the purpose of education).

A person whose registration is cancelled for any reason other than abuse of the Scheme, must claim any accumulated travel credits within 6 months of cancellation. Failure to redeem travel credits within 6 months of cancellation results in forfeiture of the remaining travel credits. Any remaining travel credits cannot be claimed as cash.

- The Scheme Administrator may suspend a person's registration if the person is serving a custodial sentence. Suspension is for the period of the custody. During the sentence period, a registered person does not accrue travel credits and any accumulated travel credits are frozen until the suspension is lifted.

Registration may also be suspended to give the Scheme Administrator time to investigate whether a person remains eligible to be registered under the Scheme. If suspension is to facilitate an investigation, the registered person continues to accrue travel credits during the period of suspension (but may not claim them until the suspension is lifted).

- The Scheme Administrator may permanently terminate a person's registration on the Scheme if they are found to have abused the Scheme with any remaining travel credits being forfeited. 'Abuse of Scheme' means to obtain unintended financial benefits from the Scheme by engaging in conduct as prescribed. The prescribed conduct entails claiming travel credits by the registered person and failure by that person to refund the Scheme when travel aborts for any reason. Travel aborts when a person fails to travel to the same destination within 14 days of the date originally booked for travel to take place.

7. Other

- A registered person who is aggrieved by a decision of the Scheme Administrator:

- (a) to suspend their registration;
- (b) to cancel their registration; or
- (c) related to such suspension or cancellation,

may appeal within 10 working days of the date of the notice of suspension or cancellation by making representations in writing to the Governor.

- A person who, in an application for registration or for the purpose of claiming travel credits knowingly or recklessly for a material issue or particular:

- (a) makes a false statement or representation; or
- (b) provides an incorrect document or false information; or
- (c) withholds any information,

commits an offence and is liable on conviction to a fine not exceeding Level 2 on the standard scale (Level 2 is a maximum of £500).

Supplementary Notes

Note 1: Qualification for Registration:

- The test whether a child is resident in the Falkland Islands is based on the residency requirements for eligibility for registration on the Register of Electors (as detailed in the Electoral Ordinance 1988:

<https://www.legislation.gov.fk/view/html/inforce/2019-03-19/fiord-1988-21>.

- A child must also meet the relevant requirements of section 32 of the Constitution https://www.legislation.gov.fk/view/html/2019-03-19/uksi-2008-2846#qualifications_of_electors concerning qualification for registration as an elector (i.e. as if the child were 18 years or older).

- It should be noted that these criteria are automatically adhered to by an adult through their registration on the Register of Electors.

Note 2: List of designated travel providers:

- Falkland Islands Company Ltd
- International Tours and Travel Ltd
- Falklands Islands Tours and Travel Ltd
- Workboat Services Ltd
- Falkland Islands Government Air Service

To qualify for inclusion as a designated travel provider a company must submit an application to the Scheme Administrator demonstrating that the company meets the following criteria:

- It is a limited company or partnership registered with the Registry Service in the Falkland Islands (company registration number must be provided on the application).
- It is a Falkland Islands Government department.
- It must have been actively trading for more than six months at the time of the application.

Note 3: Costs that cannot be funded by travel credits:

Travel credits will not be redeemed for cash other than as reimbursement for the fare.

Travel credits may not be used to pay for the following items:

1. Embarkation tax (please note that fares for the Airbridge will be paid for the amount less the value of embarkation tax included in the ticket price).
2. Shipping and/or cargo costs.
3. Transfers (transfers include charges for transport between an airport and a hotel or place of residence).
4. Excess baggage charges.
5. Travel insurance.
6. Travel fares for distances less than 10 miles.

It should be noted that this is not an exhaustive list of excluded items.

Approved by Executive Council on 27 March 2019 and issued by James Wilson, Financial Secretary/Scheme Administrator on 15 April 2019.



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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 2019

1	Alazia	Fayan Pamela Jane	Port Edgar Farm, W.F.I
2	Alazia	Hazel	Carpenters Cottage, Teal Inlet, E.F.I
3	Alazia	Jack Kevin	North Arm, E.F.I
4	Alazia	Keith	Goose Green, E.F.I
5	Alazia	Michael Robert	Port Edgar Farm, W.F.I
6	Alazia	Rhian Ella	Port Edgar Farm, W.F.I
7	Anderson	Andrew Ronald	8 Point View, Goose Green, E.F.I
8	Anderson	Tony James	Port Howard Farm, W.F.I
9	Ashworth	Glennis	Fitzroy Ridge, E.F.I
10	Ashworth	Malcolm	Fitzroy Ridge, E.F.I
11	Bagley	Darren Clive	Riverview Farm, E.F.I
12	Bagley	Stacey Elizabeth	Riverview Farm E.F.I
13	Battersby	Jon Alan	Hawkbit, Fitzroy, E.F.I
14	Battersby	Margaret Mary	Hawkbit, Fitzroy, E.F.I
15	Beattie	Ian Robert Ewen	North Arm, E.F.I
16	Bendyshe	Angela Geraldine Mary	Gibraltar Station, E.F.I
17	Bendyshe Pitaluga	Antoinette Margaretha Mary	Gibraltar Station, E.F.I
18	Berntsen	Benjamin John	Elephant Beach, E.F.I
19	Berntsen	Iain Kenneth	Sheffield Farm, W.F.I
20	Berntsen	Victoria Dawn	Sheffield Farm, W.F.I.
21	Berntsen	William Alexander	Honeysuckle Cottage, Teal Inlet, E.F.I.
22	Betts	Bernard Keith	Boundary Farm, W.F.I
23	Betts	Diane Joan	Fox Bay East, W.F.I
24	Blackley	Shane David	Saunders Island
25	Bonner	Katie Jean	Walker Creek, E.F.I
26	Bonner	Odette Ellen May	Port Howard, W.F.I
27	Bonner	Simon	Port Howard, W.F.I
28	Bonner	Terence Leslie	Port Howard, W.F.I
29	Boyce	Sarah Jane	North Arm Farm, E.F.I
30	Browning	Anita Jayne	Evelyn Station, E.F.I
31	Browning	Gavin	Evelyn Station, E.F.I
32	Butler	James Donald	North Arm, E.F.I
33	Castro Barrientos	Gilberto Enrique	Manager House, Fitzroy Farm, E.F.I
34	Clark	Alan Neil	Port Howard, W.F.I
35	Clarke	Jan Michael	Lorenzo Farm, E.F.I
36	Clarke	Jeanette	Kings Ridge Farm, E.F.I
37	Clarke	Michael Jan	Kings Ridge Farm, E.F.I
38	Clarke	Suzanna	Manager House, Fitzroy Farm, E.F.I
39	Clarke	Tanya	Lorenzo Farm, E.F.I
40	Clarke	Violet Rose	North Arm. E.F.I
41	Clausen Goodwin	Sophia Marina	7 Goose Green, E.F.I
42	Clements	Xenia Mary	Honeysuckle Cottage, Teal Inlet, E.F.I
43	Clifton	Heidi Monica	Smylies Farm, Port San Carlos, E.F.I
44	Cockwell	Benjamin William	Fox Bay Village, W.F.I
45	Cockwell	Clare Marie	Fox Bay Village, W.F.I
46	Cockwell	Grizelda Susan	Chartres, W.F.I

47	Cordero	Crystal Rose	Port Howard Farm, W.F.I
48	Crowie	Ana Bonita	Peale Cottage, Darwin, E.F.I
49	Davis	Aase	Evelyn Station, E.F.I
50	Davis	Ian John	Evelyn Station, E.F.I
51	Davis	Maurice	Pot Rincon, Evelyn Station, E.F.I
52	Decroliere	Carrie Madeline Helen	Fox Bay Village, W.F.I
53	Dickson	Charles George	Brookfield, E.F.I
54	Dickson	Doreen	Wreck Point, E.F.I
55	Dickson	Logan Eli	North Arm, E.F.I
56	Dickson	Steven Charles	North Arm, E.F.I
57	Didlick	Fiona Margaret	C Cottage, Darwin, E.F.I
58	Didlick	Graham John	C Cottage, Darwin, E.F.I
59	Eagle	Alan William	Ponderosa, Frying Pan, MPA
60	Edwards	Rebecca Elizabeth	Port Howard Farm, W.F.I
61	Evans	Dale Clement	Spring Point Farm, W.F.I
62	Evans	Donna Newell	Spring Point Farm, W.F.I
63	Evans	Duane Richard	Port Stephens, W.F.I
64	Evans	Leigh Francesca	Port Stephens, W.F.I
65	Evans	Michael David	Spring Point Farm, W.F.I
66	Evans	Richard Gregory	Pebble Island Lodge
67	Felton	Andrew James	Cape Dolphin Farm, E.F.I
68	Felton	Sonia Ellen	Cape Dolphin Farm, E.F.I
69	Ferguson	Ellen Rose	Pot Rincon, Evelyn Station, E.F.I
70	Finlayson	Neil Roderick	North Arm, E.F.I
71	Ford	Mandy	Saladero Farm, E.F.I
72	Ford	Tanya Louise	Albemarle Station, W.F.I
73	Gartland-Rasey	Caroline	Fitzroy Farm, E.F.I
74	Gilding	Amy Heather	Port Louis, E.F.I
75	Gilding	Peter Bernard	Port Louis, E.F.I
76	Gleadell	Marklin John	Mosside Farm, E.F.I
77	Goodwin	Neil Alexander William	7 Goose Green, E.F.I
78	Goss	Kimberley Rose	Horseshoe Bay, E.F.I
79	Goss	Margaret Rose	Horseshoe Bay, E.F.I
80	Goss	Michael Peter	Horseshoe Bay, E.F.I
81	Goss	Peter	Horseshoe Bay, E.F.I
82	Goss-MacDonald	Alexander Colin	2 Goose Green, E.F.I
83	Goss-MacDonald	Sherilee Christine	2 Goose Green, E.F.I
84	Gough	Phyllis Candy	Pot Rincon, Evelyn Station, E.F.I
85	Gould	Alexander Philip	Pebble Island
86	Gould	Dorothy Ruth	Pebble Island
87	Green	Carol Ann	13 Fitzroy, E.F.I
88	Greenland	Bonita Doreen	Valkyrie House, Darwin, E.F.I
89	Greenland	Kenneth David	Valkyrie House, Darwin, E.F.I
90	Grierson	Hew McInnes	Blue Beach, San Carlos, E.F.I
91	Grimmer	Edward	Clear View, Fitzroy River, E.F.I
92	Grimmer	Keith	The Dunes, Fitzroy River, E.F.I
93	Grimmer	Marilyn	The Dunes, Fitzroy River, E.F.I
94	Halford	Rodney John	Casa Verde, San Carlos, E.F.I

95	Halford	Sara Jayne	Casa Verde, San Carlos, E.F.I
96	Halford	Sharon	Casa Verde, San Carlos, E.F.I
97	Hansen	Ian	Hill Cove, W.F.I
98	Hansen	Matthew Alex	Main Point, Hill Cove, W.F.I
99	Hansen	Susan Ann	Main Point, Hill Cove, W.F.I
100	Harvey	Jen	Hill Cove, W.F.I
101	Harvey	Valerie Ann	Hill Cove, W.F.I
102	Harwood	Reuben Joseph	Rum Station, Port Stephens, W.F.I
103	Heathman	Ailsa	Estancia, E.F.I
104	Heathman	Ewart Tony	Estancia, E.F.I
105	Hill	Jennifer Eileen	Stoney Ridge Farm, W.F.I
106	Hirtle	Anthony	Peaks Farm, W.F.I
107	Hirtle	Doris Linda	Port Howard, W.F.I
108	Hirtle	Susan Mary	Peaks Farm, W.F.I
109	Hobman	Juan Jose Eleuterio	Westley Farm, W.F.I
110	Hoy	Dawn	Sheffield Farm, W.F.I
111	Innes	Gordon	Hill Cove, W.F.I
112	Innes	Isabella Alice	Hill Cove, W.F.I
113	Jaffray	Dereck Charles	Bold Cove Farm, W.F.I
114	Jaffray	Tanya Fiona	Clear View, Fitzroy River, E.F.I
115	Jamieson	Brian Neil	South Harbour, W.F.I
116	Jamieson	Kerri Yeoman	South Harbour, W.F.I
117	Jones	John Hugh	Race Point Farm, E.F.I
118	Jones	Karen Diana	Bold Cove Farm, W.F.I
119	Jones	Michael David	Head Of Bay, E.F.I
120	Jones	Michelle	Race Point Farm, E.F.I
121	Jones	Sheila Janice	Head Of Bay, E.F.I
122	Kilmartin	Kevin Seaton	Bluff Cove Farm, E.F.I
123	Kilmartin	Nicola Ruth	Bluff Cove Farm, E.F.I
124	Knight	Justin Robert Campbell	Leicester Creek Farm, W.F.I
125	Knight	Keith Andrew	Coast Ridge, W.F.I
126	Knight	Nadia Louise	Leicester Creek Farm, W.F.I
127	Knight	Nigel Arthur	Coast Ridge, W.F.I
128	Lee	Beverley Christina	Galley Café, Goose Green, E.F.I
129	Lee	Christopher	Port Howard, W.F.I
130	Lee	Leslie James	Galley Café, Goose Green, E.F.I
131	Lee	Mervyn Richard	North Arm, E.F.I
132	Lee	Myles	Port Howard, W.F.I
133	Lee	Trudi Dale	Galley Café, Goose Green, E.F.I
134	Lehyt	Monica Del Rosario	Teal Inlet Farm, W.F.I
135	Livermore	Darren	Rat Castle, Fitzroy, E.F.I
136	Lloyd	Christopher Sturdee	Crooked Inlet Farm, Roy Cove, W.F.I
137	Lloyd	Leo	Clay Pass Farm, E.F.I
138	Lloyd	Melvyn John	Clay Pass Farm, E.F.I
139	Lloyd	Natalie Anne	Crooked Inlet Farm, Roy Cove, W.F.I
140	Lloyd	Valerie Ann	Clay Pass Farm, E.F.I
141	Lowe	Adrian Stewart	Murrell Farm, E.F.I
142	Lowe	Lisa Helen	Murrell Farm, E.F.I

143	Lowe	Susan Elizabeth	Port Howard Lodge, W.F.I
144	Luxton	William Robert	Chartres, W.F.I
145	MacDonald	Derek George	3 Goose Green, E.F.I
146	MacDonald	Isla Karen	3 Goose Green, E.F.I
147	Marsh	Alastair Roy	Shallow Harbour, W.F.I
148	Marsh	Anna Deirdre	Philomel Farm, Fox Bay, W.F.I
149	Marsh	Gavin Nicholas	Philomel Farm, Fox Bay, W.F.I
150	Marsh	Helen Rose	Rincon Ridge, Fox Bay West, W.F.I
151	Marsh	Kevin Roy	Harps Farm, W.F.I
152	Marsh	Leon Peter	Rincon Ridge, Fox Bay West, W.F.I
153	Marsh	Marlane Rose	Shallow Harbour, W.F.I
154	Marsh	Patricia Ann	Lakelands Farm, Fox Bay, W.F.I
155	Marsh	Robin Frank	Lakelands Farm, Fox Bay, W.F.I
156	Marsh	Samantha Ann	Rincon Ridge Farm, Fox Bay, W.F.I
157	Maskell-Bott	John Malcolm	Hill Cove, W.F.I
158	Maskell-Bott	Sarah	Hill Cove, W.F.I
159	May	Shaun Christopher	Albemarle Station, W.F.I
160	McCormick	Wayne Stanley James	Goose Green, E.F.I
161	McGhie	Amanda Hill	Stoney Ridge Farm, W.F.I
162	McGhie	James	Smylies Farm, Port San Carlos, E.F.I
163	McGhie	Jodie Kim	Port North, W.F.I
164	McGhie	Roy	Port North, W.F.I
165	McGill	Derek Gary	1 Fox Bay East, W.F.I
166	McGill	Lorraine Iris	Carcass Island
167	McGill	Robin Perry	Carcass Island
168	McKay	Fraser Roderick	Teal River Farm, W.F.I
169	McKay	Josephine Ann	Greenhill Farm, Chartres, W.F.I
170	McKay	Kenneth Andrew	Greenhill Farm, Chartres, W.F.I
171	McKay	Penelope Rose	Westley Farm, W.F.I
172	McLeod	Albert John	Camilla Creek, Goose Green, E.F.I
173	McLeod	Isabella Frances Diana	Ponderosa, Frying Pan, MPA
174	McLeod	John	Dunvegan Cabin, E.F.I
175	McLeod	Madeline Jean	Dunvegan Cabin, E.F.I
176	McLeod	Sarah Rose	Camilla Goose Green, E.F.I
177	McMullen	Matthew John	Kingsford Valley Farm, E.F.I
178	McPhee	Mark	Brookfield, E.F.I
179	McPhee	Sheila Margaret	Kingsford Creek, San Carlos, E.F.I
180	McPhee	Terence Owen	Kingsford Creek, San Carlos, E.F.I
181	McPhee	Trudi Lynette	Brookfield, E.F.I
182	McRae	David Michael	Carcass Island
183	Middleton	Kerry Ann	No 4, Goose Green, E.F.I
184	Minnell	Donna Marie	Moss Side, E.F.I
185	Minnell	Michael Robert	Moss Side, E.F.I
186	Mitchell	Leon John	Mount Kent Farm, E.F.I
187	Molkenbuhr	Lee Charles	Johnson's Harbour Farm, E.F.I
188	Molkenbuhr	Martha Jenny	Johnsons Harbour Farm, E.F.I
189	Morrison	Edgar Ewen	17 Goose Green, E.F.I
190	Morrison	Lewis Ronald	Goose Green, E.F.I

191	Newman	Glynnis Karen	Goose Green, E.F.I
192	Newman	Lisa Jeraine	Harps Farm, W.F.I
193	Nightingale	Charlene	Hill Cove, W.F.I
194	Nightingale	Karl Richard	West Lagoons, W.F.I
195	Nightingale	Peter	Hill Cove, W.F.I
196	Nightingale	Sian Yvonne	West Lagoons, W.F.I
197	Oliver	Cynthia Dawn	Fitzroy, E.F.I
198	Oliver	Paul	Fitzroy, E.F.I
199	Ovenden	Philip David	13 Fitzroy, E.F.I.
200	Peck	Davina Margaret	Shallow Bay Farm, W.F.I
201	Peck	Paul	Shallow Bay Farm, W.F.I
202	Peck	Rebekah Roxanne	Shallow Bay Farm, W.F.I
203	Phillips	Linda	North Arm, E.F.I
204	Phillips	Paul David	Hope Cottage, E.F.I
205	Phillips	Shula Louise	Hope Cottage, E.F.I
206	Pitaluga	Nicholas Alexander Robinson	Gibraltar Station, E.F.I
207	Pole-Evans	Carole Suzan	Saunders Island
208	Pole-Evans	David Llewellyn	Saunders Island
209	Pole-Evans	Julian Anthony	Walker Creek
210	Pole-Evans	Louise Suzan	Saunders Island
211	Pole-Evans	Shirley Helen	Manybranch, W.F.I
212	Pole-Evans	Suzan	Saunders Island
213	Pole-Evans	William Reginald	Manybranch, W.F.I
214	Poncet	Dion Michael	Beaver Island
215	Poncet	Jerome Pierre	Beaver Island
216	Poncet	Leiv Sigismond	Beaver Island
217	Porter	Joan	Shallow Harbour, W.F.I
218	Rasey	Mark	Fitzroy, E.F.I
219	Rees	Anita Marie	Elephant Beach Farm, E.F.I
220	Reeves	Michael	Sea Lion Lodge
221	Reeves	Ronald James	Port Howard, W.F.I
222	Reid	Emily Margaret	North Arm, E.F.I
223	Rendell	Michael	Bleaker Island
224	Rendell	Nicholas Simon Oliver	The Outlook, Bleaker Island
225	Rendell	Phyllis Mary	Bleaker Island
226	Robertson	Ann	Port Stephens, W.F.I
227	Robertson	Paul Jonathan	Port Stephens, W.F.I
228	Robertson	Peter Charles	Port Stephens, W.F.I
229	Rowlands	Neil	River House, Fitzroy River, E.F.I
230	Sackett	Pauline	Fitzroy Farm, E.F.I
231	Shepherd	Colin David	4 Goose Green, E.F.I
232	Short	Clint Andrez Robert	Walker Creek, E.F.I
233	Short	Elaine Elizabeth	Bleaker Island
234	Short	Lyndsay Marie	Walker Creek, E.F.I
235	Short	Rachel Mandy	Philomel Farm, Fox Bay, W.F.I
236	Short	Robert Charles	Bleaker Island
237	Short	Robert George	Walker Creek, E.F.I
238	Short	Scott Daniel Felton	Philomel Farm, Fox Bay, W.F.I

239	Sinclair	Simon Keith	Fitzroy Farm, E.F.I
240	Steen	Gail	Paragon House Lafonia, E.F.I
241	Steen	Vernon Robert	Paragon House Lafonia, E.F.I
242	Stevens	Richard James	Port Sussex, E.F.I
243	Stevens	Toni Donna	Port Sussex, E.F.I
244	Street	David Charles	Plot 13A Fitzroy Ridge, E.F.I
245	Street	Edith Mary	Plot 13A Fitzroy Ridge, E.F.I
246	Summers	Dennis David	North Arm, E.F.I
247	Summers	Nichola Jane	Carcass Island
248	Taylor	Christopher John	6 Goose Green, E.F.I
249	Tellez	Rodolfo	Goose Green, E.F.I
250	Thom	John Currie	Fitzroy Farm, E.F.I
251	Towersey	Diane Katherine	Port Stephens, W.F.I
252	Turner	Elaine Ellen	Rincon Grande, E.F.I
253	Tuson	Michael Anthony	Saunders Island
254	Tuson	Olwen Carol	Saunders Island
255	Vatamanu	Paula May	Port Howard Farm, W.F.I
256	Velasquez	Arleen	North Arm, E.F.I
257	Velasquez	Evan Oscar Christopher	North Arm, E.F.I
258	Velasquez	Oscar Hernan	North Arm, E.F.I
259	Watson	Andrew James	Rincon Grande Farm, E.F.I
260	Watson	Glenda Joyce	Long Island, E.F.I
261	Watt	Sylvia Ann	17 Goose Green, E.F.I
262	White	Allan Paul George	West Point Island
263	White	Jacqueline	West Point Island
264	Whitney	Daniela Grace	Mount Kent Farm, E.F.I
265	Whitney	Dennis	Arkvilla MPA Plot, E.F.I
266	Whitney	Sara Marie	Home Farm, Douglas, E.F.I
267	Whitney	Tyrone	Home Farm, Douglas, E.F.I
268	Wilkinson	Rosemary	Dunnose Head, W.F.I
269	Woodward	James Gregory	Swan Inlet, E.F.I
270	Woodward	Lesley Ann	Swan Inlet, E.F.I

Register of Electors for Stanley Constituency at 1 May 2019

1	Adams	Carol Margaret	21 John Street
2	Adams	John Harvey	21 Ross Road East
3	Adams	Marjorie Rose	21 Ross Road East
4	Adams-Leach	Shirley	4 Moody Street
5	Addison	Samantha Catherine	9 Brandon Road
6	Adeoye	Anneliese Rose	2A Capricorn Road
7	Adeoye	Jamel Bolanle	55 Davis Street
8	Aguila Aguilar	Jeannette Del Carmen	Eliza Crescent
9	Alazia	Andrew	36 Callaghan Road
10	Alazia	George Robert	9 Thatcher Drive
11	Alazia	Sandra Marie	36 Callaghan Road
12	Alazia	Shannon Christine	36 Callaghan Road
13	Aldridge	Brian George	17 James Street
14	Aldridge	Caroline Mary	2 McKay Close
15	Aldridge	Diana Mary	17 James Street
16	Aldridge	Jody May	13 Hansen Hill
17	Aldridge	Kenneth John	2 McKay Close
18	Aldridge	Stephen John	13 Hansen Hill
19	Aldridge-McLean	Nina Ann	73 Rex Hunt Road
20	Allan	Joyce Ena	39 Ross Road
21	Allan	Valerie Anne	6A Jeremy Moore Avenue
22	Almond	Adrian Arthur James	4 Allardyce Street
23	Ampuero Ross	Claudio Javier	2 Mullet Creek
24	Anderson	Carol Anne	22 Endurance Avenue
25	Anderson	Chloe	25 Fitzroy Road
26	Anderson	Eddie	22 Endurance Avenue
27	Anderson	Jenny	1 Gleadell Close
28	Anderson	Kayleigh May	9 Fieldhouse Close
29	Anderson	Margaret Kathleen	18 Murray Heights
30	Anderson	Paul James	9 Fieldhouse Close
31	Anderson	Reginald Stanford	18 Murray Heights
32	Anderson	Richard Louis	7 Yates Place
33	Anderson	Rupert William	81 Davis Street
34	Anderson	Stephen Robert	25 Callaghan Road
35	Anderson	Tony James	1 Gleadell Close
36	Anderson-Smith	Georgina Carol	11 Fitzroy Road East
37	Anthony	Enid Elizabeth	6 Dairy Paddock Road
38	Arkipkin	Alexander Ivanovich	13 Biggs Road
39	Armstrong-Ford	Karen Jane	2 Sullivan Street
40	Arthur-Almond	Daphne Margaret	4 Allardyce Street
41	Ashbridge	Corina Rose	116 Davis Street
42	Ashworth	Cara Michelle	5 Philomel Street
43	Ashworth	Iain	3 Rex Hunt Road
44	Bagley	Corey Darren	4 Felton Court
45	Bagley	Jaqueline Elizabeth	7 Narrows View
46	Bagley	Keanu Adrian	28 Sandy Woodward Road
47	Bagley	Yorin Martin	7 Narrows View

48	Bahamonde Salazar	Luis Alberto	21 Mink Park
49	Baigorri	Joanne Rose	52 Rex Hunt Road
50	Baker	Alison Margaret	29 Fitzroy Road
51	Barker	Emily	5 Pitaluga Place
52	Barker	Jane Elizabeth Diana	5 Pitaluga Place
53	Barker	Philip Craig	5 Pitaluga Place
54	Barkman	Teslyn Siobhan	23 Rex Hunt Road
55	Barlow	Andrea Joanna	Mullet Creek
56	Barlow	Martyn Liam	Mullet Creek
57	Barnes	Dierdre	8 Discovery Close
58	Barnes	Karen Rose	26 Ross Road West
59	Barnes	Marshall	8 Discovery Close
60	Barnes	Paul	26 Ross Road West
61	Barnes Acevedo	Melisa Beverley	2 Diamond Jubilee Road
62	Barton	Alison Mary	6 Villiers Street
63	Barton	Arthur John	6 Villiers Street
64	Barton	Michael Richard	6A Jeremy Moore Avenue
65	Bates	Barbara	8 Watson Way
66	Bates	James William	8 Watson Way
67	Beckett	Melisa Jane	3 Thatcher Drive
68	Beckett	Tracy	3 Fitzroy Road East
69	Benjamin	David George	10 Fieldhouse Close
70	Berntsen	Arina Janis	12 Rex Hunt Road
71	Berntsen	Brenda Diann Joanna	6 McKay Close
72	Berntsen	Christian Olaf Alexander	15A James Street
73	Berntsen	Erica Dawn	10 Fitzroy Road
74	Berntsen	Falkland	10 Fitzroy Road
75	Berntsen	Gene Stanley	22 Kent Road
76	Berntsen	Harley-Dee	46 Sandy Woodward Road
77	Berntsen	John Alexander	Flat 1, 7 Jeremy Moore Avenue
78	Berntsen	Katatrice Alexandra	15A James Street
79	Berntsen	Matthew John	19 Rex Hunt Road
80	Berntsen	Olaf Christian Alexander	35 Eliza Crescent
81	Berntsen	Rachel Ena	15A James Street
82	Berntsen	Robyn Chanelle	5 Sandy Woodward Road
83	Berntsen	Saphena Anya Jane	20 Teaberry Way
84	Berntsen	Trevor John	6 McKay Close
85	Berntsen	Trina Mary Shirlene	3 Discovery Close
86	Berntsen	Valdamar Lars	9 Teaberry Way
87	Besley-Clark	Barbara June	16 Ross Road West
88	Besley-Clark	Norman	16 Ross Road West
89	Betts	Arlette	Lafone House, Ross Road
90	Betts	Dion James	45 Sandy Woodward Road
91	Betts	Donald William	7 Jeremy Moore Avenue
92	Betts	George Winston Charles	35 Ross Road West
93	Betts	Ian	1 Villiers Street
94	Betts	Lucia Elizabeth	35 Ross Road West
95	Betts	Owen	19 Biggs Road
96	Betts	Peter James	50A Davis Street

97	Betts	Priscilla Violet Morrison	Stanley Cottage, Ross Road
98	Betts	Severine	15 Pioneer Row
99	Betts	Shirley Rose	7 Jeremy Moore Avenue
100	Betts	Trudi Ann	50A Davis Street
101	Betts	Tyrone Trevor	7 Short Street
102	Betts-McKay	Cody Michael	23 Murray Heights
103	Biggs	Althea Maria	3 Dairy Paddock Road
104	Biggs	Christopher David	Harbour View Knott
105	Biggs	Coleen Margot	9 Moody Street
106	Biggs	Daniel Craig	16 Endurance Avenue
107	Biggs	Frances	16 Endurance Avenue
108	Biggs	Kyle Alexander	16 Endurance Avenue
109	Biggs	Lucas Sebastian	16 Endurance Avenue
110	Biggs	Michael Elfed	21 Fitzroy Road
111	Biggs	Peter Julian Basil	16 Endurance Avenue
112	Biggs	Terri-Sue	Harbour View Knott
113	Biles	Kathleen Anne	14 Kent Road
114	Biles	Keith Robert	14 Kent Road
115	Binnie	Linda Rose	6 Fieldhouse Close
116	Binnie	Ronald Eric	6 Fieldhouse Close
117	Birmingham	Alexandra Sally	5A Hansen Hill
118	Birmingham	John	4 Drury Street
119	Bishop	Nigel Ian	5 Jersey Road
120	Bishop	Tansy Fiona	5 Jersey Road
121	Blackley	Candy Joy	4 Barrack Street
122	Blackley	Maurice	10A German Camp, Callaghan Rd
123	Blake	Alexander Charles	38 Eliza Crescent
124	Blake	Larissa Celly	12 Ross Road West
125	Blake	Lionel Geoffrey	1 Ross Road
126	Blake	Mariela	14 Watson Way
127	Blake	Sabrina Jazmin	4 Rex Hunt Road
128	Blake	Sally Gwynfa	1 Ross Road
129	Blake	Thomas Patrick	12 Ross Road West
130	Bolt	Dennis John	4 Watson Way
131	Bone	Amelia	15 Fieldhouse Close
132	Bone	Andrew James	Flat 3, 6 Jersey Road
133	Bone	Kim Anthony	15 Fieldhouse Close
134	Bonner	Alan Paul	8 Pioneer Row
135	Bonner	Avril Margaret Rose	4 Felton Court
136	Bonner	Cheryl Anne	10 Racecourse Road
137	Bonner	Declan William	41 Ross Road West
138	Bonner	Elizabeth Eleanor	38 Fitzroy Road
139	Bonner	Ewen Shane	6 Mink Park
140	Bonner	Hayley Trina	41 Ross Road West
141	Bonner	Linda Jane	4A Ross Road West
142	Bonner	Lindsay Jane	10 Rex Hunt Road
143	Bonner	Nicholas	4A Ross Road West
144	Bonner	Paul Roderick	5 John Street
145	Bonner	Richard James	4A Felton Court

146	Bonner	Susan Anne	43 Ross Road East
147	Bonner	Tansie Rebecca	4 Felton Court
148	Bonner	Timothy	Chauffeurs Cottage
149	Bonner	Vera Ann	5 John Street
150	Bonner	Vera Joan	Chauffeurs Cottage
151	Booth	Myriam Margaret Lucia	7 Philomel Street
152	Bowers	Arlene Elizabeth	1 Hansen Hill
153	Bowles	Norma Evangeline	1A Villiers Street
154	Bowles	Sarah	9 Drury Street
155	Bowles	William Edward	1A Villiers Street
156	Bowles	William George Troyd	9 Drury Street
157	Bragger	Edward Laurence	14 Jeremy Moore Avenue
158	Bragger	Stacy John	4B Ross Road West
159	Brickle	Paul	32 Fitzroy Road
160	Briones Sepúlveda	Vivian Delia	4 Rowlands Rise
161	Brock	Juanita Lois	20 Drury Street
162	Brook	Emma Jane	41 Ross Road East
163	Brooks	Cheryl Rose	1B Capricorn Road
164	Browning	Henry Stanbury	Flat 2, 6 Racecourse Road
165	Browning	Joan Lucy Ann	5 Villiers Street
166	Browning	Nathan David	3 Dairy Paddock Road
167	Browning	Rex	1 Yates Place
168	Browning	Shane Ross	60 John Street
169	Browning	Trevor Osneith	5 Villiers Street
170	Brownlee	Andrew Samuel	19 Ross Road East
171	Brownlee	Lynn Frances	19 Ross Road East
172	Brownlee	Michael Stewart	20 Kent Road
173	Brownlee	Samantha Louise	19 Ross Road East
174	Bucket	Jake Steven	21A James Street
175	Bucket	Ronald Peter	49 Fitzroy Road
176	Bucket	Roy Peter	22 James Street
177	Bucket	Ryan Peter	50 Rex Hunt Road
178	Buckland	Darlene Joanna	5 James Street
179	Buckland	Kristy Lesley Anne	26 Rex Hunt Road
180	Buckley-Whitney	Helena Jane	2 Pioneer Row
181	Budd	Dennis Raymond	5 Ian Campbell Drive
182	Budd	Grant William	1 Ian Campbell Drive
183	Budd	Pamela Joan	5 Ian Campbell Drive
184	Burston	Catherine	91 Davis Street
185	Burston	Stephen Leslie	91 Davis Street
186	Bury	Ian Thomas	63 Davis Street
187	Butcher	Michael George	3A Dairy Paddock Road
188	Butler	Margaret Orlanda	5 Short Street
189	Buxton	Nicole Gabrielle	9 Ian Campbell Drive
190	Cant	Daniel James	24 Goss Road
191	Carey	Anthony Michael	19 Ross Road West
192	Carey	Gladys	19 Ross Road West
193	Carey	Martin Rex	4 Hansen Hill
194	Cartwright	Stephen	39 Ross Road West

195	Castle	David Peter	1 Fitzroy Road
196	Castle	Isobel	1 Fitzroy Road
197	Castro Aguila	Jeanette Del Pilar	Flat 4, 1 Jeremy Moore Avenue
198	Ceballos	Isabel del Carmen	23 Ross Road West
199	Cena	Josephine Inday	2 Rowlands Rise
200	Chaloner	Anthony Ross	8 Endurance Avenue
201	Chaloner	Karl Iain Roderick	8 Endurance Avenue
202	Chaloner	Sheila Catherine	3 Marmont Row
203	Chantada	Jose Luis	1A Hebe Street
204	Chantada	Pamela Margaret	1A Hebe Street
205	Chapman	Samantha Helen	71 Rex Hunt Road
206	Chater	Jane	3 Short Street
207	Chater	Thomas Frederick	3 Short Street
208	Chater	Victoria	33 Fitzroy Road
209	Chater	William John	33 Fitzroy Road
210	Cheek	Gerald Winston	9 Biggs Road
211	Cheek	Janet Lynda	35 Ross Road East
212	Cheek	Marie	9 Biggs Road
213	Cheek	Rosalind Catriona	32 Goss Road
214	Cheema	Ahmad Masood	17 Callaghan Road
215	Christie	Darren James	8 Jeremy Moore Avenue
216	Christie	Phillippa Josephine	8 Jeremy Moore Avenue
217	Clapp	Kevin Christopher	1 Murray Heights
218	Clark	Douglas James	39 Fitzroy Road
219	Clark	Paul Stanbury	43 Ross Road East
220	Clarke	Aaron Charles	4 Philomel Street
221	Clarke	Angela Sindy	12 Scoresby Close
222	Clarke	Camilla Marie	8 Drury Street
223	Clarke	Daniel Alan	23 Jeremy Moore Avenue
224	Clarke	David James	8 Diddle Dee Drive
225	Clarke	Derek Simon	23 Jeremy Moore Avenue
226	Clarke	Gwynne Edwina	17 Jeremy Moore Avenue
227	Clarke	Ian	3 Ross Road West
228	Clarke	India Lauren	15 Rex Hunt Road
229	Clarke	Jane Rebecca	Flat 2, 30 Fitzroy Road
230	Clarke	Jeremy Ian Thomas	11 Fitzroy Road
231	Clarke	Jonathan Terence	27 Eliza Crescent
232	Clarke	Joseph Gwyn	15 Davis Street
233	Clarke	Laura Jane	4 Philomel Street
234	Clarke	Leo	8 Diddle Dee Drive
235	Clarke	Louise Kathleen	Stanley House
236	Clarke	Luke Anthony	17 Mink Park
237	Clarke	Mari-Ann Lucille	5 Mink Park
238	Clarke	Marvin Thomas	13 Davis Street
239	Clarke	Rudy Thomas	8 Drury Street
240	Clarke	Sarah May Bo	17 Mink Park
241	Clarke	Terence John	17 Jeremy Moore Avenue
242	Clarke	Tracey Clare	23 Jeremy Moore Avenue
243	Clarke	Trudi Ann	13 Davis Street

244	Clausen	Andrea Patricia	3 St Mary's Walk
245	Clausen	Denzil	24 Murray Heights
246	Clausen	Denzil George Gustavius	3 St Mary's Walk
247	Clement	Gary	9 Snake Street
248	Clement	Gloria Linda	9 Snake Street
249	Clement	Jacqueline Ann	7 Davis Street
250	Clement	Jane	Gift Shop Flat, Villiers St
251	Clement	Lee	11 Rex Hunt Road
252	Clement	Sarah Jane	10 Snake Hill
253	Clement	Wayne	10 Snake Hill
254	Clifford	Cherie Yvonne	3 Eliza Cove Road
255	Clifford	John Owen	3 Eliza Cove Road
256	Clifford	Michaela Sara Monica	12 Callaghan Road
257	Clifford	Rhys John David	Harbour View Knott
258	Clifton	Darwin Lewis	53 Davis Street
259	Clifton	Leonard	2 Murray Heights
260	Clifton	Melvyn	12 Callaghan Road
261	Clifton	Neil	8 Anderson Drive
262	Clifton	Stephen Peter	61 Fitzroy Road
263	Clifton	Teresa Ann	20 Davis Street
264	Clifton	Thora Janeene	2 Murray Heights
265	Clifton	Valerie Ann	10 Pioneer Row
266	Clifton	Zoe Helen	19A Mink Park
267	Clingham	Shaun Michael Ashley	19A Mink Park
268	Cockwell	Anna	18 Kent Road
269	Cockwell	Jennifer Marie	90 Davis Street
270	Cockwell	John Richard	14 Ross Road West
271	Cockwell	Maurice Adam	90 Davis Street
272	Cockwell	Samuel George	18 Kent Road
273	Cofre	Anya Evelyn	37 Eliza Crescent
274	Cofre	Elvio Miguel	112 Davis Street
275	Coleman	Nigel Eric	59 Sandy Woodward Road
276	Collier	Hannah Jayne	5C Hansen Hill
277	Collier	Victoria Louise	7 Mink Park
278	Collins	Brian Richard	41 Davis Street
279	Collins	Hazel	41 Davis Street
280	Connolly	Anna Marie	38 John Street
281	Connolly	Kevin Barry	1 King Street
282	Cordeiro Garcia	Rodrigo	1 Mink Park, Moody Brook Road
283	Cotter	Jacqueline Ann	18 Mink Park
284	Cotter	Mary Jane	9 Jeremy Moore Avenue
285	Cotter	Timothy Stewart	9 Jeremy Moore Avenue
286	Courtney	Anthony Clive	30 Goss Road
287	Courtney	Eva Inma Linda	75 Rex Hunt Road
288	Courtney	Julie Doris	30 Goss Road
289	Courtney	Marc Anthony	75 Rex Hunt Road
290	Courtney	Tonisha Louise	30 Goss Road
291	Coutts	John	36 Ross Road West
292	Coutts	Marie Anne	36 Ross Road West

293	Crabb	Elizabeth Ann	34A Davis Street
294	Crowie	Alan John	17 Ian Campbell Drive
295	Crowie	Clare Frances	8 Jersey Road
296	Crowie	Colin Arthur	19 Barney Flat, Callaghan Road
297	Crowie	Dave Mark	10 James Street
298	Crowie	David Martin	2A Capricorn Road
299	Crowie	Ella Josephine	17 Ian Campbell Drive
300	Crowie	Joan May	Flat 1, 6 Jersey Road
301	Crowie	Layla Alicia	19 James Street
302	Crowie	Nicola Jane	18 Sandy Woodward Road
303	Crowie	Rachael	10 James Street
304	Crowie	Robert John	18 Sandy Woodward Road
305	Crowie	Roxanne	81 Rex Hunt Road
306	Cruickshank	Kirsty Nicole	6 Hansen Hill
307	Cruickshank	Stuart Eric	6 Hansen Hill
308	Curtis	Bonnie Elizabeth	13 Jersey Road
309	Curtis	Daniella Dawn	48 Sandy Woodward Road
310	Curtis	James William Hamilton	5A Brisbane Road
311	Curtis	Tanya	5A Brisbane Road
312	Curtis	Tiegan Jane	7A McKay Close
313	Daille Marchant	Antoine Rene	18 Mink Park
314	Davidson	Deborah	4 James Street
315	Davies	Anthony Warren	7 Callaghan Road
316	Davies	Colin George	15 Ross Road West
317	Davies	Eileen Wynne	15 Ross Road West
318	Davies	Helen Louise	15A Ross Road West
319	Davies	Jacqueline Nancy	7 Callaghan Road
320	Davies	Samantha	14 Rex Hunt Road
321	Davies	Sian Karen	34 Rex Hunt Road
322	D'Avino	Juan Marcelo	17 Rex Hunt Road
323	D'Avino	Katheryn Phoebe	17 Rex Hunt Road
324	Davis	Doreen Susan	11 Callaghan Road
325	Davis	Macauley John	Flat 4, 1 Jeremy Moore Avenue
326	Davis	Nicholas	2 Auster Place
327	Davis	Roy George Victor	6 Narrows View
328	Davis	Samantha Jane	21 Kent Road
329	Davis	Yona	37 Davis Street
330	Davis-Berntsen	Tessa Linda	41 Eliza Crescent
331	Dent	Dean Angus	19 Hansen Hill
332	Dent	Elizabeth Jayne	4 Fieldhouse Close
333	Dent	Janice Vanessa	19 Hansen Hill
334	Dent	Lauren Aire	19 Hansen Hill
335	Dent	Stephen John	4 Fieldhouse Close
336	Dickson	Michael Keith	12 Dairy Paddock Road
337	Didlick	Imogen Fiona	54 Rex Hunt Road
338	Didlick	John Charles Hilson	17 Scoresby Close
339	Didlick-Smith	Rhiannon Elenore	51 Sandy Woodward Road
340	Dobbyns	Kathleen Gay	60 Davis Street
341	Dodd	Alison	10 Beaver Road

342	Dodd	Mark Thomas	8 Mink Park
343	Dodd	Nigel Keith	10 Beaver Road
344	Donnelly	Daniel	38 Ross Road East
345	Donnelly	Joyce Elizabeth	38 Ross Road East
346	Drysdale	Karen Margaret	1 Watson Way
347	Duncan	Charmain	5 Mountain Berry Road
348	Duncan	Stuart Dave	2 Fieldhouse Close
349	Dunford	David Philip	20 Eliza Crescent
350	Eagle	Rex Edward	25 Ross Road East
351	Earnshaw	Jacqueline Elizabeth	37 Ross Road West
352	East	Carly Chelsea	64 Davis Street
353	East	Justin Clive Richard	1 Fieldhouse Close
354	Eccles	Ashton Laura	3 Jeremy Moore Avenue
355	Eccles	Bernard Leslie	18 Jeremy Moore Avenue
356	Eccles	Matthew James	3 Jeremy Moore Avenue
357	Eccles	Mhairi-Anne	18 Jeremy Moore Avenue
358	Eccles	Moira Cameron	18 Jeremy Moore Avenue
359	Edwards	Norma	20 Mink Park
360	Edwards	Roger Anthony	20 Mink Park
361	Elbakidze	Zaza	10 Mink Park
362	Elliot	Elizabeth Rose	15 Callaghan Road
363	Elliot	Henry James	15 Callaghan Road
364	Ellis	Cyril	24 Ross Road East
365	Ellis	Louise	8 Sandy Woodward Road
366	Ellis	Lucy	11 James Street
367	Ellis	Paul	43 John Street
368	Ellis	Sally Jean	43 John Street
369	Ellis	Valerie	24 Ross Road East
370	Elsby	Barry	Moody Brook House
371	Elsby	Thomas	15 Rex Hunt Road
372	Eriksen	Bjorn Kyle	12 Scoresby Close
373	Erikson	Fiona Alison	Flat 2, 6 Jersey Road
374	Evans	Kyran	1 Bypass Road, Murray Heights
375	Evans	Michele Paula	1 Bypass Road, Murray Heights
376	Evans	Niall	3 Villiers Street
377	Evans	Raymond	12 Rex Hunt Road
378	Evans	Tracy	53 Sandy Woodward Road
379	Eynon	Carol	8 Villiers Street
380	Eynon	David John	8 Villiers Street
381	Faria	April Marie	3A Brisbane Road
382	Faria	Basil Harry	3A Brisbane Road
383	Faria	Maria Anne	3A Brisbane Road
384	Faria	Paul	22 Hansen Hill
385	Faria	Sarah Louise	22 Hansen Hill
386	Faria	Susana Caroline Berntsen	22 Hansen Hill
387	Felton	Trudi Eileen	13 Eliza Crescent
388	Ferguson	John William	47 Ross Road East
389	Ferguson	Robert John Andrew	1 Sullivan Street
390	Ferguson	Stephanie Janet	47 Ross Road East

391	Ferriby	Debora Susana	56 Davis Street
392	Ferriby	Lee Robert	56 Davis Street
393	Ferriby	Lucas Diego	56 Davis Street
394	Fiddes	Douglas Graham	The Stables, Moody Brook
395	Fiddes	Gardner Walker	3 Watson Way
396	Fiddes	Julia Bertrand	2 Discovery Close
397	Fiddes	Keelan Shaun	The Stables, Moody Brook
398	Fiddes	Kelly Melody	19A Mink Park
399	Fiddes	Melody Christine	3 Watson Way
400	Fiddes	Tevra Helen	The Stables, Moody Brook
401	Findlay	Madeleine Joyce	5 Drury Street
402	Finlayson	Kimberley Elizabeth	5A Davis Street
403	Finlayson	Marc Ian	19 James Street
404	Finlayson	Marilyn Christine	24 James Street
405	Finlayson	Peter	24 James Street
406	Finlayson	Phyllis	6 Brandon Road
407	Fisher-Smith	Julie Anne	22 Kent Road
408	Floyd	Amanda Susan	7 Murray Heights
409	Floyd	Celia Soledad	7 Pitaluga Place
410	Floyd	Michael	7 Pitaluga Place
411	Floyd	Stephen Paul	26 Hansen Hill
412	Floyd	Tracy	26 Hansen Hill
413	Fogerty	Richard Edwin John	Stone Cottage, Bypass Road
414	Ford	Alison Jane Marie	9 Jersey Road
415	Ford	Bronwen Rebecca	21A James Street
416	Ford	Brooklyn Marie	3 Pitaluga Place
417	Ford	Chloe Elizabeth	21 Murray Heights
418	Ford	Christine	6 Drury Street
419	Ford	Christopher James	6 Felton Court
420	Ford	Colin Stewart	15 Kent Road
421	Ford	Colleen Mary	12 Davis Street
422	Ford	Daniel Timothy	2 Hebe Place
423	Ford	Darrel	29 Rex Hunt Road
424	Ford	David	3 Beaver Road
425	Ford	Debbi Louisa	6 Felton Court
426	Ford	Donna Marie	19 Kent Road
427	Ford	Gerard Allan	12 Hansen Hill
428	Ford	Ieuan Colin	15 Fitzroy Road East
429	Ford	Jack Christopher	6 Felton Court
430	Ford	Jill Edith	12 Hansen Hill
431	Ford	Jonathan	3 Pitaluga Place
432	Ford	Julie Ann	3 Pitaluga Place
433	Ford	Leann Caroline	15 Kent Road
434	Ford	Leonard	9 Jersey Road
435	Ford	Marie	3 Beaver Road
436	Ford	Melanie	29 Rex Hunt Road
437	Ford	Mikaela Jayne	89 Davis Street
438	Ford	Neil Frazer	6 Drury Street
439	Ford	Simon	1 James Street

440	Ford	Wade Leonard	9A Jersey Road
441	Forrest	Jennifer Carol	16 Kent Road
442	Forrest	Michael John	16 Kent Road
443	Forster	Amanda	9 Fieldhouse Close
444	Forster	Gwyneth May	15 Ian Campbell Drive
445	Forster	James	10 Drury Street
446	Forster	Lynne	15 Rex Hunt Road
447	Fowler	Alan Claude	4 Capricorn Road
448	Fowler	Daniel Martin	2 Glasgow Road
449	Fowler	John Andrew Thomas	2 Glasgow Road
450	Fowler	Vanessa Kay	4 Capricorn Road
451	Fowler	Zoë	2 Glasgow Road
452	Fowmes	Connie Margaret Rose	15 Jeremy Moore Avenue
453	Fowmes	Paula Jennifer Louise	15 Jeremy Moore Avenue
454	Fowmes	Stephen Roger	15 Jeremy Moore Avenue
455	France	Ian Peter	4 Sullivan Street
456	France	Samantha Jane	4 Sullivan Street
457	Francis	Carla Marie	2 Fieldhouse Close
458	Francis	Tegan Louise	42 Callaghan Road
459	Freeman	Carl Francis	Moody Brook Road
460	Freeman	Dianne May	Moody Brook Road
461	Freer	Edward Craig	6 Fitzroy Road East
462	Freer	Matthew Paul	6 Fitzroy Road East
463	Freer	Pamela Jane	7 Fitzroy Road East
464	Freer	Stephen Paul James	7 Fitzroy Road East
465	French	Robert Alan	12 Narrows View
466	Gilbert	Christopher Paul	11 Ian Campbell Drive
467	Gilbert	Mark Ian	13 Beaver Road
468	Gilbert	Neil Robert	17 Sullivan Street
469	Gilbert	Sharon	11 Ian Campbell Drive
470	Gilding	Leila Melanie	50 Rex Hunt Road
471	Gilding	Melanie Carol	38 Ross Road
472	Gilding	Petra Sophie	14 John Street
473	Gilson-Clarke	Martyn Ian	79 Rex Hunt Road
474	Gisby	Annie	37 Ross Road East
475	Glanville	Adam James	12 James Street
476	Glanville	Beverley Rose	12 James Street
477	Gleadell	Ian Keith	2 Yates Place
478	Gomez	Eduardo Daniello	41 Callaghan Road
479	Gomez	Rebecca Lily	41 Callaghan Road
480	Gómez-Reid	Daphne Tamara	41 Callaghan Road
481	Goodwin	Bonita Colleen	21 Eliza Crescent
482	Goodwin	Catherine Dawn	8 Hansen Hill
483	Goodwin	Cheveze	1 Jeremy Moore Avenue
484	Goodwin	Colin Valentine	8 Beaver Road
485	Goodwin	Derek Samuel	21 Eliza Crescent
486	Goodwin	Gareth Kevin	15 Hansen Hill
487	Goodwin	June Elizabeth	8 Beaver Road
488	Goodwin	Katrina Louise	33 Ross Road West

489	Goodwin	Kenton John Douglas Benjamin	33 Ross Road West
490	Goodwin	Mandy Hazel Minnell	31 Ross Road West
491	Goodwin	Margaret Ann	3`H` Jones Road
492	Goodwin	Marie-Bernard Therese	15 Hansen Hill
493	Goodwin	Matthew Gerald	77 Rex Hunt Road
494	Goodwin	Michael Samuel	21 Eliza Crescent
495	Goodwin	Rachel Karen	31 Ross Road West
496	Goodwin	Robin	31 Ross Road West
497	Goodwin	Robin Christopher	27 Callaghan Road
498	Goodwin	Simon James	8 Hansen Hill
499	Goodwin	Tonisha Louisa	Flat 2, 3 Jeremy Moore Avenue
500	Goodwin	Una	27 Callaghan Road
501	Goodwin	William John Maurice	7 Brisbane Road
502	Gordon	Daniella Lee	6A Ross Road East
503	Gordon	Martine Carole	55 Davis Street
504	Gordon	Robert James Alexander	6A Ross Road East
505	Goss	Amber Morgyn	16 Jeremy Moore Avenue
506	Goss	Annagret	16 Jeremy Moore Avenue
507	Goss	Ariane Storm	20 Kent Road
508	Goss	Carole-Ann	20 Jeremy Moore Avenue
509	Goss	Emma Holly	16 Jeremy Moore Avenue
510	Goss	Eric Miller	2 Fitzroy Road East
511	Goss	Errol Barry Gordon	30 Davis Street
512	Goss	Ian Ernest Earle	98 Davis Street
513	Goss	Jane Alexander	27 Eliza Crescent
514	Goss	Morgan Edmund	16 Jeremy Moore Avenue
515	Goss	Shirley Ann	2 Fitzroy Road East
516	Goss	Simon Peter Miller	11 Kent Road
517	Goss	Susan Diann	98 Davis Street
518	Goss	William Henry	7 Brandon Road
519	Gough	Tanzey Jayne	3 Police Cottages
520	Green	David William	55 Sandy Woodward Road
521	Greenland	James Andrew William	3 Biggs Road
522	Greenland	Kimberley Joanna	3 Biggs Road
523	Greenland-Elbakidze	Natasha Bonita	10 Mink Park
524	Greenough	Demi Rose	Cemetery Cottage
525	Greenough	Geoffrey	Cemetery Cottage
526	Greenough	Wanda Rose	Cemetery Cottage
527	Guala Oyarzo	Henry Hernan	1A Capricorn Road
528	Halliday	Cathy Anne	5 Drury Street
529	Halliday	Jeffrey James	9A Philomel Street
530	Halliday	Joyce Isabella Patience	5 Fieldhouse Close
531	Halliday	Julie Ann	9A Philomel Street
532	Halliday	Kenneth William	5 Fieldhouse Close
533	Halliday	Raynor	9 Brisbane Road
534	Hancox	Emily Clare	5 McKay Close
535	Hansen	Douglas John	6 Fitzroy Road
536	Hansen	Terrance Joseph	58C Sandy Woodward Road
537	Hardcastle	Eileen Beryl	75 Davis Street

538	Hardcastle	Joseph Brook	18 Goss Road
539	Hardcastle	Kim Elizabeth	18 Goss Road
540	Hardcastle	Simon Brook	18 Goss Road
541	Harris	Angela Jane	10 Haskard Rise
542	Harris	Dennis Sefton	Racecourse Cottage
543	Harris	Heather	3 Ross Road East
544	Harris	Jill Yolanda Miller	19 Fitzroy Road
545	Harris	Karl Henry	10 Haskard Rise
546	Harris	Leeann Watson	11 Dairy Paddock Road
547	Harris	Leslie Sidney	19 Fitzroy Road
548	Harris	Michael Ronald	3 Ross Road East
549	Harris	Morgan Karl	10 Haskard Rise
550	Harris	Ralph Aaron	11 Dairy Paddock Road
551	Harris	Rebecca Jayne	11 Dairy Paddock Road
552	Harris	Reece Lee	11 Dairy Paddock Road
553	Harris	Wendy Ann	Racecourse Cottage
554	Harte	Emma Louise	9A Philomel Street
555	Harte	Jessica Elise	9A Philomel Street
556	Harte	Torin Matthew	9A Philomel Street
557	Hartley	Jeannette	14 Jersey Road
558	Harvey	Sheila	8 Barrack Street
559	Harvey	William	Flat 3, 5 Jeremy Moore Avenue
560	Hawksworth	Cara Jane	6 Ian Campbell Drive
561	Hawksworth	David	25 Eliza Crescent
562	Hawksworth	Ginalyn Jauncho	25 Eliza Crescent
563	Hawksworth	Ryan	2 Goss Road
564	Hay	Graeme James	30 Rex Hunt Road
565	Hay	Joanne Hazel Rose	30 Rex Hunt Road
566	Hayward	Marjorie	4B St Mary's Walk
567	Hayward	Matthew Oliver	Mullet Creek
568	Hayward	Neville	21 Hansen Hill
569	Hayward	Pauline May	21 Hansen Hill
570	Heathcock	Andrew James	7 James Street
571	Heathman	Abbie Louise	46 Sandy Woodward Road
572	Heathman	Malcolm Keith	15 Eliza Cove Road
573	Heathman	Mandy Gail	15 Eliza Cove Road
574	Heathman	Nyree	7 Allardyce Street
575	Heathman	Sally Hermione	15 Eliza Cove Road
576	Henry	Adam Robert	28 Brandon Road
577	Henry	Aimee-Jo Kirsty Maché	2 Moody Street
578	Henry	Alan Richard	13 Mink Park
579	Henry	Derek William	2 Moody Street
580	Henry	Donna Louise	3 Davis Street
581	Henry	John Stuart	15 Villiers Street
582	Henry	Patricia Denise	86 Davis Street
583	Henry	Tracey Dawn	2 Moody Street
584	Hewitt	Bernice Marilyn Sarah	16 Sullivan Street
585	Hewitt	Charles David James Murdo	9B Sullivan Street
586	Hewitt	Christine Alison Elizabeth	9B Sullivan Street

587	Hewitt	Gary George	3 Hebe Place
588	Hewitt	Margaret Ann	3 Hebe Place
589	Hewitt	Tara Marie	14 Scoresby Close
590	Hills	David John	33 Callaghan Road
591	Hirtle	Christine	5 Capricorn Road
592	Hirtle	Debbie Ann	2B Capricorn Road
593	Hirtle	Rose Ann Shirley	4 Villiers Street
594	Hirtle	Samantha Lee	2 Hebe Place
595	Hirtle	Zane Eric	12 Drury Street
596	Hobman	Anilda Marilu	5 Police Cottage
597	Hobman	Kyle John	1C Capricorn Road
598	Hobman	Luis Alfonso	5 Police Cottages
599	Hobman	Vivien	20 Hansen Hill
600	Howe	Alison Delia	36 Davis Street
601	Howe	Paul Anthony	36 Davis Street
602	Hutton	Elizabeth Isabella	3 John Street
603	Hutton	Philip	3 John Street
604	Ibarra Espinosa	Gonzalo Patricio	18 Callaghan Road
605	Igao	Georgia Jane	10 Goss Road
606	Igao	Noel Neri	10 Goss Road
607	Igao	Pauline Lynx	10 Goss Road
608	Inglis	Alison Anne MacKenzie	9 Short Street
609	Irvine	Andrew Grant McKenzie	1 Allardyce Street
610	Jackson	Kathleen	7 Drury Street
611	Jackson	Malcolm	7 Drury Street
612	Jackson	Mark Malcolm	5 Drury Street
613	Jacobsen	Alastair	1A Philomel Street
614	Jacobsen	Catherine Joan	1A Philomel Street
615	Jacobsen	Tanzi	33 Callaghan Road
616	Jacobsen	Toni Rhona	32 Teaberry Way
617	Jaffray	Alexander	8A Brisbane Road
618	Jaffray	Arlette Sharon	7 Jersey Road
619	Jaffray	Dominic Summers	5 Racecourse Road East
620	Jaffray	Eileen	5 Hebe Street
621	Jaffray	Elliott Jessie	8A Brisbane Road
622	Jaffray	Emma Leigh	5 James Street
623	Jaffray	Estelle Anita	11 Snake Hill
624	Jaffray	Eva Lynn	47 Callaghan Road
625	Jaffray	Gerard Alan	47 Callaghan Road
626	Jaffray	Helen Rose	84 Davis Street
627	Jaffray	Ian	5 Hebe Street
628	Jaffray	Ingrid Joyce	9 Fitzroy Road
629	Jaffray	Janet	3 Ross Road West
630	Jaffray	John	3 Ross Road West
631	Jaffray	John Summers	84A Davis Street
632	Jaffray	John Willie	21 Watson Way
633	Jaffray	Juliet Hazel	28 Davis Street
634	Jaffray	June Elizabeth	17 Ross Road East
635	Jaffray	Kalon David	1 Hebe Place

636	Jaffray	Kenneth Ian	7 Jersey Road
637	Jaffray	Lisa Jane	7 Hebe Street
638	Jaffray	Nicole Dawn	5A Hebe Street
639	Jaffray	Phyllis	21 Watson Way
640	Jaffray	Shaun Melvyn	28 Davis Street
641	Jaffray	Stephen James	5 James Street
642	Jaffray	Terence Roy	5 Hebe Street
643	Jaffray	Tony	84 Davis Street
644	Jamieson	Malcolm William	1 Rex Hunt Road
645	Jamieson	Patricia Anne	1 Rex Hunt Road
646	Jennings	Hamish Warren	9A Davis Street
647	Jennings	Leeanne Kate	5 Murray Heights
648	Jennings	Nancy Elizabeth	7 Philomel Street
649	Jennings	Paige Taylor	9 Davis Street
650	Jennings	Roy	5 Murray Heights
651	Jennings	Stephen	5 Fitzroy Road
652	Jennings	Warren Alan	7A McKay Close
653	Jones	Deena Marie	7 Rowlands Rise
654	Jones	Evan Glynn	11 Mink Park
655	Jones	Kevin Richard	3A Brandon Road
656	Jones	Yvonne Malvina	6 Yates Place
657	Jonson	Nicole Frances	30 Endurance Avenue
658	Joshua	Angeline Gloria	6 Beaver Road
659	Joshua	Josephine Mary	7 Gleadell Close
660	Joshua	Paul Alan	6 Beaver Road
661	Joshua	Rosemond Patricia	3 Felton Stream
662	Keenleyside	Manfred Michael Ian	2 Snake Hill
663	Keenleyside	Nanette Barbara	2 Snake Hill
664	Kelly	Phillip Sean	35 Callaghan Road
665	Kelly	Sandy Bridget	35 Callaghan Road
666	Kennedy	Igan Stephen	9 Fitzroy Road
667	Kenny	Erling	20 James Street
668	Kidd	John Nathan	7 Ross Road West
669	Kidd	Lillian Rose Orissa	7 Ross Road West
670	King	Anna Constance Eve	34 Ross Road
671	King	Glynis Margaret	Stanley Arms Flat
672	King	Michelle Beverly	4 Biggs Road
673	King	Peter Thomas	10 Jeremy Moore Avenue
674	King	Robert John	22/24 Davis Street
675	King	Rosemarie	10 Jeremy Moore Avenue
676	King-Clark	Roxanne McCarthy	39 Fitzroy Road
677	Kirkham	Campbell Joseph	5 Capricorn Road
678	Knight	Margaret Anne	1 Thatcher Drive
679	Knipe	Chedwin Norman	3 Davis Street West
680	Knipe	Chloe Susanne	3 Davis Street West
681	Knipe	Susan Jane Helena	3 Davis Street West
682	Kultschar	John William	33C Davis Street
683	Kultschar	Karin Pamela	5 Brisbane Road
684	Kultschar	Richard Paul	5 Brisbane Road

685	Kultschar	Yvonne Rosina	33C Davis Street
686	Ladron De Guevara	Simon	6 Police Cottage
687	Ladron De Guevara Barnes	Jeremy Marshall	22/24 Davis Street
688	Ladron De Guevara Vilches	Carmen Benilda	22/24 Davis Street
689	Laffi	Atilio Segundo	3 Brisbane Road
690	Laffi	Kathleen Mary	3 Brisbane Road
691	Lang	Colin David	2 Brisbane Road
692	Lang	James Patrick	2 Davis Street West
693	Lang	Leah Falalimpa	2 Davis Street West
694	Lang	Theresa Margaret	28 Goss Road
695	Lang	Valma Emily	8A Moody Street
696	Lang	Wendy Diane	2 Brisbane Road
697	Larsen	Ellen	6A Moody Street
698	Larsen	Ronald Ivan	2 Anderson Drive
699	Lazo	Javier Waldemar	80 Davis Street
700	Lazo	Laura Rose	80 Davis Street
701	Lazo	Matthew Derek	5 Allardyce Street
702	Leach	Nigel Jon	4 Moody Street
703	Lee	Elizabeth	7 Thatcher Drive
704	Lee	Gladys	11 Drury Street
705	Lee	John Alfred	7 Thatcher Drive
706	Lee	Karen Jane	14 Davis Street
707	Lee	Mandy John	15 James Street
708	Lee	Owen Henry	4 Pioneer Row
709	Lee	Rodney William	15 Ian Campbell Drive
710	Legg	Robert Keith	21 Kent Road
711	Lennie	Gordon Carnie	9 Narrows View
712	Lennie	Roberto	9 Narrows View
713	Leo	Merrill Steve	10 Rowlands Rise
714	Lewis	David James	3 Ian Campbell Drive
715	Lewis	Jason	9 Short Street
716	Lewis	Pamela Irene	3 Ian Campbell Drive
717	Leyton	Ricardo Esteban	108A Davis Street
718	Livermore	Anton	82 Davis Street
719	Livermore	Doreen Emily	82 Davis Street
720	Lowe	Nathan Reginald Eugenio	Flat 2, 3 Jeremy Moore Avenue
721	Luxton	Jennifer Mary	4 Hebe Place
722	Luxton	Michael	1A Pioneer Row
723	Luxton	Nicola	1A Pioneer Row
724	Luxton	Stephen Charles	1 Mullet Creek
725	Luxton	Susan Vera	1 Mullet Creek
726	Lyse	Linda Margaret	65 Fitzroy Road
727	Macaskill	Angus Lindsay	11 Short Street
728	Macaskill	John	34 Ross Road West
729	Macaskill	Robert John	1A Brisbane Road
730	Macaskill	Tracey Jayne	1A Brisbane Road
731	MacDonald	Irene	Flat 3, 7 Jeremy Moore Avenue
732	Maciello	Jorge Diego	9 Strawberry Street
733	Maciello	Susan Ovedia Franz	9 Strawberry Street

734	Maclennan Baird	Ronald John	3 Diddle Dee Drive
735	Maddocks	Robert Charles	11 Murray Heights
736	Mansell	Adam Lee	21 Shackleton Drive
737	Martin	Lee Anthony	7 McKay Close
738	Martin	Lisa Maria	7 McKay Close
739	May	Angela Jane	11 Sullivan Street
740	May	Bruce Raymond	9 Kent Road
741	May	Bryan Roy	21 Jeremy Moore Avenue
742	May	Christopher Raymond	9 Callaghan Road
743	May	Connie	9 Kent Road
744	May	Donna Monica	15 Davis Street
745	May	Jonathan Roy	12 Jeremy Moore Avenue
746	May	Lindsey Olga	9 Callaghan Road
747	May	Lucinda Vikki	12 Jeremy Moore Avenue
748	May	Monica	21 Jeremy Moore Avenue
749	May	Roger	11 Sullivan Street
750	May	Tiphanie	35 Davis Street
751	May	William Albert	1 Glasgow Road
752	McBain	Arthur	29 Goss Road
753	McBain	Rhoda Margaret	29 Goss Road
754	McCallum	Bettina Kay	14 Drury Street
755	McCallum	Rampai	14A Drury Street
756	McCormick	Dale Ronald	24 Eliza Crescent
757	McCormick	Pauline Margaret Ruth	29 Callaghan Road
758	McCormick	Richard Paul	29B Callaghan Road
759	McCormick	Samantha Laura	18 Rex Hunt Road
760	McCrea	Robert Thomas	3 Marmont Row
761	McGill	Coral Elizabeth	52 Callaghan Road
762	McGill	Daniel Stanford	2 James Street
763	McGill	Darrel Ian	31 Sandy Woodward Road
764	McGill	Diane Beverley	2 James Street
765	McGill	Heather Margaret	4 Discovery Close
766	McGill	Len Stanford	2 James Street
767	McGill	Sinead Zara	22 Murray Heights
768	McGill	Teresa Rose	26 Ross Road East
769	McGill	Travis Ian	Flat 4, 6 Jersey Road
770	McKay	Bono John	3A Brandon Road West
771	McKay	Clara Mary	20 Ross Road West
772	McKay	Heather Valerie	16 Eliza Crescent
773	McKay	Jeannie Paullina	2 Allardyce Street
774	McKay	Jennifer Coral	24 Eliza Crescent
775	McKay	John David Toby	51 Callaghan Road
776	McKay	Lauren Joyce	24 Rex Hunt Road
777	McKay	Marika	72 Davis Street
778	McKay	Melvyn Andrew	72 Davis Street
779	McKay	Michael John	64 Davis Street
780	McKay	Michelle Jane	64 Davis Street
781	McKay	Neil	10 Watson Way
782	McKay	Peter John	21 Ross Road West

783	McKay	Rex	16 Eliza Crescent
784	McKay	Roy Derek	39 Callaghan Road
785	McKay	Stacey Jane	28 Rex Hunt Road
786	McKee	Miranda	12 Watson Way
787	McKee	Richard Buick	12 Watson Way
788	McKenzie	Alice Maud	2B St Mary's Walk
789	McKenzie	Charles Alexander Albert John	2B St Mary's Walk
790	McLaren	Caroline Mary	Flat 9, 6 Jersey Road
791	McLean	Stephen Thomas Turnbull	73 Rex Hunt Road
792	McLeod	David	49 Callaghan Road
793	McLeod	Gerald Peter	17 Jersey Road
794	McLeod	Henry Donald Alexander	16 Fieldhouse Close
795	McLeod	Ian	17 Davis Street
796	McLeod	Janet Wensley	75 Davis Street
797	McLeod	Janice	2 Ross Road West
798	McLeod	John	23 Hansen Hill
799	McLeod	Kirsty Jane	5 Pitaluga Place
800	McLeod	Mally	17 Davis Street
801	McLeod	Marie	16 Fieldhouse Close
802	McLeod	Mark Travis	49 Callaghan Road
803	McLeod	Michael William	5 Short Street
804	McLeod	Robert	75 Davis Street
805	McLeod	Robert John	2 Ross Road West
806	McLeod	Tamsin Margaret Butler	5 Short Street
807	McLeod	Valorie Marcela	7 Ian Campbell Drive
808	McMullen	June	8 Brandon Road
809	McMullen	Lucille Anne	6 John Street
810	McMullen	Tony	8 Brandon Road
811	McPhee	Denise	4 Brandon Road West
812	McPhee	Hannnah	4 Brandon Road West
813	McPhee	Jessica	4 Brandon Road West
814	McPhee	Justin Owen	4 Brandon Road West
815	McRae	Kerry Jane	15 Sullivan Street
816	McRae	Michael	25 Hansen Hill
817	McRae	Tamara	25 Hansen Hill
818	Merrey	Adrianna Janine	28 Sandy Woodward Road
819	Middleton	Callum William	14 Mink Park
820	Middleton	Caren	15 Mink Park
821	Middleton	Caroline Ann	7 James Street
822	Middleton	Charlotte Anne Mary	19 Scoresby Close
823	Middleton	Chelsea Emma	13 McKay Close
824	Middleton	Leonard	8A Yates Place
825	Middleton	Megan Shirley Rebecca	79 Davis Street
826	Middleton	Murray Alexander	15 Mink Park
827	Middleton	Nevin Alexander	15 Mink Park
828	Middleton	Phillip John	5 St Marys Walk
829	Middleton	Stephanie Anne	13 McKay Close
830	Middleton	Yvonne Allison	50 Davis Street
831	Miller	Andrew Nigel	7 Villiers Street

832	Miller	April Samantha	4 Beaver Road
833	Miller	Betty Larsen	Flat 4, 5 Jeremy Moore Av
834	Miller	Carol	Marine Cottage
835	Miller	Catherine McLeod	11 Thatcher Drive
836	Miller	Gail Marie	6A Brisbane Road
837	Miller	James Albert	11 Thatcher Drive
838	Miller	Janet Mary	Market Garden, Airport Rd
839	Miller	Samantha Elaine	7 Discovery Close
840	Miller	Samuel Andrew	27 Davis Street
841	Miller	Simon Roy	Marine Cottage
842	Miller	Steven Geoffrey	4 Beaver Road
843	Miller	Timothy John Durose	Market Garden, Airport Rd
844	Minnell	Adrian James	8 Moody Street
845	Minnell	Amy Anne	17 Scoresby Close
846	Minnell	Hazel Eileen	5 Yates Place
847	Minto	Adam Daniel	58A Sandy Woodward Road
848	Minto	Bradley Stewart Andrew	8 Ian Campbell Drive
849	Minto	Christian Ian	6 Biggs Road
850	Minto	Dilys Rose	18 Endurance Avenue
851	Minto	Graham Stewart	12 Brisbane Road
852	Minto	Isabel Joan	12 Brisbane Road
853	Minto	Karen Joleen	23 Ross Road West
854	Minto	Sean Daem	5 Sandy Woodward Road
855	Minto	Timothy Ian	18 Endurance Avenue
856	Minto	Ximena	7 Teaberry Way
857	Miranda	Carmen Ediht	8 Anderson Drive
858	Mitchell	Hayden Owen	16 Fieldhouse Close
859	Mitchell	Paige	16 Fieldhouse Close
860	Mitchell	Shane Leon	16 Fieldhouse Close
861	Moffatt	Angela	20 Ross Road East
862	Moffatt	James	20 Ross Road East
863	Moffatt	Jay	5 Gleadell Close
864	Moffatt	Sean	20 Ross Road East
865	Molkenbuhr-Smith	Sara Jayne	12 Marmont Row
866	Morris	Aiden Liam	1 Moody Street
867	Morris	Alana Marie	4 Callaghan Road
868	Morris	David	4 Callaghan Road
869	Morris	Jason Paul	Flat 4, 30 Jersey Road
870	Morris	Trevor Alan	1 Moody Street
871	Morris	Zoe Alana	4 Callaghan Road
872	Morrison	Carol Margaret	Flat 1, 6 Racecourse Road
873	Morrison	Dana Justine	10 Rowlands Rise
874	Morrison	Fayan	54 John Street
875	Morrison	Gerald	1A Brandon Road
876	Morrison	Glyn Scott	34A Davis Street
877	Morrison	Graham Stewart	34A Davis Street
878	Morrison	Guy Damian	1A Brandon Road
879	Morrison	Jacqueline Denise Anita	13 Ian Campbell Drive
880	Morrison	Joan Margaret	8 Brisbane Road

881	Morrison	John	9 Rowlands Rise
882	Morrison	Joleen Coleen	8 Brisbane Road
883	Morrison	Kathleen Iris	1A Brandon Road
884	Morrison	Keiran Kenneth	13 Ian Campbell Drive
885	Morrison	Lena	108 Davis Street
886	Morrison	Leslie Theodore Norman	108 Davis Street
887	Morrison	Marcus Lewis	5 Mink Park
888	Morrison	Michael John	10 Fitzroy Road East
889	Morrison	Nanette Rose	34 Davis Street
890	Morrison	Nigel Peter	86 Davis Street
891	Morrison	Paul Roderick	3 Racecourse Road East
892	Morrison	Richard Lowry	1 Biggs Road
893	Morrison	Russell John Allan	16 Mink Park
894	Morrison	Susan Margaret	10 Fitzroy Road East
895	Morrison	William Roderick Halliday	54 John Street
896	Morrison-Sanchez	Angely Susanne	16 Mink Park
897	Munro	Grant Mackintosh	69 Fitzroy Road
898	Murphy	Andrew Paul	2 King Street
899	Murphy	Ann Susan	2 King Street
900	Neilson	Cara Jane	12 Goss Road
901	Neilson	Edward Sydney	12 Goss Road
902	Neilson	Harold Ian	74 Davis Street
903	Neilson	Margaret	6 Barrack Street
904	Newell	Joseph Orr	11 Davis Street
905	Newman	Andrew Raymond	51 Ross Road East
906	Newman	Marlene	11 Jeremy Moore Avenue
907	Newman	Terence	24 Endurance Avenue
908	Newman	Terri-Ann	24 Endurance Avenue
909	Norman	Heather Thelma	6A Pioneer Row
910	Olmedo	Alex	61 Sandy Woodward Road
911	Olmedo Apablaza	Marcelo Rodrigo	1 Hansen Hill
912	Ormond	Christina Helen	6 Goss Road
913	Ormond	Kevin Michael Patrick Joseph	6 Goss Road
914	Ormond	Krysteen Alison	2 Gleadell Close
915	Ormond	Terrianne Helen	2 Gleadell Close
916	Otadoy-McLeod	Glenda	36 John Street
917	Owen	Sally	1 Biggs Road
918	Paice	Corrinne	3 Racecourse Road
919	Paice	Craig Arthur	3 Racecourse Road
920	Parke	James Fred	3 Racecourse Road
921	Parke	Janet Margaret	3 Racecourse Road
922	Passfield	Kenneth Alexander	2A Brandon Road West
923	Paver	Bernadette Marguerite	Moody Brook House
924	Peck	Christine	21 Jersey Road
925	Peck	David Patrick	5 Sullivan Street
926	Peck	Eleanor Margaret	10 Davis Street
927	Peck	Farah Louise	24 Kent Road
928	Peck	Gordon Pedro James	34 Eliza Crescent
929	Peck	Harwood John Charles	26 Eliza Crescent

930	Peck	Joshua Dolan	10 Fitzroy Road
931	Peirega	Alexa Rachel	27 Rex Hunt Road
932	Peirega	Martin Eduardo	27 Rex Hunt Road
933	Peirega	Naomi Renee	27 Rex Hunt Road
934	Peters	Ross Munro Alan	64 Sandy Woodward Road
935	Peters	Tamara Anne	64 Sandy Woodward Road
936	Peters	Tristan Mark	24 Rex Hunt Road
937	Pettersson	Derek Richard	3 Anderson Drive
938	Pettersson	Trudi Ann	3 Anderson Drive
939	Phillips	Anthony Vincent	Flat 3, 30 Jersey Road
940	Phillips	Carol Joan	6 Rex Hunt Road
941	Phillips	David Albert	9 Davis Street
942	Phillips	David Dawson	35 Fitzroy Road
943	Phillips	Elisa	35 Fitzroy Road
944	Phillips	Jordan Liam	17 Rex Hunt Road
945	Phillips	Terence	6 Rex Hunt Road
946	Pitaluga	Robin Andreas McIntosh	8B St Mary's Walk
947	Pitt	Myra May	6A Pioneer Row
948	Plato	Darren Richard	2 Jersey Road
949	Platt	Claire	5 Villiers Street
950	Pointing	Stephen William	4 Anderson Drive
951	Pole-Evans	Amy Rose	4 McKay Close
952	Pole-Evans	John	16 Ross Road East
953	Pole-Evans	Lisa	74 Davis Street
954	Pole-Evans	Marcus Samuel	41 Eliza Crescent
955	Pole-Evans	Martin	19 Kent Road
956	Pole-Evans	Michael Anthony	4 McKay Close
957	Pollard	Andrew Keith	4 Fitzroy Road East
958	Pollard	Cathy	2 Kent Road
959	Pollard	Mark John	2 Kent Road
960	Pompert	Joost Herman Willem	11 Ross Road West
961	Pompert Robertson	Sorrel Freya	11 Ross Road West
962	Pompert-Robertson	Sophie Thora	11 Ross Road West
963	Poncet	Jeremy Nigel	28 Rex Hunt Road
964	Poncet	Sally Elizabeth	2A Brandon Road West
965	Poole	Michael James	9B Sullivan Street
966	Poole	Nancy Margaret	1 Racecourse Road
967	Poole	Raymond John	1 Racecourse Road
968	Poole	Ross William	52 John Street
969	Poole	Toby Raymond	19 Davis Street
970	Prindle-Middleton	Stella Margaret	5 St Mary's Walk
971	Pring	Bernadette Jane Spencer	5A Ross Road West
972	Pring	Geoffrey Alan	5A Ross Road West
973	Prior	Claudette	1 Goss Road
974	Prior	Malcolm	1 Goss Road
975	Quinto Salluca	Luis Alberto	88 Davis Street
976	Quiroga Blanco	Claudia	108A Davis Street
977	Ramirez Mardones	Vanessa Elisa	61 Sandy Woodward Road
978	Reddick	Keith John	By-Pass Road

979	Reeves	Ashley Paul	39 Brandon Road
980	Reid	Colleen Rose	9 Fitzroy Road East
981	Reid	Damian Alejandro	12 Scoresby Close
982	Reid	John Alexander	7 Fitzroy Road
983	Reid	Joseph Reynold Benjamin	26 Kent Road
984	Reid	Paula	5 Biggs Road
985	Reid	Reynold Gus	5 Biggs Road
986	Richards	Shirley	8A James Street
987	Riddell	Jacob David	33 Davis Street
988	Roberts	Bradley Gerard	2 Hansen Hill
989	Roberts	Cheryl Ann Spencer	49 Ross Road East
990	Roberts	David Anthony	1 Mountain View
991	Roberts	Gethyn Edward	11 Short Street
992	Roberts	Nicholas Daniel	11 Ross Road East
993	Roberts	Peter James	49 Ross Road East
994	Roberts	Simon Theodore Nathaniel	5 Narrows View
995	Robertson	Dion Sebastian	40 Rex Hunt Road
996	Robertson	Drew Alexander	5 Diamond Jubilee Road
997	Robertson	Janet	11 Ross Road West
998	Robson	Alison Emily	15 Villiers Street
999	Robson	Cherry Rose	5 Philomel Street
1000	Robson	Damien	38 Rex Hunt Road
1001	Robson	Derryn	18 Ross Road East
1002	Robson	Jodie	1 Philomel Place
1003	Robson	Miranda Gaye	10 Hansen Hill
1004	Robson	Patricia Jayne	18 Ross Road East
1005	Robson	Phyllis Ann	1 Philomel Place
1006	Robson	Raymond Nigel	10 Hansen Hill
1007	Robson	William Charles	18 Ross Road East
1008	Rodriguez-Reid	Axel Reynaldo	4 Fieldhouse Close
1009	Roose	Alison Elizabeth	7 Brandon Road
1010	Ross	Allan John	1 Short Street
1011	Ross	Christine Aislinn	6 Mink Park
1012	Ross	Gabrielle Leigh	56 Rex Hunt Road
1013	Ross	Glenn Stephen	23 Watson Way
1014	Ross	Janet	23 Watson Way
1015	Ross	Kerri-Anne	8 Mink Park
1016	Ross	Kevin John	12 Snake Hill
1017	Ross	Lachlan Neil	14 Fieldhouse Close
1018	Ross	Rebecca Jane	7 Moody Street
1019	Ross	Roy	19 Jersey Road
1020	Ross	Sheena Margaret	25 Rex Hunt Road
1021	Ross	Shirley Vyona	1 Short Street
1022	Rowland	Charlene Rose	19 Jeremy Moore Avenue
1023	Rowland	John Christopher	19 Jeremy Moore Avenue
1024	Rowland	Sarah Anne	9 Hansen Hill
1025	Rowlands	Daisy Malvina	39 John Street
1026	Rowlands	Dorinda Roberta	3 Hebe Street
1027	Rowlands	Max	3 Hebe Street

1028	Rowlands	Robert John	13 Callaghan Road
1029	Rozee	Betty Ellen	16 Davis Street
1030	Rozee	Karen Michella	6 Discovery Close
1031	Sackett	Albert John	25A Ross Road East
1032	Sackett	Jacqueline	25 Callaghan Road
1033	Sanchez	Alanis Björk	50 Sandy Woodward Road
1034	Sanchez	Jennifer Helen	50 Sandy Woodward Road
1035	Sanchez	Joshua Andrés	50 Sandy Woodward Road
1036	Sawle	Felicity Anne Hermione	7 Rex Hunt Road
1037	Sawle	Judith Margaret	Seaview Cottage, Ross Road
1038	Sawle	Richard	Seaview Cottage, Ross Road
1039	Senociain Short	Kylie Deborah	36 Eliza Crescent
1040	Shcherbich	Zhanna Nikolaevna	13 Biggs Road
1041	Shelbourne	Carolyn Wendy	39 Brandon Road
1042	Shelbourne	Liam	39 Brandon Road
1043	Shepherd	Ramsey	3 Yates Place
1044	Shepherd	Roy	23 Mink Park
1045	Shepherd	Sarah Jayne	23 Mink Park
1046	Shillitoe	Helena De Fatima	The Brook, Moody Brook
1047	Shillitoe	Roger William	4 Mink Park
1048	Shillitoe	Ryan Lawrence	12 McKay Close
1049	Shillitoe	Stephen Bruce	4 Mink Park
1050	Short	Alison	1 Dairy Paddock Road
1051	Short	Andrez Peter	1 Dairy Paddock Road
1052	Short	Brenda	11 Barrack Street
1053	Short	Christina Ethel	12 Brandon Road
1054	Short	Emily Christina	1 Fitzroy Road East
1055	Short	Gavin Phillip	36 Eliza Crescent
1056	Short	Isabel Rose	3 Brisbane Road
1057	Short	Jason Francis	3 Brisbane Road
1058	Short	Liam Michael Felton	24 Fitzroy Road
1059	Short	Marc Peter	7 Anderson Drive
1060	Short	Marlene Cindy	9 Pitaluga Place
1061	Short	Montana Tyrone	4 Dairy Paddock Road
1062	Short	Patrick Warburton	3 Brisbane Road
1063	Short	Richard Edward	9 Pitaluga Place
1064	Short	Thomas William Frederick	1 Dairy Paddock Road
1065	Short	Vilma Alicia	4 Dairy Paddock Road
1066	Sim	Shanice McCallum	30 Eliza Crescent
1067	Simpson	James Alexander Bruce	7 Racecourse Road
1068	Simpson	John Frederick	8 Rowlands Rise
1069	Sinclair	Serena Samantha	24 Callaghan Road
1070	Sinclair	Veronica Joyce	21 Ross Road West
1071	Skene	Greta Winnora Miller	22 Ross Road East
1072	Smallwood	Margo Amee	105 Davis Street
1073	Smallwood	Michael Anthony	105 Davis Street
1074	Smith	Aidan James	5A Davies Street
1075	Smith	Andrew John	11 Fitzroy Road East
1076	Smith	Antony David	33A Davis Street

1077	Smith	Anya Deirdre	8 Eliza Crescent
1078	Smith	Colin David	6 James Street
1079	Smith	Felicity Marie	5 Brandon Road
1080	Smith	Ffion Lois	22 Kent Road
1081	Smith	George Patterson	15 Watson Way
1082	Smith	Heather	19 Watson Way
1083	Smith	Ian Lars	5 Brandon Road
1084	Smith	Ileen Rose	28 Ross Road West
1085	Smith	Jennifer Ethel	6 Watson Way
1086	Smith	Jenny Lorraine	15 Watson Way
1087	Smith	John	28 Ross Road West
1088	Smith	John Derek	8 Eliza Crescent
1089	Smith	Julia Trinidad	30 Sandy Woodward Road
1090	Smith	Kane David	6 James Street
1091	Smith	Martyn James	6A Ross Road West
1092	Smith	Michael Edmund	39 Eliza Crescent
1093	Smith	Natalie Marianne	6 James Street
1094	Smith	Nora Kathleen	5 Fitzroy Road East
1095	Smith	Paul	1 Callaghan Road
1096	Smith	Robin Charles	19 Watson Way
1097	Smith	Roy Alan	11 Brandon Road
1098	Smith	Susan	17 Jersey Road
1099	Socodo	Nicole Denise	6 Haskard Rise
1100	Socodo	Phoebe Esther	6 Haskard Rise
1101	Spicer	Mark Anthony	16 St Mary's Walk
1102	Spicer	Susan	16 St Marys Walk
1103	Spink	Roger Kenneth	The Brook, Moody Brook
1104	Spruce	Helena Joan	Milestone, 29 Ross Road West
1105	Spruce	Mark Felton	6 Anderson Drive
1106	Spruce	Terence George	Milestone, 29 Ross Road West
1107	Stanworth	Andrea	25 Ross Road West
1108	Stanworth	Andrew James	25 Ross Road West
1109	Steen	Allan Graham	15 Sullivan Street
1110	Steen	Barbara Ingrid	39 Ross Road West
1111	Steen	Karen Lucetta	32 Fitzroy Road
1112	Steen	Stacey Louise	24 Fitzroy Road
1113	Stenning	Christopher James	5B Ross Road West
1114	Stenning	Kate Alexandra	5B Ross Road West
1115	Stenning	Timothy Charles	5B Ross Road West
1116	Stephenson	Dylan	Moody Valley
1117	Stephenson	Jason	Moody Valley
1118	Stephenson	Katrina	4 Davis Street
1119	Stephenson	Zachary	4 Davis Street
1120	Stevens	Kelly-Marie	38 Rex Hunt Road
1121	Stevens	Lucy Mary Rose Ellen Doreen	6 Dairy Paddock Road
1122	Stevens	Paul Theodore	6 Dairy Paddock Road
1123	Stewart	Celia Joyce	14 Allardyce Street
1124	Stewart	Duane William	7 Discovery Close
1125	Stewart	Hulda Fraser	24 Ross Road West

1126	Stewart	Ian Bremner	34 Ross Road East
1127	Stewart	Kenneth Barry	Flat 5, 6 Jersey Road
1128	Stewart	Ross Ian	34 Ross Road East
1129	Stewart	Ruth Jane	1 Sandy Woodward Road
1130	Stewart	Sheila Olga	34 Ross Road East
1131	Stewart-Reid	Byron Alexander	7 Fitzroy Road
1132	Stewart-Reid	Carol Ellen Eva	7 Fitzroy Road
1133	Stewart-Reid	Clodagh Erin Georgia	9 Murray Heights
1134	Strange	Georgina	12 Fitzroy Road
1135	Strange	Maria Marta	The Dolphins, Snake Street
1136	Street	Mark	32 Ross Road West
1137	Stroud	Mark Adrian	10 Sullivan Street
1138	Sudder	Carli	11 Short Street
1139	Sullivan	Jonathan Francis	Mullet Creek
1140	Summers	Brian	1 Ross Road East
1141	Summers	Colin Owen	58 Rex Hunt Road
1142	Summers	Irvin Gerard	1 Anderson Drive
1143	Summers	Jacqueline	12 Pioneer Row
1144	Summers	Joanne Elizabeth	58 Rex Hunt Road
1145	Summers	Jonathan Derek	33 Davis Street
1146	Summers	Judith Orissa	1 Ross Road East
1147	Summers	Lynn Jane	31 Sandy Woodward Road
1148	Summers	Michael Kenneth	6A Brisbane Road
1149	Summers	Michael Victor	12 Pioneer Row
1150	Summers	Rowena Elsie	5 Allardyce Street
1151	Summers	Roy	32 Eliza Crescent
1152	Summers	Sheila	1 Anderson Drive
1153	Summers	Sybella Catherine Ann	1 Ross Road West
1154	Summers	Sylvia Jean	8 Racecourse Road
1155	Summers	Terence	1 Ross Road West
1156	Summers	Tony	8 Racecourse Road
1157	Sutcliffe	Lynsey Claire	1 Moody Street
1158	Sutcliffe	Michael Ian	60 Sandy Woodward Road
1159	Sutherland	John Gall	3 Mountain View
1160	Taylor	Anne Louise	4 Drury Street
1161	Taylor	Graham	55 Fitzroy Road
1162	Taylor	Ruth Eleanor	55 Fitzroy Road
1163	Taylor	Zoe Leigh	8 Ian Campbell Drive
1164	Tellez	Arturo	9 Rex Hunt Road
1165	Tellez	Tylor Mathew James	14 John Street
1166	Thain	Craig John	3 Sandy Woodward Road
1167	Thain	John	8 Davis Street
1168	Thain	Kieran Louise	3 Sandy Woodward Road
1169	Thain	Scott Hayden	8 Davis Street
1170	Thain	Stephanie Ann	8 Davis Street
1171	Thom	Norma Ann	92 Davis Street
1172	Thomas	Andrew Neil	12 Marmont Row
1173	Thomas	Gary Stuart	4 Sandy Woodward Road
1174	Thomas	Jacqueline Joyce	3 Moody Street

1175	Thomas	Jane Lilian Louisa	11 Jersey Road
1176	Thomas	Justin Paul	3 Moody Street
1177	Thorsen	David Moller	11 Callaghan Road
1178	Thorsen	Gloria Penelope	26 Fitzroy Road
1179	Thorsen	Kristiane Annergret Helena	26 Fitzroy Road
1180	Toolan	Rose Mary	13 Sullivan Street
1181	Toolan	Samuel Robert	13 Sullivan Street
1182	Toolan	Stephen David	13 Sullivan Street
1183	Triggs	Diane Elizabeth	3 Fieldhouse Close
1184	Triggs	Michael David	3 Fieldhouse Close
1185	Trinidades Burucua	Dahiana	4 Rex Hunt Road
1186	Turner	Joanne Elizabeth	61 Fitzroy Road
1187	Turner	Stefen Michael	22 Rex Hunt Road
1188	Tyrrell	Garry Bernard	1 Beaver Road
1189	Tyrrell	Gina Michelle	1 Beaver Road
1190	Tyrrell	James Olaf Louis	1 Beaver Road
1191	Tyrrell	Tasmin Andrea	1 Beaver Road
1192	Ubeda Hernandez	Julio Antonio	21 Jersey Road
1193	Velasquez	Kylie Rebecca	Block 3, Room 10, MPC
1194	Vidal Roberts	Leona Lucilla	1 Mountain View
1195	Vilchez Valverde	Maria Yhovana	88 Davis Street
1196	Villegas	Caroline	7 Fieldhouse Close
1197	Villegas	Pedro Francisco	7 Fieldhouse Close
1198	Vincent	Elliott Lawrence	11 Ross Road East
1199	Vincent	Janette Mary	10 Endurance Avenue
1200	Vincent	Matthew Stephen	21 Rex Hunt Road
1201	Vincent	Stephen Lawrence	10 Endurance Avenue
1202	Wade	Donald Harold	4A Jeremy Moore Avenue
1203	Wade	June Rose Elizabeth	17 Murray Heights
1204	Wallace	Fraser Barrett	10 John Street
1205	Wallace	James Barrett	Flat 4, Waverley House
1206	Wallace	Maria Lilian	38 Ross Road West
1207	Wallace	Stuart Barrett	38 Ross Road West
1208	Watson	Dominic Robert	6 Discovery Close
1209	Watson	Joanne	112 Davis Street
1210	Watson	Lisa Marie	33 Davis Street
1211	Watson	Paul	20 Endurance Avenue
1212	Watt	Stephen Robert	7 Hebe Street
1213	Watts	Patrick James	13 Brisbane Road
1214	Webb	Gary Colin	58 Davis Street
1215	Webb	Gemma Stacey	58 Davis Street
1216	Webb	Loretta Isobel	58 Davis Street
1217	Whalley King	Jessica Nanette	34 Ross Road
1218	White	Judy Marie	Flat 1, 3 Jeremy Moore Avenue
1219	Whitney	Caitlin	9 Rex Hunt Road
1220	Whitney	Frederick William	9 Ross Road
1221	Whitney	Jason	15 Ross Road East
1222	Whitney	Kurt Ian	2 Pioneer Row
1223	Whitney	Lana Rose	22 Eliza Crescent

1224	Whitney	Susan Joan	9 Ross Road
1225	Wilkinson	Carol Rosina	24 Goss Road
1226	Wilkinson	David Clive Walter	24 Goss Road
1227	Wilks	Bruce Allan	11 Fieldhouse Close
1228	Wilks	Susan Jean	11 Fieldhouse Close
1229	Williams	Cynthia June	59 Sandy Woodward Road
1230	Williams	Glen	33 Ross Road East
1231	Williams	Kirsty Michelle	62 Sandy Woodward Road
1232	Williams	Lee Perry Adrian John	2 Diamond Jubilee Road
1233	Williams	Louise Catherine	16 Goss Road
1234	Williams	Margaret Elizabeth	16 Goss Road
1235	Williams	Sasha Louise	59 Sandy Woodward Road
1236	Williams	Susan Rae	10 Sullivan Street
1237	Williams	Victoria Margaret	16 Goss Road
1238	Williamson	Kathleen Laura	5 McKay Close
1239	Williamson	Rachel Mary	1 Allardyce Street
1240	Wilson	Stephen John	9 Dairy Paddock Road
1241	Wilson	Tara	9 Dairy Paddock Road
1242	Wylie	Ashley Craig Robert	22 Mink Park
1243	Wylie	Julian Richard	1 McKay Close
1244	Yon	Alan Theodore	7B Sullivan Street
1245	Yon	Donna Marie	7B Sullivan Street
1246	Yon	Julian Lemarc Patrick	3 Davis Street West
1247	Zuvic-Bulic	Kuzma Mario	Holdfast House, Holdfast Rd
1248	Zuvic-Bulic	Sharon Marie	Holdfast House, Holdfast Rd
1249	Zuvic-Bulic	Zoran Mario	Holdfast House, Holdfast Rd



FALKLAND ISLANDS GAZETTE

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31 May 2019

No. 7

Appointment

Katheryn Phoebe D'Avino, Apprentice Business Administration, Training Centre, Education Department, 29.04.19.

Brian Patrick Black, Head of Courts and Tribunals, Development and Commercial Services Department, 01.05.19.

Lisa Maria Martin, Electronic Patient Record Project Lead, Health and Social Services Department, 01.05.19.

Sara Elizabeth Taylor, Head of Procurement, Development and Commercial Services Department, 02.05.19.

Graeme George Melrose Neillands, Dental Officer, Health and Social Services Department, 06.05.19.

Marcelo Rodrigo Olmedo Apablaza, Filtration Plant Operator, Water Section, Public Works Department, 06.05.19.

Robert Michael Whitney, Plant Operator/Handyperson, Highways Section, Public Works Department, 06.05.19.

Denver Dubadob, Plant Operator/Handyperson, Highways Section, Public Works Department, 27.05.19.

Completion of contract

Tsitsi Chitsiku, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 04.05.19.

James Andrew Wilson, Financial Secretary, Treasury, 18.05.19.

Thomas Jean Farrugia, Stock Assessment Scientist, Fisheries, Natural Resources Department, 21.05.19.

Nicholas James Faulkner, Company Taxation Officer, Taxation Office, Treasury, 21.05.19.

Renewal of contract

Ross Danely Ralph Milner, Veterinary Officer, Agriculture, Natural Resources Department, 01.05.19.

Tsitsi Chitsiku, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 05.05.19.

James Andrew Wilson, Financial Secretary, Treasury, 19.05.19.

Thomas Jean Farrugia, Stock Assessment Scientist, Fisheries, Natural Resources Department, 22.05.19.

Nicholas James Faulkner, Company Taxation Officer, Taxation Office, Treasury, 22.05.19.

Resignation

Christopher Nicholas Bath, Probation Officer, Health and Social Services Department, 02.05.19.

Felicity Clare Bath, Probation Officer, Health and Social Services Department, 02.05.19.

Philip Mansell, Apprenticeship Co-ordinator, Training Centre, Education Department, 24.05.19.

Cheryl Jane March, Medical Stores Assistant, Health and Social Services Department, 31.05.19.

Caroline Sutherland, Practice Facilitator, Health and Social Services Department, 31.05.19.

Transfer

Alan John Crowie, from Plant Operator/Handyperson to Mechanic, Materials Section, Public Works Department, 23.04.19.

Sarah Louise Faria, from Apprentice Accountancy Technician, Training Centre, Education Department to Taxation Data Clerk, Taxation Office, Treasury, 27.05.19.

NOTICES

No. 29 2 May 2019

Banking Ordinance 1987
section 25

Fee payable by licensed financial institution

In accordance with section 25(5) of the Banking Ordinance 1987 it is notified that the following licensed financial institution paid the prescribed fee of £10,000 for 2019: Standard Chartered Bank.

Dated 2 May 2019

J. A. WILSON,
Financial Secretary.

No. 30 15 May 2019

Children Ordinance 2014

Children (Safeguarding Children Board) Regulations 2015
regulation 5

**Falkland Islands Safeguarding Children Board –
Thresholds of Need Guidelines**

1. Regulation 5(5) of the Children (Safeguarding Children Board) Regulations 2015 (SR&O No 2 of 2015) provides for the Safeguarding Board to issue guidelines and procedures as may be necessary to assist in the welfare and safeguarding of children.

2. Notice is given that the Falkland Islands Safeguarding Children Board have issued the Falkland Islands Safeguarding Board Thresholds of Need guidelines replacing the previous guidelines. The replacement guidelines came into force on 6 December 2018 and remain in force until replaced or amended.

Dated 15 May 2019

J. CULLEN,
for the Safeguarding Children Board.

No. 31 20 May 2019

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 Chloe Ann Nash** – 30196933 to be a temporary Customs Officer from 02 May to 02 November 2019.

Dated 20 May 2019

R. J. KING,
Collector of Customs.

No. 32 27 May 2019

X-Change Limited
Company Number: 13778

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 May 2019.

Dated 27 May 2019

E. J. DENT,
Registrar of Companies.

No. 33 27 May 2019

Hydro-Martech (Falklands) Limited
Company Number: 14790

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 May 2019.

Dated 27 May 2019

E. J. DENT,
Registrar of Companies.

No. 34 27 May 2019

Application for Falkland Islands Status

Notice is hereby given that:

Helen Rose Marsh; and
Juan Mamberto Campos Bustos

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 Service, Stanley by 21 June 2019.

Dated 27 May 2019

R. J. KING,
for Immigration Officer.

No. 35 27 May 2019

Application for Naturalisation

Notice is hereby given that:

Maribel Andrea Campos Guala; and
Carolina Andrea Segovia Uribe

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 Service, Stanley no later than 21 June 2019.

Dated 27 May 2019

R. J. KING,
for Immigration Officer.

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

Price: £1.50

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FALKLAND ISLANDS GAZETTE

Extraordinary

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No. 8

NOTICES

No. 36

4 June 2019

Customs Ordinance 2003 *section 113*

CUSTOMS RESOLUTION OF THE LEGISLATIVE ASSEMBLY

(No. 1 of 2019)

RESOLVED by the Legislative Assembly, under section 113 of the Customs Ordinance 2003 on 4 June 2019 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	£0.37
(b)	Cider, Perry etc per litre	£0.37

(c)	Still and sparkling wines per litre	£0.91
(d)	Fortified wines per litre	£1.09
(e)	Spirituos beverages per litre	£7.42
(f)	Spirits per litre	£13.83
(g)	Tobacco products per kilo:-	
	(i) Cigars	£400.05
	(ii) Cigarettes	£430.91
	(iii) Tobacco	£275.57.

2. This Resolution comes into force on 5 June 2019.

3. The Customs Order 1948 is amended to reflect the contents of this Resolution with effect from 5 June 2019.

Dated 4 June 2019

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

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

Price: 50 pence

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FALKLAND ISLANDS GAZETTE

Supplement

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18 June 2019

No. 6

The following are published in this Supplement —

Road Traffic (Provisional) (Amendment) Regulations Order 2019 (SR&O No 14 of 2019);

Supplementary Appropriation (2018-2019) (No. 4) Ordinance 2019 (No 8 of 2019);

Appropriation Ordinance 2019 (No 9 of 2019);

Capital Appropriation Ordinance 2019 (No 10 of 2019); and

Finance Ordinance 2019 (No 11 of 2019).

SUBSIDIARY LEGISLATION

Road Traffic (Provisional) (Amendment) Regulations Order 2019

S. R. & O. No. 14 of 2019

Arrangement of Provisions

Regulation

1. Title
2. Commencement
3. Amendment of Road Traffic (Provisional) Regulations Order 1986
4. Regulation 5 amended (Driver's licence)
5. Regulation 5A amended (Replacement driver's licence)
6. New Schedules 1 and 2
7. Amendment of Schedule
8. Further amendment of regulations

Schedule – Further amendment of regulations and extent of amendment

SUBSIDIARY LEGISLATION

Road Traffic (Provisional) (Amendment) Regulations Order 2019

S. R. & O. No. 14 of 2019

Made: 11 June 2019

Published: 18 June 2019

Coming into force: 1 July 2019

I make these regulations under section 59(1) of the Road Traffic Ordinance 1948 on the advice of Executive Council.

1. Title

These Regulations are the Road Traffic (Provisional) (Amendment) Regulations Order 2019.

2. Commencement

These Regulations come into force on 1 July 2019.

3. Amendment of Road Traffic (Provisional) Regulations Order 1986

These Regulations amend the Road Traffic (Provisional) Regulations Order 1986.

4. Regulation 5 amended (Driver's licence)

(1) Revoke regulation 5(1) and replace it with —

“(1) The classes of motor vehicle that a driver's licence may authorise a person to drive are specified in column 1 of the Table in paragraph 1 of the Guidance Notes, in Form C in Schedule 3.

(1A) Subject to subregulation (1B), a person, who is aged at least 17 years, may make an application for a driver's licence to drive a class of motor vehicle by submitting to the chief police officer a completed and signed Form C in Schedule 3.

(1B) A person, who is aged at least 16 years, may make an application for a driver's licence to drive a class A motor vehicle (motorcycle or scooter) by submitting to the chief police officer a completed and signed Form C in Schedule 3.”.

(2) Insert after regulation 5(3A) —

“(3B) A person who does not hold a driver's licence authorising the person to drive a class B motor vehicle (manual motor car or light goods vehicle not exceeding 3,500 kg ULW) is not eligible to be licensed to drive a class G motor vehicle (plant).”.

(3) Revoke regulation 5(4) and replace it with —

“(4) The fees payable for administering the tests of competency to drive a class of motor vehicle specified in column 1 of the Table in Schedule 1 are specified in columns 2 and 3 of the Table in the same row.

(5) The fee payable for the issue of a driver’s licence described in column 1 of the Table in Schedule 2 is specified in column 2 of the Table in the same row.”.

(4) Revoke regulation 5(7).

(5) In regulation 5(8) omit “, temporary driver’s licence and certificate of production shall be in the Form D1, D2 and D3 respectively in the Schedule” and replace it with “must be in Form D1 in Schedule 3”.

(6) Revoke regulation 5(9) and replace it with —

“(9) For the purposes of section 6(4) of the Ordinance, a provisional driver’s licence —

(a) is, subject to paragraph (b), issued to a person who is at least 17 years of age, wants to be licensed to drive a motor vehicle of a class of motor vehicle for which the person has not passed the written and practical tests of competency, is not suffering from a disease or physical disability specified in section 6(3)(b) of the Ordinance and has paid the prescribed fee ;

(b) is issued to a person who is at least 16 years of age, wants to be licensed to drive a class A motor vehicle (motorcycle or scooter) for which the person has not passed the written and practical tests of competency, is not suffering from a disease or physical disability specified in section 6(3)(b) of the Ordinance and has paid the prescribed fee;

(c) is valid for 3 months;

(d) may be renewed;

(e) specifies the class or classes of motor vehicle which the provisional licence holder is authorised to drive; and

(f) is subject to the following conditions —

(i) if the provisional licence authorises the holder of the licence to drive a class A motor vehicle (motor cycle or scooter), that the provisional licence holder must not carry a passenger unless —

(A) the passenger holds a driver’s licence for a class A motor vehicle and has held that driver’s licence continuously for at least the immediately preceding 2 years;

(B) there is a sidecar attached to the motor cycle; and

(C) the passenger rides in the sidecar and supervises the provisional licence holder's driving of the motor cycle;

(ii) if the provisional licence holder is authorised by the licence to drive any other class of motor vehicle, the provisional licence holder must not drive the motor vehicle unless —

(A) a person who holds a driver's licence for the same class of motor vehicle, and has held the driver's licence continuously for at least the immediately preceding 2 years, is in the motor vehicle with the provisional licence holder; and

(B) the person supervises the provisional licence holder's driving of the vehicle;

(iii) any other condition imposed by the chief police officer relating to the purposes for which, and circumstances in which, the person may drive a motor vehicle.

(9A) A person, who does not hold a driver's licence authorising the person to drive a class B motor vehicle (manual motor car or light goods vehicle not exceeding 3,500 kg ULW) is not eligible to hold a provisional driver's licence for the following classes of vehicle —

(a) class C (goods vehicle exceeding 7,500 kg ULW);

(b) class C1 (goods vehicle exceeding 3,500 kg ULW but not exceeding 7,500 kg ULW);

(c) class D (passenger carrying vehicle with seating for more than 16 passengers [not including the driver]);

(d) class D1 (passenger carrying vehicle with seating for more than 8, but not more than 16, passengers [not including the driver]);

(e) class E (articulated vehicle where the tractor unit is in Class C or C1).”.

5. Regulation 5A amended (Replacement driver's licence)

Revoke regulation 5A(1) and (2) and replace them with —

“(1) For the purposes of section 6(5), (6) and (7) of the Ordinance, the chief police officer may, on application by a completed and signed Form C in Schedule 3 and payment of the prescribed fee (if any), issue a replacement driver's licence to a person in any of the following circumstances —

(a) the chief police officer is satisfied that —

(i) the person has been issued a driver's licence;

- (ii) the person is entitled to continue to hold the driver's licence; and
 - (iii) the person's driver's licence has been lost, stolen, destroyed, damaged or defaced;
- (b) the chief police officer is satisfied that —
- (i) the person has been issued a driver's licence;
 - (ii) the person is entitled to continue to hold the driver's licence; and
 - (iii) the person's driver's licence —
 - (A) is obsolete or out-of-date (because the classes of motor vehicle or other particulars specified on the driver's licence are obsolete or have changed or particulars need to be removed under an enactment);
 - (B) contains an error; or
 - (C) needs to be updated to add a class of motor vehicle or a particular required under an enactment;
- (c) the chief police officer is satisfied that —
- (i) the person has been issued a driver's licence;
 - (ii) the person's driver's licence was previously withdrawn; and
 - (iii) the person is now entitled to be issued a replacement driver's licence.
- (1A) The fee payable for a replacement driver's licence is specified in Schedule 2.
- (2) To avoid doubt, a fee is not payable for the following —
- (a) correcting the name and address of the holder of a driver's licence specified on the licence;
 - (b) correcting an error or omission on a driver's licence that is not attributable to the fault of the holder of the licence;
 - (c) adding onto, or removing from, a driver's licence particulars required to be specified on the licence by an enactment.”.

6. New Schedules 1 and 2
Insert after regulation 20 —

**“SCHEDULE 1
FEES FOR ADMINISTERING TESTS OF COMPETENCY**

regulation 5(4)

1. The fee payable on applying for a written test on the Road Code for a class of motor vehicle specified in column 1 of the Table in this Schedule is specified in column 2 of the Table in the same row.
2. The fee payable on applying for a practical test of competency to drive a class of motor vehicle specified in column 1 of the Table in this Schedule is specified in column 3 of the Table in the same row.

TABLE

Column 1 (class of motor vehicle)	Column 2 (fee for written test on the Road Code)	Column 3 (fee for practical test of competency to drive)
Class A (motorcycle or scooter)	£30.00	£70.00
Class B (manual motor car or light goods vehicle not exceeding 3,500 kg ULW)	£30.00	£50.00
Class BA (automatic motor car or light goods vehicle not exceeding 3,500 kg ULW)	£30.00	£50.00
Class B1 (motor tricycle, invalid carriage or other vehicle not exceeding 500 kg ULW)	£30.00	£30.00
Class C (goods vehicle exceeding 7,500 kg ULW)	£30.00	£60.00
Class C1 (goods vehicle exceeding 3,500 kg ULW but not exceeding 7,500 kg ULW)	£30.00	£60.00
Class D (passenger carrying vehicle with seating for more than 16 passengers [not including the driver])	£30.00	£55.00
Class D1 (passenger carrying vehicle with seating for more than 8, but not more than 16, passengers [not including the driver])	£30.00	£55.00

Class E (articulated vehicle where the tractor unit is in Class C or C1)	£30.00	£60.00
Class F (agricultural tractor)	£30.00	£60.00

SCHEDULE 2
FEEs FOR DRIVERS' LICENCES

regulations 5(5) and 5A(1A)

The fee payable for the issue of a driver's licence described in column 1 of the Table in this Schedule is specified in column 2 of the Table in the same row.

TABLE

Column 1 (driver's licence)	Column 2 (fee for issue of driver's licence)
Driver's licence	£30.90
Driver's licence (issued to holder of a valid driver's or driving licence issued by an overseas authority to drive the same classes of motor vehicle authorised by that driver's or driving licence)	£30.90
Supplementary photocard driver's licence	£5.20
Provisional driver's licence	£15.00
Provisional driver's licence (renewal)	£15.00
Replacement driver's licence to — (i) replace a licence that has been lost, stolen, destroyed, defaced or damaged; (ii) replace a licence that is obsolete or out of date licence; (iii) update a licence by adding a class of motor vehicle, per class of motor vehicle added; (iv) update a licence by removing a particular, per particular removed; (iv) replace a licence that contains an error attributable to the fault of the holder of the licence; (v) replace a licence that was withdrawn on medical grounds; (vi) replace a licence that was withdrawn because of a period of disqualification.	£12.10

7. Amendment of Schedule

- (1) This regulation amends the Schedule.
- (2) Omit the heading to the Schedule and replace it with —

**“SCHEDULE 3
FORMS”.**

- (3) In Form B in the Schedule, omit “vehs” and replace it with “motor vehicles”.
- (4) In Form C —
 - (a) omit from paragraph 1 “categories” and replace it with “classes”;
 - (b) in the Table in paragraph 1 in the Guidance Notes, omit “VEHICLE CATEGORIES” and replace it with “CLASSES OF VEHICLE”;
 - (c) in the Table in paragraph 1 in the Guidance Notes, omit “Category” and replace it with “Class”;
 - (d) in the Table in paragraph 1 in the Guidance Notes, in the column headed “Definition” in the row for class A motor vehicles, omit “Motor bicycle or scooter” and replace it with “Motorcycle or scooter”;
 - (e) in the Table in paragraph 1 in the Guidance Notes, in the column headed “Definition” in the row for class B motor vehicles, omit “Motor car” and replace it with “Manual motor car”;
 - (f) in the Table in paragraph 1 in the Guidance Notes, in the column headed “Definition”, omit “ulw” (in each place it occurs) and replace it with “ULW”;
 - (g) in the Table in paragraph 1 in the Guidance Notes, insert after the row for Class B motor vehicles the following —

<i>(Class)</i>	<i>(Definition)</i>
“BA	automatic motor car or light goods vehicle not exceeding 3,500 kg ULW”;

- (h) in the Table in paragraph 2 in the Guidance Notes, in the column headed “Definition” in the rows for classes 1, 2 and 3 drivers’ licences, omit “categories” and replace it with “classes”;
- (i) in the Table in paragraph 2 in the Guidance Notes, in the column headed “Definition” in the row for class 1 drivers’ licences, omit “B, B1” and replace it with “B, BA, B1”;
- (j) in the Table in paragraph 2 in the Guidance Notes, omit the rows dealing with classes 4, 5 and 6 drivers’ licences and replace them with —

<i>(Class)</i>	<i>(Definition)</i>
“4	Driver’s licence (issued on passing of written and practical tests of competency)
5	Driver’s licence (issued to holder of valid driver’s or driving licence issued by an overseas authority)
6	Replacement driver’s licence (issued under regulation 5A(1) to replace a driver’s licence that has been lost, stolen, destroyed, damaged or defaced, is obsolete or out-of-date, contains an error, needs to be updated or was withdrawn on medical grounds or because of a period of disqualification)”;

(k) in the part of Form C headed “Type of Licence Required”, omit the items relating to Classes 1 to 6 and replace them with —

“I require a provisional licence for:

- *Class A (motorcycle or scooter)
- *Class B (manual motor car or light goods vehicle not exceeding 3,500 kg ULW)
- *Class BA (automatic motor car or light goods vehicle not exceeding 3,500 kg ULW)
- *Class B1 (motor tricycle, invalid carriage or other vehicle not exceeding 500 kg ULW)
- *Class F (agricultural tractor)

(NOTE: no previous driver’s licence is required)

I enclose the fee of £15.00.

(* *Cross out if not applicable*)

I require a provisional licence for:

- *Class C (goods vehicle exceeding 7,500 kg ULW)
- *Class C1 (goods vehicle exceeding 3,500 kg ULW but not exceeding 7,500 kg ULW)
- *Class D (passenger carrying vehicle with seating for more than 16 passengers [not including the driver])
- *Class D1 passenger carrying vehicle with seating for more than 8, but not more than 16 passengers [not including the driver])
- *Class E (articulated vehicle where the tractor unit is in Class C or C1)

(NOTE: the applicant must already hold a full class B driver’s licence)

I enclose the fee of £15.00.

(* *Cross out if not applicable*)

I require a driver's licence.

*I am at least 17 years of age and applying for a driver's licence to drive a *class A, *class B, *class BA, *class B1 motor vehicle.

*I am at least 16 years of age and am applying for a driver's licence to drive a class A motor vehicle.

I have passed the written and practical tests of competency and enclose the test pass certificates.

I enclose the fee of £30.90.

(* *Cross out if not applicable*)

I require a driver's licence.

*I am at least 17 years of age.

*I am at least 16 years of age and am applying for a licence to drive a class A motor vehicle.

I am the holder of a valid driver's or driving licence issued by an overseas authority.

I enclose the driver's or driving licence issued by the overseas authority.

I enclose proof from the overseas authority of the following —

- (i) that the authority issued my licence and the date it was issued;
- (ii) that the licence is a valid licence under the law it was issued;
- (iii) that I have not been disqualified from driving a motor vehicle of the class specified on the licence under the law under which it was issued;
- (iv) the endorsements and particulars specified on the licence;
- (v) any fines and other penalties relating to driving a motor vehicle that have been imposed on me as the holder of the licence.

I enclose the fee of £30.90.

(* *Cross out if not applicable*)

I require a replacement licence.

*I am replacing my driver's licence that has been *lost, *stolen, *destroyed, *defaced or *damaged.

*I enclose my defaced or damaged driver's licence.

*I am replacing my driver's licence, because it is obsolete or out-of-date.

*I am replacing my driver's licence because it contains an error.

I enclose the licence I am replacing.

*I am updating my driver's licence to add a class of motor vehicle.

*I have passed the written and practical tests of competency for the class of motor vehicle and enclose the test pass certificates.

*I enclose proof of competency to drive a class G motor vehicle.

I enclose the driver's licence I am updating.

*I am updating my driver's licence to remove a particular.

I enclose the driver's licence I am updating.

*I am replacing my driver's licence that was withdrawn.

My previous driver's licence was withdrawn because

.....
(give reason, for example withdrawn for medical reasons or a period of disqualification)

*I attach the medical certificate.

I enclose the fee of £12.10.

(* *Cross out if not applicable*)

I require a supplementary photocard driver's licence

I enclose the fee of £5.20."

(5) In Form D1 —

(a) in the Table in the column headed "Description", in the row for class A motor vehicles, omit "Motor bicycle or scooter" and replace it with "Motorcycle or scooter";

(b) in the Table in the column headed "Description", in the row for class B motor vehicles, omit "Motor" and replace it with "Manual motor";

(c) in the Table in the column headed "Description", in the rows for class B, B1 and C motor vehicles, insert at the end "ULW";

(d) insert in the Table after the row for class B motor vehicles —

<i>(Class)</i>	<i>(Description)</i>
"BA	Automatic motor car or light goods vehicle not exceeding 3500 kg ULW";

(e) in the Table in the column headed "Description", in the row for class C1 motor vehicles, omit "3500kg but not exceeding 7500kg" and replace it with "3,500 kg ULW but not exceeding 7,500 kg ULW";

(f) in the Table in the column headed “Description”, in the row for the class D motor vehicles, insert “(not including the driver)” after “16 passengers”; and

(g) in the Table in the column headed “Description” in the row for the class D1 motor vehicles, omit “less than 17 passengers” and replacing it with “not more than 16 passengers (not including the driver)”.

(6) Omit Forms D2 and D3.

(7) In Forms E1, E2 and E3, omit “Officer in Charge of Police” and replace it with “chief police officer”.

8. Further amendment of regulations

The provisions of the Road Traffic (Provisional) Regulations Order 1986 listed in Column 1 of the Table in the Schedule to these Regulations are amended to the extent shown in Column 2 of the Table.

Made 11 June 2019

R. A. J. Mitham,
Acting Governor.

SCHEDULE FURTHER AMENDMENT OF REGULATIONS AND EXTENT OF AMENDMENT

regulation 8

TABLE

Provision	Amendment
2(1)	Omit “in the Schedule hereto” and replace it with “in Schedule 3”
4(1)	Omit “in the Schedule” and replace it with “in Schedule 3”
5(3A)	Omit “Chief Police Officer” (in each place it occurs) and replace it with “chief police officer”
5A(3) and (4)	Omit “Officer in Charge of Police” and replace it with “chief police officer”
16(1)	Omit “in the Schedule” (in each place it occurs) and replace it with “in Schedule 3”.

EXPLANATORY NOTE
(not forming part of these regulations)

Section 59(1) of the Road Traffic Ordinance 1948 empowers the Governor to make regulations by order providing for the licensing of drivers of motor vehicles, the classes of motor vehicles for which persons may be licensed to drive, and forms and fees payable for a licence or on making an application under the Ordinance or Regulations.

These Regulations amend the Road Traffic (Provisional) Regulations Order 1986 by —

- (a) increasing the fees payable on applying for a test of competency; and
- (b) correcting provisions providing for classes of motor vehicle for which a person may be licensed to drive, classes of driver's licence and the forms and fees payable under the Regulations.

Regulation 1 specifies the Title of the Regulations.

Regulation 2 specifies the commencement of the Regulations.

Regulation 3 provides for the amendment of the Road Traffic (Provisional) Regulations Order 1986.

Regulation 4 amends regulation 5 by —

- (i) specifying in new Schedule 1 classes of motor vehicle for which there are tests of competency;
- (ii) specifying in new Schedule 1 the fees payable for the tests of competency to drive motor vehicles of the various classes;
- (iii) specifying in new Schedule 2 the classes of driver's licence;
- (iv) specifying in new Schedule 2 the fees payable for the issue of the classes of driver's licence;
- (v) updating the content of regulation 5 by specifying the correct minimum age for applying for a driver's licence, revoking subregulation (7), omitting references to an obsolete class of driver's licence and obsolete forms and updating the provisions for provisional licences.

Regulation 5 amends regulation 5A to clarify when a replacement licence may be issued and when a fee is payable for a replacement licence.

Regulation 6 inserts the following new Schedules:

(i) new Schedule 1 to specify the classes of motor vehicles and the fees for administering tests of competency for each class;

(ii) new Schedule 2 to specify the classes of driver's licence and the fees payable for the issue of each class.

Regulation 7 amends the existing Schedule to the Regulations by —

(i) changing its heading so that it is Schedule 3;

(ii) amending Form C in the Schedule to update the references on the Form to the classes of motor vehicle, classes of licence, fees payable for the classes and information that must be provided with the Form;

(iii) amending Form D1 to correctly refer to classes of motor vehicle;

(iv) omitting obsolete Forms D2 and D3;

(v) correcting typographical errors in Forms B, E1, E2 and E3.

Regulation 8 provides for amendments to refer to the Schedule as Schedule 3 and to insert the expression chief police officer as it is the expression defined in section 2 of the Road Traffic Ordinance 1948.

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Supplementary Appropriation (2018-2019) (No. 4) Ordinance 2019

(No: 8 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation
4. Replacement of amount withdrawn by authority of Contingencies Warrant

Schedule

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

SUPPLEMENTARY APPROPRIATION (2018-2019) (NO. 4) ORDINANCE 2019

(No: 8 of 2019)

(assented to: 11 June 2019)
(commencement: on publication)
(published: 18 June 2019)

AN ORDINANCE

To authorise the appropriation from the Consolidated Fund of the additional amount of £1,000,000 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. 4) Ordinance 2019.

2. Commencement

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

3. Appropriation

(1) The additional amount of £1,000,000 is appropriated from the Consolidated Fund for the financial year ending 30 June 2019.

(2) The issue of the additional amount from the Consolidated Fund in the amounts necessary to replace an amount in accordance with section 4 and to supply the vote set out in the Schedule is authorised.

4. Replacement of amount withdrawn by authority of Contingencies Warrant

If an amount has been withdrawn from the Contingencies Fund by the authority of Contingencies Warrant No. 9 of 2018-2019, the amount withdrawn must be replaced from the amount appropriated under section 3.

SCHEDULE

section 3

Number	Head of Service of Government	Amount £
	Operating Budget	
0200	Health & Social Services	1,000,000
	Total Operating Budget	1,000,000
	Total Schedule	1,000,000

Passed by the Legislature of the Falkland Islands on 4 June 2019.

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.

Appropriation Ordinance 2019

(No: 9 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation

Schedule

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

APPROPRIATION ORDINANCE 2019

(No: 9 of 2019)

(assented to: 11 June 2019)
(commencement: on publication)
(published: 18 June 2019)

AN ORDINANCE

To authorise the appropriation from the Consolidated Fund of £93,224,070 for the financial year ending 30 June 2020.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Appropriation Ordinance 2019.

2. Commencement

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

3. Appropriation

(1) The amount of £93,224,070 is appropriated from the Consolidated Fund for the financial year ending 30 June 2020.

(2) The issue of the amount from the Consolidated Fund in the amounts necessary to supply the votes set out in the Schedule is authorised.

SCHEDULE

Number	Head of Service of Government	Amount £
Operating Budget		
0110	Development & Commercial Services	6,396,654
0120	Human Resources	1,014,659
0200	Health & Social Services	11,822,408
0250	Education & Training	8,136,563
0350	Public Works	13,329,933
0410	Natural Resources	7,514,647
0451	Law & Regulation	1,643,568
0550	Emergency Services	3,640,729
0600	Executive Management	6,335,085
0615	Policy	1,156,430
0620	Mineral Resources	711,286
0700	Treasury	3,407,114
0997	Oil Development	857,030
0999	Islands Plan Investments	7,681,694
	Total Operating Budget	73,647,800
0998	Fund Transfer and Transfer Payments	2,746,488
0999	Transfer to the Capital Equalisation Fund	16,829,782
	Total Transfers	19,576,270
	Total Schedule	93,224,070

Passed by the Legislature of the Falkland Islands on 4 June 2019.

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.

Capital Appropriation Ordinance 2019

(No: 10 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation

Schedule

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

CAPITAL APPROPRIATION ORDINANCE 2019

(No: 10 of 2019)

(assented to: 11 June 2019)
(commencement: on publication)
(published: 18 June 2019)

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 2019.

2. Commencement

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

3. Appropriation

(1) The Financial Secretary is authorised to withdraw from the Capital Equalisation Fund an amount not exceeding £21,137,468 for the purposes of funding expenditure of a capital nature under the capital programme as detailed in the Schedule.

(2) The authorisation given in subsection (1) —

- (a) is in addition to previous authorisations by Order or Ordinance in accordance with section 11 of the Public Funds Ordinance 1990; and

- (b) applies whether or not sums previously authorised have been paid out of the Capital Equalisation Fund.

SCHEDULE

Capital Programme

Category of capital expenditure under the capital programme	Financial Year	Financial Year	Total
	2018/19	2019/20	
	£	£	£
Economic Development		£1,000,000	£1,000,000
Infrastructure and Maintenance	£4,847,590	£9,944,368	£14,791,958
Social Investment	£1,020,000	£4,325,510	£5,345,510
	<hr/>	<hr/>	<hr/>
	£5,867,590	£15,269,878	£21,137,468

Passed by the Legislature of the Falkland Islands on 4 June 2019.

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.

Finance Ordinance 2019

(No: 11 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Administration of Estates Rules 1949
4. Amendment of Air Navigation (Fees) Regulations 2009
5. Amendment of Banking Regulations Order 1989
6. Amendment of Civil Cases (Fees) Rules 1992
7. Amendment of Companies and Private Partnership Ordinance 1922 and other Companies legislation
8. Amendment of Court Fees (Family Proceedings) Rules 1992
9. Amendment of Cruise Ships Ordinance 1998
10. Amendment of Customs (Fees) Regulations 2006
11. Amendment of Customs (Import Prohibitions)(Fees) Regulations 2009
12. Amendment of Dogs Rules 1949
13. Amendment of Electricity Supply Regulations 1969
14. Amendment of Embarkation Tax Regulations 1999
15. Amendment of Family Allowances Ordinance 1960
16. Amendment of Firearms and Ammunition Ordinance 1987
17. Amendment of Firearms and Ammunition (Fees) Regulations Order 1993
18. Amendment of Fishery Products (Hygiene)(Fees) Regulations 1998
19. Amendment of Harbours Regulations 1944

20. Amendment of Land Charges Fees Rules 1997
21. Amendment of Land (Non-residents)(Fees) Regulations 2007
22. Amendment of Land Ordinance 1949
23. Amendment of Licensing Ordinance 1994
24. Amendment of Minimum Wage Ordinance 2013
25. Amendment of Notaries Public Rules 1992
26. Amendment of Planning (General) Regulations 1991
27. Amendment of Plant Importation Regulations 1947
28. Amendment of Police Ordinance 2000
29. Amendment of Post Office Order 2006
30. Amendment of Registration of Marriages Regulations 1999
31. Amendment of Registration Regulations 1949
32. Amendment of Registration of United Kingdom Patents Ordinance 1930
33. Amendment of Retirement Pensions (Prescribed Rates) Regulations 1996
34. Amendment of Road Traffic Ordinance 1948
35. Amendment of Road Traffic (Provisional) Regulations Order 1986
36. Amendment of Stanley Airport Regulations 1978
37. Amendment of Trespass Ordinance 1904
38. Amendment of Vehicle Licence Labels Regulations 1998

Schedule 1: New Schedule 2 to the Administration of Estates Rules 1949

Schedule 2: New Schedule to Air Navigation (Fees) Regulations 2009

Schedule 3: New Schedules 1 and 2 to the Civil Cases (Fees) Rules 1992

Schedule 4: New Schedule A to Companies and Private Partnership Ordinance 1922

Schedule 5: New Schedule to Court Fees (Family Proceedings) Rules 1992

Schedule 6: New Schedule to Fishery Products (Hygiene)(Fees) Regulations 1998

Schedule 7: New paragraph 1 of Schedule 3 to Harbours Regulations 1944

Schedule 8: New Schedule 1 to Land Charges Fees Rules 1997

Schedule 9: New Schedule 2 to Land Ordinance 1949

Schedule 10: New Schedule 3 to Licensing Ordinance 1994

Schedule 11: New Schedule to Notaries Public Rules 1992

Schedule 12: New Schedule to Planning (General) Regulations 1991

Schedule 13: New Schedules 1, 2 and 3 to the Post Office Order 2006

Schedule 14: New Schedule 2 to Registration Regulations 1949

Schedule 15: New article 1 of Schedule 2 to Stanley Airport Regulations 1978

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

FINANCE ORDINANCE 2019

(No: 11 of 2019)

(assented to: 11 June 2019)
(commencement: in accordance with section 2)
(published: 18 June 2019)

AN ORDINANCE

To increase various allowances, benefits, charges, contributions and fees provided for under the laws of the Falkland Islands; to provide for the validation of fees collected contrary to legislative provisions and to provide for connected matters.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Finance Ordinance 2019.

2. Commencement

This Ordinance comes into force on 1 July 2019, except where it is provided that particular provisions come into force at a later specified date.

3. Amendment of Administration of Estates Rules 1949

Schedule 2 to the Administration of Estates Rules 1949 is omitted and replaced with the new Schedule 2 set out in Schedule 1 to this Ordinance.

4. Amendment of Air Navigation (Fees) Regulations 2009

The Schedule to the Air Navigation (Fees) Regulations 2009 is omitted and replaced with the new Schedule set out in Schedule 2 to this Ordinance.

5. Amendment of Banking Regulations Order 1989

(1) Regulation 4 of the Banking Regulations Order 1989 is amended by omitting “£10,000.00” and replacing it with “£11,000.00”.

(2) This section comes into effect on 1 January 2020.

6. Amendment of Civil Cases (Fees) Rules 1992

Schedules 1 and 2 to the Civil Cases (Fees) Rules 1992 are omitted and replaced with the new Schedules 1 and 2 set out in Schedule 3 to this Ordinance.

7. Amendment of Companies and Private Partnership Ordinance 1922 and other Companies legislation

(1) The Companies and Private Partnership Ordinance 1922 is amended —

(a) by omitting section 5(4); and

(b) by omitting Schedule A and replacing it with the new Schedule A set out in Schedule 4 to this Ordinance.

(2) Section 242A(2) of the Companies Act 1985 (as in force in England on 1 September 2006) is amended in its application to the Falkland Islands by omitting the table and replacing it with—

“Length of period	Public company	Private company
Not more than 3 months	£523	£108
More than 3 months but not more than 6 months	£1,077.00	£272
More than 6 months but not more than 12 months	£2,150	£539
More than 12 months	£5,390	£1,077”.

8. Amendment of Court Fees (Family Proceedings) Rules 1992

The Schedule to the Court Fees (Family Proceedings) Rules 1992 is omitted and replaced with the new Schedule set out in Schedule 5 to this Ordinance.

9. Amendment of Cruise Ships Ordinance 1998

(1) The Cruise Ships Ordinance 1988 is amended —

(a) in section 3(1) by omitting “£25.00” and replacing it with “£26.00” and

(b) in section 6 in paragraph (a) by omitting “of £10.00”.

(2) This section comes into effect on 1 July 2020.

10. Amendment of Customs (Fees) Regulations 2006

The Customs (Fees) Regulations 2006 are amended —

(a) in regulation 3 —

(i) in paragraphs (a)(i) and (d)(i), by omitting “£82.60” and replacing it with “£85.00”;

(ii) in paragraph (a)(ii) by omitting “£41.30” and replacing it with “£42.50”;

(iii) in paragraphs (b)(ii), (c)(i) and (d)(ii) by omitting “£123.90” and replacing it with “£127.50”; and

(iv) in paragraph (c)(ii) by omitting “£61.95” and replacing it with “£63.75”;

(b) in regulation 4 —

(i) in paragraphs (a) and (c) by omitting “£54.40” and replacing it with “£56.00”;

(ii) in paragraphs (b) and (d) by omitting “£269.80” and replacing it with “£277.90”;

(iii) in subregulation (3)(a) by omitting “£27.20” and “£54.40” and replacing them with “£28.00” and “£56.00” respectively; and

(iv) in subregulation (3)(b) by omitting “£134.90” and “£269.80” and replacing them with “£138.95” and “£277.90” respectively.

11. Amendment of Customs (Import Prohibitions)(Fees) Regulations 2009

Regulation 3 of the Customs (Import Prohibitions)(Fees) Regulations 2009 is amended by omitting —

(a) paragraph (a) and replacing it with —

“(a) Importation of Animals etc. Proclamation 2000 (No. 2 of 2000) —

(i) licence for importation of animal – standard (per licence)	£132.80
(ii) licence for importation of animal – poultry/exotic pet (per licence)	£33.80
(iii) licence for importation of animal – poultry/exotic pet (annual)	£67.50
(iv) inspection and treatment on arrival (per animal)	£11.40 plus the cost of necessary drug treatment
(v) clearance from port of arrival – (per importer)	£119.50

(vi) inspection following house quarantine (per animal) £11.40”;

(b) paragraph (b) and replacing it with —

“(b) Importation of Food and Animal Products from South America Proclamation 2001 (No 3 of 2001) —

(i) licence for the importation of animal/animal product (commercial – single importation) £16.50

(ii) licence for the importation of animal/animal product (commercial – annual) £132.80

(iii) licence for the importation of animal/animal product (non-commercial) £4.10”;

(c) paragraph (c) and replacing it with —

“(c) Proclamation Number 6 of 1985 —

Inspection of used shearing equipment by the Government Veterinary Officer per hour (proportion of hourly rate to be paid for every part hour) £41.10”.

12. Amendment of Dogs Rules 1949

Rule 3(a) of the Dogs Rules 1949 is amended by omitting “£32.20” and replacing it with “£33.20”.

13. Amendment of Electricity Supply Regulations 1969

(1) Regulation 9A of the Electricity Supply Regulations 1969 is amended by omitting “£50.00” and replacing it with “£309.00”.

(2) Any fees collected before the commencement of this Ordinance not provided for under the Electricity Supply Regulations 1969 are hereby validated as if the amount had been provided for in section 9A of the regulations.

14. Amendment of Embarkation Tax Regulations 1999

(1) Regulation 3(1)(a) of the Embarkation Tax Regulations 1999 is amended by omitting “£25” and replacing it with “£26”.

(2) This section comes into effect on 1 July 2020.

15. Amendment of Family Allowances Ordinance 1960

Section 3(1) of the Family Allowances Ordinance 1960 is amended by omitting “£75.00” and replacing it with “£77.00”.

16. Amendment of Firearms and Ammunition Ordinance 1987

(1) Section 4A(3) of the Firearms and Ammunition Ordinance 1987 is amended by omitting “£7.25” and replacing it with “£7.60”.

(2) Any fees collected before the commencement of this Ordinance for a replacement licence are hereby validated as if the fees had been provided for in section 4A(3) of the Firearms and Ammunition Ordinance 1987.

17. Amendment of Firearms and Ammunition (Fees) Regulations Order 1993

(1) The Firearms and Ammunition (Fees) Regulations Order 1993 is amended —

(a) in regulation 2, by omitting “£19.00” and replacing it with “£19.60”;

(b) by omitting the Schedule and replacing it with —

“SCHEDULE

<i>Type of licence</i>	<i>Fee</i>
Firearms and ammunition import licence (Ordinance, s5)	£19.60
Firearms and ammunition export licence (Ordinance, s6)	£19.60
Firearms and ammunition dealer's licence (Ordinance, s9)	£71.10 per annum
Firearms and ammunition dealer's licence (endorsed ammunition only) (Ordinance, s9)	£19.60 per annum
Firearms licence (Ordinance, s13)	£39.10”.

(2) Any fees collected before the commencement of this Ordinance for the issue of firearms and ammunition import licences or firearms and ammunition export licences are hereby validated as if the fees had been prescribed under the Firearms and Ammunition (Fees) Regulations Order 1993.

18. Amendment of Fishery Products (Hygiene)(Fees) Regulations 1998

(1) The Fishery Products (Hygiene)(Fees) Regulations are amended —

(a) by omitting regulation 2(2);

(b) by omitting the Schedule and replacing it with the new Schedule set out in Schedule 6 to this Ordinance.

(2) Any fees collected before the commencement of this Ordinance not provided for under the Fishery Products (Hygiene)(Fees) Regulations 1998 are hereby validated as if the fees had been prescribed under those regulations.

19. Amendment of Harbours Regulations 1944

Schedule 3 to the Harbours Regulations 1944 is amended by omitting paragraph 1 and replacing it with the new paragraph 1 set out in Schedule 7 to this Ordinance.

20. Amendment of Land Charges Fees Rules 1997

Schedule 1 to the Land Charges Fees Rules 1997 is omitted and replaced with the new Schedule 1 set out in Schedule 8 to this Ordinance.

21. Amendment of Land (Non-residents)(Fees) Regulations 2007

The Schedule to the Land (Non-residents)(Fees) Regulations 2007 is amended by omitting —

- (a) “£120.00” and replacing it with “£124.00”; and
- (b) “£250.00” and replacing it with “£258.00”.

22. Amendment of Land Ordinance 1949

Schedule 2 to the Land Ordinance 1949 is omitted and replaced with the new Schedule 2 set out in Schedule 9 to this Ordinance.

23. Amendment of Licensing Ordinance 1994

Schedule 3 to the Licensing Ordinance 1994 is omitted and replaced with the new Schedule 3 set out in Schedule 10 to this Ordinance.

24. Amendment of Minimum Wage Ordinance 2013

(1) Section 11(1) of the Minimum Wage Ordinance 2013 is amended by omitting “£6.67” and replacing it with “£7.03”.

(2) This section comes into effect on 1 January 2020.

25. Amendment of Notaries Public Rules 1992

The Schedule to the Notaries Public Rules 1992 is omitted and replaced with the new Schedule set out in Schedule 11 to this Ordinance.

26. Amendment of Planning (General) Regulations 1991

The Schedule to the Planning (General) Regulations 1991 is revoked and replaced with the new Schedule set out in Schedule 12 to this Ordinance.

27. Amendment of Plant Importation Regulations 1947

Regulation 7(3) of the Plant Importation Regulations 1947 is amended —

- (a) in paragraph (a) by omitting “£4.10” and replacing it with “£4.20”;
- (b) in paragraph (b) by omitting “£128.90” and replacing it with “£132.80”; and
- (c) in paragraph (c) by omitting “£15.60” and replacing it with “£16.10”.

28. Amendment of Police Ordinance 2000

(1) Section 60A of the Police Ordinance 2000 is amended by omitting “£25.00” and replacing it with “£30.10”

(2) Any amount collected before the commencement of this Ordinance for the service under section 60A of the Police Ordinance 2000 without being provided for under that section is hereby validated as if the amount had been provided for under that section.

29. Amendment of Post Office Order 2006

Schedules 1, 2 and 3 to the Post Office Order 2006 are omitted and replaced with the new Schedules 1, 2 and 3 set out in Schedule 13 to this Ordinance.

30. Amendment of Registration of Marriages Regulations 1999

(1) Regulation 18 of the Registration of Marriages Regulations 1999 is amended by deleting subregulation (1) and replacing it with —

“(1) The following fees are prescribed for the purposes of the Ordinance and of these regulations and must respectively, in each case specified below, be paid to the Registrar General —

(a) on giving notice of marriage	£62.00
(b) on grant of Registrar General’s licence	£62.00
(c) for solemnisation of a marriage by a Registrar	£31.00
(d) for attendance by the Registrar at the solemnisation of a marriage by a person who is not a minister of religion	£31.00
(e) any absence exceeding one hour by a Registrar from the Registrar’s usual address for either of the purposes mentioned at (c) and (d)	£104.50 plus the reasonable cost of travel and any necessary overnight accommodation
(f) on application for a special licence	£209.00.”

(2) Any fees collected before the commencement of this Ordinance without being provided for under regulation 18 of the Registration of Marriages Regulations are hereby validated as if the amount had been provided for under that regulation.

31. Amendment of Registration Regulations 1949

Schedule 2 to the Registration Regulations 1949 is omitted and replaced with the new Schedule 2 set out in Schedule 14 to this Ordinance.

32. Amendment of Registration of United Kingdom Patents Ordinance 1930

(1) The Registration of United Kingdom Patents Ordinance 1930 is amended —

- (a) in section 3(d), by omitting “£132.00” and replacing it with “£135.00”;
- (b) in section 7, by omitting “£101.50” and replacing it with “£104.50”;
- (c) in section 7A, by omitting “£61.00” and replacing it with “£63.00”;
- (d) in section 7B, by omitting “£101.50” and replacing it with “£104.50” and
- (e) by inserting a new section 7C after section 7B —

“7C. Patent file search

A fee of £41.80 must be paid by a person who wishes to conduct a patent file search and a proportion of hourly rate to be paid for every part of an hour.”

(2) Any fees collected before the commencement of this Ordinance without being provided under the Registration of United Kingdom Patents Ordinance 1930 are hereby validated as if the amount had been provided for under that Ordinance.

33. Amendment of Retirement Pensions (Prescribed Rates) Regulations 1996

(1) The Retirement Pensions (Prescribed Rate) Regulations 1996 are amended —

- (a) in regulation 3 with effect from 1 July 2019 —
 - (i) in paragraph (a) by omitting “£156.00” and replacing it with “£161.00”;
 - (ii) in paragraph (b) by omitting “£88.43” and replacing it with “£91.08”;
- (b) in regulation 5 —
 - (i) in subregulation (1)(a) by omitting “£16.75” and replacing it with “£17.75”
 - (ii) in subregulation (1)(b) by omitting “£33.50” and replacing it with “£35.50”;
 - (iii) in subregulation (1)(c) by omitting “£16.75” and replacing it with “£17.75”;
 - (iv) in subregulation (2) by omitting “£16.75” and replacing it with “£17.75”;
 - (v) in subregulation (2A) by omitting “£16.75” and replacing it with “£17.75”;
 - (vi) in subregulation (3)(a) by omitting “£33.50” and replacing it with “£35.50”;
 - (vii) in subregulation (4) by omitting “£33.50” and replacing it with “£35.50”;
- (c) in regulation 6 by omitting “£266.80” and replacing it with “£281.20”;

(2) The amendments under subsections (1)(b) and (c) come into force on 1 January 2020.

34. Amendment of Road Traffic Ordinance 1948

The Road Traffic Ordinance 1948 is amended —

(a) in section 4(1) —

- (i) in paragraph (a) by omitting “£52.25” and replacing it with “£53.90”;
- (ii) in paragraph (b) by omitting “£120.50” and replacing it with “£124.20”;
- (iii) in paragraph (c) by omitting “£185.50” and replacing it with “£191.10”; and
- (iv) in paragraph (d) by omitting “£44.00” and replacing it with “£45.30”; and

(b) in section 6(15) by omitting “£11.75” and substituting “£12.10”.

35. Amendment of Road Traffic (Provisional) Regulations Order 1986

(1) The Road Traffic (Provisional) Regulations Order 1986 is amended —

(a) by omitting subregulation 2(5), and replacing it with —

“(5) A fee shall be paid to the chief police officer on an application —

- (i) under sub-regulation (1), of £45.70; and
- (ii) under sub-regulation (3), of £22.70.” and

(b) by inserting a new section 2A after section 2 —

“2A. Replacement of vehicle registration certificate

(1) If a person who held a vehicle registration certificate satisfies the chief police officer that—

- (a) the registration certificate has been lost or defaced; and
- (b) the person is entitled to continue to hold the registration certificate,

the chief police officer may issue a replacement certificate.

(2) A fee of £12.10 is payable for the issue of a certificate under paragraph (1).

(3) A vehicle registration certificate which has been defaced must be returned to the chief police officer at the time that an application is made for a replacement certificate.

(4) A person who has been issued with a replacement for a certificate which has been lost must take all reasonable steps to return the original registration certificate to the chief police officer if the original certificate is found.”

(2) Any fees collected before the commencement of this Ordinance not provided under the Road Traffic (Provisional) Regulations Order 1986 are hereby validated as if the fees had been provided for under those regulations.

36. Amendment of Stanley Airport Regulations 1978

Article 1 of Schedule 2 to the Stanley Airport Regulations 1978 is omitted and replaced with the new Article 1 of Schedule 2 set out in Schedule 15 to this Ordinance.

37. Amendment of Trespass Ordinance 1904

(1) Section 5 of the Trespass Ordinance 1904 is amended —

(a) by omitting “25p” and replacing it with “£36.00”; and

(b) by omitting “13p” and replacing it with “£18.00”.

(2) The Schedule is omitted and replaced with —

**“SCHEDULE
Fees**

Winter grazing is limited to the number of animals that can be maintained on the grass available.	
Grazing seasons	Fees (per animal)
Summer: 1 October to 31 May	£24.60
Winter: 1 June to 30 September	£12.30
Annual Fee: (1 June – 31 May)	£36.90
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.”	

38. Amendment of Vehicle Licence Labels Regulations 1998

Regulation 5(2) of the Vehicle Licence Labels Regulations 1998 is amended by omitting “£6.60” and replacing it with “£6.80”.

SCHEDULE 1

New Schedule 2 to Administration of Estates Rules 1949

section 3

“SCHEDULE 2

(section 3)

The following fees are payable in respect of the non-contentious items:

Item	Fee
1. On application for a grant of probate, letters of administration or for resealing a grant of probate or letters of administration:	
(a) net estate is £5,000 or less	no fee
(b) net estate exceeds £5,000	£155.00
2. For the entry or withdrawal of a caveat	£21.00
3. For a search for any document	£10.00
4. For a copy of all or part of any document	28p per page
5. Standard copy fee for sealed /verified copy of any documents:	
For the first copy	£10.00
For every subsequent copy of the same document if supplied at the same time	28p
6. For perusing and settling citations, advertisements, oaths, affidavits or other documents:	
(a) For any one document settled	£21.00
(b) For any number of additional documents in the same case at the same time	£21.00”.

SCHEDULE 2

section 4

New Schedule to Air Navigation (Fees) Regulations 2009

“SCHEDULE

PART 1 *Personnel Licensing*

Description	Fee
1. Certificate of validity of a flight crew licence	
(a) issue	£91.00
(b) renewal	£52.00
2. Flight information service office licence	
(a) initial issue	£108.00
(b) validation of a UK licence	£91.00
(c) examinations	
(i) radiotelephony examination	£57.00
(ii) air law and procedures examination	£67.00
(iii) meteorology and navigation examination	£67.00
(iv) resit of examination paper (paper only)	£36.00
(d) competency check	£52.00

PART 2 *Aerodromes*

Description	Fee
1. Aerodrome certificate	
(a) issue	£1164.50
(b) amendment	£777.00

PART 3
Carriage of Dangerous Goods by Air

Description	Fee
1. Dangerous goods approval	
(a) issue	£190.00
(b) amendment	£95.00
(c) validation of an approval issued by a recognised competent regulatory authority	£91.00
(d) approval of training programme	£95.00
2. Dangerous goods exemption	
(a) issue	£208.50
(b) amendment	£95.00

PART 4
Registration of Aircraft

Description	Fee
1. Certificate of registration on an aircraft	£311.00
2. Reservation of registration mark	£77.00
3. Reservation of a specific out-of-sequence registration mark	£154.50
4. Temporary transfer of an aircraft to the register	Half the cost of a certificate of registration
5. Title search of the register in respect of an aircraft	£116.00
6. Cancellation of a certificate of registration	£77.00
7. De-registration advice to foreign regulatory authority or removal of an aircraft from the register upon export	£77.00

PART 5
Aircraft Operations

Description	Fee
1. Air operator's certificate (AOC)	
(a) issue of AOC	
(i) aircraft not exceeding 2 tonnes	£2,050.00
(ii) aircraft exceeding 2 tonnes, but not exceeding 15 tonnes	£3,199.00

(iii)	aircraft exceeding 15 tonnes	£4,581.00
(b)	annual charge for an AOC (for each aircraft type named on the certificate)	
(i)	aircraft not exceeding 2 tonnes	£1010.00
(ii)	aircraft exceeding 2 tonnes but not exceeding 15 tonnes	£2,500.00
(iii)	aircraft exceeding 15 tonnes	£2,020.00
(c)	inclusion of additional aircraft types in the AOC	
(i)	aircraft not exceeding 2 tonnes	£1,204.00
(ii)	aircraft exceeding 2 tonnes but not exceeding 15 tonnes	£1,832.00
(iii)	aircraft exceeding 15 tonnes	£2,058.00
(d)	variation of an AOC	
(i)	variation in the operating region	£506.00
(ii)	permission to operate a specified route outside of the operating region specified in the certificate.	£350.00
(iii)	change in the company or trading name where the legal entity is unchanged	£91.00

2. Article 134 approval (Part 125 Aircraft)

(a)	issue of an article 134 approval	
(i)	aircraft not exceeding 2 tonnes	£1,204.00
(ii)	aircraft exceeding 2 tonnes but not exceeding 15 tonnes	£1,832.00
(iii)	aircraft exceeding 15 tonnes	£2,058.00
(b)	annual charge for article 134 approval (Part 125 aircraft)	
(i)	aircraft not exceeding 2 tonnes	£722.00
(ii)	aircraft exceeding 2 tonnes but not exceeding 15 tonnes	£1,100.00
(iii)	aircraft exceeding 15 tonnes	£1,234.00
(c)	inclusion of additional aircraft types for article 134 approval	
(i)	aircraft not exceeding 2 tonnes	£482.00
(ii)	aircraft exceeding 2 tonnes but not exceeding 15 tonnes	£733.00
(iii)	aircraft exceeding 15 tonnes	£818.00

3. Operations manual

(a)	approval of changes to minimum equipment list	£278.00
(b)	approval of minor change to minimum equipment list	£113.00
(c)	approval of changes to part D (Training)	£278.00
(d)	approval of minor changes to part D (Training)	£113.00
(e)	approval of changes to fatigue management scheme	£278.00
(f)	approval of minor changes to fatigue management scheme	£113.00
4.	Authorisation of flight examiners	£155.00

PART 6

Airworthiness

Description	Fee
1. Certificate of airworthiness	
(a) aircraft not exceeding 2,730kg	£190.00
(b) aircraft exceeding 2,730kg but not exceeding 5,700kg	£1010.00
(c) aircraft exceeding 5,700kg but not exceeding 30,000kg	£1010.00 plus £73.00 per 500kg (or part thereof) exceeding 5,700kg up to a maximum of £4,587.00
2. Certification notes (modifications approvals)	£192.00
3. Approval of a maintenance programme	
(a) initial issue	£737.00
(b) amendment	£294.00
4. Maintenance control manual approval	
(a) initial issue	£737.00
(b) amendment	£294.00
5. Part 145 approval	
(a) Option 1	
(i) initial	£737.00
(ii) renewal	£369.00

(b)	Option 2	
	(i) initial	£1,475.00
	(ii) renewal	£737.00
6. Part 39 approval		
(a)	Option 1	
	(i) initial	£737.00
	(ii) renewal	£369.00
(b)	Option 2	
	(i) initial	£1,475.00
	(ii) renewal	£737.00
7. Noise certificate		£150.00
8. Permits to fly		
(a)	permit to fly	£260.00
(b)	permit to fly for test	£280.00
9.	Type acceptance certificate	£386.00
10. OTAR supplement approval/acceptance		
(a)	initial	£460.00
(b)	amendment	£190.00
11. OTAR maintenance organisation exposition approval/acceptance		
(a)	initial	£737.00
(b)	amendment	£294.00

PART 7
Fees not specified elsewhere

Description	Fee
1. Issue of a copy of any document issued under the Air Navigation (Overseas Territories) Order 2013	£39.00
2. Charges for services performed outside of the Falkland Islands	Actual costs incurred
3. A certificate issued in respect of any part of the Air Navigation (Overseas Territories) Order 2013	

(a)	permission	£180.00 or £52.00 per 3- month period
(b)	permit	£180.00 or £52.00 per 3- month period
(c)	approval	£180.00 or £52.00 per 3- month period
(d)	authorisation	£180.00 or £52.00 per 3- month period
(e)	deviation	£180.00 or £52.00 per 3- month period
(f)	exemption	£208.50 or £62.00 per 3- month period
(g)	validation	£91.00 or £26.00 per 3- month period

4. Seasonal foreign operator permit for aircraft registered in a foreign country to take on board or discharge passengers or cargo in the Falkland Islands for valuable consideration

(a)	in the case of scheduled journeys to be provided over a period not exceeding six months	
(i)	for aircraft with twenty seats or less, or in the case of a cargo aircraft with a certificated maximum take-off weight not exceeding 5,700kg	£335.00
(ii)	for aircraft with more than twenty seats, or in the case of a cargo aircraft with a certificated maximum take-off weight greater than 5,700kg	£835.00

Note: Fees shall not be charged to aircraft operators

- (a) conducting flights in aircraft registered in the UK or any other Overseas Territories
- (b) conducting flights for the purpose of medical evacuation
- (c) conducting private flights
- (d) conducting one-off or short-notice flights that do not require the issuance of a Seasonal Permit".

SCHEDULE 3

section 6

New Schedules 1 and 2 to the Civil Cases (Fees) Rules 1992

“SCHEDULE 1 FEES PAYABLE IN SUPREME COURT

1. The following notes have effect in relation to the table of fees appearing below:

(a) "originating process" includes a writ commencing an action, originating summons, petition in bankruptcy, petition for winding up a company or other body corporate and an application for leave to apply for judicial review;

(b) for purposes of the table an application of any kind is made:

(i) when a document of any kind requesting the court to entertain that application is delivered to the court office, and not when the application is heard by the court; and

(ii) in relation to any other matter (such as, for example, a writ of execution or sale pursuant to such a writ) specified in part 2 of the table, the relevant fee is payable on the delivery to the court office of a document of any kind requesting the issue of the process and not when that process is issued.

TABLE

PART 1 COMMENCEMENT PROCEEDINGS

Fee number	Amount of fee
1. Issue of originating process	£309.00
2. Application for an injunction ancillary to any cause of action	£155.00
3.(a) On the making of a general application -	
(i) on notice	£155
(ii) by consent/ without notice	£52
(b) On filing a counter claim	The same fee as if the remedy sought were the subject of separate proceedings

**PART 2
ENFORCEMENT PROCEEDINGS**

4. Upon issuing enforcement action following an earlier judgment	£309.00
5. Sale under a writ of execution -	
(a) removing or taking steps to remove goods to a place of deposit	Reasonable expenses incurred as determined by the Court
(b) for the sale of goods, including all necessary catalogues, commissions and other matters	Reasonable expenses incurred as determined by the Court

**PART 3
MISCELLANEOUS**

6. Service by the court of any summons or other document-	
(a) if served by post	No fee
(b) request for personal service by the Court of any summons or other document	
(i) East Falkland	£72.00
(ii) West Falkland and other islands fee and plus reasonable travel and subsistence costs as determined by the Court	£72.00
7. On filing a notice of appeal from any Court or tribunal from which an appeal lies to the Supreme Court (<i>other than in relation to appeals of prohibition orders under the Licensing Ordinance or orders of the Workmen's Compensation Commission for which there is no fee</i>)	£155.00
8. Copy documents per A4 page	28p
9. On taxation of costs by the Registrar -	
(a) where the party is legally aided	Nil
(b) where the party is not legally aided	5p per £1.00 of profit costs and disbursements allowed
10. On issue of a costs certificate	£10.00
11. On appeal of taxation by the Registrar	£206.00

12. On deposing an affidavit or affirmation before an officer of the court	£7.50 plus £3.50 for each exhibit
13. Upon lodging an appeal for judicial review -	
(a) upon seeking first permission	£155.00
(b) upon granting of permission	£309.00
14. Upon requesting a certificate of satisfaction	£10.00
15. Upon the making of a Constitutional reference	£515.00

SCHEDULE 2

FEES PAYABLE IN THE MAGISTRATE'S COURT AND THE SUMMARY COURT

1. Except as provided in the table below the fees prescribed in Schedule 1 apply to the equivalent steps or items in civil proceedings in the Magistrate's Court or in the Summary Court.

2. For purposes of paragraph 1 the following table has effect:

TABLE

1. On the issuing of proceedings for the recovery of a sum of money or delivery of goods	£72.00
2. On the filing of a counterclaim, on the amount or value (if any)	£72.00
3. Upon issuing enforcement action following an earlier judgment	£72.00
4. Service by the court of any summons or other document -	
(a) if served by post	Nil
(b) request for personal service by the Court of any summons or other document	
(i) East Falkland	£72.00
(ii) West Falkland and other islands	£72.00 plus reasonable travel and subsistence costs as determined by the Court
5. On requesting a certificate of satisfaction	£10.00
6. Upon the lodging of an appeal with the Summary Court constituted as the Employment Tribunal	
(a) where the appellant's annual earnings in the last tax year are	Nil

less than £15,000.00

(b) where the appellant's annual earnings in the last tax year are more than £15,000.00 £165.00

7. Upon the lodging of an application with the Fisheries Disputes Commission £206.00".

SCHEDULE 4

section 7

New Schedule A to Companies and Private Partnership Ordinance 1922

“SCHEDULE A

(section 4)

Description	Fee (£)
1. Registration of a document by an overseas company	136.00
2. Registration of incorporation of a company	136.00
3. Registration of change of name of a company	63.00
4. Certificate of registration of a company (other than on incorporation)	63.00
5. Registration or cancellation of registration of mortgage, debenture or other charge	104.50
6. Company file search (proportion of hourly rate to be paid for every part hour)	41.80
7. Request for company documents (per company) (plus additional FIG photocopying fee)	10.50
8. Certified copy of any document held on a company file (plus additional FIG photocopying fee)	31.50
9. Filing an annual return; including companies which are not trading	63.00
10. Penalty for the late filing of an annual return	
(a) 3 months or less	108.00
(b) more than 3 months but less than 6 months	272.00
(c) more than 6 months but less than 12 months	539.00
(d) 12 months or more	1,077.00
11. Filing of company accounts	31.50
12. Application for striking off a private company	104.50

13. Registration of new memorandum or articles of association	31.50
14. Registration of any other deed, documents or forms to be registered by a company (per name and/or form)	10.50
15. Penalty for the late notification of a change of director, change of registered office, or change of secretary (more than 14 days)	63.00
16. Photocopy of document where photocopying undertaken as part of registration	FIG photocopying fee".

SCHEDULE 5

section 8

New Schedule to Court Fees (Family Proceedings) Rules 1992

“SCHEDULE FEES PAYABLE IN FAMILY PROCEEDINGS

1. In the table of fees below, "originating process" includes a petition, writ, originating summons or other process commencing proceedings.

2. The following table of fees has effect:

TABLE

PART I COMMENCEMENT PROCEEDINGS

Fee number	Amount of fee
1. Issue of originating process (including an application for an injunction or restraining order where that is sought other than as ancillary to other relief)	£309.00
2. On application to make a decree nisi absolute	£46.00
3. On any other application under the Matrimonial Causes Ordinance 1979 -	
(a) by consent	£52.00
(b) other than by consent	£155.00

PART 2 PROCEEDINGS UNDER THE CHILDREN ORDINANCE 2014

1. On application for any originating process (excluding financial relief)	£206.00
2. Any application within proceedings (excluding financial relief)	£103.00
3. On application for an order for financial relief -	
(a) by consent	£52.00
(b) other than by consent	£155.00
4. On application to vary or discharge a financial order -	

(a) by consent	£52.00
(b) other than by consent	£155.00
5. On appeal relating to fostering or hosting provisions	£155.00
6. On requesting a parental responsibility order following the completion of a parental responsibility agreement	£52.00
7. On application for a maintenance order to be sent abroad	£52.00
8. On application for variation of an existing financial order from abroad (under reciprocal enforcement legislation or similar)	£155.00

**PART 3
MISCELLANEOUS**

1. Any other application not otherwise provided for	£20.50
2. On filing notice of appeal	£51.00
3. Copy documents per page	50p
4. Office copy documents per page	£1.00
5. On taxation of costs	5p per £1.00 of profit costs and disbursements allowed".

SCHEDULE 6

section 18

New Schedule to Fishery Products (Hygiene)(Fees) Regulations 1998

“SCHEDULE

Description	Fee (£)
1. Application for approval of vessels, establishments and installations (approval under regulation 6 of the Fishery Products (Vessels, Establishments and Installations) Regulations 2014)	665.00
2. Application for variation of approval under regulation 7 of the Fishery Products (Vessels, Establishments and Installations) Regulations 2014	104.00
3. Annual inspection by authorised officer (Schedule 1, Part 5, Division 1, paragraph 1(b) of the Fishery Products (Hygiene) Regulations 2012)	266.00
4. Inspection on transshipment of product (Schedule 1, Part 5, Division 1, paragraph 1(c) of the Fishery Products (Hygiene) Regulations 2012)	177.00
5. Additional charges for inspections under paragraphs 3 or 4 where factory vessel is not in Stanley Harbour:	
(a) vessel in Port William	58.00
(b) vessel in Berkeley Sound	172.00
6. Surcharge for services provided outside normal office hours (for this purpose, normal office hours are 8am to 5pm Monday to Friday, excluding public holidays)	Additional 50% on all charges”.

SCHEDULE 7

section 19

New paragraph 1 of Schedule 3 to Harbours Regulations 1944

(section 9)

“1 Harbour dues

(a) Private pleasure yacht (under 50 tons)	£71.00
(b) Other vessels:	
Under 15 tons	£71.00
15 tons or more but under 30 tons	£130.00
30 tons or more but under 50 tons	£234.00
50 tons or more but under 800 tons	£353.00
800 tons or more but under 1,000 tons	£460.00
1,000 tons or more but under 1,500 tons	£529.00
1,500 tons or more but under 2,000 tons	£636.00
2,000 tons or more but under 5,000 tons	£777.00
5,000 tons or more but under 7,000 tons	£942.00
7,000 tons or more but under 10,000 tons	£1,412.00
10,000 tons or more but under 15,000 tons	£1,765.00
15,000 tons or more but under 20,000 tons	£2,061.00
20,000 tons or more but under 25,000 tons	£2,355.00
25,000 tons or more but under 30,000 tons	£2,707.00
30,000 tons or more but under 35,000 tons	£3,060.00
35,000 tons or more but under 40,000 tons	£3,413.00
40,000 tons or more but under 50,000 tons	£4,002.00
50,000 tons or more but under 60,000 tons	£4,708.00
60,000 tons or more but under 70,000 tons	£5,178.00
70,000 tons or more but under 80,000 tons	£5,766.00
80,000 tons or more	£6,356.00”.

SCHEDULE 8

section 20

New Schedule 1 to Land Charges Fees Rules 1997

“SCHEDULE 1

(rule 3)

Description	Fee (£)
1. Registration, renewal, rectification or cancellation of entry in register (per name), including issue of certificate	63.00
2. Entry of priority notice (per name)	10.50
3. Inspection of entry (per entry)	10.50
4. Official search of index, including certificate of result	41.00 per name
5. Bankruptcy search, including certificate of result (per name)	10.00
6. Photocopy of any document	FIG photocopy fee”.

SCHEDULE 9

section 22

New Schedule 2 to Land Ordinance 1949

“SCHEDULE 2

(section 9(3))

Description	Fee (£)
PART I	
1. Registration of order of the Court under section 9	31.50
2. Registration of any other deed, instrument or document to be registered against a title in duplicate	104.50
Any copies beyond 2 submitted at the same time, per copy	30.00
3. Registration of Crown Grant or Crown Lease (including undertaking) (in duplicate)	104.50
Any copies beyond 2 submitted at the same time, per copy	30.00
4. Application for vesting deed under section 11A	209.00
5. Certified copy deed, instrument or document (plus additional FIG photocopying fee)	31.50
6. Certification of registration deed, instrument or document	63.00
7. Photocopy of any deed, instrument or document, where undertaken as part of registration	FIG photocopy fee
PART II	
(section 45)	
8. Title search; hourly rate:	41.80
Includes: Production of register or index for inspection (for each one) and comparing deed with registered deed (proportion of hourly rate to be paid for every part hour, plus additional FIG photocopying fee)”.	

SCHEDULE 10

section 23

New Schedule 3 to Licensing Ordinance 1994

“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)	£72.00
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)	£103.00
3. On the grant (including a grant on transfer) or renewal of a Part V licence	£103.00
4. On the grant (including a grant on transfer) or renewal of a justices' off-licence	£103.00
5. On an application for a protection order	£52.00
6. On the grant of an application for a protection order	£62.00
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	£72.00
9. On the grant of a special hours certificate	£103.00
10. On an application for a club registration certificate	Nil
11. On the grant or renewal of a club registration certificate	£82.00
12. On an application for a children's certificate	Nil
13. On the grant or renewal of a children's certificate	£52.00
14. On an application for a Camp exemption order	Nil
15. On the grant of a Camp exemption order	£21.00
16. On an application for an extension of permitted hours	£21.00
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	£21.00
19. On the grant of an occasional licence (for every day or part thereof to which the occasional licence relates)	£26.00 (up to a maximum of £70.00 per licence)
20. On an application for a prohibition order	Nil”.

SCHEDULE 11

section 25

New Schedule to Notaries Public Rules 1992

“SCHEDULE

- | | |
|---|--|
| 1. For every affidavit and exhibit to an affidavit | £10.00 for every affidavit and
£5.00 for every exhibit thereto |
| 2. Preparing a Note of Protest or other document
(including any certificate thereon) | £103.00 for every hour engaged
therein and proportionately for
every part of an hour, with a
minimum fee of £50.00 |
| 3. Preparing and attesting any notarial act | (a) £36.00 if a notarial act in
public form;

(b) £26.00 otherwise
(but no fee where Fee 2 is
charged) |
| 4. Extending a Protest | £103.00 |
| 5. Examining any document with the original thereof
and certifying it as a true and correct copy | (a) if not copied by the notary
public, £26.00 plus £5.00 for
every page

(b) if copied by or under the
supervision of the notary public,
£26.00 plus 50 pence for every
page |
| 6. Attending to Protest a Bill of Exchange
or Promissory Note | £103.00 and proportionately for
part of an hour thus engaged plus
reasonable travelling expenses
incurred (if applicable) with a
minimum fee of £50.00 |
| 7. Any other notarial act done by a notary public | £103.00”. |

SCHEDULE 12

section 26

New Schedule to Planning (General) Regulations 1991

“SCHEDULE

Fees for services under the Planning Ordinance

(regulation 8)

TYPE OF APPLICATION	FEE	
1. Application for demolition	Full application	£21.00
2. Mobile home park/temporary accommodation park (excluding proposals for individual mobile homes)	Outline	£49.00
	Reserved matters	£37.00
	Full planning	£74.00
	Building permit	£93.00*
	Joint application	£155.00*
	*Building permit only required if each unit is within 6m of another.	
3. Construction of buildings, structures or erections for use as residential accommodation (excluding mobile homes) - charge per unit	Outline application	£33.00
	Reserved matters application	£25.00
	Full planning	£49.00
	Building permit application	£66.00
	Joint application	£82.00
4. Subdivision of land for residential development	Outline planning	£21.00
	Reserved matters	£21.00
	Full planning	£31.00
5. Application by householder to enlarge, improve or alter an existing dwelling-house	Outline application	£16.00
	Reserved matters application	£12.00
	Full planning	£25.00
	Building permit application	£33.00
	Joint application	£41.00

6. Erection of garage within residential area over 108m ³ (cubic metres)	Outline planning	£21.00
	Reserved matters	£21.00
	Full planning	£31.00
	Building permit	£41.00
	Joint application	£62.00
7. Erection of buildings for non-residential uses (area less than 75sqm).	Outline application	£49.00
	Reserved matters application	£37.00
	Full planning	£74.00
	Building permit application	£99.00
	Joint application	£124.00
8. Erection of buildings for non-residential (area more than 75sqm)	Outline application	£165.00
	Reserved matters application	£124.00
	Full planning	£247.00
	Building permit application	£330.00
	Joint application	£412.00
Mixed Use Proposals	Fee as per component uses	
9. Infrastructure such as drainage, roads & accesses, power and water and laydown areas	Private residential:	
	Outline planning	£25.00
	Reserved matters	£25.00
	Full planning	£49.00
	Building permit	£58.00
	Joint application	£88.00
	Other:	
	Outline planning	£58.00
	Reserved matters	£58.00
	Full planning	£115.00
	Building permit	£129.00
	Joint application	£221.00

10. Siting of containers outside of container parks (other than for private domestic use)	Full planning	£49.00
	Renewal	£57.00
11. For permission to construct or maintain a car park	No fee if for individual dwelling	
(a) Residential	If for more than one dwelling:	
	Outline application	£21.00
	Full/Reserved matters application:	
	£26.00 where the area of gross car park space does not exceed 40 sq. m;	
	£31.00 where the area of gross car park space exceeds 40 sq. m but does not exceed 75 sq. m	
	Where the area of gross car park space exceeds 75 sq. m	
	£52 for each 75 sq. m (or part thereof):	
(b) Industrial/Commercial	Outline application	£77.00
	Full / Reserved matters application	
	£52 where the area of gross car park space does not exceed 75 sq. m	
	Where the area of gross car park space exceeds 75 sq. m	
	£103.00 for each 75 sq. m (or part thereof)	
12. Operations connected with exploratory drilling for appraisal, extraction or export of oil or natural gas	£413.00 per 0.1 ha or the site	
	Maximum	£30,240
13. For permission to place or assemble equipment in any part of any marine water for the purpose of fish farming	£103.00 per application	
14. For permission to engage in winning and working of minerals (excluding peat & calcified seaweed)	£208.00 per 0.1 ha of site (or part thereof)	
	Maximum	£30,240
15. For permission to engage in winning and working of peat & calcified seaweed	£52.00 per application	

16. Change of use of a building for use as one or more dwelling-houses	£82.00 per each additional dwelling-house to be created by the development	
17. For permission to use, dispose of waste/storage of minerals		
	(a) use of land for disposal of refuse or waste materials or for the deposit of material remaining after minerals have been extracted from land.	£52.00 per application
	(b) the use of land for the storage of minerals in the open.	£52.00 per application
18. For permission for any other change of use or building works	(a) Where the end use is residential or incidental to residential	£31.00
	Building permit	£31.00
	Joint application	£52.00
	(b) Where the end use is commercial/industrial	£62.00
	Building permit	£58.00
	Joint application	£103.00
19. Application to vary or remove a condition on an existing permission (or renew a permission)		£31.00
20. Planning searches		£21 per search".

SCHEDULE 13

section 29

New Schedules 1, 2 and 3 to Post Office Order 2006

“SCHEDULE 1

Airmail Rates to all Countries

Letter

(a) first 20g	78p
(b) each additional 10g	26p

Small packet & printed paper

(a) first 20g	£1.26
(b) each additional	14p

Postcard

68p

Aerogramme

68p

Illustrated aerogramme

79p

SCHEDULE 2

Surface Mail

Letter

(a) first 20g	53p
(b) up to 100g	99p
(c) each additional 50g	36p

Postcard

42p

Parcel to UK

(a) first 1kg	£12.57
(b) each additional 1kg	£5.20
(c) maximum weight 30kg	£163.41

SCHEDULE 3

Inland Mail

Letter

(a) first 20g	32p
(b) up to 100g	49p
(c) each additional 100g	15p

Small packet and printed paper

(a) first 70g	27p
(b) each additional 50g	7p".

SCHEDULE 14

section 31

New Schedule 2 to Registration Regulations 1949

“SCHEDULE 2 Registrar General’s and Registrar’s Fees

Description	Fee (£)
1. Certified copy of birth, death or marriage certificate (further copies requested at the same time, per copy)	10.50 1.00
2. Search of registers, including registers of births, deaths and marriages (proportion of hourly rate to be paid for every part hour plus additional photocopying fee)	41.80
3. Registration birth	10.50
4. Certified copy of instrument	31.50
5. Registration of a deed poll (in duplicate) Any copies beyond 2 submitted at the same time, per copy	63.00 10.50
6. Registration of a will	10.50
7. Photocopy of document per A4 page	FIG photocopying fee
8. Photocopy of document per A3 page	FIG photocopying fee”.

SCHEDULE 15

section 36

New article 1 of Schedule 2 to Stanley Airport Regulations 1978

“SCHEDULE 2 AIRCRAFT LANDING, PARKING, AND NAVIGATION CHARGES

1. The following charges are payable in relation to aircraft using Stanley Airport by reference to the aircraft's maximum authorised take-off weight (in metric tonnes):

Landing Charges

- (a) £22.61 per 0.5 tonne (or part of a 0.5 tonne unit)
- (b) landing outside operating hours (which are 08.00 to 16.00), additional charge of 75% of normal landing charge.

Parking Charges

Parking charges are payable after the first two hours at the following rates for every complete twenty four hour period (commencing after the end of the first two hours):

- (a) 5 tonnes or less:
 - £1.48 per 0.5 tonne (or part of a 0.5 tonne unit)
- (b) 10 tonnes or less, but more than 5 tonnes:
 - £25.13
- (c) more than 10 tonnes:
 - £25.13 plus £1.19 per 0.5 tonne (or part of a 0.5 tonne unit)

Navigation Charges

£33.37 per hour (or part of an hour) is payable when radio services are provided out of normal office hours (which are 08.00 to 16.00)”.

Passed by the Legislature of the Falkland Islands on 4 June 2019.

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
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FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. 128

30 June 2019

No. 9

Appointment

Sandy Vergara, Plant Operator/Handyperson, Materials Section, Public Works Department, 01.06.19.

Debora Susana Ferriby, Head of Finance, Treasury, 03.06.19.

Steven Proud, Contracts Engineer, Public Works Department, 10.06.19.

Thomas Edward James Harper, Biomedical Scientist, Food, Water and Environmental Testing Laboratory, Health and Social Services Department, 11.06.19.

Jennifer Karen Sol, SHIELD Co-ordinator, Training Centre, Education Department, 12.06.19.

Rachael Jane Wells, Health Visitor, Health and Social Services Department, 21.06.19.

Completion of contract

Jennifer Mae Reece, Senior Staff Nurse, Health and Social Services Department, 03.06.19.

Peter John Underdown, Financial Accountant (Controls, Processes and Systems), Treasury, 04.06.19.

John Graham Fairweather, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 06.06.19.

Carole Coombs, Community Psychiatric Nurse, Health and Social Services Department, 10.06.19.

Lara Mairead McToal, Occupational Therapist, Health and Social Services Department, 12.06.19.

Lucy Elizabeth Blackmore, Senior Staff Nurse, Health and Social Services Department, 15.06.19.

David Henry Burrows, Building Adviser, Planning Services, Development and Commercial Services Department, 15.06.19.

Mandy Anne Whittingham, Director, Health and Social Services Department, 18.06.19.

Michelle Kathleen Farrand, Primary Teacher, Infant and Junior School, Education Department, 20.06.19.

Hillel Jordan Sokolsky, Complex Needs Teacher, Falkland Islands Community School, Education Department, 28.06.19.

Joanne Claire Ford, Childcare Advisory Teacher, Infant and Junior School, Education Department, 30.06.19.

Shazelle Monita Sukhnarain, Licensed Aircraft Engineer, Falkland Islands Government Air Service, Development and Commercial Services Department, 30.06.19.

Renewal of contract

Jennifer Mae Reece, Senior Staff Nurse, Health and Social Services Department, 04.06.19.

Peter John Underdown, Financial Accountant (Controls, Processes and Systems), Treasury, 05.06.19.

Carole Coombs, Community Psychiatric Nurse, Health and Social Services Department, 11.06.19.

Lara Mairead McToal, Occupational Therapist, Health and Social Services Department, 13.06.19.

Lucy Elizabeth Blackmore, Senior Staff Nurse, Health and Social Services Department, 16.06.19.

Resignation

Murray Alexander Middleton, Auxiliary Nurse, Health and Social Services Department, 31.05.19.

Drew Alexander Robertson, Pilot, Falkland Islands Government Air Service, Development and Commercial Services Department, 04.06.19.

Karl Darren Allcock, Detective Sergeant, Royal Falkland Islands Police, Emergency Services Department, 07.06.19.

Kevin Gerard Coughlan, Internal Auditor, Treasury, 30.06.19.

Stuart Ian Hampson, Director, Human Resources Department, 30.06.19.

Retirement

Colin George Davies, Teacher, Falkland Islands Community School, Education Department, 07.06.19.

Transfer

Errol Barry Gordon Goss, from Clerk to Administration Officer, Customs and Immigration, Emergency Services Department, 01.06.19.

NOTICES

No. 37 20 May 2019

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

Take notice that **James Terence Smith** of 3 Fitzroy Road, Stanley, Falkland Islands died on 3 May 2019.

Whereas **Susan Smith**, 17 Jersey Road, Stanley 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 20 May 2019

B. P. BLACK,
Registrar, Supreme Court

No. 38 30 May 2019

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 **Janet Lynda Cheek** to be a member of the Museum and National Trust from 1 June 2019 to 1 June 2022.

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 30 May 2019

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

No. 39

3 June 2019

Falklands Landholdings Corporation Ordinance 2000 section 4

Appointment of Member of the Falklands Landholdings Corporation Board

1. Section 4(1)(f) of the Falklands Landholdings Corporation Ordinance 2000 provides for the Governor to appoint as members of the Falklands Landholdings Corporation Board two members of the public.

2. In exercise of my powers under section 4(1)(f) I appoint **Timothy John Durose Miller** to be a member of the Falklands Landholdings Corporation Board.

3. This appointment is deemed to have effect on signature, and continues in effect for two years, unless terminated sooner.

Dated 3 June 2019

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

No. 40

3 June 2019

Falkland Islands Development Corporation Ordinance section 8

Appointment of Vice-Chair to Falkland Islands Development Corporation Board

1. Section 8 of the Falkland Islands Development Corporation Ordinance 2013 provides for the Governor to make appointments to the Falkland Islands Development Corporation Board.

2. In exercise of my powers under section 8(1)(b) I appoint to the Falkland Islands Development Corporation Board **Andrew Raymond Newman** as Vice-Chair.

3. This appointment has effect from 1 July 2019 until 30 June 2023.

Dated 3 June 2019

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

No. 41

11 June 2019

Marriage Ordinance 1996 section 26

Minister for Solemnisation of Marriage

In exercise of my powers under section 26(2) of the Marriage Ordinance 1996 I Richard Alexander John Mitham Acting Governor of the Falkland Islands hereby appoint **Ian Craig Faulds** – Rector and Priest in Charge – as a minister for the solemnisation of marriages.

Dated 11 June 2019

R. A. J. MITHAM,
Acting Governor.

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:

Wayne Brewer;
Kamal Gaudel and Elysian Taperla;
Sherwin Deloso and Mary Shirnelou Amper Deloso;
Stephen Robert Bennett and Laura Elizabeth Bennett;
Carlyn Paul Yon and Dawn Elizabeth Yon;
Muchazondida Frank Hochi;
Nicholas Cyril Carter Edwards; and
Angela Mujaji and Johannes Tandare.

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 July 2019.

Dated 25 June 2019

J. E. SMITH,
Immigration Officer.

Application for Naturalisation

Notice is hereby given that:

Nancy Viviana Mansilla; and
Lani Salumbides

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 22 July 2019.

Dated 25 June 2019

J. E. SMITH,
Immigration Officer.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

8 July 2019

No. 7

The following are published in this Supplement —

Communications (Enforcement Orders) (Compensation and Penalties) Regulations 2019 (SR&O No 15 of 2019);

Assessment and Safeguarding of Adults Bill 2019; and

Taxes (Amendment) Bill 2019.

SUBSIDIARY LEGISLATION

Communications (Enforcement Orders) (Compensation and Penalties) Regulations 2019

S. R. & O. No: 15 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Interpretation
4. Repeal of the Communications (Enforcement Orders) (Compensation and Penalties) Regulations 2017
5. Application of regulations
6. Transparency
7. Notification of contravention
8. Opportunity to comply or remedy the consequences of contravention
9. Enforcement order
10. Effect of compliance or remedying of consequences
11. Penalty for contravention
12. Amount of penalty under regulation 11
13. Compensation awards
14. Calculation of compensation under regulation 13
15. Requirement to comply with an enforcement order
16. Publication of enforcement orders
17. Urgent procedure for contraventions causing harmful interference
18. Information required for the purpose of fulfilling the Regulator's functions
19. Requests for information made by an agent of the Regulator
20. Failure to comply with a request for information
21. Application of regulations 18 to 20 to the exclusive licensee

SUBSIDIARY LEGISLATION

Communications (Enforcement Orders) (Compensation and Penalties) Regulations 2019

S. R. & O. No. 15 of 2019

Made: 6 July 2019

Published: 8 July 2019

Coming into force: on publication

I make these Regulations under sections 11(4), 13(4) and 20 of the Communications Ordinance 2017 on the advice of Executive Council.

1. Title

These Regulations are the Communications (Enforcement Orders) (Compensation and Penalties) Regulations 2019.

2. Commencement

These Regulations come into force on publication in the *Gazette*.

3. Interpretation

In these Regulations, “**enforcement order**” means any order issued by the Regulator under section 13(2) or (3) of the Ordinance that requires a person to take action specified in the order or to refrain from taking any action specified in the order, and includes an order requiring a person to pay a penalty or compensation.

4. Repeal of the Communications (Enforcement Orders) (Compensation and Penalties) Regulations 2017

The Communications (Enforcement Orders) (Compensation and Penalties) Regulations 2017 are repealed.

5. Application of regulations

These regulations apply where the Regulator —

- (a) makes or proposes to make an enforcement order under section 13(2) of the Ordinance;
- (b) makes or proposes to make an order requiring a person to pay a penalty under section 13(3) of the Ordinance;
- (c) makes or proposes to make an order awarding compensation under sections 13(3) and 11(2)(i) of the Ordinance;

(d) requires a person to provide documents and information to the Regulator under section 11(2)(g) of the Ordinance; or

(e) requires a person to provide information or documents in connection with an inquiry under section 11(2)(e) or a compliance investigation under section 12 of the Ordinance.

6. Transparency

The Regulator must have regard to the need for transparency in applying these regulations, particularly in the weighting of the factors taken into account by the Regulator when determining the level of the compensation award or penalty.

7. Notification of contravention

(1) This regulation applies where the Regulator determines that there are reasonable grounds for believing that an enforcement order (including an enforcement order that requires a person to pay a penalty or compensation award) may be made against a person.

(2) Before making an enforcement order, the Regulator must give the person a notification of contravention under this regulation.

(3) A notification of contravention is one which —

(a) sets out the determination made by the Regulator;

(b) specifies the provisions of the Ordinance, licence or other instrument issued under the Ordinance, or the terms and conditions of a licence, that the person has failed to comply with;

(c) specifies the contravention in respect of which the determination has been made;

(d) specifies any penalty and any compensation award which the Regulator is minded to impose under section 13(3) of the Ordinance; and

(e) specifies a reasonable period of not less than 7 days, during which the person notified has an opportunity to make representations about any of the grounds for the notification, the proposed penalty or any proposed compensation award.

(4) A notification under this regulation —

(a) must be in writing;

(b) may be given in respect of more than one contravention; and

(c) if it is given in respect of a continuing contravention, may be given in respect of any period during which the contravention has continued.

(5) Where a notification under this regulation has been given to a person in respect of a contravention, the Regulator may give a further notification in respect of the same contravention if, and only if —

(a) the contravention is one occurring after the time of the giving of the earlier notification;

(b) the contravention is a continuing contravention and the subsequent notification is in respect of a period falling after the period specified in the earlier notification; or

(c) the earlier notification has been withdrawn without any of a final enforcement order, an order for a penalty or an award of compensation having been made in respect of the notified contravention.

8. Opportunity to comply or remedy the consequences of contravention

(1) The notification of contravention may specify a period of no less than one month beginning the day after the one on which the notification is given, within which the person notified has the opportunity to do either or both of —

(a) complying with any provisions of the Ordinance, licence or other instrument, or terms and conditions of a licence that they remain non-compliant with;

(b) remedying the consequences of notified contraventions.

(2) A shorter period may be specified in the notification if agreed between the Regulator and the person notified.

9. Enforcement order

(1) This regulation applies where —

(a) a person has been given a notification under regulation 7;

(b) the period allowed for the making of representations has expired; and

(c) if the notification of contravention specified a period to comply with provisions or to remedy the consequences of the contravention, the conditions in regulation 10(3) are met.

(2) If the conditions in paragraph (1) are met, the Regulator may issue an enforcement order.

(3) An enforcement order is an order which requires the person to whom the order is addressed to do any or all of —

(a) take action specified in the order;

(b) refrain from taking action specified in the order;

(c) pay a penalty to the Regulator;

(d) pay compensation to specified persons or as directed by the Regulator.

(4) An enforcement order must —

(a) be in writing;

(b) be notified to the person to whom it is addressed, together with the reasons for making the order, no later than 7 days after the day on which it is made; and

(c) fix a reasonable period for compliance with the order.

(5) The Regulator must ensure that a copy (which may be electronic) of the enforcement order is given to the person to whom it is addressed at the time the order is notified to that person, or as soon as practically possible after notification.

(6) Where the notification of contravention specified a period to comply with provisions or remedy the consequences of the contravention, the reasons given to the person for making the enforcement order must include —

(a) the effect that the notified person's compliance or remedying of the consequences has had on the terms of the enforcement order the Regulator has decided to make; and

(b) if the order is made on the grounds it is in the public interest to do so, the reasons why the Regulator considers this is the case.

10. Effect of compliance or remedying of consequences

(1) This regulation applies where the Regulator has given a person an opportunity to comply or remedy the consequences of a contravention.

(2) The Regulator must have regard to any steps taken by the person notified to comply or remedy the consequences of the contravention before making an enforcement order.

(3) The Regulator may only make an enforcement order if the period for complying or remedying specified in the notification of contravention has expired and the Regulator reasonably considers —

(a) the steps taken by the person notified were not adequate to either comply or remedy the consequences of the contravention; or

(b) it is in the public interest to make an enforcement order.

(4) Reasons why an enforcement order may be in the public interest include, but are not limited to —

(a) the contravention was sufficiently serious that the Regulator considers a penalty is appropriate in any event;

(b) there is, in the Regulator's view, sufficient risk that the contravention may occur again in the future unless an order is given directing the person to whom it is addressed to take steps (or to refrain from action) to minimise this risk.

11. Penalty for contravention

(1) This regulation applies (in addition to regulation 9) where —

(a) a person has been given a notification of contravention under regulation 7; and

(b) the period allowed for the making of representations has expired.

(2) The Regulator may impose a penalty in respect of the matters set out in the notification of contravention.

(3) Where the notification specified a period for compliance or remedying the consequences of the contravention, the Regulator may impose a penalty if the person has not during that period, taken steps to adequately —

(a) comply with the matters specified in the notification of contravention as ones that the person is not compliant with; or

(b) remedy the consequences of the contravention.

(4) The Regulator may also impose a penalty on a person if the circumstances of the case are, in the Regulator's view, so serious that even where adequate steps to comply or remedy the consequences have been taken, it is in the public interest to impose a penalty.

(5) Where a notification under regulation 7 relates to more than one contravention, a separate penalty may be imposed in respect of each contravention.

(6) Where a notification under regulation 7 relates to a continuing contravention —

(a) no more than one penalty may be imposed in respect of the period of contravention specified in the notice;

(b) in addition to any penalty specified for the period of contravention stated in the notification of contravention, the Regulator may specify a penalty in respect of each day on which the contravention continues after —

(i) the issuing of an enforcement order which requires the person to whom it is addressed to take immediate action; or

(ii) the expiry of any period specified in the enforcement order for compliance with a requirement to take action.

(7) The enforcement order issued under regulation 9 must —

- (a) specify if a penalty is being imposed;
- (b) specify the amount of the penalty and how that amount has been determined; and
- (c) fix a reasonable period of time for payment of the penalty.

(8) A penalty must be paid to the Regulator.

12. Amount of penalty under regulation 11

(1) The amount of any penalty imposed under regulation 11 must be such amount as the Regulator considers —

- (a) appropriate; and
- (b) proportionate to the contravention in respect of which it is imposed.

(2) In deciding to impose a penalty, and in deciding the level of any penalty imposed, the Regulator must have regard to —

- (a) any representations made;
- (b) any steps taken to comply with provisions or remedy the consequences of a contravention; and
- (c) the cumulative amount of penalties the Regulator proposes to impose for the contraventions specified in the notification of contravention.

(3) The amount of a penalty under regulation 11(6)(b) is to be such amount as the Regulator considers to be appropriate and proportionate and which meets the following financial criteria —

- (a) in the case of the exclusive licensee is an amount not exceeding £20,000 per day subject to the maximum cap specified in section 13(6) of the Ordinance; or
- (b) in the case of a licensee other than the exclusive licensee, is an amount not exceeding £4,000 per day subject to the maximum cap specified in section 13(5) of the Ordinance.

13. Compensation awards

(1) This regulation applies (in addition to regulation 9) where —

- (a) a person has been given a notification of contravention under regulation 7;
- (b) as a consequence of the contravention, consumers have suffered loss and damage; and
- (c) the period allowed for the making of representations has expired.

(2) Where the conditions in paragraph (1) are met, the Regulator may order a person to whom an enforcement order is addressed to pay compensation.

(3) An enforcement order that includes an award of compensation must —

(a) specify the amount of compensation and how it has been determined;

(b) specify to whom the compensation must be paid; and

(c) fix a reasonable period for payment of the compensation.

(4) An award of compensation may include compensation for inconvenience suffered.

14. Calculation of compensation under regulation 13

(1) Compensation must be calculated to return the person to whom it is awarded to the position they were in before the contravention occurred.

(2) Where compensation is awarded for inconvenience suffered, the portion of the award for inconvenience must not exceed a sum equivalent to level 2 on the standard scale.

(3) A compensation award is a debt due to the person in whose favour it was made and may be enforced by either —

(a) the person in whose favour it was made; or

(b) where the compensation is payable to one or more natural persons, the Regulator on behalf of the natural person or persons in whose favour the award was made.

15. Requirement to comply with an enforcement order

(1) A person to whom an enforcement order is addressed must comply with the order.

(2) Failure to comply with an enforcement order is enforceable in civil proceedings by the Regulator for an injunction or for any other appropriate remedy or relief.

(3) The Regulator may not take civil proceedings to enforce compliance with an enforcement order if proceedings for an offence under section 13(9) of the Ordinance have been taken in respect of the enforcement order.

16. Publication of enforcement orders

(1) The Regulator must publish an enforcement order unless publication would —

(a) be against the interests of national security;

(b) disclose commercially confidential information contrary to section 17(3) of the Ordinance;

(c) disclose personal data other than the identity of the person to whom the enforcement order is addressed; or

(d) be otherwise against the public interest.

(2) Where an enforcement order contains information within paragraph (1)(b) or (c), the Regulator must, where possible, publish a version of the order that omits that information.

17. Urgent procedure for contraventions causing harmful interference

(1) This regulation applies where the Regulator has reasonable grounds to consider —

(a) that the activities of any person are causing harmful interference; or

(b) that the apparatus used by any person is causing harmful interference.

(2) If either paragraph (1)(a) or (b) are met —

(a) the procedure in regulations 7 to 9 does not apply; and

(b) the Regulator may immediately issue an interim enforcement order.

(3) An interim enforcement order —

(a) must be in writing;

(b) must specify the harmful interference being caused and the Regulator's reasons for considering that the interference is caused by the activities of, or apparatus used, by the person to whom the order is addressed;

(c) must specify the actions the person to whom the order is addressed is required to take to end the harmful interference; and

(d) must specify the duration of the order, which may not be longer than 3 months.

(4) Before the expiry of the interim enforcement order, the Regulator must notify the person to whom the interim enforcement order was addressed either —

(a) that the Regulator has decided to make a final enforcement order and invite the person to make representations within a specified period; or

(b) that no further action will be taken by the Regulator in respect of the matters listed in the interim enforcement order.

(5) If the Regulator decides to impose a penalty or award compensation, the Regulator must include this fact and the amount of any penalty or compensation in the notification under paragraph (4)(a).

(6) The Regulator may make a final enforcement order under regulation 9 after expiry of the period given to make representations under paragraph (4)(a).

(7) Where a notification under this regulation has been given to a person in respect of a contravention, the Regulator may give a further notification in respect of the same contravention if —

(a) the contravention is one occurring after the time of the giving of the earlier notification; and

(b) the earlier notification has been withdrawn without any of a final enforcement order, an order for a penalty or an award of compensation having been made in respect of the notified contravention.

(8) For the purposes of this regulation, “harmful interference” means interference which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating in accordance with international or Falkland Islands regulations.

18. Information required for the purpose of fulfilling the Regulator’s functions

(1) The Regulator may require a person falling within paragraph (2) to provide the Regulator with all such information or documents as the Regulator considers necessary —

(a) for the purpose of carrying out the Regulator’s functions under the Ordinance; or

(b) in connection with a compliance investigation under section 12 of the Ordinance.

(2) The persons falling within this paragraph are —

(a) a person who is a licence holder under the Ordinance;

(b) a person who has been a licence holder under the Ordinance; and

(c) a person not falling within paragraphs (a) or (b), who appears to the Regulator to have information or documents required by the Regulator for the purpose of carrying out their functions under the Ordinance.

(3) A person required to provide information or documents under this regulation must provide it in such manner and within such reasonable period as specified by the Regulator.

(4) The Regulator’s notice to a person to provide information or documents must —

(a) be in writing;

(b) specify the information or documents or categories of information or documents to be provided; and

(c) specify the period for providing the information or documents.

19. Requests for information made by an agent of the Regulator

An agent appointed by the Regulator in accordance with subsections (3) and (4) of section 12 of the Ordinance may exercise the Regulator's powers under regulation 18 where the information or documents are required for the purposes of a compliance investigation under section 12 of the Ordinance.

20. Failure to comply with a request for information

(1) This regulation applies where —

(a) the Regulator has given a person (A) a notice under regulation 18;

(b) the period for providing the information or documents has expired; and

(c) A has not —

(i) provided the information or documents; or

(ii) before expiry of the period to provide the information or documents, provided the Regulator with a reasonable reason as to why A is unable to comply with the Regulator's request within the period specified.

(2) The Regulator may impose a penalty on A if the Regulator is satisfied that A has failed to comply with the notice in one or more respects.

(3) The Regulator may specify that any penalty imposed under this regulation is a daily penalty that accrues for each day or part of a day from the expiry of the period for providing the information or documents until A provides the information or documents.

(4) A penalty imposed under this regulation must be an amount not exceeding level 10 on the standard scale, or £1,000 per day, that the Regulator determines to be both —

(a) appropriate; and

(b) proportionate to the importance of the information or documents requested.

(5) The Regulator must —

(a) notify A within one week of the decision to impose a penalty, the amount of the penalty and the reasons for imposing the penalty; and

(b) fix a reasonable period for A to pay the penalty.

(6) A penalty imposed under this regulation is —

(a) payable to the Regulator; and

(b) if not paid within the period fixed for paying it, recoverable as a civil debt due to the Regulator.

21. Application of regulations 18 to 20 to the exclusive licensee

Regulations 18 to 20 do not apply to the exclusive licensee.

Made 6 July 2019

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE

(not forming part of these Regulations)

Sections 11(4), 13(4) and 20 of the Communications Ordinance 2017 empower the Governor in Council to make regulations under that Ordinance.

These Regulations are made in accordance with sections 11(4), 13(4) and 20 and provide for the following:

Regulations 1 and 2 set out the preliminary matters of title and commencement.

Regulation 3 repeals the Communications (Enforcement)(Compensation and Penalties) Regulations 2017 (the “original Regulations”).

Regulation 4 defines the meaning of “enforcement order” for the purposes of the Regulations.

Regulation 5 sets out the application of the Regulations. The application specified reflects the full range of circumstances in which the Regulator may issue an enforcement order or require a person who is not the exclusive licensee to provide information or documents.

Regulation 6 transfers the requirement of transparency from the original Regulations into the new Regulations.

Regulations 7 to 10 provide a standard procedure the Regulator is required to use when making enforcement orders under the Ordinance. *Regulation 7* provides that the Regulator must first issue a notification of contravention, which must give the notified person an opportunity to make representations. *Regulation 8* sets out a procedure where the Regulator may invite the notified person to comply with provisions or remedy the consequences of the contravention. *Regulation 9* sets out the circumstances when the Regulator may proceed to issue an enforcement order and

in accordance with the provisions of section 13(4) of the Ordinance, also specifies the form and content of enforcement orders. *Regulation 10* sets out the effect of complying or remedying and limits the power of the Regulator to issue an enforcement order depending on the steps taken to comply or remedy.

Regulations 11 and 12 set out provisions on penalties and how they are to be calculated. *Regulation 11* sets out the circumstances in which the Regulator may impose a penalty. *Regulation 12* sets out how the Regulator must calculate the penalty and the matters the Regulator must take into account when calculating the penalty.

Regulations 13 to 14 set out provisions on the making and calculation of compensation awards. *Regulation 13* sets out various procedural requirements relating to compensation awards and confirms that compensation may be awarded for inconvenience suffered. *Regulation 14* sets out how compensation awards are calculated and enforced.

Regulations 15 to 16 set out matters relating to compliance with, enforcement of and publication of enforcement orders. *Regulation 15* sets out the requirement to comply with an enforcement order and the powers of the Regulator where a person does not comply with an enforcement order. *Regulation 16* provides for publication of enforcement orders.

Regulation 17 provides for a new urgent procedure where harmful interference is being caused. Under the urgent procedure the Regulator may immediately issue an interim enforcement order. An interim enforcement order may only last for 3 months, within which period the Regulator must either take final action under the standard procedure in *regulations 6-9* or notify the person concerned that no further action will be taken. Harmful interference is defined in accordance with international standards.

Regulations 18 to 21 set out procedures that the Regulator must follow when requesting information from persons using the Regulator's powers in sections 11 and 12 of the Ordinance. *Regulation 18* sets out who the Regulator can request information from and the form a request must take. *Regulation 19* provides that if the Regulator appoints an agent under section 12 of the Ordinance, the agent must follow the same procedures for requesting information. *Regulation 20* sets out the consequences of failing to comply with a request for information from the Regulator. If a person does not either provide the information or a reasonable excuse within the timeframe in the notice to provide information, the Regulator may impose a penalty on the person not exceeding level 10 on the standard scale or a daily penalty not exceeding £1,000 accruing until the information is provided. *Regulation 21* exempts the exclusive licensee from the application of *regulations 18 to 20* as the Ordinance contains a specific regime in sections 69 to 70 of the Ordinance for the Regulator to make requests for information from the exclusive licensee.

Assessment and Safeguarding of Adults Bill 2019

(No: of 2019)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 - INTRODUCTORY

1. Title
2. Commencement
3. Interpretation
4. People who lack capacity
5. Promoting individual well-being

PART 2 - ASSESSING ADULTS' NEEDS

6. Assessment of an adult's needs for care and support
7. Assessment of carer's needs for support
8. Refusal of assessment
9. Assessments under sections 6 and 7: further provision

PART 3 - SAFEGUARDING ADULTS

10. Enquiries in connection with adult
11. Protecting property of adults being cared for away from home
12. Safeguarding Adults Board
13. Review of adult safeguarding cases
14. Supply of information requested by Safeguarding Adults Board

PART 4 - INDEPENDENT ADVOCACY SUPPORT

15. Involvement in assessments
16. Safeguarding enquiries and reviews

PART 5 – MISCELLANEOUS

17. Prisoners
18. Regulations etc
19. Amendment of Schedule

Schedule

ASSESSMENT AND SAFEGUARDING OF ADULTS BILL 2019

(No: of 2019)

(assented to: 2019)
(commencement: in accordance with section 2)
(published: 2019)

A BILL

for

AN ORDINANCE

To make provision for; assessments, enquiries and reviews to be carried out in respect of adults; and for the establishment of the Safeguarding Adults Board.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 - INTRODUCTORY

1. Title

This Ordinance is the Assessment and Safeguarding of Adults Ordinance 2019.

2. Commencement

This Ordinance comes into force on a day appointed by the Governor by notice in the *Gazette*.

3. Interpretation

(1) In this Ordinance —

“**abuse**” includes financial abuse;

“**financial abuse**” includes —

- (a) having money or other property stolen;
- (b) being defrauded;
- (c) being put under pressure in relation to money or other property; and
- (d) having money or other property misused.

“**information and advice**” means information and advice provided by the Government relating to the care and support provided for adults by the Government, in particular information and advice on —

- (a) the system for care and support of adults provided by the Government;

- (b) the choice and types of care and support provided by the Government;
- (c) how to access the care and support that is available;
- (d) how to raise concerns about the safety or well-being of an adult who has needs for care and support.

“**prevention services**” means services, facilities, or resources provided by, or steps taken by, the Government, which the Government considers —

- (a) contribute towards preventing or delaying the development by adults of needs for care and support;
- (b) reduce the need for care and support of adults.

“**SAB**” means the Safeguarding Adults Board established under section 12.

“**well-being**”, in relation to an individual means an individual’s well-being relating to any of the following —

- (a) personal dignity (including treatment of the individual with respect);
- (b) physical and mental health and emotional well-being;
- (c) protection from abuse and neglect;
- (d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way it is provided);
- (e) participation in work, education, training or recreation;
- (f) social and economic well-being;
- (g) domestic, family and personal relationships;
- (h) suitability of living accommodation;
- (i) the individual’s contribution to society.

(2) Where in this Ordinance reference is made to the Government discharging or performing a function, the function must be performed or discharged by the directorate or department within the Government which has been allocated responsibility for provision of health and social services.

4. People who lack capacity

- (1) For the purposes of this Ordinance a person lacks capacity in relation to a matter if at the material time the person is unable to make a decision for themselves in relation to the matter because of an impairment of, or disturbance in the function of, the mind or brain.
- (2) It does not matter whether the impairment or disturbance is permanent or temporary.
- (3) A lack of capacity cannot be established merely by reference to —
 - (a) a person's age or appearance;
 - (b) a condition of the person, or an aspect of the person's behaviour, which might lead others to make unjustified assumptions about the person's capacity.
- (4) Any question whether a person lacks capacity within the meaning of this Ordinance must be determined on the balance of probabilities.

5. Promoting individual well-being

- (1) The general duty of the Government, in exercising a function under this Ordinance in the case of an individual, is to promote that individual's well-being.
- (2) In exercising a function under this Ordinance in the case of an individual, the Government must have regard to the following matters in particular —
 - (a) the importance of beginning with the assumption that the individual is best-placed to judge the individual's well-being;
 - (b) the individual's views, wishes, feelings and beliefs;
 - (c) the importance of preventing or delaying the development of needs for care and support or needs for support and the importance of reducing needs of either kind that already exist;
 - (d) the need to ensure that decisions about the individual are made having regard to all the individual's circumstances (and are not based only on the individual's age or appearance or any condition of the individual's or aspect of the individual's behaviour which might lead others to make unjustified assumptions about the individual's well-being);
 - (e) the importance of the individual participating as fully as possible in decisions relating to the exercise of the function concerned and being provided with the information and support necessary to enable the individual to participate;
 - (f) the importance of achieving a balance between the individual's wellbeing and that of any friends or relatives who are involved in caring for the individual;
 - (g) the need to protect people from abuse and neglect;

(h) the need to ensure that any restriction on the individual's rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised.

PART 2 – ASSESSING ADULTS' NEEDS

6. Assessment of an adult's needs for care and support

(1) Where it appears to the Government that an adult may have needs for care and support, the Government must assess —

(a) whether the adult does have needs for care and support;

(b) if the adult does, what those needs are.

(2) An assessment under subsection (1) is referred to in this Part as a “needs assessment”.

(3) The duty to carry out a needs assessment applies regardless of the Government's view of —

(a) the level of the adult's needs for care and support; or

(b) the level of the adult's financial resources.

(4) A needs assessment must include an assessment of —

(a) the impact of the adult's needs for care and support on the promotion of the adult's well-being;

(b) the outcomes that the adult wishes to achieve in day to day life; and

(c) whether, and if so, to what extent, the provision of care and support could contribute to the achievement of those outcomes

(5) The Government, in carrying out a needs assessment must involve —

(a) the adult;

(b) any carer that the adult has;

(c) any person whom the adult asks the Government to involve or, where the adult lacks capacity to ask the Government to do that, any person who appears to the Government to be interested in the adult's welfare.

(6) When carrying out a needs assessment, the Government must also consider —

(a) whether, and if so to what extent, matters other than the provision of care and support could contribute to the achievement of the outcomes that the adult wishes to achieve in day-to-day life; and

(b) whether the adult would benefit from the provision of —

(i) prevention services;

(ii) information and advice; or

(iii) anything which might be available in the community.

(7) This section is subject to section 8 (refusal of assessment).

[*Care Act 2014, s. 9*]

7. Assessment of carer's needs for support

(1) Where it appears to the Government that a carer may have needs for support (whether currently or in the future), the Government must assess —

(a) whether the carer does have needs for support (or is likely to do so in the future); and

(b) if the carer does, what those needs are (or are likely to be in the future).

(2) An assessment under subsection (1) is referred to in this Part as a “**carer's assessment**”.

(3) “**Carer**” means an adult who provides or intends to provide care for another adult (an “**adult needing care**”); but see subsections (9) and (10).

(4) The duty to carry out a carer's assessment applies regardless of the Government's view of —

(a) the level of the carer's needs for support; or

(b) the level of the carer's financial resources or of those of the adult needing care.

(5) A carer's assessment must include an assessment of —

(a) whether the carer is able, and is likely to continue to be able, to provide care for the adult needing care;

(b) whether the carer is willing, and is likely to continue to be willing, to do so;

(c) the outcomes that the carer wishes to achieve in day-to-day life; and

(d) whether, and if so to what extent, the provision of support could contribute to the achievement of those outcomes.

- (6) The Government, in carrying out a carer's assessment, must have regard to —
- (a) whether the carer works or wishes to do so; and
 - (b) whether the carer is participating in or wishes to participate in education, training or recreation.
- (7) The Government, in carrying out a carer's assessment, must involve —
- (a) the carer, and
 - (b) any person whom the carer asks the Government to involve.
- (8) When carrying out a carer's assessment, the Government must also consider —
- (a) whether, and if so to what extent, matters other than the provision of support could contribute to the achievement of the outcomes that the carer wishes to achieve in day-to-day life, and
 - (b) whether the carer would benefit from the provision of —
 - (i) prevention services;
 - (ii) information or advice; or
 - (iii) anything which might be available in the community.
- (9) An adult is not to be regarded as a carer if the adult provides or intends to provide care —
- (a) under or by virtue of a contract; or
 - (b) as voluntary work.
- (10) But in a case where the Government considers that the relationship between the adult needing care and the adult providing or intending to provide care is such that it would be appropriate for the latter to be regarded as a carer, that adult is to be regarded as such (and subsection (9) does not apply in that case).
- (11) The references in this section to providing care include a reference to providing practical or emotional support.
- (12) This section is subject to section 8(5) to (7) (refusal by carer of assessment).

[Care Act s. 10]

8. Refusal of assessment

- (1) Where an adult refuses a needs assessment, the Government is not required to carry out the assessment (and section 6(1) does not apply to the adult's case).
- (2) But the Government may not rely on subsection (1) (and so must carry out a needs assessment) if —
 - (a) the adult lacks capacity to refuse the assessment and the Government is satisfied that carrying out the assessment would be in the adult's best interests; or
 - (b) the adult is experiencing, or is at risk of, abuse or neglect.
- (3) Where having refused a needs assessment, an adult requests the assessment, section 6(1) applies in the adult's case (and subsection (1) above does not).
- (4) Where an adult has refused a needs assessment and the Government thinks that the adult's needs or circumstances have changed, section 6(1) applies in the adult's case (but subject to further refusal as mentioned in subsection (1) above).
- (5) Where a carer refuses a carer's assessment, the Government is not required to carry out the assessment (and section 7(1) does not apply in the carer's case).
- (6) Where, having refused a carer's assessment, a carer requests the assessment, section 7(1) applies in the carer's case (and subsection (5) above does not).
- (7) Where a carer has refused a carer's assessment and the Government concerned thinks that the needs or circumstances of the carer or the adult needing care have changed, section 7(1) applies in the carer's case (but subject to further refusal as mentioned in subsection (5) above).

[Care Act 2014, s. 11]

9. Assessments under sections 6 and 7: further provision

- (1) Regulations must make further provision about carrying out a needs assessment.
- (2) The regulations may, in particular —
 - (a) require the Government, in carrying out the assessment, to have regard to the needs of the family of the adult to whom the assessment relates;
 - (b) specify other matters to which the Government must have regard in carrying out the assessment (including, in particular, the matters to which the Government must have regard in seeking to ensure that the assessment is carried out in an appropriate and proportionate manner);
 - (c) specify the steps that the Government must take for the purpose of ensuring that the assessment is carried out in an appropriate and proportionate manner;

(d) specify circumstances in which the assessment may or must be carried out by a person (whether or not an officer of the Government) who has expertise in a specified matter or is of such other description as is specified, jointly with or on behalf of the Government;

(e) specify circumstances to which the adult to whom the assessment relates may carry out the assessment jointly with the Government;

(f) specify circumstances in which the Government must, before carrying out the assessment or when doing so, consult a person who has expertise in a specified matter or is of such other description as is specified

(3) The regulations may include provision for facilitating the carrying out of a needs assessment in circumstances specified under subsection (1)(d) or (e); they may, for example, give the Government power to provide the person carrying out the assessment —

(a) with the information about the adult to whom the assessment relates;

(b) with whatever resources, or access to whatever facilities the Government thinks will be needed to carry out the assessment.

(4) The Government must give a written record of a needs assessment to —

(a) the adult to whom the assessment relates;

(b) any carer that the adult has, if the adult asks the Government to do so; and

(c) any other person to whom the adult asks the Government to give a copy.

(5) The Government may combine a needs assessment with an assessment it is carrying out (whether or not under this Part) in relation to another person only if the adult to whom the needs assessment relates agrees and —

(a) where the combination would include an assessment relating to another adult, that other adult agrees;

(b) where the combination would include an assessment relating to a child, the consent condition is met in relation to the child.

(6) The consent condition referred to in subsection (5) is met in relation to a child if —

(a) the child has capacity or is competent to agree to the assessments being combined and does so agree; or

(b) the child lacks capacity or is not competent so to agree but the Government is satisfied that combining the assessments would be in the child's best interests.

(7) A reference to an assessment includes a reference to part of an assessment.

[Care Act 2014, s. 12]

PART 3 - SAFEGUARDING ADULTS

10. Enquiries in connection with adult

(1) This section applies where the Government has reasonable cause to suspect that an adult in the Falkland Islands (whether or not ordinarily resident in the Falkland Islands) —

- (a) has needs for care and support (whether or not the Government is meeting any of those needs);
- (b) is experiencing, or is at risk of, abuse or neglect; and
- (c) as a result of those needs is unable to protect themselves against the abuse or neglect or the risk of it.

(2) The Government must make (or cause to be made) whatever enquiries the Government thinks necessary or appropriate to enable the Government to decide whether any action should be taken in the adult's case (whether under this Ordinance or otherwise) and, if so, by whom.

[Care Act 2014, s. 42]

11. Protecting property of adults being cared for away from home

(1) This section applies where —

- (a) an adult is having needs for care and support met by the Government in a way that involves the provision of accommodation, or is admitted to hospital (or both); and
- (b) it appears to the Government that there is a danger of loss or damage to movable property of the adult because —
 - (i) the adult is unable (whether permanently or temporarily) to protect or deal with the property; and
 - (ii) no suitable arrangements have been or are being made.

(2) The Government must take reasonable steps to prevent or mitigate the loss or damage.

(3) For the purpose of performing that duty, the Government —

- (a) may at all reasonable times and on reasonable notice enter any premises which the adult was living in immediately before being provided with accommodation or admitted to hospital; and

(b) may deal with any of the adult's movable property in any way which is reasonably necessary for preventing or mitigating loss or damage.

(4) The Government may not exercise the power under subsection (3)(a) unless —

(a) the Government has obtained the consent of the adult concerned or, where the adult lacks capacity to give consent, the consent of a person authorised by a court to give it on the adult's behalf; or

(b) where the adult lacks capacity to give consent and there is no person so authorised, the Government is satisfied that exercising the power would be in the adult's best interests.

(5) Where the Government is proposing to exercise the power under subsection (3)(a), the officer the Government authorises to do so must, if required, produce valid documentation setting out the authorisation to do so.

(6) A person who, without reasonable excuse, obstructs the exercise of the power under subsection (3)(a) —

(a) commits an offence; and

(b) is liable on conviction to a fine not exceeding level 4 on the standard scale.

(7) The Government may recover from an adult whatever reasonable expenses the Government incurs under this section in the adult's case.

[Care Act 2014, s. 47]

12. Safeguarding Adults Board

(1) There is established a Safeguarding Adults Board.

(2) The objective of the SAB is to prevent abuse and neglect of adults in cases of the kind described in section 10(1).

(3) The way in which the SAB must seek to achieve its objective is to co-ordinate and ensure the effectiveness of what each of its members does.

(4) The SAB may do anything which appears to it to be necessary or desirable for the purpose of achieving its objective.

(5) Further provisions about the SAB are set out in the Schedule.

[Care Act 2014, s. 43]

13. Review of adult safeguarding cases

(1) The SAB must arrange for there to be a review of a case involving an adult with needs for care and support (whether or not the Government has been meeting any of those needs), if —

(a) there is reasonable cause for concern about how the SAB, its members or other persons with relevant functions performed their functions or worked together to safeguard the adult; and

(b) condition 1 or 2 is met.

(2) Condition 1 is met if —

(a) the adult has died;

(b) and the SAB suspects that the death resulted from abuse or neglect (whether or not it knew about or suspected the abuse or neglect before the adult died).

(3) Condition 2 is met if —

(a) the adult is still alive; and

(b) the SAB knows or suspects that the adult has experienced serious abuse or neglect.

(4) The SAB may arrange for there to be a review of any other case involving an adult with needs for care and support (whether or not the Government is meeting any of those needs).

(5) Each member of the SAB must co-operate in and contribute to the carrying out of a review under this section with a view to —

(a) identifying lessons to be learnt from the adult's case; and

(b) applying those lessons to future cases.

(6) When arranging a review under subsection (1), the SAB must appoint a person to lead the review —

(a) who is not a member of the SAB; and

(b) who is independent of the Government.

[Care Act 2014, s. 44]

14. Supply of information requested by Safeguarding Adults Board

(1) If the SAB requests a person to supply information to it, or to some other person specified in the request, the person to whom the request is made must comply with the request if —

(a) conditions 1 and 2 are met; and

(b) condition 3 or 4 is met.

(2) Condition 1 is that the request is made for the purpose of enabling or assisting the SAB to exercise any of its functions.

(3) Condition 2 is that the request is made to a person who the SAB considers to be likely to have information relevant to the exercise of a function by the SAB.

(4) Condition 3 is that the information relates to —

(a) the person to whom the request is made,

(b) a function or activity of that person, or

(c) a person in respect of whom that person exercises a function or engages in an activity.

(5) Condition 4 is that the information —

(a) requested by the SAB is from a person to whom information was supplied in compliance with another request under this section, and

(b) is the same as, or is derived from, information so supplied.

(6) Any information received under this section may only be used by the SAB for the purpose of enabling or assisting the SAB to exercise its functions.

[Care Act 2014, s. 45]

PART 4 – INDEPENDENT ADVOCACY SUPPORT

15. Involvement in assessments

(1) This section applies where the Government is required under section 6 or 7 to involve an individual in an assessment carried out under the relevant section.

(2) The Government must, if the condition in subsection (4) is met, arrange for a person who is independent of the Government (an “independent advocate”) to be available to represent and support the individual for the purpose of facilitating the individual’s involvement.

(3) Subsection (2) is subject to subsection (5).

(4) The condition is that the Government considers that, were an independent advocate not to be available, the individual would experience substantial difficulty in doing one or more of the following —

- (a) understanding relevant information;
- (b) retaining that information;
- (c) using or weighing that information as part of the process of being involved;
- (d) communicating the individual's views, wishes or feelings (whether by talking, or using any other means reasonably available).

(5) The duty under subsection (2) does not apply if the Government is satisfied that there is a person —

- (a) who would be an appropriate person to represent and support the individual for the purpose of facilitating the individual's involvement; and
- (b) who is not engaged in providing care or treatment for the individual in a professional capacity or for remuneration.

[Care Act 2014, s.67]

16. Safeguarding enquiries and reviews

(1) This section applies where there is to be —

- (a) an enquiry under section 10;
- (b) a review under section 13(1) of a case in which condition 2 in section 13(3) is met or a review under section 13(4).

(2) The Government must, if the condition in subsection (4) is met, arrange for a person who is independent of the Government (an “**independent advocate**”) to be available to represent and support the adult to whose case the enquiry or review relates for the purposes of facilitating the adult's involvement.

(3) Subsection (2) is subject to subsection (5).

(4) The condition is that the Government considers that, were an independent advocate not to be available, the adult would experience substantial difficulty in doing one or more of the following—

- (a) understanding relevant information;
- (b) retaining that information;
- (c) using or weighing that information as part of the process of being involved;

(d) communicating the individual's views, wishes or feelings (whether by talking or using any other means reasonably available).

(5) For the purposes of subsection (4), a person is not to be regarded as an appropriate person unless —

(a) where the adult has capacity to consent to being represented and supported by that person, the adult does so consent; or

(b) where the adult lacks capacity so to consent, the local authority is satisfied that being represented and supported by that person would be in the adult's best interests.

(6) If the enquiry or review needs to begin as a matter of urgency, it may do so even if the Government has not yet been able to comply with the duty under subsection (2) (and the Government continues to be subject to the duty).

[Care Act 2014, s. 68]

PART 5 -MISCELLANEOUS

17. Prisoners

(1) Sections 10 and 11 (protection of adults: enquiry by Government, and protection of property) do not apply in the case of an adult who is detained in prison.

(2) The SAB's objective under section 12(2) does not include helping and protecting adults who are detained in prison; but the SAB may nonetheless provide advice or assistance to any person for the purpose of helping and protecting such adults in cases of the kind described in section 10 (adults with needs for care and support who are at risk of abuse or neglect).

(3) Section 13 (review of adult safeguarding cases) does not apply to any case involving an adult in so far as the case relates to any period during which the adult was detained in prison.

(4) "**Prison**" has the same meaning as given in the Prisons Ordinance 2017.

(5) For the purposes of this section a person who is temporarily absent from prison is to be treated as detained in prison for the period of absence.

[Care Act 2014, s. 76]

18. Regulations etc

(1) The Governor may make regulations generally for giving effect to this Ordinance or for purposes of prescribing anything reasonably necessary for the better carrying out of the provisions of this Ordinance.

(2) The Governor may in particular make regulations concerning procedures for carrying out —

- (a) assessments under sections 6 and 7;
 - (b) reviews under section 13.
- (3) The Governor may issue guidance relating to —
- (a) the exercise of functions by the SAB under this Ordinance;
 - (b) the exercise by any person of any other functions under this Ordinance.

19. Amendment of Schedule

The Governor may amend the Schedule by Order.

SCHEDULE

SAFEGUARDING ADULTS BOARD

(section 12(5))

PART 1 – MEMBERSHIP ETC

1. Membership

- (1) The members of the SAB are —
- (a) the elected member or members of the Legislative Assembly with portfolio responsibility for health and social services, education and community (or equivalent), or their deputy or deputies;
 - (b) the Director of Health and Social Services;
 - (c) the Director of Education;
 - (d) the Chief Medical Officer;
 - (e) the Chief Police Officer;
 - (f) the Attorney General;
 - (g) the Team Leader in the Social Services Department;
 - (h) the Chief Nursing Officer;
 - (i) the Probation Officer (or the senior representative of the Probation Service);
 - (j) the Head of Government House;
 - (k) the Benefits Officer;

(l) a representative of the United Kingdom Ministry of Defence appointed by the Chief of Staff of the Ministry of Defence in the Falkland Islands;

(m) such other persons, or persons of such description, as may be specified in regulations.

(2) The membership of SAB may also include such other persons as the Governor, having consulted the members listed in sub-paragraph (1), considers appropriate, including a representative of at least one organisation with a role relating to the welfare of families of those serving in the Falkland Islands in the United Kingdom armed forces.

(3) The members listed under sub-paragraph (1)(b) to (k) may appoint a person to represent them at meetings of the SAB; but the representative must be a person whom the member considers to have the appropriate skill and experience to do so effectively.

2. Chairperson and vice-chairperson

(1) The Director of Health and Social Services is the chairperson of the SAB.

(2) The chairperson is responsible for the leadership and management of the SAB and must aim to ensure that the SAB is effective in achieving its objectives.

(3) The Team Leader in the Social Services department is the vice-chairperson and will act as chairperson in the absence of the Director of Health and Social Services.

3. Meetings

(1) The SAB must meet at least four times in a year.

(2) The SAB may invite other persons to attend any of its meetings to assist the SAB in carrying out its objective.

4. Entitlement to vote

(1) All members are entitled to vote in any matter to be decided by the SAB.

(2) Any person invited by the SAB under paragraph 3(2) to attend a meeting is not entitled to vote.

5. Procedures

Subject to this Ordinance and any regulations made under it, the SAB may adopt its own procedures.

6. Guidance

Members of the SAB must, in acting as such, have regard to such guidance as the Governor may issue.

PART 2 – STRATEGIC PLAN

1. Strategic plan

The SAB must publish for each year a plan (its “**strategic plan**”) which sets out —

- (a) its strategy for achieving its objective (under section 12) during the year; and
- (b) what each member is to do to implement that strategy.

2. Involvement in strategic plan

In preparing its strategic plan, the SAB must involve the community.

3. SAB year

In this paragraph and in Part 3, “**year**” in relation to the SAB means 1 July to 30 June or such other period as may be approved by the Governor.

PART 3 – ANNUAL REPORT

1. Publication of annual report

As soon as reasonably possible after the end of each year, the SAB must publish a report on —

- (a) what it has done during that year to achieve its objective;
- (b) what it has done during that year to implement its strategy;
- (c) what each member has done during that year to implement the strategy;
- (d) the findings of the reviews arranged by it under section 13 (safeguarding adults reviews) which have concluded in that year (whether or not they began in that year);
- (e) the reviews arranged by it under that section which are ongoing at the end of that year (whether or not they began in that year);
- (f) what it has done during that year to implement the findings of reviews arranged by it under that section; and
- (g) where it decides during that year not to implement a finding of a review arranged by it under that section, the reasons for its decision.

2. Dissemination of annual report

The SAB must send a copy of the report to —

- (a) the Chief Executive;
- (b) the Governor; and

(c) the Legislative Assembly.

OBJECTS AND REASONS

This Bill provides for the safeguarding of adults through; assessment of needs for care and support (prevention); enquiries in respect of adults at risk of abuse (protection); and the establishment of an Adults Safeguarding Board.

Part 1 provides for introductory matters. This includes provision requiring the Government to promote individual well-being when carrying out its functions under the Ordinance.

Part 2 concerns the assessment of adult needs.

Clause 6 sets out the process for the assessment of adult needs for care and support. The objective of a needs assessment is to determine whether the adult has care and support needs and what those needs may be. It is the mechanism by which the Government assesses whether a person would benefit from some form of care and support, and whether the nature of their needs is such that the Government may meet them. There is, however, currently no statutory duty requiring the Government to meet any such needs.

Clause 7 makes similar provision as in *clause 6* for the assessment of the needs of carers.

Clause 8 provides for what is to happen where an adult refuses a needs assessment or a carer refuses a carer's assessment. Normally in those circumstances the Government will not carry out the assessment. However, circumstances are specified when a needs assessment will still be carried out.

Clause 9 requires the Governor to make regulations about how a needs assessment must be carried out; to ensure consistent practice in key elements of the assessment process.

Part 3 provides for the safeguarding of adults.

Clause 10 provides for enquiries to be made by the Government in connection with an adult who is at risk of abuse or neglect (supplementing existing obligations on the police to prevent and respond to criminal activity). Such safeguarding enquiries should be made on the understanding of the risk of neglect or abuse; irrespective of whether the individual might meet the Government's criteria for the provision of services.

Clause 11 creates a duty for the Government to prevent or mitigate loss or damage to the property of an adult who is being cared for away from home.

Clause 12 establishes the Safeguarding Adults Board (SAB), and sets out its objective and how the objective is to be achieved. The SAB aims to help and protect individuals who it believes; have care and support needs; are at risk of neglect and abuse; and are unable to protect themselves.

Clause 13 provides for the SAB to arrange for review of cases concerning known or suspected abuse or neglect of adults (and in other cases involving an adult with needs for care and support). The aim of a review is to ensure that lessons are learned from such cases, not to allocate blame but to improve future practice and partnership working, and to minimise the possibility of the matter happening again. Members of the SAB must cooperate in and contribute to carrying out the review and applying the lessons learnt. The clause also makes provision requiring the appointment of a lead reviewer who is independent of the SAB and the Government.

Clause 14 provides for the supply of information requested by the SAB to enable or assist the SAB to exercise its functions.

Part 4 provides for independent advocacy support for adults in certain circumstances.

Clause 15 concerns independent advocacy and support in connection with the assessment of an adult's needs for care and support.

Clause 16 concerns independent advocacy and support in connection with enquiries and case reviews concerning adults.

Part 5 provides for miscellaneous matters.

Clause 17 provides that certain parts of the Bill do not apply in respect of prisoners

Clause 18 provides for the Governor to make regulations and to issue guidance under the Bill.

Clause 19 provides that the Schedule may be amended by order.

The *Schedule* makes further provisions relating to the SAB, including membership etc of the SAB, and sets out core duties to —

- (a) publish a strategic plan that sets out how the SAB will meet its objective and what members will do to achieve this; and
- (b) publish an annual report detailing what the SAB has done during the year to achieve its objective and to implement its strategic plan, and detailing findings made and actions taken in reviews of adult safeguarding cases.

Taxes (Amendment) Bill 2019

(No: of 2019)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Taxes Ordinance 1997
4. Section 106 amended (Interpretation for purposes of Chapter II)
5. New section 106B (Machinery and plant on hire purchase)
6. Section 113 amended (The disposal value)
7. Section 114 amended (Demolition and abandonment costs)
8. Section 152A revoked and replaced
 - 152B. Circumstances in which restriction on hire of relevant assets under section 152C applies
 - 152C. Restriction on hire of relevant assets
 - 152D. Hire cap percentages for relevant assets
 - 152E. Meaning of relevant asset
 - 152F. Hire of relevant assets: anti-avoidance
 - 152G. Hire of relevant assets: administration
9. Transitional matter: restriction on hire of relevant assets

TAXES (AMENDMENT) BILL 2019

(No: of 2019)

(assented to: 2019)
(commencement: in accordance with section 2)
(published: 2019)

A BILL

for

AN ORDINANCE

To amend the Taxes Ordinance 1997.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Taxes (Amendment) Ordinance 2019.

2. Commencement

- (1) This Ordinance, except section 8, is deemed to have come into force on 1 January 2019.
- (2) Section 8 of this Ordinance is deemed to have come into force on 1 October 2015.

3. Amendment of Taxes Ordinance 1997

This Ordinance amends the Taxes Ordinance 1997.

4. Section 106 amended (Interpretation for purposes of Chapter II)

- (1) In section 106(3)(d) and (e), omit “trade” and substitute “business”.
- (2) In section 106, insert after subsection (3) —

“(3A) A reference in this Chapter to expenditure for acquiring machinery, plant or another asset to which section 112, 116 or 117 applies —

(a) is a reference to the amount of capital expenditure —

(i) which the person, who (subject to sections 121 and 122) claims the depreciation allowance, spends on the provision of the machinery, plant or other asset; and

(ii) by which that person becomes the owner of the machinery, plant or other asset; and

(b) if the reference is a reference to an amount of capital expenditure spent on the provision of a building, car park, hard standing or renewable energy technology

(including the technology's system components), does not include a reference to the cost or value of the land on which the building, car park, hard standing or renewable energy technology is built.”.

(3) In section 106(4), omit the definition of “expenditure”.

5. New section 106B (Machinery and plant on hire purchase)

Insert after section 106A —

“106B. Machinery and plant on hire purchase

(1) In this section —

“contract”—

(a) includes one or more contracts between the same persons which together constitute a single arrangement or part of a single arrangement between those same persons; and

(b) does not include a contract between connected persons;

“machinery or plant” includes a vehicle and a ship;

“person” means a person carrying on a business who incurs capital expenditure on the provision of machinery or plant for the purposes of the business.

(2) This section applies if a person incurs capital expenditure on the provision of machinery or plant under a contract that —

(a) transfers substantially all the risks and rewards incidental to ownership of the machinery or plant to the person; and

(b) provides that the person will or may become the owner of the machinery or plant on the performance of the contract.

(3) The machinery or plant is to be treated as if it were owned by the person (and not by any other person) while the person is entitled to the benefit of the contract to the extent that the benefit of the contract relates to the machinery or plant.

(4) All capital expenditure to be incurred under the contract in respect of the machinery or plant after the machinery or plant is brought into use for the purposes of the person's business is to be treated as if it were expenditure the person incurs at the time the machinery or plant is brought into use.

(5) If the person ceases to be entitled to the benefit of the contract to the extent that the benefit of the contract relates to the machinery or plant without in fact becoming the owner of the machinery or plant, the machinery or plant is to be treated as ceasing to belong to the person at the time the person ceases to be entitled to the benefit of the contract.

(6) Subject to subsection (8), if the person ceases to be entitled to the benefit of the contract after the machinery or plant was brought into use for the purposes of the person's business, the disposal value of the machinery or plant is taken to be an amount equal to the sum of —

(a) the capital sums or other money's worth that the person receives or is entitled to receive by way of consideration, compensation, damages or insurance money in respect of his rights under the contract, or in respect of the machinery or plant; and

(b) so much of the capital expenditure that the person did not in fact incur.

(7) Subject to subsection (8), if the person ceases to be entitled to the benefit of the contract before the machinery or plant was brought into use for the purposes of the person's business, the disposal value of the machinery or plant is taken to be an amount equal to the capital sums or other money's worth that the person receives or is entitled to receive by way of consideration, compensation, damages or insurance money in respect of the person's rights under the contract, or in respect of the machinery or plant.

(8) If the disposal value of the machinery or plant referred to in subsection (6) or (7) is less than the total amount that would be received by the person for the machinery or plant if the person were owner of the machinery or plant and had sold the machinery or plant in the open market or otherwise at arm's length, the disposal value is to be taken to be the total amount that would have been received if the machinery or plant were sold by the person as the owner in the open market.”.

6. Section 113 amended (The disposal value)

(1) In section 113(1) —

(a) insert “(1A) and” before “(2)”; and

(b) omit “the following provisions of this section” and replace it with “section 106B or this section”.

(2) In section 113, insert after subsection (1) —

“(1A) If, in the application of a provision of this section in relation to the relevant event, an inconsistency arises between the provision and section 106B, section 106B prevails.”.

(3) In section 113(2), insert “or treated under this Chapter as incurred” after “incurred”.

7. Section 114 amended (Demolition and abandonment costs)

In section 114(1) omit “112” and replace it with “106B, 112”.

8. Section 152A revoked and replaced

(1) Revoke section 152A and replace it with —

“152B. Circumstances in which restriction on hire of relevant assets under section 152C applies

(1) Section 152C applies to a company which carries on a ring fence trade if —

(a) the company makes or is to make one or more payments under a lease of a relevant asset, or part of a relevant asset, for the purposes of its ring fence trade; and

(b) any of the following applies —

(i) the lessor is an associated person of a contractor;

(ii) the lessor is a person who is connected with the company, or was connected with the company when the lease was imposed;

(iii) the Commissioner notifies the company that the Commissioner considers that the lease is made in connection with arrangements with a main purpose of securing a tax advantage.

(2) For the purposes of subsection (1), a person is a contractor if the person carries out any of the following activities for the company —

(a) exploration or exploitation activities in, or in connection with, providing, operating or using a relevant asset in a relevant offshore service;

(b) any other activity in, or in connection with, providing a relevant offshore service.

(3) For the purposes of subsection (1)(b)(i), a person is an associated person of a contractor if the person —

(a) is or has been connected with the contractor;

(b) acts, has acted or is to act together with the contractor to provide a service; or

(c) is connected with a person specified in paragraph (a) or (b).

(4) For the purposes of subsection (3), a person does not act together with a contractor to provide a service to a person by reason only of leasing an asset that is provided, operated or used in the service.

(5) For the purposes of this section, a person who is a trustee or agent of another person, acts in a conduit arrangement with another person or acts directly or indirectly for and on behalf of another person in any other way is to be treated as if the person were connected with the other person.

(6) In this section —

“**conduit arrangement**” means an arrangement under which a person receives, directly or indirectly, a payment in respect of a relevant asset used in connection with a ring fence trade and pays, directly or indirectly, the whole or a part of the payment to another person;

“**exploration or exploitation activities**” does not include petroleum extraction activities or activities consisting of the acquisition, enjoyment or exploitation of petroleum rights;

“**provide a relevant offshore service**” means provide, operate or use a relevant asset in, or in connection with, carrying on exploration or exploitation activities in controlled waters;

“**relevant asset**” has the meaning given to it in section 152E;

“**tax advantage**” means —

- (a) a relief from tax or increased relief from tax;
- (b) a repayment of tax or increased repayment of tax;
- (c) the avoidance or reduction of a charge to tax or an assessment to tax; or
- (d) the avoidance of a possible assessment to tax.

152C. Restriction on hire of relevant assets

(1) The total amount that may be brought into account in respect of the payments for the purposes of calculating the company’s ring fence income in an accounting period is limited to the hire cap.

(2) The “**hire cap**” is an amount equal to the relevant percentage of TC for the accounting period, subject to subsection (3).

(3) If payments in relation to which subsection (1) applies are also made, or to be made, by one or more other companies in respect of a relevant asset or part of a relevant asset, the “**hire cap**” is to be such proportion of the amount mentioned in subsection (2) as is just and reasonable, having regard (in particular) to the amounts of the payments made, or to be made, by each company.

(4) In subsection (2), subject to subsection (6), “**relevant percentage**” means —

$\text{URFT/TD} \times \text{PRA}$, where —

URFT is the number of days in the accounting period that the relevant asset is provided, operated or used for the purposes of the company’s ring fence trade;

TD is the number of days in the accounting period; and

PRA is the percentage appropriate for the relevant asset pursuant to section 152D.

(5) Accordingly, the relevant percentage is zero if the relevant asset is not provided, operated or used in the accounting period.

(6) If the accounting period is less than 12 months, the relevant percentage is to be proportionally reduced.

(7) In subsection (2), TC is $OC + CE$.

(8) Unless subsection (10) applies, and subject to subsections (11) and (12), OC is the sum of —

(a) any consideration given for the acquisition of the relevant asset or part when it was first acquired by an lessor associated person; and

(b) any expenses incurred by a lessor associated person in connection with that acquisition (other than the costs of financing the acquisition).

(9) Subsection (10) applies if the relevant asset or part —

(a) is leased by a lessor associated person from a person who is not a lessor associated person; and

(b) has never been owned by a lessor associated person.

(10) Subject to subsections (11) and (12), OC is the sum of —

(a) the consideration that is reasonable to suppose would have been given for the acquisition of the relevant asset or part, if it had been acquired by a lessor associated person by way of a bargain at arm's length at the time it was first leased as mentioned in subsection (9)(a); and

(b) the expenses (other than the costs of financing the acquisition) that it is reasonable to suppose would have been incurred by a lessor associated person in connection with such an acquisition.

(11) If the relevant asset or part was first acquired by a lessor associated person, or (as the case may be) first leased as mentioned in subsection (9)(a), before the beginning of the accounting period, OC does not include any part of the consideration mentioned in subsection (8)(a) or (as the case may be) (10)(a) that it is reasonable to attribute to anything that no longer forms part of the relevant asset or part at the beginning of the accounting period.

(12) If the relevant asset or part was first acquired by a lessor associated person, or (as the case may be) first leased as mentioned in subsection (9)(a), in the accounting period, OC for the accounting period is —

$OC \times ((D-DBA)/D)$, where —

D is the total number of days in the accounting period;

DBA is the number of days in the accounting period before the day on which the relevant asset or part was first acquired or first leased; and

OC is the amount given by subsection (8) or (as the case may be) (10).

(13) Subject to subsections (14) and (15), CE is capital expenditure on the relevant asset or part (other than capital expenditure in respect of its acquisition or the acquisition of a lease of it) incurred by a lessor associated person —

(a) after it was first acquired by a lessor associated person or (as the case may be) was first leased as mentioned in subsection (10)(a); and

(b) before the end of the accounting period.

(14) CE does not include any capital expenditure mentioned in subsection (13) that is —

(a) incurred before the beginning of the accounting period; and

(b) not reflected in the state or nature of the relevant asset or part at the beginning of the accounting period.

(15) If any capital expenditure mentioned in subsection (13) is incurred on a day in the accounting period, the amount of CE for the accounting period in respect of that capital expenditure is —

$CEA \times ((D-DBI)/D)$, where —

D is the total number of days in the accounting period;

DBI is the number of days in the accounting period before the day on which that capital expenditure is incurred; and

CEA is the amount of that capital expenditure.

(16) For the purposes of this section —

(a) a lease is (in relation to an asset) an agreement or arrangement under which payments are made for the use of or otherwise in respect of the asset;

(b) a lease includes an agreement or arrangement under which the payments (or any of them) represent instalments of a purchase price or payments towards it; and

(c) notwithstanding paragraphs (a) and (b), an agreement or arrangement to which section 106B(2) applies shall not be treated as a lease unless the Commissioner gives a notification under section 152B(1)(b)(iii).

(17) In this section —

“**relevant asset**” has the meaning given to it in section 152E;

“**lessor**” means lessor under a lease referred to in this section;

“**lessor associated person**” means —

(a) the lessor;

(b) a person who is or has been connected with the lessor; or

(c) a person who is connected with a person referred to in paragraph (b), or acting together with the lessor or a person referred to in paragraph (b) in relation to the lease of a relevant asset.

[UK Corporation Tax Act 2010 s.285A(2)-(4), s. 356N(2)-(15), s.868(2),(3)]

152D. Hire cap percentages for relevant assets

(1) Subject to subsection (2), the percentage appropriate for a relevant asset is 7.5%.

(2) If the Commissioner is satisfied that increasing the percentage appropriate for a relevant asset to a percentage more than 7.5% would be just and reasonable having regard to the economic characteristics of a relevant asset, the Commissioner may, by notice in writing to the company making payments under the lease of the relevant asset, increase the percentage appropriate for the relevant asset.

(3) In subsection (2), reference to the Commissioner having regard to the economic characteristics of a relevant asset includes reference to the Commissioner having regard to the useful life of the relevant asset when it was first constructed.

152E. Meaning of relevant asset

(1) Subject to subsections (4) and (5), in sections 152B, 152C and 152D, “**relevant asset**” means an asset which is of the requisite value.

(2) A reference to an asset in subsection (1) is a reference to an asset (including a ship or other vessel) that —

(a) can be moved from place to place (whether or not under its own power) without major dismantling or modification;

(b) can be used in connection with a ring fence trade; and

(c) is or will be provided, operated or used in controlled waters for 30 days or more in aggregate within a continuous 12 month period.

(3) An asset is of the requisite value if its market value is £2,000,000 or more.

(4) The Governor may, by rules, modify the meaning of relevant asset and requisite value.

(5) Rules made under subsection (4) may —

(a) amend this section;

(b) make different provision for different cases or different purposes; and

(c) make incidental, consequential, supplementary, transitional or saving provisions.

[UK Corporation Tax Act 2010 s.356LA(2)(a), (7)-(9), s.356N(1), s.356NA(2)]

152F. Hire of relevant assets: anti-avoidance

(1) If a person enters into an arrangement the main purpose or one of the main purposes of which is to secure that section 152C(1) does not apply in relation to one or more payments to any extent, that subsection applies in relation to the payments to the extent that it would not otherwise do so.

(2) In subsection (1), “**arrangement**” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

[UK Corporation Tax Act 2010, s.285A(8), (9)]

152G. Hire of relevant assets: administration

(1) A company which leases a relevant asset must include as part of the company’s return and accounts the company delivers to the Commissioner under section 30 —

(a) an explanation of whether section 152C applies to the lease; and

(b) if section 152C applies to the lease —

(i) a calculation of the amount of the restrictions applying under that section (which must be based on the company’s determination of the value of TC, as defined in section 152C(7)); and

(ii) supporting evidence for the calculation of the amount of the restrictions applying and the basis of any estimates used in doing so.

(2) For the purpose of assessing a company's compliance with section 152C, the Commissioner may, by notice in writing, request the company to provide to the Commissioner the information and copies of the documents the Commissioner specifies in the notice.

(3) A company must comply with a request made to it under subsection (2) as soon as practicable after receiving the request.

(4) The information or copies of documents which the Commissioner may request the company to provide under subsection (2) include the following —

(a) leases of relevant assets;

(b) contractor services it has received;

(c) counterparties to the leases of relevant assets and contractor services received;

(d) commercial and tax purposes for entering into leases of relevant assets.

(5) If a company does not provide the return, accounts, information or copies of documents referred to in subsection (1) or (2), or if the return, accounts, information or copy omits information, contains incomplete or incorrect information or a miscalculation relating to ring fence income or compliance with section 152C, the Commissioner may amend the return, or an assessment relating to the return, to the extent necessary to rectify the omission, incomplete or incorrect information, miscalculation or failure.

(6) If the Commissioner amends a return or assessment under subsection (5), the Commissioner must give written notice to the company of the amendment.”.

9. Transitional matter: restriction on hire of relevant assets

(1) In this section —

“**commencement day**” means 1 October 2015;

“**straddling accounting period**” means an accounting period that begins before the commencement day and ends after the commencement day.

(2) If section 152C applies to a payment brought into account in a straddling accounting period, the total amount of payments brought into account for calculating the company's ring fence income for the straddling accounting period for the purpose of that section is to be treated as if it were apportioned, on a just and reasonable basis, between —

(a) the part of the accounting period occurring before the commencement day; and

(b) the part of the accounting period occurring on or after the commencement day.

OBJECTS AND REASONS

This Bill amends the Taxes Ordinance 1997 to —

(a) amend sections 106, 113 and 114 of the Ordinance, and insert new section 106B, to provide for the application of Part V, Chapter II (depreciation allowances) of the Ordinance to hire purchase arrangements that have an effect equivalent to acquiring an asset; and

(b) revoke section 152A and replace it with new sections 152B to 152G to revise the restrictions placed on ring fence trading relating to leasing assets so that leasing assets remains a viable economic option for the industry.

Clause 1 specifies the short title of the Ordinance.

Clause 2 specifies that the Ordinance commences retrospectively on 1 January 2019 for sections 4 to 7 and on 1 October 2015 for section 8.

Clause 3 provides that this Ordinance amends the Taxes Ordinance 1997.

Clause 4 amends section 106 of the Ordinance to—

(a) correctly refer in subsection(3)(d) and (e) to a person carrying on a business (which is defined in section 2 of the Ordinance to include a trade) to accord with the purpose of Part V (Taxation of business);

(b) insert new subsection (3A) to provide that references in section 112, 116 or 117 of the Ordinance to expenditure for acquiring machinery, plant or another asset are references to capital expenditure for the purpose of claiming a depreciation allowance for the machinery, plant or asset; and

(c) as a consequence of inserting subsection (3A), omit the definition of expenditure from subsection (4).

Clause 5 inserts new section 106B to provide that, when a person incurs capital expenditure on the provision of machinery or plant for the purposes of the person's business under a hire purchase contract, the person is treated as the owner of the plant or machinery while the person is entitled to the benefit of the contract for the purpose of applying allowances, deductions and charges under Chapter 2 and when determining the disposal value of the machinery or plant.

Clause 6 amends section 113 to include reference to the provisions of section 106B relating to the disposal value of an asset and provide that section 106B prevails in the event of an inconsistency arising between section 113 and 106B.

Clause 7 amends section 114 to refer to section 106B.

Clause 8 revokes section 152A of the Taxes Ordinance 1997 and replace it with the following new sections —

Section 152B, which sets out the circumstances in which the revised restriction on ring fence trading applies in the Falkland Islands;

Section 152C, which provides the mechanism for limiting the amount of the payments made under a lease of an asset that may be brought into account for the purposes of calculating the company's ring fence income in an accounting period;

Section 152D, which specifies the percentage of total payments under a lease of a relevant asset for calculating the amount that may be brought into account under section 152C for the relevant asset;

Section 152E, which sets out the meaning of “relevant asset”;

Section 152F, which deals with tax avoidance relating to ring fence income;

Section 152G, which deals with administrative matters for these provisions.

Clause 9 provides that the payment or payments made by a company under a lease of a relevant asset for the purposes of the company's ring fence trade during the accounting period within which 1 October 2015 falls are to be apportioned between the part of the accounting period that occurs before that date and the part of the accounting period that occurs after that date (and the provisions under the Taxes Ordinance as in force before and after that date that deal with ring fence trading apply accordingly).

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Supplement

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The following are published in this Supplement —

Maritime (Amendment) Bill 2019; and

Maritime Labour Bill 2019.

Maritime (Amendment) Bill 2019

(No: of 2019)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 — INTRODUCTORY

1. Title
2. Commencement

PART 2 — AMENDMENT OF MARITIME ORDINANCE 2017

3. Amendment of Maritime Ordinance 2017
4. Section 1 amended — Title and commencement
5. Section 2 amended — Interpretation
6. Section 5 amended — British ships
7. Section 14 amended — Registration of ships in the Falkland Islands as British ships: basic provisions
8. Section 15 amended – Registration requirements
9. Part 4 repealed — Masters and Seafarers
10. Addition of section 84A
11. Part 6 amended — Fishing Vessels
12. Section 131 amended – Prevention of pollution from ships, etc
13. Section 132 amended — Further provision for prevention of pollution from ships
14. Section 162 amended — Interpretation
15. Section 163 amended — Liability for oil pollution in case of tankers
16. Addition of section 163A
17. Section 164 amended —Liability for pollution in case of other ships
18. Section 165 amended — Exceptions from liability under sections 163 and 164
19. Section 166 amended — Restriction of liability for oil pollution
20. Addition of section 166A
21. Section 167 amended — Limitation of liability under section 163
22. Section 168 amended — Limitation actions
23. Section 170 amended — Concurrent liabilities of owners and others
24. Section 172 amended — Extinguishment of claims
25. Section 173 amended — Compulsory insurance against liability for pollution
26. Addition of section 173A
27. Section 174 amended — Issue of certificate by Governor
28. Section 175 amended — Rights of third parties against insurers
29. Section 176 amended — Jurisdiction of Falkland Islands courts and registration of foreign judgments
30. Section 177 amended — Government ships
31. Section 178 amended — Limitation of liability under section 164
32. Section 180 amended — Interpretation

33. Section 181 amended — Meaning of the “Liability Convention”, “the Fund Convention” and related expressions
34. Section 182 amended — Contributions by importers of oil and others
35. Section 183 amended — Power to obtain information
36. Addition of sections 184A and 184B
37. Section 186 amended — Jurisdiction and effect of judgments
38. Section 187 amended — Extinguishment of claims
39. Section 188 amended — Subrogation
40. Section 189 amended — Supplementary provisions as to proceedings involving the Fund
41. Section 307 amended — Regulations, rules, and orders, etc.
42. Addition of section 307A
43. Addition of section 308A
44. Section 309 amended — Forms
45. Section 310 amended — Repeals and savings
46. Global amendments relating to Government ships
47. Schedule added — Schedule 2A
48. Schedule 5 amended
49. Schedule 10 amended

**PART 3 – AMENDMENT OF LAW REVISION AND PUBLICATION ORDINANCE
2017**

50. Amendment of Law Revision and Publication Ordinance 2017
51. Schedule 1 amended

**PART 4 – REPEAL OF MERCHANT SHIPPING (ADOPTION OF LEGISLATION)
(AMENDMENT) ORDINANCE 2017**

52. Repeal of Merchant Shipping (Adoption of Legislation) (Amendment) Ordinance 2017

MARITIME (AMENDMENT) BILL 2019

(No: of 2019)

(assented to: 2019)
(commencement: in accordance with section 2)
(published: 2019)

A BILL

for

AN ORDINANCE

To amend the Maritime Ordinance 2017 so as to update it to reflect the latest limits of compensation in maritime claims, to update the maritime law so that it reflects international conventions on various maritime matters, to give the Governor the power to make regulations to give effect to those international conventions, to reflect consequential amendments arising out of the repeal of Part 4, to further make several corrections to the schedules to the Maritime Ordinance 2017 and to provide for related matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 — INTRODUCTORY

1. Title

This Ordinance is the Maritime (Amendment) Ordinance 2019.

2. Commencement

(1) This Ordinance comes into force on a date appointed by the Governor by notice in the *Gazette* except where it is provided that particular provisions come into force on a different date.

(2) Sections 9 and 11 come into force when the Maritime Labour Ordinance 2019 comes into force.

(3) Sections 14 to 31 come into force —

(a) on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the Falkland Islands; or

(b) on such other day as the Governor may appoint following the coming into force of the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 in respect of the Falkland Islands.

(4) Sections 32 to 40 and sections 44 and 47 come into force —

(a) on the day on which the Supplementary Fund Protocol comes into force in respect of the Falkland Islands; or

(b) on such other day as the Governor may appoint, being a day following the coming into force of the Supplementary Fund Protocol in respect of the Falkland Islands.

PART 2 — AMENDMENT OF MARITIME ORDINANCE 2017

3. Amendment of Maritime Ordinance 2017

This Part amends the Maritime Ordinance 2017.

4. Section 1 amended — Title and commencement

Section 1 is amended as follows —

(a) by numbering the current provision as subsection (1); and

(b) by adding the following new subsection immediately after subsection (1) —

“(2) Subject to subsection (1), the Governor may appoint different dates for different provisions and purposes.”

5. Section 2 amended – Interpretation

Section 2 is amended as follows —

(a) by omitting the definition of “Falkland Islands registered ship” and replacing it with the following —

“**Falkland Islands registered ship**” means a ship registered under Part 3 and “Falkland Islands ship” must be construed accordingly”;

(b) by omitting the definition of “Government ship” and replacing it with the following in its correct alphabetical order —

“**United Kingdom Government ship**” has the meaning given to it in section 5(4)”;

(c) by omitting the definition of “national maritime domain”; and

(d) by adding the following definitions in their correct alphabetical order;

“**Chapter V of the Annex to the SOLAS Convention**” has the same meaning as given under section 84A(4);

“**Falkland Islands Government ship**” has the meaning given to it in section 5(3); and

“**Marine Information Notice**” or “**Marine Guidance Notice**” means general guidance contained in a notice described as such, issued or adopted by the Governor or the

Authority under section 307A, and includes a reference to any such document amending or replacing that notice from time to time;

“**Merchant Shipping Notice**” means mandatory guidance contained in a notice described as such, issued or adopted by the Governor or the Authority under section 307A, and includes a reference to any such document amending or replacing that notice from time to time;”.

6. Section 5 amended – British ships

Section 5 is amended as follows —

(a) in subsection (1) —

(i) by omitting paragraph (c) and replacing it with the following —

“(c) the ship is, as a Falkland Islands Government ship, registered as a British ship under Part 3 or under regulations made under section 15;”

(ii) by inserting the following paragraph immediately after paragraph (c) —

“(ca) the ship is, as a United Kingdom Government ship, registered in the United Kingdom in pursuance of an Order in Council made under section 308 of the Act”;

(b) by adding the following subsections immediately after subsection (2) —

“(3) In this section “**Falkland Islands Government ship**” means a ship belonging to the Falkland Islands government and registered as a British ship under Part 3.

(4) In this section “**United Kingdom Government ship**” means a ship not forming part of Her Majesty’s Navy which belongs to Her Majesty, or a ship held by any person on behalf of or for the benefit of the Crown (and for that reason cannot be registered under Part 3).”

7. Section 14 amended — Registration of ships in the Falkland Islands as British ships: basic provisions

Section 14 is amended as follows —

(a) by omitting subsection (3) and replacing it with the following —

“(3) Notwithstanding subsection (2)(b), the following are deemed to have a Falkland Islands connection —

(a) vessels owned by the United Kingdom Research Institute (or any successor body);
and

(b) any vessels owned by organisations which the Governor may prescribe by order from time to time.”;

(b) by omitting subsection (5) and replacing it with the following —

“(5) The Governor may give a direction under subsection (4) if he or she is satisfied that having regard to any relevant 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.”; and

(c) in the footnote reference at the end of section 14, by omitting “ [Merchant Shipping Act 1995 (UK), s. 10]” and replacing it with “[Merchant Shipping Act 1995 (UK), s. 9]”.

8. Section 15 amended – Registration requirements

Section 15(3) is amended as follows —

(a) paragraph (h)(i) is omitted and replaced with the following —

“(i) the approval of forms by the Registrar;”; and

(b) by adding the following paragraph immediately after paragraph (j) —

“(k) may provide for the manner in which Falkland Island Government ships may be registered as British ships under this Part, subject to any exceptions and modifications which may be made by the regulations, either generally or as respects any special class of government ships.”.

9. Part 4 repealed — Masters and Seafarers

(1) Part 4 is repealed.

(2) The following consequential amendments (*arising out of the repeal of Part 4*) are made to the Ordinance —

(a) in section 238(1)(b) and 238(2) by inserting “or the Maritime Labour Ordinance 2019” immediately after “this Ordinance”;

(b) in section 240(1) —

(i) by inserting “or the Maritime Labour Ordinance 2019” immediately after “161”; and

(ii) by inserting “or that Ordinance” immediately after “(other than those sections)”;

(c) in section 241(2) —

(i) in paragraph (h)(iii) by omitting “this Ordinance or any instrument made under it” and replacing it with “this Ordinance, the Maritime Labour Ordinance 2019, or any instrument made under either Ordinance”;

(ii) in paragraph (j)(i) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(d) in section 243(4) by omitting paragraph (a) and replacing it as follows —

“(a) sections —

(i) 27, 28 and 34 to 43 of the Maritime Labour Ordinance 2019; and

(ii) 84, 85, and 87 (and Schedule 2), 96, 113, 119, 120, 125 to 135, 139 to 161 and 254 of this Ordinance;”

(e) in section 261(1) by omitting “this Ordinance or any instrument made under it” and replacing it with “this Ordinance or the Maritime Labour Ordinance 2019, or to any instrument made under either Ordinance”;

(f) in section 262 by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(g) in section 263(1) and (2) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(h) in section 264(1) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(i) in section 265 by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(j) in section 268(1), (9) and (10) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(k) in section 269 by omitting subsection (1) and replacing it as follows —

“(1) Where any court has power to make an order under this Ordinance or the Maritime Labour Ordinance 2019 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 which made the order may direct the amount remaining unpaid to be levied by distress of the ship and its equipment.”;

(l) in section 271(1) by making the following amendments —

(i) in paragraph (a) by omitting “section 36” and replacing it with “section 17 of the Maritime Labour Ordinance 2019”;

(ii) by omitting paragraph (b) and replacing it as follows —

“(b) the official log book of any ship kept under section 60 of the Maritime Labour Ordinance 2019 or the official log book of any fishing vessel kept under section 124RR and, without prejudice to section 270(2), any document purporting to be a copy of an entry on the log book and to be certified as a true copy by the master of the ship or the skipper of a fishing vessel;”;

(iii) in paragraph (c) —

(aa) by omitting “section 78” and replacing it with “section 124SS”;

(bb) by omitting “Part III” and replacing it with “the Maritime Labour Ordinance 2019”; and

(iv) in paragraph (d) by omitting “section 113” and replacing it with “section 112” and;

(m) in section 275(1) by inserting “under this Ordinance or the Maritime Labour Ordinance 2019” immediately after “on any person”

(n) in section 296(2) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(o) in section 297(1) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Part 7”;

(p) in section 300(1) and (2) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(q) in section 301(a) and (g) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”; and

(r) in section 302(1)(c) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”.

10. Addition of section 84A

Part 5 is amended by adding the following section immediately after section 84 —

“84A. Powers to give effect to Chapter V of the Annex to the SOLAS Convention

(1) The Governor may make such regulations as he or she considers appropriate for the purpose of giving effect to Chapter V of the Annex to the SOLAS Convention on the safety of navigation for all vessels at sea.

(2) Regulations made under this section may include requirements for the Authority to put measures in place with respect to the following matters —

- (a) navigational warnings;
- (b) meteorological services information and warnings to ships;
- (c) search and rescue;
- (d) lifesaving signals;
- (e) hydrographic services;
- (f) the use of ship routing systems;
- (g) ship reporting systems;
- (h) vessel traffic services;
- (i) the establishment and operation of aids to navigation; and
- (j) coordination in distress situations.

(3) Regulations made under subsection (1) 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; and
- (c) specify 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 or to imprisonment for a term not exceeding two years, or both.”.

(4) In this section —

“**Chapter V of the Annex to the SOLAS Convention**” means Chapter V, Safety of Navigation, of the Annex to the International Convention for the Safety of Life at Sea (SOLAS V) 2002 as amended; and

“**SOLAS Convention**” means the International Convention for the Safety of Life at Sea, 1974 as amended.”

11. Part 6 amended — Fishing Vessels

Chapter I of Part 6 is repealed and replaced with the following —

“Chapter I: Skipper and Seafarers

Engagement and discharge of crews

113. Interpretation

(1) In this Part —

“**crew agreement**” has the meaning given to it by section 114(2);

“**engaged**” means engaged under a contract, other than a contract of employment with a shipowner, in the circumstances described in subsection (2); and “**engagement**” is to be construed accordingly;

“**relief and maintenance**” include 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) The circumstances referred to in the definition of “engaged” are that —

(a) the person or seafarer engaged under the contract undertakes to do or perform personally any work or services in a fishing vessel; and

(b) the undertaking referred to in paragraph (a) is provided to —

(i) the shipowner; or

(ii) another person who is a party to the contract.

(3) For the purposes of the definition of “engaged” in subsection (1), a contract can be —

(a) express; or

(b) implied; and

(c) if it is express, made orally or in writing.

114. Crew agreements

(1) Except as provided for under section 115, any person who employs or engages a person to work as a seafarer in a fishing vessel 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 or engaged in a fishing vessel 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 fishing vessel.

(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 section 115, a crew agreement must be carried in the fishing vessel to which it relates, whenever it goes to sea.

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

115. Regulations relating to crew agreements

(1) The Governor may make regulations providing for exemptions from the requirements of section 114 —

(a) with respect to such descriptions of fishing vessels 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 or engaged by a specified person or in a specified fishing vessel or in the fishing vessels of a specified person) in cases where the Governor is satisfied that the seafarers to be employed or engaged otherwise than under a crew agreement will be adequately protected.

(2) Any fishing vessel 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**”).

(3) Regulations made under this section may —

(a) enable fishing vessels 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.

(4) If a fishing vessel goes to sea or attempts to go to sea in contravention of the requirements of this section the skipper or the person who employs or engages 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 fishing vessel, if in the Falkland Islands, may be detained.

(5) The Governor may make regulations —

(a) prescribing the procedure to be followed in connection with the making of crew agreements between persons employed or engaged in fishing vessels registered in the Falkland Islands and persons employing or engaging 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.

(6) 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 lesser amount as may be specified in the regulations.

[Merchant Shipping Act 1995 [UK], s. 109]

116. Discharge of seafarers

(1) The Governor may make regulations prescribing the procedure to be followed in connection with the discharge of seafarers from fishing vessels 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 fishing vessel 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 lesser amount as may be specified in the regulations.

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

117. Seafarers left behind abroad otherwise than on discharge

Regulations made under section 116 may apply any provision of that section, with such modifications as appear to the Governor to be appropriate, to cases where a seafarer employed or engaged in a Falkland Islands fishing vessel is left behind outside the Falkland Islands otherwise than on being discharged from the fishing vessel.

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

118. Discharge of seafarers when fishing vessel ceases to be registered in the Falkland Islands

Where a fishing vessel registered in the Falkland Islands ceases to be so registered, any seafarer employed or engaged in the fishing vessel must be discharged from the vessel unless the seafarer consents in writing to continue his or her employment or engagement in the fishing vessel.

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

Wages etc.

119. Payments of seafarers' wages

Except as provided for under the Maritime Labour Ordinance 2019 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]

120. Regulations relating to wages: deductions

(1) 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 the Maritime Labour Ordinance 2019 or 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 fishing vessel from which the seafarer is employed or engaged 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 121 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]

(2) The power to make regulations under subsection (1) includes power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment or engagement in a fishing vessel is to be determined by a body established or

approved by the Governor in pursuance of regulations made under section 124AA.
[Merchant Shipping Act 1995 (UK), s. 111]

121. Accounts of wages and catch

(1) The persons employing or engaging 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 or engaged in a fishing vessel registered in the Falkland Islands are in any manner related to the catch, the persons employing or engaging the seafarer must —

(a) deliver to the skipper an account (or, if the skipper is the person employing or engaging 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 skipper 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]

122. Restriction on assignment of and charge upon wages

(1) As respects the wages due or accruing to a seafarer employed or engaged in a fishing vessel 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 revocable.
- (2) Nothing in this section affects section 124C 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.
- (4) Nothing in this section 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 or engaged in a fishing vessel.

[Merchant Shipping Act 1995 (UK), s. 34 and 113]

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

- (1) Where a fishing vessel registered in the Falkland Islands is wrecked or lost and a seafarer whose employment or engagement in the vessel is as a result terminated before the date contemplated in the agreement under which the seafarer is employed or engaged, 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 fishing vessel 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 or engagement in the vessel is as a result terminated before the date contemplated in the agreement under which the seafarer is employed or engaged, 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 or engagement 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 fishing vessel or, as the case may be, the termination of the seafarer's employment or engagement on the sale of the fishing vessel or its ceasing to be registered in the Falkland Islands; or
 - (b) that the seafarer was able to obtain suitable employment or engagement for that day but unreasonably refused or failed to take it.

(4) This section applies to a skipper as it does to a seafarer.
[Merchant Shipping Act 1995 (UK), s. 38, s. 114]

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

(1) Any dispute relating to the amount payable to a seafarer employed or engaged 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]

124A. Power of court to award interest on wages due otherwise than under crew agreement

In any proceedings by the skipper of a fishing vessel or a person employed or engaged in a fishing vessel 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 reasonable 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 10 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]

124B. 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 or engagement in a fishing vessel 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]

124C. 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 124B 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]

124D. 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 fishing vessel on which the seafarer is employed or engaged, 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 fishing vessel who, in accordance with the agreement, is to be employed or engaged on salvage service, that provide for the remuneration to be paid to the seafarer for salvage services rendered by that fishing vessel.

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

124E. Claims against seafarer's wages for maintenance, etc. of dependants

(1) Where, during a seafarer's employment or engagement in a fishing vessel, 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 responsible authority may by notice in writing complying with the regulations require the persons employing or engaging the seafarer —

(a) to retain for a period specified in the notice such proportion of the seafarer's 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 fishing vessel;

and the persons employing or engaging 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 responsible 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 responsible authority has served a notice under this section on the persons employing or engaging a seafarer, the Magistrate's Court may, on the application of the responsible authority, make an order for the payment to the responsible 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 responsible 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 or engaged 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 or engaged 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) Any notice or order under this section may be served by registered post or recorded delivery service.

(8) 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 the fishing vessel);

(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 122.

(9) 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]

124F. Remedies of skipper for remuneration, disbursements and liabilities

The skipper of a fishing vessel 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 a fishing vessel, as a seafarer has for the seafarer's wages.

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

Health, safety and welfare

124G. Hours of work

(1) The Governor may make regulations prescribing maximum periods of duty and minimum periods of rest for seafarers employed or engaged in fishing vessels registered in

the Falkland Islands, and the regulations may make different provision for different descriptions of fishing vessels or seafarers employed or engaged 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 or engaged in a fishing vessel the persons employing or engaging the seafarer and the skipper 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]

124H. Obligation of shipowners as to seaworthiness

(1) In every contract of employment or contract for services between the owner of a fishing vessel registered in the Falkland Islands and the skipper of that fishing vessel, or any seafarer employed or engaged in the fishing vessel, there is an implied obligation on the owner of the fishing vessel that —

- (a) the owner of the fishing vessel;
- (b) the skipper of the fishing vessel; and
- (c) every agent charged with —
 - (i) the loading of the fishing vessel;
 - (ii) the preparing of the fishing vessel for sea; or
 - (iii) the sending of the fishing vessel to sea,

must use all reasonable means to ensure the seaworthiness of the fishing vessel for the voyage at the time when the voyage commences and to keep the fishing vessel 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 fishing vessel arises under subsection (1) in respect of the fishing vessel being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the fishing vessel to sea in such a state was reasonable and justifiable.

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

124I. Crew accommodation

(1) The Governor may make regulations with respect to the crew accommodation to be provided in fishing vessels 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 fishing vessel 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 fishing vessels or with respect to fishing vessels 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 fishing vessels of any description from any requirements of the regulations and the Governor may grant other exemptions from any such requirement with respect to any fishing vessel.

(5) Regulations under this section may require the skipper of the fishing vessel or any officer authorised by the skipper 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 skipper is liable, on conviction, to a fine not exceeding level 5 on the scale set out in Schedule 7 and the fishing vessel, 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 fishing vessels, and whose appointment may be on terms determined by the Governor.

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

124J. Complaints about provisions or water

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

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

- (a) their dissatisfaction with the skipper’s decision; and
- (b) their intention to complain to a superintendent or proper officer,

after which the skipper must make adequate arrangements to enable the seafarer to make the complaint as soon as the service of the fishing vessel 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 skipper fails without reasonable excuse to comply with the provisions of subsection (2), the skipper is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 and if the skipper 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 skipper or owner is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7 unless the skipper proves that the failure to replace them was not due to the skipper’s neglect or default; or
- (b) if the skipper, without reasonable excuse after having been notified, permits them to be used the skipper 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]

124K. Expenses of medical and other treatment during voyage

(1) If a person, while employed or engaged in a fishing vessel 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 who employed or engaged the person.

(2) If a person dies while employed or engaged in a fishing vessel 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 or by the person who engaged him or her.

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

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

Manning and qualifications

124L. Manning

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

(a) requiring fishing vessels 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 fishing vessels 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 fishing vessels or for fishing vessels 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]

124M. Power to exempt from manning requirements

(1) The Governor may exempt any fishing vessel or description of fishing vessel from any of the requirements of regulations made under section 124L.

(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]

124N. Prohibition of going to sea undermanned

(1) Subject to section 124M, if a fishing vessel 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 124L, the owner or skipper is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7; and the fishing vessel, if in the Falkland Islands, may be detained.

(2) This section, in its application to fishing vessels 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]

124O. 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 124L 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 2005.

[Merchant Shipping Act 1995 (UK), s. 116]

124P. Crew’s knowledge of English

(1) Where in the opinion of a superintendent or proper officer the crew of a fishing vessel 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 skipper of that opinion, the fishing vessel must not go to sea; and

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

(2) If a fishing vessel goes to sea or attempts to go to sea in contravention of this section the owner or skipper 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]

124Q. 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 124L.

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

124R. Medical treatment on board fishing vessel

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

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

124S. Special certificates of competence

(1) The Authority may issue and record documents certifying the attainment of any standard of competence relating to fishing vessels registered in the Falkland Islands or their operation, notwithstanding that the standard is not among those prescribed or specified under section 124L(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]

124T. Young persons

(1) Subject to subsection (2), a person under the school-leaving age must not be employed or engaged in any fishing vessel 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 or engaged in a fishing vessel which is not a sea-going vessel 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 or engaged in a fishing vessel registered in the Falkland Islands which is not a sea-going vessel or may be so employed or engaged 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 or engaged in a sea-going vessel registered in the Falkland Islands or may be so employed or engaged 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 or engagements and different descriptions of fishing vessels and any other different circumstances.

(4) If any person is employed or engaged in a fishing vessel in contravention of this section or if any condition subject to which a person may be employed or engaged under regulations made for the purposes of this section is not complied with, the owner or skipper 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 or engaged in a fishing vessel 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 under the enactments for the time being in force 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]

124U. Financial assistance for training

(1) Subject to funds being provided for in accordance with section 299, 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 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 fishing vessels, 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' fishery 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]

Offences by seafarers

124V. Conduct endangering fishing vessels, structures or individuals

(1) This section applies —

(a) to the skipper of, or any seafarer employed or engaged in, a fishing vessel registered in the Falkland Islands; and

(b) to the skipper of, or any seafarer employed or engaged in, a fishing vessel 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 the fishing vessel 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 the fishing vessel, its machinery or navigational, fishing or safety equipment;

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

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

(b) omits to do anything required —

(i) to preserve the fishing vessel, its machinery or navigational, fishing or safety equipment from being lost, destroyed or seriously damaged;

(ii) to preserve any person on board the fishing vessel from death or serious injury; or

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

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 skipper 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 or her duties, or performs any other function in relation to the operation of his or her fishing vessel 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 7 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years, 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 skipper, includes any disobedience to a lawful command;

“**duty**” —

(a) in relation to a skipper 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 skipper, includes his or her duty with respect to the good management and safety of operation of the fishing vessel, its machinery and equipment; and

“**structure**” means any fixed or movable structure (of whatever description) other than a ship or fishing vessel.

[Merchant Shipping Act 1995 (UK), s. 58]

124W. Concerted disobedience and neglect of duty

(1) If a seafarer employed or engaged in a fishing vessel registered in the Falkland Islands combines with other seafarers employed or engaged in that fishing vessel to impede, at such a time, the progress of a voyage or the navigation of the fishing vessel, the seafarer 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 both.

(2) For the purposes of this section, a fishing vessel 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]

124X. 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]

124Y. 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 skipper of the vessel in question;

(e) the owner of the vessel in question; or

(f) a person instructed by the skipper 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 skipper, 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]

Disciplinary offences

124Z. Disciplinary offences

(1) 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 skipper or owner of a fishing vessel against a seafarer alleging that during his or her employment or engagement in the vessel, the seafarer contravened a local industrial agreement relating to his or her employment or engagement on the vessel and for requiring the disciplinary body to have regard to the agreement in determining whether the allegation is proved.

(2) The alleged contravention referred to under subsection (1) may be one on or off the fishing vessel and in the Falkland Islands or elsewhere.

(3) Regulations under section 124AA 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 or engagement in a particular vessel.

[Merchant Shipping Act 1995 (UK), s. 119]

Disciplinary offences – Prospective

124AA. 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 fishing vessels 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 skipper or owner of a fishing vessel registered in the Falkland Islands, against a seafarer alleging that during his or her employment or engagement on board the fishing vessel, 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 fishing vessel 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 124TT 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, subject to funds being provided for in accordance with section 299, make provision for the payment of such remuneration and allowances as the Governor may determine to any member of such a body.

(9) Regulations may make different provisions 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]

124BB. 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, may, if the Governor thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 124L 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 124FF(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 124L 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]

124CC. 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 or her 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 124DD.

(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 124S and to any certificate issued under section 124L other than one certifying that a person is qualified as an officer.

[Merchant Shipping Act 1995 (UK), s. 62]

124DD. Inquiry into fitness or conduct of seafarer other than officer

(1) Where a person has, before the date mentioned in section 124AA(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 124FF(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]

124EE. Re-hearing of and appeal from inquiries

(1) Where an inquiry has been held under section 124BB or 124DD, 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, if the inquiry was held in the Falkland Islands, to be 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 124FF(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]

124FF. Rules as to inquiries and appeals

(1) The Governor may make rules for the conduct of inquiries under sections 124BB and 124DD and for the conduct of any re-hearing under section 124EE 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 124EE 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]

124GG. Failure to deliver cancelled or suspended certificate

If a person fails to deliver a certificate as required under sections 124BB, 124CC and 124DD 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]

124HH. Power to restore certificate

Where a certificate has been cancelled or suspended under section 124BB, 124CC, 124DD, or 124EE, 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]

124II. Power to summon witness to inquiry into fitness or conduct of officer or other seafarer

(1) The persons holding an inquiry under section 124BB or 124DD 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 level 1 on the scale set out in Schedule 7 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 the Magistrate’s Court, the head of the courts and tribunal service.

[Merchant Shipping Act 1995 (UK), s. 68]

Civil liability of seafarers for offences

124JJ. Civil liability for absence without leave

(1) This section applies with respect to the liability of a seafarer employed or engaged in a fishing vessel registered in the Falkland Islands to damages for being absent from the fishing vessel at a time when the seafarer is required under the seafarer’s contract of employment or contract for services to be on board.

(2) If the seafarer proves that the seafarer’s absence was due to an accident or reasonable 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 one day’s wages of the seafarer’s income;

(b) if special damages are claimed, the seafarer’s liability will not be more than one week’s wages of the seafarer’s income.

[Merchant Shipping Act 1995 (UK), s. 70]

124KK. Civil liability for smuggling

If, in civil proceedings before a court in the Falkland Islands, a seafarer employed or engaged in a fishing vessel 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]

124LL. Civil liability for fines imposed under immigration laws

(1) The following provisions of this section apply where, at a time when a fishing vessel registered in the Falkland Islands is in the national or territorial waters of another country, a seafarer employed or engaged in the fishing vessel 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 124JJ, 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 one week's wages of the seafarer's income, one 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

124MM. Relief and return of seafarer etc. left behind and shipwrecked

(1) Where —

(a) a person employed or engaged as a seafarer in a fishing vessel 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 or engaged 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 or engaged him or her as a seafarer must make such provision for the seafarer's return and for his or her relief and maintenance until the seafarer'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 the fishing vessel, 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 skipper of any fishing vessel 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 skipper 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 an offence punishable on conviction with a fine not exceeding level 3 on the scale set out in Schedule 7 or such lesser amount as may be specified in the regulations.

(7) This section applies to a person left behind on being discharged in pursuance of section 116, whether or not at the time the person is left behind the fishing vessel is still registered in the Falkland Islands.

(8) This section applies to the skipper as it applies to a seafarer and sections 124NN and 124OO have effect accordingly.

[Merchant Shipping Act 1995 (UK), s. 73]

124NN. Limit of liability under section 75

Where a person left behind in or taken to any country as mentioned in section 124MM(1) remains there after the end of a period of three months the persons who last employed or engaged him or her as a seafarer are 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]

124OO. 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 124MM, 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 the person who engaged the seafarer; or

(b) if the expenses are incurred by the seafarer, the seafarer may recover them from the employers or the person who engaged the seafarer, unless they prove either that under the terms of the seafarer's employment or engagement 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 124NN, the seafarer's last employers or the person who engaged the seafarer would have been required to make provision under section 124MM; or

(b) in respect of any matter for which provision is required to be made under section 124MM(5)(c),

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]

124PP. Financial assistance in respect of crew relief costs

(1) Subject to funds being provided in accordance with section 299, the Governor may give financial assistance to —

(a) the owner of a fishing vessel registered in the Falkland Islands; or

(b) any manager of a fishing vessel 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 fishing vessel's crew joining or leaving the fishing vessel outside the Falkland Islands.

(2) If the Governor 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 Governor'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 where any such person joins or leaves the fishing vessel.

(3) Assistance under this section may be given by way of a grant, 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 fishing vessel is taken to include the skipper and other officers of the fishing vessel.

[Merchant Shipping Act 1995 (UK), s. 76]

Documentation

124QQ. 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 fishing vessel 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 fishing vessels 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, 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]

124RR. Lists of crew

(1) Except as provided by regulations made under this section, the skipper of every fishing vessel registered in the Falkland Islands 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 fishing vessel, of a copy or copies of the list of the crew, and for the notification to such persons of any changes to the list;

(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 the 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 such descriptions of fishing vessels as may be specified in the regulations from the requirements of this regulation 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]

124SS. 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 Falkland Islands seafarers to produce their Falkland Islands seafarers’ 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; and

(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.

(5) In this section, “**Falkland Islands Seafarer**” means a person who is employed or engaged as a seafarer in —

(a) a fishing vessel registered in the Falkland Islands; or

(b) other fishing vessels but who holds Falkland Islands status pursuant to section 22 of the Constitution or a Permanent Residence Permit issued under the Immigration Ordinance 1999.

[Merchant Shipping Act 1995 (UK) s. 79]

124TT. Discharge books

(1) The Governor may make regulations providing for —

(a) the issue of discharge books to persons who are or have been employed or engaged in—

(i) fishing vessels registered in the Falkland Islands; or

(ii) other fishing vessels but who hold Falkland Islands status pursuant to section 22 of the Constitution or Permanent Residence Permits issued under the Immigration Ordinance 1999;

(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 paragraph (a) 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 124AA(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 or engagement as a seafarer on board a fishing vessel 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 or engages as 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 7 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]

124UU. Handing over of documents by skipper

(1) If a person ceases to be the skipper of a fishing vessel registered in the Falkland Islands during a voyage of the fishing vessel, the person must deliver to his or her successor the documents relating to the fishing vessel or its crew which are in the person's custody.

(2) If, without reasonable excuse, the skipper of a fishing vessel 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]

Exemptions

124VV. Power to grant exemptions from this Chapter

The Governor may grant exemptions from any requirements of 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 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]".

12. Section 131 amended – Prevention of pollution from ships, etc

Section 131 is amended as follows —

(a) by numbering the current provision as subsection (1); and

(b) by adding the following subsections immediately after subsection (1) —

“(2) The Governor may make regulations in relation to any international conventions or treaty providing for the prevention of pollution and the regulations may make such provisions as the Governor considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.

(3) Regulations under this section may, in particular give effect to the following international conventions or treaties —

(a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973;

(b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil which constitutes attachment 2 to the final act referred to in paragraph (a);

(c) the Protocol relating to the International Convention for the Prevention of Pollution from Ships which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978;

(d) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November 1990;

(e) the Protocol to amend the Convention for the Prevention of Pollution from Ships signed in London on 26 September 1997 (which added to it Annex VI containing regulations for the prevention of air pollution from ships);

(f) any international agreement not mentioned in paragraphs (a) to (e) of this subsection which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships (provided that such an international agreement has been extended to the Falkland Islands);

and in paragraph (f) the reference to an agreement includes an agreement which provides for the modification of another agreement, including the modification of an agreement mentioned in paragraphs (a) to (e) of this subsection.

(4) The powers conferred by subsection (2) to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force before the agreement has come into force.

(5) Regulations made under subsection (2) 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) include provisions imposing on the Authority responsibilities in relation to the preparation, review and implementation of any plans required by any agreement specified in subsection (3); and

(d) specify 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 or to imprisonment for a term not exceeding two years, or both.”.

13. Section 132 amended — Further provision for prevention of pollution from ships

Section 132 is amended as follows —

(a) by numbering the current provision as subsection (1); and

(b) by adding the following subsections immediately after subsection (1) —

“(2) The Governor may make such regulations as are appropriate for giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 for the protection and preservation of the marine environment from pollution by matter from ships.

(3) Without prejudice to the generality of subsection (2), regulations under that subsection may in particular include provision —

(a) corresponding to any provision that is authorised for the purposes of section 131; and

(b) specifying the application of the regulations to —

(i) areas in all appropriate waters, including those outside the Falkland Islands’ territorial waters; and

(ii) any vessel (whether Falkland Islands registered or not) in respect of which the jurisdiction and rights of the Falkland Islands are exercisable in accordance with Part XII of that Convention,

for the protection and preservation of the marine environment.”.

14. Section 162 amended — Interpretation

Section 162 is amended as follows —

(a) in subsection (1) —

(i) by inserting the following definitions in their correct alphabetical order —

“**bunker oil**” means any hydrocarbon mineral oil (including lubricating oil) which is carried by a ship and used or intended to be used for the operation or propulsion of that ship and any residues of such oil;”;

“**the Bunkers Convention**” means the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001;

“**Bunkers Convention country**” means a country in respect of which the Bunkers Convention is in force;

“**Bunkers Convention State**” means a State which is a party to the Bunkers Convention;”;

(ii) in the definition of “Liability Convention State” by omitting “the Convention” and replacing it with “the Liability Convention”;

(iii) in the definition of “oil”, after “mineral oil” by inserting “but does not include bunker oil”;

(iv) by omitting the definition of “owner” and replacing it with the following —

“**owner**” has the meaning given by section 163A(7);”;

(v) by omitting the definition of “relevant threat of contamination” and replacing it with the following —

“**relevant threat of contamination**” includes (unless a contrary intention appears) —

(a) a relevant threat of contamination falling within section 163(2) (as defined in section 163(2A));

(b) a relevant threat of contamination falling within section 163A(2) (as defined in section 163A(4)); and

(c) a relevant threat of contamination falling within section 164(2) (as defined in section 164(2B));”;

(b) in subsection (2) —

(i) by inserting “or bunker oil” immediately after “oil”;

(ii) by inserting “or the registered owner” immediately after “owner” in the first place it appears.

15. Section 163 amended — Liability for oil pollution in case of tankers

(1) Section 163 is amended as follows —

(a) by omitting “owner” and “owners” in each place they appear and replacing them with “registered owner” and “registered owners” respectively;

(b) in subsection (2) by omitting the following words which appear immediately after paragraph (b) —

“and in this Chapter any such threat is referred to as a relevant threat of contamination.”;

(c) by inserting the following subsection immediately after subsection (2) —

“(2A) In this Chapter, a threat referred to in subsection (2) is a relevant threat of contamination falling within that subsection.”; and

(d) by omitting subsections (7) and (8).

16. Addition of section 163A

The following section is added immediately after section 163 —

“163A. Liability for pollution by bunker oil

(1) Subject to subsection (3), where, as a result of any occurrence, any bunker oil is discharged or escapes from a ship then (except as otherwise provided by this Chapter) the registered 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 caused in the territory of the Falkland Islands by any measures so taken.

(2) Subject to subsection (3), where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship by the contamination that might result if there were a discharge or escape of bunker 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.

(3) There is no liability under this section in relation to —

(a) a discharge or escape of bunker oil from a ship to which section 163 applies, or

(b) a threat mentioned in subsection (2) arising in relation to a potential discharge or escape of bunker oil from such a ship,

where that bunker oil is also persistent hydrocarbon mineral oil.

(4) In the subsequent provisions of this Chapter —

(a) a discharge or escape of bunker oil from a ship, other than a discharge or escape of oil excluded by subsection (3), is referred to as a discharge or escape of bunker oil falling within subsection (1) of this section; and

(b) a threat mentioned in subsection (2), other than one excluded by subsection (3), is referred to as a relevant threat of contamination falling within subsection (2) of this section.

(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 Bunkers Convention country.

(6) Where —

(a) as a result of any occurrence, a liability is incurred under this section by the respective owners 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) In this Chapter (except in section 180(1)) “**owner**”, except when used in the term “registered owner”, means the registered owner, bareboat charterer, manager and operator of the ship.

[Merchant Shipping Act 1995 (UK), s. 153A]”.

17. Section 164 amended —Liability for pollution in case of other ships

Section 164 is amended as follows —

- (a) in the heading by omitting “in case of other ships” and replacing it with “in other cases”;
- (b) by omitting the words “owner” and “owners” in each place they appear and replacing them with “registered owner” and “registered owners” respectively;
- (c) at the beginning of subsections (1) and (2) by inserting “Subject to subsection (2A),”;
- (d) in subsection (1) by omitting “other than a ship to which section 163 applies”;
- (e) in subsection (2) —
 - (i) by omitting “other than a ship to which section 164 applies”;
 - (ii) by omitting the following words which appear immediately after paragraph (b) —

“and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.”;
- (f) by inserting the following subsections immediately after subsection (2) —

“(2A) No liability is incurred under this section by reason of —

 - (a) a discharge or escape of oil from a ship to which section 163 applies or a relevant threat of contamination falling within subsection (2) of that section;
 - (b) a discharge or escape of bunker oil falling within section 163A(1) or a relevant threat of contamination falling within section 163A(2).

(2B) In the subsequent provisions of this Chapter —

 - (a) a discharge or escape of oil from a ship, other than one excluded by subsection (2A), is referred to as a discharge or escape of oil falling within subsection (1) of this section; and
 - (b) a threat mentioned in subsection (2), other than one excluded by subsection (2A), is referred to as a relevant threat of contamination falling within subsection (2) of this section.”; and
- (g) in subsection (5), after “section” by inserting “(apart from subsection (2A))”.

18. Section 165 amended — Exceptions from liability under sections 163 and 164

Section 165 is repealed and replaced with the following —

“165. Exceptions from liability under sections 163, 163A and 164

(1) No liability will be incurred by a person (“the defendant”) under section 163, 163A or 164 by reason of a discharge or escape of oil or bunker oil from a ship, or of a relevant threat of contamination, if the defendant proves that subsection (2) applies.

(2) This subsection applies if the discharge or escape or the relevant threat of contamination (as the case may be) —

(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 defendant, 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]”.

19. Section 166 amended — Restriction of liability for oil pollution

Section 166 is amended as follows —

(a) in the heading by omitting “oil pollution” and replacing it with “pollution from oil or bunker oil”;

(b) in subsection (1) by omitting paragraphs (a) and (b) and replacing them with the following —

“(a) there is a discharge or escape of oil from a ship to which section 163 applies or there arises a relevant threat of contamination falling within subsection (2) of that section, or

(b) there is a discharge or escape of oil falling within section 164(1) or there arises a relevant threat of contamination falling within section 164(2),”;

(c) by omitting “owner” and replacing it with “registered owner”;

(d) in subsection (2) by omitting “owner”, in each place it appears and replacing it with “registered owner”;

(e) by inserting the following subsections immediately after subsection (2) —

“(2A) Where, as a result of any occurrence —

(a) there is a discharge or escape of bunker oil falling within section 163A(1), or

(b) there arises a relevant threat of contamination falling within section 163A(2),

then, whether or not the registered owner of the ship in question incurs any liability under section 163A —

(i) the registered 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.

(2B) Subsection (2A)(ii) applies to —

(a) any servant or agent of the registered owner;

(b) any person not falling within paragraph (a) above but engaged in any capacity on board the ship or to perform any service for the ship;

(c) any person performing salvage operations with the consent of the registered owner of the ship or on the instructions of the Authority;

(d) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 163A;

(e) any servant or agent of a person falling within paragraph (c) or (d).”; and

(f) in subsection (3) by omitting “the owner of a ship under section 163 or 164” and replacing it with “a person under section 163, 163A or 164”.

20. Addition of section 166A

The following section is added immediately after section 166 —

“166A. Liability under section 163, 163A or 164: supplementary provisions

(1) For the purposes of this Chapter —

(a) references to a discharge or escape of oil or bunker oil from a ship are references to such a discharge or escape wherever it may occur;

(b) references to a discharge or escape of oil from a ship include a discharge or escape of oil carried in the bunkers of the ship;

(c) where more than one discharge or escape of oil or bunker oil results from the same occurrence or from a series of occurrences having the same origin, they will be treated as one, but any measures taken after the first of them is deemed to have been taken after the discharge or escape; and

(d) where a relevant threat of contamination results from a series of occurrences having the same origin, they will be treated as a single occurrence.

(2) 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 section 163, 163A or 164, 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. 156A]".

21. Section 167 amended — Limitation of liability under section 163

Section 167 is amended as follows —

(a) in subsection (1) —

(i) by omitting "owner" in each place it appears and replacing it with "registered owner"; and

(ii) by inserting "falling within subsection (2) of that section" after "contamination"; and

(b) in subsection (3), by omitting "owner" and replacing it with "registered owner".

22. Section 168 amended — Limitation actions

Section 168 is amended as follows —

(a) in subsection (1), by omitting "owner" and replacing it with "registered owner"; and

(b) in subsection (6)(a) —

(i) by omitting "owner" and replacing it with "registered owner"; and

(ii) by inserting the following at the end of that paragraph —

"(in relation to any insurance or other security provided as mentioned in subsection (1) of that section)".

23. Section 170 amended — Concurrent liabilities of owners and others

Section 170 is amended by omitting "owner" in each place it appears and replacing it with "registered owner".

24. Section 172 amended — Extinguishment of claims

Section 172 is amended by inserting ", 163A" immediately after "163".

25. Section 173 amended — Compulsory insurance against liability for pollution

Section 173(5) is amended by omitting "owner" and replacing it with "registered owner".

26. Addition of section 173A

The following section is added immediately after section 173 —

“173A. Compulsory insurance against liability for pollution from bunker oil

(1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) applies to any ship having a gross tonnage greater than 1,000 tons calculated in the manner prescribed by an order made by the Governor under paragraph 5(2) of Part II of Schedule 5.

(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 nor, if the ship is a Falkland Islands ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force —

(a) a contract of insurance or other security in respect of the ship satisfying the requirements of Article 7 of the Bunkers Convention; and

(b) a certificate complying with the provisions of subsection (3) showing that there is in force in respect of the ship a contract of insurance or other security satisfying those requirements.

(3) The certificate must be —

(a) if the ship is a Falkland Islands ship, a certificate issued by the Authority;

(b) if the ship is registered in a Bunkers Convention country other than the Falkland Islands, a certificate issued by or under the authority of the government of the other Bunkers Convention country; and

(c) if the ship is registered in a country which is not a Bunkers Convention country, a certificate issued by the Governor or by or under the authority of the government of any Bunkers 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 a Falkland Islands ship, 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 subsection (2), the ship may be detained.

(8) 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 subsection (5) against the company as registered owner of the ship will be treated as duly served on the company if the document is served on the master of the ship.

(9) Any person authorised to serve any document for the purposes of the institution of (or otherwise in connection with) the institution of proceedings for an offence under this section will, for that purpose, have the right to go on board the ship in question.

(10) In the case of a ship of which, at any relevant time, the tonnage has not been and cannot be ascertained in the manner set out in subsection (1), the best available evidence must be used in calculating the tonnage of the ship in accordance with any order under paragraph 5(2) of Part II of Schedule 5.”.

27. Section 174 amended — Issue of certificate by Governor

Section 174 is amended as follows —

(a) in subsection (1) —

(i) by omitting “section 173” and replacing it with “section 173(2)”; and

(ii) by omitting “owner” and replacing it with “registered owner”;

(b) by inserting the following subsection immediately after subsection (1) —

“(1A) Subject to subsection (2), if the Governor is satisfied, on the application for such a certificate as is mentioned in section 163A(2) in respect of a Falkland Islands ship 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 7 of the Bunkers Convention, the Governor must issue such a certificate to the registered owner.”;

(c) by omitting subsection (2) and replacing it with the following —

“(2) The Governor may refuse the certificate if he or she is of the opinion that there is a doubt whether —

(a) the person providing the insurance or other security will be able to meet his or her obligations under that insurance or security; or

(b) the insurance or other security will cover the registered owner’s liability under section 163, or the owner’s liability under section 163A, as the case may be.”;

(d) by inserting the following subsection immediately after subsection (2) —

“(2A) If the Governor is satisfied, on the application for such a certificate as is mentioned in section 163A(2) in respect of a ship registered in any country which is not a Bunkers 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 7 of the Bunkers Convention, the Governor may issue such a certificate to the registered owner.”.

28. Section 175 amended — Rights of third parties against insurers

Section 175 is amended as follows —

(a) in subsection (1) —

(i) by omitting “owner” and replacing it with “registered owner”;

(ii) by omitting “173” and replacing it with “173(2)”; and

(iii) omitting the words “(in the following provisions of this section referred to as “the insurer”)”;

(b) inserting the following subsections immediately after subsection (1) —

“(1A) Where it is alleged that the owner of a ship has incurred a liability under section 163A as a result of any discharge or escape of bunker oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163A(2) related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security.

(1B) In the following provisions of this section, “**the insurer**” means the person who provided the insurance or other security referred to in subsection (1) or subsection (1A), as the case may be.”;

(c) in subsection (2) —

(i) by inserting “in respect of liability under section 163” immediately after “by virtue of this section”;

(ii) by omitting “owner’s” and replacing it with “registered owner’s”; and

(iii) by omitting “owner” and replacing it with “registered owner”;

(d) in subsection (3) —

(i) by inserting “in respect of liability under section 163 which are” immediately after “in respect of claims”;

(ii) by omitting “owner” in each place it appears and replacing it with “registered owner”;
and

(iii) by inserting “under section 167” immediately after “his or her liability”;

(e) in subsection (4) —

(i) by omitting “owner” and replacing it with “registered owner”; and

(ii) after “liability”, insert “(in relation to liability under section 163)”; and

(f) by inserting the following subsections immediately after subsection (4) —

“(4A) In any proceedings brought against the insurer by virtue of this section in respect of liability under section 163A 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.

(4B) The insurer may limit his or her liability in respect of claims in respect of liability under section 163A which are made against the insurer by virtue of this section in like manner and to the same extent as the owner may limit his or her liability by virtue of section 185; 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 any act or omission mentioned in Article 4 of the Convention set out in Part I of Schedule 5.

(4C) Where the owner and the insurer each apply to the court for the limitation of liability (*in relation to liability under section 163A*) any sum paid into court in pursuance of either application must be treated as paid also in pursuance of the other.”

29. Section 176 amended — Jurisdiction of Falkland Islands courts and registration of foreign judgments

Section 176 is amended as follows —

(a) in subsection (1) —

(i) in paragraph (a), by omitting “any oil is discharged or escapes from a ship but” and replacing it with “there is a discharge or escape of oil from a ship to which section 163 applies, or a discharge or escape of oil falling within section 164(1), which”,

(ii) in paragraph (b), after “contamination” by inserting “falling within section 163(2) or 164(2)”, and

(iii) in paragraph (i), by omitting “owner” and replacing it with “registered owner”;

(b) by inserting the following subsections immediately after subsection (3) —

“(3A) Where —

(a) there is a discharge or escape of bunker oil falling within section 163A(1) which 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 falling within section 163A(2) 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 will 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(2A)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3B) In subsection (3A) above, “**relevant damage or cost**” means —

(a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Bunkers 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 Bunkers 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 Bunkers Convention country; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b); and section 166(2B)(d) has effect for the purpose of subsection (3A)(ii) as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b).”;

(c) by omitting subsection (4) and replacing it with the following —

“(4) The Foreign Judgments (Reciprocal Enforcement) Ordinance 1959 applies, whether or not it would so apply apart from this section, to —

(a) 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

(b) any judgment given by a court in a Bunkers Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 163A,

and in its application to such a judgment that Ordinance has effect with the omission of section 9(2) and (3)".

30. Section 177 amended — Government ships

Section 177 is amended as follows —

(a) by omitting subsection (2) and replacing it with the following —

“(2) In relation to a ship owned by a State and for the time being used for commercial purposes —

(a) it will be 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 that Convention; and

(b) it will be sufficient compliance with section 163A(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 1 of the Bunkers Convention will be met up to the limits set out in Chapter II of the Convention in Part I of Schedule 5.”;

(b) by adding the following new subsection immediately after subsection (3) —

“(4) Every Bunkers 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 163A, 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.”.

31. Section 178 amended — Limitation of liability under section 164

Section 178 is amended as follows —

(a) in the heading by inserting “163A or” immediately after “section”; and

(b) by omitting “section 164” and replacing it with “section 163A or 164”.

32. Section 180 amended — Interpretation

Section 180(3) is amended by inserting “or a Supplementary Fund Protocol country (as the case may be)” immediately after “Fund Convention country”.

33. Section 181 amended — Meaning of the “Liability Convention”, “the Fund Convention” and related expressions

Section 181 is amended as follows —

(a) in subsection (1) by inserting the following definitions in their correct alphabetical order—

“**the Supplementary Fund**” means the International Supplementary Fund established by the Supplementary Fund Protocol;

“**Supplementary Fund Protocol country**” means a country in respect of which the Supplementary Fund Protocol is in force; and

“**the Supplementary Fund Protocol**” means the Protocol of 2003 to the Fund Convention; and

(b) by adding the following subsection immediately after subsection (2) —

“(3) Subsection (2) applies in relation to the Supplementary Fund Protocol in the same way it applies to the Fund Convention.”.

34. Section 182 amended — Contributions by importers of oil and others

Section 182 is amended as follows —

(a) in subsection (1) by inserting “and to the Supplementary Fund” immediately after “the Fund”;

(b) by omitting subsection (3) and replacing it with the following —

“(3) Contributions are also payable —

(a) 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; and

(b) to the Supplementary 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 Supplementary Fund Protocol country.”;

(c) in subsection (7) —

(i) by omitting paragraph (a) and replacing it with the following —

“(a) be of such amount as may be determined —

(i) in the case of contributions to the Fund, by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;

(ii) in the case of contributions to the Supplementary Fund, by the Director of the Supplementary Fund under Article 11 of the Supplementary Fund Protocol and notified to that person by the Supplementary Fund;”;

(ii) in paragraph (b) by inserting “or the Assembly of the Supplementary Fund (*as the case may be*)” immediately after “Assembly of the Fund”.

35. Section 183 amended — Power to obtain information

Section 183 is amended as follows —

(a) by inserting “or the Supplementary Fund” immediately after each reference to “the Fund” wherever it appears in subsection (1);

(b) in subsection (4) —

(i) by inserting “or the Supplementary Fund” immediately after the first reference to “the Fund”; and

(ii) by omitting the second reference to “the Fund” and replacing it with “either of those Funds”.

36. Addition of sections 184A and 184B

The following sections are added immediately after section 184 —

“184A. Liability of the Supplementary Fund

(1) The Supplementary Fund is liable for pollution damage in the territory of the Falkland Islands in accordance with the Supplementary Fund Protocol in the circumstances mentioned in paragraph 1 of Article 4 of that Protocol (cases where full compensation cannot be obtained because of the limit imposed by paragraph 4 of Article 4 of the Fund Convention).

(2) Subsection (1) applies with the substitution for the words “the Falkland Islands” by the words “a Supplementary Fund Protocol country” where the incident has caused pollution damage in the territory of the Falkland Islands and of another Supplementary Fund Protocol country, and proceedings under the Liability Convention or the Fund Convention for compensation for the pollution damage have been brought in a country which is not a Supplementary Fund Protocol country or in the Falkland Islands.

(3) Nothing in this section applies to pollution damage resulting from an incident if —

(a) in the case of a single occurrence, it took place before the day on which the Supplementary Fund Protocol enters into force as respects the Falkland Islands; or

(b) in the case of a series of occurrences having the same origin, the first of those occurrences took place before that day.

(4) The text of paragraph 1 of Article 4 of the Supplementary Fund Protocol is set out in Schedule 2A.

[Merchant Shipping Act 1995 (UK), s. 176A]

184B. Limitation of the Supplementary Fund's liability under section 184A

(1) The Supplementary Fund's liability under section 184A is subject to —

(a) paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (which impose an overall limit on the liabilities of the Supplementary Fund); and

(b) paragraphs 2 and 3 of Article 15 of the Supplementary Fund Protocol (which prevent the Supplementary Fund from paying compensation temporarily and permanently where obligations to communicate information to the Director under paragraph 1 of Article 13 and paragraph 1 of Article 15 have not been met).

(2) For the purpose of giving effect to paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol, a court giving judgment against the Supplementary Fund in proceedings under section 184A must notify the Supplementary Fund, and —

(a) no steps are to 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 Supplementary 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.

(3) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (2) 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 will 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 date, namely the date referred to in paragraph 2(b) of Article 4 of the Supplementary Fund Protocol, or

(ii) if no sum has been so fixed for the relevant date, the last day before that date 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 date, or

(ii) that no sum has been so fixed for the relevant date 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 date,

is conclusive evidence of those matters for the purposes of this Chapter.

(4) Any document purporting to be such a certificate as is mentioned in subsection (3)(b) must, in any legal proceedings, be received in evidence and, unless the contrary is proved, is deemed to be such a certificate.

(5) The text of paragraphs 1, 2 and 3 of Article 4, paragraph 1 of Article 13 and paragraphs 1, 2 and 3 of Article 15 of the Supplementary Fund Protocol is set out in Schedule 2A. [*Merchant Shipping Act 1995 (UK), s. 176B*].”

37. Section 186 amended — Jurisdiction and effect of judgments

Section 186 is amended as follows —

(a) by omitting subsection (1) and replacing it with the following —

“(1) Where in accordance with rules of court made for the purposes of this subsection, the Fund or the Supplementary Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 163 —

(a) the notice is deemed to have been given to the Supplementary Fund as well; and

(b) any judgment given in the proceedings must, after it has become final and enforceable, become binding on the Fund and the Supplementary Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund or the Supplementary Fund even if it has not intervened in the proceedings.”;

(b) by omitting subsections (3) and (4) and replacing them with the following —

“(3) Subject to subsections (4) and (5), the Foreign Judgments (Reciprocal Enforcement) Ordinance 1959 applies, whether or not it would so apply apart from this subsection, to—

(a) 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

(b) any judgment given by a court in a Supplementary Fund Protocol country to enforce a claim in respect of liability incurred under any provision corresponding to section 184A,

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 must 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 that leave cannot be given unless and until —

(a) in the case of a judgment within subsection (3)(a), the Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 4 and 5 of Article 4 of the Fund Convention (as set out in Part 1 of Schedule 2) or that it is to be reduced to a specified amount; or

(b) in the case of a judgment within subsection (3)(b), the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (as set out in Schedule 2A) or that it is to be reduced to a specified amount.”; and

(c) by adding the following subsection immediately after subsection (4) —

“(5) Where the court is notified that a claim is to be reduced to a specified amount, the judgment is enforceable only for the reduced amount.”.

38. Section 187 amended — Extinguishment of claims

Section 187 is amended by adding the following subsections immediately after subsection (3) —

“(4) Subsections (1) and (2) apply to claims against the Supplementary Fund as they apply in relation to claims against the Fund (with the substitution for the reference to the Fund in subsection (1)(b) by a reference to the Supplementary Fund).

(5) For the purposes of this section —

(a) a person who commences an action to enforce a claim against the Fund in relation to any damage is deemed to have also commenced an action to enforce any claim he or she may have against the Supplementary Fund in relation to that damage; and

(b) a person who gives a third party notice to the Fund in relation to any damage as mentioned in subsection (1)(b) is deemed to have also given a notice to the Supplementary Fund in respect of that damage.”.

39. Section 188 amended — Subrogation

Section 188 is amended as follows —

(a) by inserting the following subsection immediately after subsection (1) —

“(1A) In respect of any sum paid by the Supplementary Fund as compensation for pollution damage the Supplementary 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.”;

(b) in subsection (2) by inserting “or the Supplementary Fund” immediately after “the Fund”.

40. Section 189 amended — Supplementary provisions as to proceedings involving the Fund

Section 189 is amended by adding the following subsection immediately after subsection (2) —

“(3) Subsections (1) and (2) apply in relation to the Supplementary Fund in the same way they apply to the Fund (with the substitution for references to the Director, any organ or an official of the Fund by references to the Director, any organ or an official of the Supplementary Fund).”.

41. Section 307 amended — Regulations, rules and orders, etc.

Section 307(1)(c) is amended by omitting “308” and replacing it with “306”.

42. Addition of section 307A

The following section is added immediately after section 307 —

“307A. Issue of mandatory and general guidance

(1) The Governor may —

(a) issue, or delegate to the Authority the issue of, mandatory guidance in the form of Merchant Shipping Notices which is equivalent to, or based on, United Kingdom Merchant Shipping Notices relevant to the provisions of this Ordinance or any regulations made under it; or

(b) adopt, or delegate to the Authority the adoption of, any United Kingdom Merchant Shipping Notices relevant to the provisions of this Ordinance or any regulations made under it as if those United Kingdom Merchant Shipping Notices were issued by the Governor or the Authority.

(2) The Governor may —

(a) issue, or delegate to the Authority, the issuing of general guidance which is equivalent to, or based on, United Kingdom Marine Guidance Notices or United Kingdom Marine Information Notices relevant to the provisions of this Ordinance or any regulations made under it, or

(b) adopt, or delegate to the Authority the adoption of, any United Kingdom Marine Guidance Notices or United Kingdom Marine Information Notices relevant to the

provisions of this Ordinance or any regulations made under it as if those United Kingdom Marine Guidance Notices or Marine Information Notices were issued by the Governor or the Authority.

(3) The Governor must cause any mandatory or general guidance issued under this section to be marked with the distinguishing mark of the Authority.

(4) The power to issue any mandatory or general guidance under this section includes power to vary or revoke that guidance.

(5) Any United Kingdom Merchant Shipping Notices, United Kingdom Marine Guidance Notices or United Kingdom Marine Information Notices adopted under this section may be amended or varied with such modifications as may be necessary, or revoked.

(6) Any mandatory or general guidance issued under this section must be published.”.

43. Addition of section 308A

The following section is added immediately after section 308 —

“308A. Power to make ambulatory references to international instruments

(1) This section applies where —

(a) a person has power under this Ordinance to make subsidiary legislation; and

(b) the person proposes to exercise that power to make subsidiary legislation which refers to an international instrument.

(2) The power may be exercised so as to have the effect that the reference to the international instrument is construed —

(a) as a reference to the international instrument as modified from time to time;

(b) if the international instrument is replaced by another instrument, as a reference to that other instrument.

(3) For the purposes of subsection (2)(a), an international instrument is modified if —

(a) omissions, additions or other alterations to the text of the instrument take effect; or

(b) supplementary provision made under the instrument takes effect.

(4) In this section, provision included in subsidiary legislation by virtue of subsection (2) is referred to as ambulatory provision.

(5) Subsidiary legislation which makes ambulatory provision may make provision as to —

(a) when a modification of an international instrument is to be treated as taking effect for the purposes of subsection (2)(a) (read with subsection (3));

(b) when an international instrument is to be treated as having been replaced by another instrument for the purposes of subsection (2)(b).

(6) In this section —

(a) “**international instrument**” means an international convention or treaty or an instrument made under such a convention or treaty;

(b) “**subsidiary legislation**” has the same meaning as in the Interpretation and General Clauses Ordinance 1977.

[Merchant Shipping Ordinance 1995 (UK), s. 306A]”.

44. Section 309 amended — Forms

Section 309(6) is omitted and replaced with the following

“(6) The foregoing provisions do not apply where special provision is made by this Ordinance and in particular to forms approved by the Registrar under section 15(3)(h)(i).”.

45. Section 310 amended — Repeals and savings

Section 310 is repealed and replaced with the following —

“310. Repeals and savings

(1) The Ordinances and subsidiary legislation listed in Part A of Schedule 10 are repealed.

(2) A UK Act listed in Part B of Schedule 10 (being a UK Act that applies in the Falkland Islands by its own force or by virtue of an Order made by Her Majesty the Queen in Council) will no longer have force in the Falkland Islands on commencement of a UK enactment which provides that the UK Act no longer extends to the Falkland Islands.

(3) A UK statutory instrument listed in Part C of Schedule 10 (being a UK statutory instrument that applies in the Falkland Islands by its own force or by virtue of an Order made by Her Majesty the Queen in Council) will no longer have force in the Falkland Islands on commencement of a UK enactment which provides that the UK statutory instrument no longer extends to the Falkland Islands.

(4) Any subsidiary legislation made under a repealed Ordinance, and which could have been made under a corresponding provision of this Ordinance, continues in force as if made under this Ordinance, in so far as it is not inconsistent with this Ordinance, until replaced under this Ordinance.

(5) Subject to subsection (3), any subsidiary legislation made in the Falkland Islands under a UK Act listed in Part B of Schedule 10, and which could have been made under a corresponding provision of this Ordinance, continues in force as if made under this

Ordinance, in so far as it is not inconsistent with this Ordinance, until replaced under this Ordinance.

(6) Subject to subsection (3), any UK statutory instrument made under a UK Act listed in Part B of Schedule 10, and which applies in the Falkland Islands by its own force or by virtue of an Order made by Her Majesty the Queen in Council, continues in force until the commencement of a UK enactment which provides that the instrument no longer extends to the Falkland Islands.

(7) If there is no corresponding provision of this Ordinance under which any item of subsidiary legislation referred to in subsection (4) or (5) could be made, the item is repealed, except that it continues to have effect in relation to proceedings that had commenced before the repeal.

(8) Any reference to the registration, in the Falkland Islands, of a ship or fishing vessel made under —

- (a) any UK Act or any UK statutory instrument listed in Part B or C of Schedule 10;
- (b) any Ordinance or subsidiary legislation listed in Part A of Schedule 10;
- (c) any UK Act or any UK statutory instrument not amended by Schedule 10; or
- (d) any Ordinance or subsidiary legislation not amended by Schedule 10,

must be construed and continues to have effect (unless the context otherwise requires), as, or as including, a reference to registration under Part 3 of this Ordinance; and connected phrases must be construed accordingly.”.

46. Global amendments relating to Government ships

The Ordinance is amended as follows —

(a) in the Arrangement of sections —

- (i) by omitting “160. Application to Government ships” and replacing it with “160. Application to United Kingdom Government ships”;
- (ii) by omitting “177. Government ships” and replacing it with “177. United Kingdom Government ships, Falkland Islands Government ships and other government ships”;
- (iii) by omitting “304. Application of Ordinance to government ships” and replacing it with “304. Application of Ordinance to United Kingdom Government ships”;

(b) in section 7(2) by omitting “Government ships” and replacing it with “United Kingdom Government ships and Falkland Islands Government ships”;

(c) in section 160 by omitting “Government ships” and replacing it with “United Kingdom Government ships”;

(d) in section 173 by omitting “Government ships” and replacing it with “United Kingdom Government ships”;

(e) in section 304 by omitting subsections (2) and (3) and replacing them as follows —

“(2) Part 2 of this Ordinance applies to United Kingdom Government ships where an Order in Council has been made under section 308 of the Act specifying the registration of United Kingdom 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 United Kingdom Government ships.

(3) In this section “United Kingdom Government ships” has the same meaning given to it in section 5(4)”; and

(f) in section 305(1)(b) by omitting “Government ships” and replacing it with “United Kingdom Government ships”.

47. Schedule added — Schedule 2A

The following Schedule is inserted immediately after Schedule 2 —

“SCHEDULE 2A
(sections 184A(4), 184B(5) and 186(4)(b))

(SCHEDULE 5ZA to the 1995 Act)

TEXT OF SUPPLEMENTARY FUND LIABILITY

Article 4 — paragraphs 1, 2 and 3

1. The Supplementary Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for an established claim for such damage under the terms of the 1992 Fund Convention, because the total damage exceeds, or there is a risk that it will exceed, the applicable limit of compensation laid down in article 4, paragraph 4, of the 1992 Fund Convention in respect of any one incident.

2.—(a) The aggregate amount of compensation payable by the Supplementary Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount together with the amount of compensation actually paid under the 1992 Liability Convention and the 1992 Fund Convention within the scope of application of this Protocol shall not exceed 750 million units of account.

(b) The amount of 750 million units of account mentioned in paragraph 2(a) 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 determined by the Assembly of the 1992 Fund for conversion of the maximum amount payable under the 1992 Liability and 1992 Fund Conventions.

3. Where the amount of established claims against the Supplementary Fund exceeds the aggregate amount of compensation payable under paragraph 2, 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 Protocol shall be the same for all claimants.

Article 13 — paragraph 1

1. Contracting States shall communicate to the Director of the Supplementary Fund information on oil receipts in accordance with article 15 of the 1992 Fund Convention provided, however, that communications made to the Director of the 1992 Fund under article 15, paragraph 2, of the 1992 Fund Convention shall be deemed to have been made also under this Protocol.

Article 15 — paragraphs 1, 2 and 3

1. If in a Contracting State there is no person meeting the conditions of article 10, that Contracting State shall for the purposes of this Protocol inform the Director of the Supplementary Fund thereof.

2. No compensation shall be paid by the Supplementary Fund for pollution damage in the territory, territorial sea or exclusive economic zone or area determined in accordance with article 3(a)(ii), of this Protocol, of a Contracting State in respect of a given incident or for preventive measures, wherever taken, to prevent or minimize such damage, until the obligations to communicate to the Director of the Supplementary Fund according to article 13, paragraph 1 and paragraph 1 of this article have been complied with in respect of that Contracting State for all years prior to the occurrence of that incident. The Assembly shall determine in the Internal Regulations the circumstances under which a Contracting State shall be considered as having failed to comply with its obligations.

3. Where compensation has been denied temporarily in accordance with paragraph 2, compensation shall be denied permanently in respect of that incident if the obligations to communicate to the Director of the Supplementary Fund under article 13, paragraph 1 and paragraph 1 of this article, have not been complied with within one year after the Director of the Supplementary Fund has notified the Contracting State of its failure to report.”

48. Schedule 5 amended

(1) The heading to Schedule 5 is amended by inserting “Part I” immediately before “Text of LLMC”;

(2) The text of the Convention as set out under Part I of Schedule 5 is amended as follows —

(a) by omitting paragraph 1 of Article 6 (the general limits) and replacing it with the following —

“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) 3.02 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, 1,208 Units of Account;

for each ton from 30,001 to 70,000 tons, 906 Units of Account; and

for each ton in excess of 70,000 tons, 604 Units of Account,

(b) in respect of any other claims,

(i) 1.51 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, 604 Units of Account;

for each ton from 30,001 to 70,000 tons, 453 Units of Account; and

for each ton in excess of 70,000 tons, 302 Units of Account.”;

(b) by adding the following new paragraph immediately after paragraph 5 of Article 6 —

“6. The references in paragraph 1 to relevant limits in this Convention have effect as follows —

(a) the references to the relevant limits are to be construed as references to those limits as modified from time to time pursuant to Article 8 of the 1996 Protocol;

(b) a modification of a reference to a relevant limit by virtue of paragraph (a) has effect at the time that the modification of that limit pursuant to Article 8 of the 1996 Protocol comes into force in accordance with paragraph 8 of that Article;

(c) no modification of a reference to a relevant limit by virtue of paragraph (a) affects any rights or liabilities arising out of an occurrence which took place before the day on which the modification has effect;

(d) paragraph (a) does not apply to a modification pursuant to Article 8 of the 1996 Protocol which reduces a relevant limit.”;

(c) by adding the following Part immediately after Part I —

“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.

Right to limit liability

2. Subject to paragraph 6 below, the right to limit liability under the Convention applies in relation to any ship whether seagoing or not, and the definition of “shipowner” in paragraph 2 of article 1 must be construed accordingly.

Paragraph 1(a) of article 2 has effect as if the reference to “loss of life or personal injury” did not include a reference to loss of life or personal injury to passengers of seagoing ships.

Claims subject to limitation

3. (1) Paragraph 1(d) of article 2 does not apply unless provision has been made by an order of the Governor for the setting up and management of a fund to be used for the making to the Authority of payments needed to compensate the Authority for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by the Authority in claims of the kind mentioned there, and to be maintained by contributions from the Authority raised and collected by it in respect of vessels in like manner as other sums so raised by it.

(2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to the Governor to be necessary or expedient.

Claims excluded from limitation

4. (1) Claims for Damages 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 any amendment of or Protocol to the Convention, which arise from occurrences which take place after the coming into force of the first Order in Council made by Her Majesty under section 182B of the Act are excluded from the Convention.

(2) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 163 of this Ordinance.

(3) The claims excluded from the Convention by paragraph (c) of article 3 are claims made by virtue of any of sections 7 to 11 of the Nuclear Installations Act 1965 (*in its application to the Falkland Islands*).

The general limits

5.(1) In the application of article 6 to a ship with a tonnage less than 300 tons that article has effect as if —

(a) paragraph 1(a)(i) referred to 1,000,000 Units of Account; and

(b) paragraph 1(b)(i) referred to 500,000 Units of Account.

(2) For the purposes of article 6 and this paragraph a ship's tonnage is its gross tonnage calculated in such manner as may be prescribed by an order made by the Governor.

(3) Any order under this paragraph must, so far as appears to the Governor to be practicable, give effect to the regulations in Annex I of the International Convention on Tonnage Measurement of Ships 1969.

Limit for passenger claims

6. Article 7 does not apply in respect of any sea going ship and has effect in respect of any ship which is not as if in paragraph 1 of that article.

In paragraph 2 of article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under the Fatal Accidents Act 1976 (*in its application to the Falkland Islands*).

Units of Account

7. (1) For the purpose of converting the amounts mentioned in articles 6 and 7 from special drawing rights into sterling one special drawing right will be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for —

(a) the relevant date under paragraph 1 of article 8; or

(b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Financial Secretary stating —

(a) that a particular sum in sterling has been fixed as mentioned in sub-paragraph (1) above for a particular date; or

(b) that no sum has been so fixed for that date and that a particular sum in sterling has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

will be conclusive evidence of those matters for the purposes of those articles; and a document purporting to be such a certificate must, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Constitution of fund

8. (1) The Governor may, with the concurrence of the Financial Secretary, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of article 11.

(2) Any statutory instrument containing an order under sub-paragraph (1) above must be laid before the Legislative Assembly after being made.

(3) Where a fund is constituted with the court in accordance with article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

Distribution of fund

9. No lien or other right in respect of any ship or property will affect the proportions in which under article 12 the fund is distributed among several claimants.

Bar to other actions

10. Where the release of a ship or other property is ordered under paragraph 2 of article 13 the person on whose application it is ordered to be released will be deemed to have submitted to the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

Meaning of "court"

11. References in the Convention and the preceding provisions of this Part of this Schedule to the court are references to the Supreme Court.

Meaning of "ship"

12. References in the Convention and in the preceding provisions of this Part of this Schedule (*paragraphs 1 to 11*) to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

Meaning of "State Party"

An Order in Council made under the Act for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention as amended by the 1996 Protocol, subject to the provisions of any subsequent Order made for those purposes, will be conclusive evidence that the State is a party to the Convention as amended by the 1996 Protocol.

49. Schedule 10 amended

Schedule 10 is amended as follows —

(a) in Part B by inserting the following in their correct chronological order —

Chapter or number	Title
Chapter 32 of 1900	Merchant Shipping (Liability of Shipowners and Others) Act 1900
Chapter 62 of 1958	Merchant Shipping Act 1958

(b) by omitting Part C and replacing it with the following —

“Part C
(Section 310(3))

UK Statutory Instruments

Number	Title
SR & O 1935/837	Merchant Shipping (Helm Order) Order 1935
SI 1963/1631	Merchant Shipping (Registration of Colonial Government Ships) Order 1963
SI 1963/1632	Shipowners’ Liability (Colonial Territories) Order 1963
SI 1971/383	Merchant Shipping (Tonnage) (Overseas Territories) Order 1971
SI 1981/424	Merchant Shipping Act 1979 (Falkland Islands) (Amendment) Order 1981
SI 1980/1093	Merchant Shipping (Prevention of Pollution)(Intervention) Order 1980
SI 1980/1513	Merchant Shipping Act 1979 (Falkland Islands) Order 1980
SI 1982/841	Merchant Shipping (Tonnage) Regulations 1982
SI 1982/1664	Carriage of Goods by Sea (Overseas Territories) Order 1982
SI 1982/1666	Merchant Shipping (Prevention of Pollution)(Intervention) (Overseas Territories) Order 1982
SI 1982/1669	Prevention of Oil Pollution (Shipping Casualties) (Overseas Territories) Order 1982
SI 1982/1668	Prevention of Oil Pollution Act 1971 (Overseas Territories) Order 1982
SI 1983/708	Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1983
SI 1983/762	Merchant Shipping (Distress Signals and Prevention of Collisions) (Overseas Territories) Order 1983
SI 1987/1827	Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1987

SI 1988/1084	Environment 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 1989/1798	Merchant Shipping (Distress Signals and Prevention of Collision) Regulations 1989
SI 1989/2400	Merchant Shipping Act 1979 (Overseas Territories) Order 1989
SI 1989/845	Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1989
SI 1992/1717	Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1992
SI 1993/1786	Merchant Shipping Act 1979 (Overseas Territories) (Amendment) Order 1993
SI 1997/1748	Environment Protection (Overseas Territories) (Amendment) Order 1997
SI 1997/2578	Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997
SI 1997/2586	Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997
SI 1997/2584	Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997
SI 2003/1877	Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2003
SI 2003/2559	The Merchant Shipping (Oil Pollution Compensation Limits) Order 2003.”.

Part 3 — Amendment of Law Revision and Publication Ordinance 2017

50. Amendment of Law Revision and Publication Ordinance 2017

This Part amends the Law Revision and Publication Ordinance 2017.

51. Schedule 1 amended

(1) Schedule 1 is amended as follows —

(a) in Part 1 Primary Legislation by omitting the entry relating to Merchant Shipping Act 1995 in its entirety;

(b) in Part 2 Secondary Legislation —

(i) by omitting the following entry and its corresponding columns from the Table —

“Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1998 (SI 1998/1377)”;

(ii) in the entry “Merchant Shipping (Prevention of Oil Pollution) Regulations, (SI 2019/42), in column 2, by omitting “Whole Regulations” and replacing it with “Whole Regulations except regulation 34”; and

(iii) by adding the following in their correct alphabetical order —

“

<i>Column 1 Instrument</i>		<i>Column 2 Provisions Applying to the Falkland Islands</i>	<i>Column 3 Exclusions, modifications and other qualifications</i>
Merchant Shipping (Carriage of Cargoes) Regulations (SI 1999/336)	1999	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Fire Protection: Large Ships) Regulations (SI 1998/1012)	1998	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Fire Protection: Small Ships) Regulations (SI 1998/1011)	1998	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Load Line Convention) (Amendments) Regulations (SI 2018/155)	2018	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations (SI 1998/2515)	1998	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Prevention of Air Pollution from Ships) Regulations (SI 2008/2924)	2008	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Prevention of Pollution	2008	Whole Regulations	The Regulations are subject to the modifications specified in

<i>Column 1 Instrument</i>		<i>Column 2 Provisions Applying to the Falkland Islands</i>	<i>Column 3 Exclusions, modifications and other qualifications</i>
by Sewage and Garbage) Regulations (SI 2008/3257)			Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations (SI 2018/68)	2018	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Registration of Fishing Vessels) Regulations (SI 1988/1926)	1988	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Registration of Fishing Vessels' Names) Regulations (SI 1988/2003)	1988	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Ships' Names) Regulations (SI 1979/341)	1979	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations (SI 2015/782)	2015	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 power of the Secretary of State under the Regulations to issue, vary, amend, cancel, or recognise a certificate, or to grant an exemption in relation to a certificate, may be exercised by the Governor or by a public officer, department or body to whom the Governor may delegate that power, or by a certifying authority, but the following documents are to be treated as satisfying these</p>

<i>Column 1 Instrument</i>		<i>Column 2 Provisions Applying to the Falkland Islands</i>	<i>Column 3 Exclusions, modifications and other qualifications</i>
			<p>Regulations –</p> <p>(a) a certificate held by a seafarer employed or engaged on a Falkland Islands registered ship, which was issued by the Secretary of State under these Regulations as they apply in the United Kingdom;</p> <p>(b) a safe manning document held by a Falkland Islands registered ship, which was issued by the Secretary of State under these Regulations as they apply in the United Kingdom.</p> <p>3. For the purposes of paragraph 2 –</p> <p>(a) “seafarer” and “Falkland Islands registered ship” have the same meaning as they have under the Maritime Ordinance 2017;</p> <p>(b) “certifying authority” means the Falkland Islands maritime authority designated under the Harbours and Ports Ordinance 2017, or a person or organisation with whom the Governor has entered into an agreement authorising them (or specified employees, agents or contractors of the person or organisation) to exercise a power to issue, vary, amend, cancel, or recognise a certificate, or to grant an exemption in relation to a certificate.</p>

<i>Column 1 Instrument</i>		<i>Column 2 Provisions Applying to the Falkland Islands</i>	<i>Column 3 Exclusions, modifications and other qualifications</i>
Merchant Shipping and Fishing Vessels (Medical Stores) Regulations (SI 1995/1802)	1995	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations (SI 2003/1809)	2003	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Survey and Certification) Regulations (SI 2015/508)	2015	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.”.

(2) Subsection (1)(b) has effect as follows —

(a) the Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations (SI 2018/68) are deemed to have effect from 12 March 2018;

(b) the Merchant Shipping (Load Line Convention)(Amendments) Regulations (SI 2018/155) are deemed to have effect from 9 March 2018; and

(c) the amendment of the entry in relation to the Merchant Shipping (Prevention of Pollution) Regulations (SI 2019/42) comes into force on the day on which the Maritime (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 2019 come into force; and

(d) the rest of subsection (1)(b) is deemed to have effect from 31 July 2017.

**PART 4 — REPEAL OF MERCHANT SHIPPING (ADOPTION OF LEGISLATION)
(AMENDMENT) ORDINANCE 2017**

52. Repeal of Merchant Shipping (Adoption of Legislation (Amendment) Ordinance 2017

The Merchant Shipping (Adoption of Legislation) (Amendment) Ordinance 2017 is repealed.

OBJECTS AND REASONS

This Bill amends the Maritime Ordinance 2017 to update it so that it reflects amendments to international law and further consolidates some UK legislation which has been adopted in the Falkland Islands. The amendments also introduce important provisions giving the Governor the power to make regulations to give effect to specific international agreements relating to the prevention of pollution

Part 1 deals with introductory matters; the title and commencement provisions which are dealt with in clauses 1 and 2.

Part 2 deals with the amendment of the Maritime Ordinance as follows:

Clause 4 amends section 1 which is the title and commencement provision. This amendment allows the Governor to commence different parts of the Maritime Ordinance at different dates.

Clause 5 amends section 2 to add more definitions and to make some amendments to already defined terms.

Clause 6 amends section 5 to include government ships within the section. This will provide for registration of government ships within the Falkland Islands and clarify the law in this area.

Clause 7 amends section 14 to provide for certain ships belonging to United Kingdom organisations to be deemed to have a Falkland Islands connection. It further provides for corrections in subsection (5) and in the footnote reference to the Merchant Shipping Act 1995. The phrase ‘relevant requirements’ which is defined in 14(9) but is not used in the section is now reflected under subsection (5).

Clause 8 amends section 15 to provide for the Governor to make registration regulations with regard to government ships and further to allow the Registrar (and not the Governor) to approve forms required under registration regulations.

Clause 9 repeals Part 4 and provides a new section for giving effect to the Maritime Labour Convention. This will be done through regulations made under this Ordinance or the Maritime Labour Ordinance. The Maritime Labour Ordinance addresses the matters which used to be under Part 4. As a consequence of the repeal of Part 4 amendments are required to Part 6 (which cross references to Part 4) and to other sections of this Ordinance. The amendments to Part 6 are dealt with under clause 11.

Clause 10 amends Part 5 to make several additions giving effect to Chapter V of the Annex to the SOLAS Convention. This introduces a new section 84A which gives a *vires* for regulations to be made giving effect to the provisions of Chapter V of SOLAS. Chapter V of SOLAS contains duties which are to be imposed on ship owners and masters by legislation.

Section 84A also provides for the Governor to make regulations requiring the Authority to put in place measures to give effect to a number of duties or undertakings set out in Chapter V of SOLAS, for example: regulations 4 (navigational warnings), regulation 5 (meteorological services and warnings), regulation 7 (search and rescue services), regulation 9 (hydrographic services), regulation 10 (ships routing), regulation 11 (ships reporting), regulation 12 (vessel traffic service), regulation 13 (establishment and operation of aids to navigation), regulation 31 (danger messages) and regulation 33 (distress signals).

Clause 11 amends Part 6 by replacing Chapter 1. Chapter 1 provides for the employment, accommodation and other matters for seafarers. This Part was complimented by Part 4 which deals with similar requirements in relation to ships other than fishing vessels. Since Part 4 is being repealed in this Ordinance Chapter I requires amending so that all previous cross-references to provisions under Part 4 are now free-standing and that all matters which were addressed under Part 4 relating to fishing vessels are now dealt with in one place.

Clause 12 amends section 131 to provide for the power to make regulations to give effect to certain international laws relating to the prevention of pollution.

Clause 13 amends section 132 to provide the Governor with the power to make regulations to give effect to the United Nations Convention on the Law of the Sea 1982.

Clauses 14 to 31 amend the Maritime Ordinance to give effect in the Falkland Islands to the International Convention on Civil Liabilities for Bunker Oil Pollution Damage 2001.

Clause 14 amends section 162 by inserting definitions of “the Bunkers Convention” and related expressions. Clause 15 amends section 163 to expand the definition of “owner” who is defined, in relation to liability for bunker oil contamination, as including the registered owner of the ship, the bareboat charterer, the manager and the operator of the ship.

Clause 16 inserts a new section 163A. Section 163A provides that where, as a result of any occurrence, any bunker oil is discharged or escapes from a ship, the owner of the ship is liable for any damage caused outside the ship in the territory of the Falkland Islands by contamination resulting from the discharge or escape. The owner is also liable for the cost of any measures reasonably taken for the purpose of preventing or minimising the damage and for any damage caused by the measures taken. Furthermore, where there is a grave and imminent threat of contamination by bunker oil, the owner is liable for the cost of measures taken to prevent or minimise damage and for damage caused by those measures.

Clause 17 amends section 164 (Liability for pollution in case of other ships) so that where, as a result of any occurrence, any oil is discharged or escapes from a vessel which is not sea-going the owner is liable for any damage caused outside the ship in the territory of the Falkland Islands by resulting contamination, for the cost of measures to minimise or prevent damage and for damage caused by any such measures taken. Liability also arises where there is a relevant threat of contamination. This phrase is defined under clause 15.

Clause 18 amends section 165 to create exceptions from liability under new section 163A.

Clause 19 amends section 166 in order to create certain restrictions on the liability of the owner, salvors and others in the case of bunker oil spills. Clause 20 inserts new section 166A which makes supplementary provision in respect of liability under sections 163, 163A and 164.

Clauses 21 to 25 make consequential amendments to sections 167 to 168 and 170 to 173.

Clause 26 inserts a new section 173A which makes provision for compulsory insurance in respect of bunker oil contamination for ships having a gross tonnage greater than 1,000 tons. Section 173A(7) creates a power of detention exercisable where a ship leaves a port in the Falkland Islands in contravention of section 173A(2).

Clause 27 amends section 174 to make provision for the issue by the Governor of a certificate where there is in force insurance or other security satisfying Article 7 of the Bunkers Convention. The effect of the amendment, which also inserts a new subsection (2A) into that section, is that the Governor will have discretion as to the issue of such certificates to the owners of ships which are not Falkland Islands ships.

Clause 28 amends section 175 (Rights of third parties against insurers) to make provision in respect of the rights of third parties against insurers where it is alleged that the owner of a ship has incurred a liability under section 163A.

Clause 29 amends section 176 (Jurisdiction of Falkland Islands courts and registration of foreign judgments) to make provision in respect of the jurisdiction of Falkland Islands courts and the registration of foreign judgments. Clause 30 amends section 177 (Government ships) to make provision in respect of Government ships.

Clause 31 amends section 178 (Limitation of liability under section 164) so that, for the purposes of section 164 (Limitation of liability for maritime claims) of the Ordinance, any liability incurred under section 163A is 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.

Clauses 32 to 37 amend the Maritime Ordinance 2017 to give legal effect in the Falkland Islands to the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (“the Supplementary Fund Protocol”). The United Kingdom has acceded to the Supplementary Fund Protocol but has not extended the Protocol to the Falkland Islands. A request will be made through the Foreign and Commonwealth Office for the extension of this Protocol to the Falkland Islands. The purpose of the Supplementary Fund Protocol is to supplement the compensation available for oil pollution damage under the 1992 Civil Liability and Fund Conventions with an additional third tier of compensation.

Under the Supplementary Fund Protocol compensation is increased so that the total amount of compensation payable for any one incident is 750 million Special Drawing Rights, including the

amount payable under the 1992 Civil Liability and Fund Conventions. The 2017 Ordinance is amended as follows —

Clause 33 amends section 181 to insert the definitions of “Supplementary Fund Protocol”, “Liability Convention”, “the Fund Convention” and related expressions.

Clause 34 amends section 182 to include the requirement to make contributions to the Supplementary Fund within that section. Other consequential amendments are made to section 183 through clause 35.

Clause 36 amends the Maritime Ordinance by adding 2 new sections which provide for the liability under Supplementary Fund Protocol. Clause 184A sets out the liability available in the Falkland Islands under the Supplementary Fund Protocol which is determined in accordance with the circumstances mentioned in paragraph 1 of Article 4 of that Protocol. Section 184B sets out the limits of that liability and specifies that it is subject to paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (which impose an overall limit on the liabilities of the Supplementary Fund) and paragraphs 2 and 3 of Article 15 of the Supplementary Fund Protocol (which prevent the Supplementary Fund from paying compensation temporarily and permanently where obligations to communicate information to the Director under paragraph 1 of Article 13 and paragraph 1 of Article 15 have not been met).

Clause 37 amends section 186 (Jurisdiction and effect of judgments) to provide for the jurisdiction of Falkland Islands courts and the registration of foreign judgments. Clauses 38 to 40 amend sections 187 to 189 to make consequential amendments to provide for the Supplementary Fund Protocol within those sections.

Clause 41 adds a new section 307A to the 2017 Ordinance to give the Governor the power to issue mandatory or general guidance or for the Governor to adopt UK Merchant Shipping Notices, UK Marine Guidance Notices or UK Marine Information Notices issued by the Maritime and Coastguard Agency, as long as these are relevant to this Ordinance or any regulations made under it. The Governor may also delegate to the Authority, the power to issue general or mandatory guidance or to adopt such UK Merchant Shipping Notices, UK Marine Guidance Notices or UK Marine Information Notices as long as these are relevant to this Ordinance or any regulations made under it. Any such UK Notices may be adopted subject to modifications where necessary. There are further obligations to mark any mandatory or general guidance issued under this clause with the mark of the Authority and to publish it.

Clause 42 amends section 307(1)(c) to correct the cross reference in that paragraph.

Clause 43 adds a new section 308A to the 2017 Ordinance. The new section provides for flexibility in interpreting international maritime conventions. It provides that wherever the power for the Governor to make secondary legislation to give effect to international maritime conventions appears in the 2017 Ordinance, the Governor will be able to exercise those powers so as to provide for a reference in the legislation to an international instrument to be

interpreted as a reference to the instrument as modified from time to time (and not simply to the version of the instrument that exists at the time the secondary legislation is made).

The practical effect of this section would be to avoid the need to make further secondary legislation or publish any other regulatory document in order to give effect to changes to international obligations and standards; changes to the text of an international instrument would be automatically incorporated into Falkland Islands law in the circumstances specified in the secondary legislation.

Clause 44 amends section 309(6) to reflect the change made to section 15(3) so that forms approved by the Registrar under section 15(3)(h)(i) are not subject to section 309.

Clause 45 replaces section 310 with a new provision which reflects amendments made to the language used to refer to UK legislation in the Interpretation and General Clauses Ordinance 1977 and the fact that UK Acts (*to be amended so that they no longer apply to the Falkland Islands*) may be amended by another Act or through an Order in Council. It further provides for the registration of ships in the Falkland Islands done under any of the UK enactments to be disapplied, Falkland Islands legislation to be repealed or those that still apply (UK enactments or Falkland Island laws) to continue and be construed as if it is done under Part 3 of the Ordinance.

Clause 46 makes global amendments resulting from the registration of Government ships. A distinction is drawn between United Kingdom Government ships and Falkland Islands Government ships.

Clause 47 insert a new Schedule 2A to provide the relevant articles of the Supplementary Fund Protocol.

There are regular changes made to international maritime conventions which results in the legislation becoming out of date. There is limited capacity to be able to keep up to date and make changes as they are made on the international instruments so the new section 308A provides a mechanism that will allow changes to international instruments in the maritime sector, to which the Falkland Islands is a party, to take effect in Falkland Islands law without the need to make further legislative or regulatory provision.

The Falkland Islands is a party to the Convention on Limitation of Liability for Maritime Claims 1976 (“the LLMC Convention 1976”), as amended by the Protocol of 1996, which is implemented through Schedule 5 to the Maritime Ordinance 2017. Schedule 5 sets out the provisions of the LLMC Convention, as amended by the 1996 Protocol.

Clause 48 amends Part I of Schedule 5 by replacing paragraph 1 with a new paragraph under Article 6. Further increases in the limits of liability under the LLMC Convention were adopted by the United Kingdom in 2012 and took effect on 8th June 2015. Schedule 5 to the 2017 Ordinance reflects the previous limits. Accordingly, it has been amended to reflect current, higher limits on claims for loss of life, personal injury and other claims (other than passenger claims). Clause 46 also adds a new provision to Schedule 5 which will mean that

the limits will automatically be increased, but not reduced, when future changes to the limits in the LLMC Convention have effect.

Clause 49 amends Schedule 10 of the 2017 Ordinance to reflect the various UK Acts, Statutory Instruments including Orders in Council which will require amending and repealing as a result of the consolidation of legislation under the 2017 Ordinance. This is to correct and update the list, so it reflects all the legislation.

Part 3 amends the Law Revision and Publication Ordinance (LRPO) 2017. Schedule 1 of this Ordinance lists UK legislation which applies in the Falkland Islands.

Clause 50 provides for the general amendment of the LRPO.

Clause 51 amends Schedule 1 to delete the entry in respect of the Merchant Shipping Act 1995, which will no longer apply once the provisions of the Maritime Ordinance come into force. The Schedule is further amended to correct errors in the Schedule as originally enacted and to further amend the application of UK Merchant Shipping Regulations to the Falklands.

Part 4 repeals the Merchant Shipping (Adoption of Legislation) (Amendment) Ordinance 2017.

Clause 52 provides for the repeal of the Merchant Shipping (Adoption of Legislation) (Amendment) Ordinance 2017. The UK Acts it proposes to disapply have already been excluded or will be excluded in Schedule 1 to the Law Revision and Publication Ordinance 2017.

Maritime Labour Bill 2019

(No: of 2019)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 – INTRODUCTORY

1. Title
2. Commencement
3. Interpretation
4. Application
5. Exemption of ships

PART 2 – CONDITIONS OF EMPLOYMENT AND ENGAGEMENT OF SEAFARERS

Seafarers' employment agreements and crew agreements

6. Seafarers' employment agreements
7. Crew agreements
8. Regulations relating to crew agreements
9. Discharge of seafarers
10. Seafarers left behind abroad otherwise than on discharge
11. Discharge of seafarers when ship ceases to be registered in the Falkland Islands

Wages etc

12. Payment of seafarers' wages under seafarers' employment agreements
13. Payment of seafarers' wages under crew agreements
14. Account of seafarers' wages
15. Regulations relating to wages and accounts
16. Disputes about wages
17. Restriction on assignment of, and charge upon, wages
18. Power of court to award interest on wages due otherwise than under a seafarers' employment agreement or crew agreement
19. Allotment notes
20. Right of person named in allotment to sue in own name
21. Right, or loss of right, to wages in certain circumstances
22. Protection of certain rights and remedies
23. Claims against seafarer's wages for maintenance, etc. of dependants
24. Remedies of master for remuneration, disbursements and liabilities

Health, safety and welfare

25. Minimum age for employment or engagement
26. Obligation of shipowners as to seaworthiness
27. General measures for the health, safety and welfare of seafarers
28. Crew accommodation

29. Provision of food or drinking water
30. Costs of medical and other treatment during voyage

Repatriation and relief

31. Relief and return of seafarer etc. left behind and shipwrecked: MLC ships
32. Relief and return of seafarer etc. left behind and shipwrecked: non-MLC Falkland Islands ships
33. Limit of liability under section 32
34. Recovery of expenses incurred for relief and return, etc.
35. Financial assistance in respect of crew relief costs

PART 3 – MANNING, QUALIFICATIONS, TRAINING AND UNIFORM

Manning

36. Application of sections 37 to 41
37. Manning
38. Power to exempt from manning requirements
39. Prohibition of going to sea undermanned
40. Production of certificates and other documents of qualification
41. Crew's knowledge of English
42. Unqualified persons going to sea as qualified officers or seafarers
43. Medical treatment on board ship
44. Special certificates of competence

Financial assistance for training

45. Financial assistance for training

Uniform

46. Uniform

PART 4 – CONDUCT OF SEAFARERS

Offences by seafarers etc

47. Conduct endangering ships, structures or individuals
48. Concerted disobedience and neglect of duty

Disciplinary offences

49. Breaches by seafarers of codes of conduct
50. Inquiry into fitness or conduct of officer
51. Disqualification of holder of certificate other than officer
52. Inquiry into fitness or conduct of seafarer other than officer
53. Re-hearing of, and appeal from, inquiries
54. Rules as to inquiries and appeals
55. Failure to deliver cancelled or suspended certificate
56. Power to restore certificate
57. Power to summon witness to inquiry into fitness or conduct of officer or other seafarer

Civil liability of seafarers for offences

- 58. Civil liability for absence without leave
- 59. Civil liability for smuggling
- 60. Civil liability for fines imposed under immigration laws

PART 5 – DOCUMENTATION

- 61. Official log books
- 62. Lists of crew
- 63. Falkland Islands seafarers' cards
- 64. Discharge books
- 65. Handing over of documents by master

PART 6 – GENERAL PROVISIONS

Application of Ordinance to certain descriptions of ships etc

- 66. Application of Ordinance to ships not registered in the Falkland Islands
- 67. Application of Ordinance to government ships
- 68. Application of Ordinance to ships chartered by demise to the Crown
- 69. Application of Ordinance to certain structures, etc.

Subordinate legislation

- 70. Regulations to give effect to the MLC
- 71. Regulations - general provision
- 72. Regulations, rules and orders, etc.
- 73. Forms
- 74. Power of the Authority to issue codes and guidance relating to maritime labour matters

Final provisions

- 75. Transitional provisions

MARITIME LABOUR BILL 2019

(No: of 2019)

(assented to: 2019)
(commencement: in accordance with section 2)
(published: 2019)

A BILL

for

AN ORDINANCE

To make provision in relation to the crewing of ships and the conditions and rights of seafarers; to give effect to the Maritime Labour Convention, 2006, and to provide generally for connected matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 – INTRODUCTORY

1. Title

This Ordinance is the Maritime Labour Ordinance 2019.

2. Commencement

This Ordinance comes into force on a date appointed by the Governor by notice in the *Gazette* except where it is provided that particular provisions come into force on a different date.

3. Interpretation

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

“**Authority**” means the Falkland Islands Maritime Authority, as designated by the Governor under section 4(1) of the Harbours and Ports Ordinance 2017;

“**crew agreement**” has the meaning given to it by section 7(1);

“**employed**” means employed under a contract of employment, and “employer”, “employee” and “employment” are to be construed accordingly;

“**engaged**” has the meaning given to it by subsection (7);

“**Falkland Islands ship**” means a ship registered in the Falkland Islands in accordance with —

(a) Part 3 of the Maritime Ordinance 2017;

(b) the Merchant Shipping Ordinance 2001; or

(c) Part I of the Merchant Shipping Act 1894;

and, except where otherwise expressly provided, includes both an MLC Falkland Islands ship and a non-MLC Falkland Islands ship;

“**Falkland Islands waters**” has the same meaning given to it in section 2(1) of the Maritime Ordinance 2017;

“**gross tonnage**” means gross tonnage as determined under the Merchant Shipping (Tonnage) Regulations 1997 (SI 1997/1510), as applied by the Law Revision and Publication Ordinance 2017;

“**hours of rest**” means time outside hours of work and does not include short breaks;

“**hours of work**” means time during which a seafarer is required to do work on a ship;

“**international instrument**” means an international convention or treaty, or an instrument made under such a convention or treaty;

“**MLC**” means the Maritime Labour Convention, 2006 (and includes any amendments to the Convention made or to be made in accordance with Article XIV of the Convention), adopted by the International Labour Organisation at Geneva on 23rd February 2006, and includes the Regulations and the Standards in Part A of the MLC Code;

“**MLC Code**” and “**MLC Regulations**” mean respectively the Code and Regulations which are contained within the MLC;

“**MLC Falkland Islands ship**” means a Falkland Islands ship which is an MLC ship;

“**MLC ship**” means a sea-going ship other than a non-MLC ship;

“**master**” includes every person (except a pilot), having command or charge of a ship;

“**medical practitioner**” means a person who —

(a) is a duly qualified medical practitioner under the Medical Practitioners, Midwives and Dentists Ordinance 1914; or

(b) if not duly qualified under that Ordinance, holds a licence, degree, or diploma which would entitle that person to be registered as a medical practitioner by the General Medical Council in the United Kingdom;

“**non-MLC Falkland Islands ship**” means a Falkland Islands ship which is a non-MLC ship;

“**non-MLC ship**” means a sea-going ship which is —

(a) a ship of traditional build; or

(b) a pleasure vessel or other vessel not ordinarily engaged in commercial activities;

“**pleasure vessel**” means —

(a) any vessel which at the time it is being used is —

(i) in the case of a vessel wholly owned by —

(aa) an individual or individuals, used only for the sport or pleasure of the shipowner or the immediate family or friends of the shipowner; or

(bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the shipowner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in paragraph (a) or (b), no other payments are made by or on behalf of users of the vessel, other than by the shipowner; and in this definition “**immediate family**” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual’s spouse or civil partner; and “**relative**” means brother, sister, ancestor or lineal descendant;

“**proper officer**” has the same meaning given to it in section 2(1) of the Maritime Ordinance 2017;

“**Registrar**” and “**Registrar General of Shipping and Seamen**” have the same meanings given to them in section 2(1) of the Maritime Ordinance 2017;

“**requirements of the MLC**” refers to the requirements in the Articles, the MLC Regulations and Part A of the MLC Code;

“**seafarer**” means any person, including the master, who is employed or engaged or works in any capacity on board a ship, but does not include —

(a) a pilot;

(b) a port worker; or

(c) a person temporarily employed or engaged in the ship during the period it is in port;

“**seafarers’ employment agreement**” means a written contract of employment and written articles of agreement made in accordance with section 6 (seafarers’ employment agreements) between a person employed or engaged as a seafarer on a ship and the person employing that person;

“**sea-going**”, in relation to a ship, means a ship which navigates in waters other than —

(a) internal waters; or

(b) waters where port regulations apply,

and “**internal waters**” for these purposes means those waters which lie landward of the baseline from which the territorial sea of the Falkland Islands is measured;

“**ship of traditional build**” means a wooden ship of primitive build such as a dhow or junk;

“**ship’s boat**” includes a life-raft;

“**shipowner**”, in relation to a ship, means the owner or any other person (such as the ship manager, agent or bareboat charterer) who has assumed responsibility for the operation of the ship on behalf of the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the MLC, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner; and

“**superintendent**” has the same meaning given to it in section 2(1) of the Maritime Ordinance 2017.

(2) For the purposes of this Ordinance —

(a) a seafarer is discharged from a ship when the seafarer’s employment or engagement in that ship is terminated;

(b) a seafarer discharged from a ship in any country and left there is deemed to be left behind in that country even if the ship also remains in that country;

(c) a ship is considered to have gone to sea if it has got under way for any purpose other than moving the ship from one berth or place in a port to another berth or place in the port; and

(d) references to going to sea include references to going to sea from any country outside the Falkland Islands; and

(e) references to a death occurring on a ship include a death occurring in a ship's boat or life-raft and to being lost from a ship, ship's boat or life-raft.

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

(4) Any reference in this Ordinance to a specific provision in the MLC, the MLC Regulations or the MLC Code is to be construed as —

(a) a reference to the provision in that instrument as modified from time to time; and

(b) a reference, if the instrument is replaced by another instrument, to the relevant provision in that other instrument.

(5) Any power conferred by this Ordinance to enable a reference to be made to a document or international instrument may be exercised so as to have the effect that the reference to the document or instrument is construed —

(a) as a reference to the document or instrument as modified from time to time;

(b) if the document or instrument is replaced by another document or instrument, as a reference to that other document or instrument.

(6) For the purposes of subsection (5), a document or instrument is modified if —

(a) an omission, addition or other alteration to the text of the document or instrument takes effect; or

(b) supplementary provision made under the document or instrument takes effect.

(7) In this Ordinance, “**engaged**” means engaged under a contract, other than a contract of employment with a shipowner, in the circumstances described in subsection (9); and “**engagement**” is to be construed accordingly.

(8) For the purposes of subsection (7), a contract can be —

(a) express; or

(b) implied; and

(c) if it is express, made orally or in writing.

(9) The circumstances are that —

(a) the person or seafarer engaged under the contract undertakes to do or perform personally any work or services in a ship; and

(b) the undertaking referred to in paragraph (a) is provided to —

(i) the shipowner; or

(ii) another person who is a party to the contract.

4. Application

(1) Subject to subsections (2) to (5), and except where otherwise expressly provided, this Ordinance applies to —

(a) a sea-going Falkland Islands ship wherever it may be;

(b) a sea-going ship which is not a Falkland Islands ship, while that ship is in Falkland Islands waters;

(c) a Falkland Islands ship which is not sea-going; and

(d) seafarers employed or engaged in a ship falling within (a) to (c).

(2) Sections 7 (crew agreements), 8 (regulations relating to crew agreements), 13 (payment of seafarers' wages under crew agreements) and 32 (relief and return of seafarer etc. left behind and shipwrecked: non-MLC Falkland Islands ships) do not apply to —

(a) an MLC ship; and

(b) a seafarer employed or engaged in an MLC ship.

(3) Sections 6 (seafarers' employment agreements), 12 (payment of seafarers' wages under seafarers' employment agreements), 31 (relief and return of seafarer etc. left behind and shipwrecked: MLC ships) and 70 (regulations to give effect to the MLC) do not apply to —

(a) a non-MLC ship; and

(b) a seafarer employed or engaged in a non-MLC ship.

(4) In relation to a ship within sub-section (1)(c) (Falkland Islands ship which is not sea-going), and to seafarers employed or engaged in the ship, only sections 25 (minimum age for employment or engagement), 28 (crew accommodation), 36 to 42 and 44 (manning) and 45 (financial assistance for training) and 47 to 57 (offences by seafarers and disciplinary offences) apply.

(5) This Ordinance does not apply to —

(a) a fishing vessel; or

(b) a warship or naval auxiliary.

(6) In subsection (5), “**fishing vessel**” has the meaning given to it in section 2(1) of the Maritime Ordinance 2017.

5. Exemption of ships

(1) Subject to this section, where the Governor determines from time to time that it is not reasonable or practicable to apply any provision of this Ordinance, or any regulations made under this Ordinance, to any ship, the Governor may exempt that ship, or particular categories of ships, either generally or for such time or such voyage as the Governor may determine.

(2) In the case of a ship to which Part 2 applies, the Governor may only grant an exemption from the requirements of that Part, or any regulations made under it, if the ship —

(a) is of less than 200 gross tonnage;

(b) is not engaged on an international voyage; and

(c) the Governor has first consulted organisations in the Falkland Islands appearing to the Governor to be representative of the interests of shipowners and seafarers.

(3) The Governor in granting an exemption —

(a) under subsection (1), may impose such conditions on the ship, or particular categories of ships, as the Governor thinks fit; and

(b) under subsection (2), must impose such conditions on the ship, or particular categories of ships, as the Governor considers appropriate to ensure that an equivalent level of protection to that provided by the MLC is applied to the ship or ships.

(4) Without prejudice to the generality of subsections (1) and (3), the conditions may include a requirement that —

(a) the Maritime Ordinance 2017;

(b) any other written law;

(c) the terms of any seafarers’ employment agreement, crew agreement or other relevant agreement; or

(d) any other measures,

be complied with in lieu of any provision of this Ordinance, or regulations made under this Ordinance.

PART 2 – CONDITIONS OF EMPLOYMENT AND ENGAGEMENT OF SEAFARERS

Seafarers' employment agreements and crew agreements

6. Seafarers' employment agreements

(1) The master of an MLC ship must not take the ship to sea, or cause or permit another person to take the ship to sea, if —

(a) a seafarer is employed or engaged to work in the ship; and

(b) when the ship is taken to sea, a seafarers' employment agreement which complies with regulations made for the purposes of subsection (4) is not in force in relation to the seafarer.

(2) A person specified in subsection (3) must not, in relation to an MLC ship, take the ship to sea, or cause or permit another person to take the ship to sea, if —

(a) a seafarer is employed or engaged to work in the ship; and

(b) when the ship is taken to sea, a seafarers' employment agreement which complies with regulations made for the purposes of subsection (4) is not in force in relation to the seafarer.

(3) The persons specified for the purposes of subsection (2) are —

(a) the shipowner;

(b) the shipowner's representative; and

(c) where the shipowner is not the employer of the seafarer, the employer of the seafarer.

(4) The Governor may make regulations providing for matters relating to seafarers' employment agreements, including —

(a) the content and form of seafarers' employment agreements;

(b) the parties to a seafarers' employment agreement;

(c) the right of a seafarer to review, and seek advice on, a seafarers' employment agreement before signing it;

(d) the process for signing a seafarers' employment agreement;

(e) the information or documents that must be given to, or made available to, seafarers in relation to seafarers' employment agreements and the manner in which such information or documents must be given or made available;

(f) the termination of seafarers' employment agreement, including minimum notice periods; and

(g) keeping records of seafarers' employment agreements and retaining such records.

(5) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

7. Crew agreements

(1) Except as provided under subsection (5), any person who employs or engages a person to work as a seafarer in a non-MLC Falkland Islands ship, must, if no seafarers' employment agreement is in force in relation to that seafarer, enter into an agreement in writing with that person (referred to as a "**crew agreement**") in accordance with subsections (2) to (7).

(2) A crew agreement made under this section with the several persons employed or engaged as seafarers in non-MLC Falkland Islands ship must be in writing and contained in one document 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 or engaged 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 or engaged 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 section 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 to the Maritime Ordinance 2017 and the ship, if in the Falkland Islands, may be detained.

[Merchant Shipping Act 1995, s. 25 (Maritime Ordinance 2017, s.28)]

8. 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 to the Maritime Ordinance 2017 or such lesser amount as may be specified in the regulations.

[Merchant Shipping Act 1995, s.26 (Maritime Ordinance 2017, s.29)]

9. Discharge of seafarers

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

(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 Falkland Islands ship 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 to the Maritime Ordinance 2017 or such lesser amount as may be specified in the regulations.

[Merchant Shipping Act 1995, s. 27 (Maritime Ordinance 2017, s.30)]

10. Seafarers left behind abroad otherwise than on discharge

Regulations made under section 9 may apply any provision of that section, with such modifications as appear to the Governor to be appropriate, to cases where a seafarer employed or engaged in a Falkland Islands ship is left behind outside the Falkland Islands otherwise than on being discharged from the ship.

[Merchant Shipping Act 1995, s. 28 (Maritime Ordinance 2017, s.31)]

11. 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 or engaged in the ship must be discharged from the ship unless the seafarer consents in writing to continue his or her employment or engagement in the ship; and sections 12 to 17 apply in relation to the seafarer's wages as if the ship had remained a Falkland Islands ship.

[Merchant Shipping Act 1995, s. 29 (Maritime Ordinance 2017, s.32)]

12. Payment of seafarers' wages under seafarers' employment agreements

A seafarer employed or engaged under a seafarers' employment agreement must be paid in accordance with —

- (a) the terms of the seafarers' employment agreement; and
- (b) regulations made by the Governor under section 15.

13. Payment of seafarers' wages under crew agreements

(1) Where a seafarer employed or engaged under a crew agreement relating to a non-MLC Falkland Islands ship leaves the ship on being discharged from it, then, except as provided by or under this Ordinance or any other enactment, the wages due to the seafarer under the crew 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 14 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 14(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 14(4), 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 14(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 10 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 or engagement 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 or engagement 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 10 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 reasonable 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 or engaged 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 or engagement under the crew agreement.

(9) Where a seafarer, by virtue of section 11, is discharged from a ship outside the Falkland Islands but returns to the Falkland Islands or another place which is specified as the place of return under arrangements made by the persons who employed or engaged 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 for that amount was despatched by 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 (Maritime Ordinance 2017, s.33)]

14. Account of seafarers' wages

(1) The master of an MLC Falkland Islands ship must deliver or ensure that there is delivered to every seafarer employed or engaged in the ship under a seafarers' employment agreement an account of the wages due to the seafarer under that seafarers' employment agreement in accordance with —

(a) that agreement; and

(b) regulations made under sections 15 and 31.

(2) Subject to subsections (5) and (6) and to regulations made under section 15 or 32, the master of a non-MLC Falkland Islands ship must deliver or ensure that there is delivered to every seafarer employed or engaged 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.

(3) 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.

(4) If the amounts stated in the account require adjustment, the employer or person who engaged the seafarer must deliver or ensure that there is delivered 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.

(5) Where section 13(4) or (5) applies to the payment of any amount of wages due to a seafarer under a crew agreement —

(a) the employer or the person who engaged the seafarer must deliver or ensure that there is delivered 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 (2) to (4) do not apply,

and section 13(10) applies for the purposes of this subsection as it applies for the purposes of that section.

(6) Where a seafarer is employed or engaged 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 employer or person who engaged the seafarer and must, be delivered on or before the termination of the seafarer's employment or engagement under the crew agreement.

(7) 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 31 (Maritime Ordinance 2017, s. 34)]

15. 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 seafarers' employment agreement or crew agreement (in addition to any authorised by any provision of this Ordinance or of any other enactment for the time being in force) in cases where a breach of the seafarer's obligations under any such 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 any such 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 or engaged 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 14 is to be prepared and the particulars to be contained in the form (which may include estimated amounts).

[Merchant Shipping Act 1995, s.32 (Maritime Ordinance 2017, s.35)]

16. Disputes about wages

(1) Any dispute relating to the amount payable to a seafarer employed or engaged under a seafarers' employment agreement is to be determined in accordance with regulations made by the Governor under subsection (2).

(2) The Governor may make regulations providing for the procedure for, and determination of, any dispute about wages or an account of wages payable in relation to a seafarers' employment agreement.

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

(4) The superintendent or proper officer is not bound to accept a dispute submitted to him or her under subsection (3) 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.

(5) 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, s. 33 (Maritime Ordinance 2017, s.36)]

17. Restriction on assignment of, and charge upon, wages

(1) As respects the wages due or accruing to a seafarer employed or engaged in a Falkland Islands ship, whether under a seafarers' employment agreement or crew agreement —

(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 revocable.

(2) Nothing in this section affects the provisions of sections 19 and 20 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, s. 34 (Maritime Ordinance 2017, s. 37)]

18. Power of court to award interest on wages due otherwise than under a seafarers' employment agreement or crew agreement

In any proceedings by the master of a ship or a person employed or engaged in a ship otherwise than under a seafarers' employment agreement or 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 reasonable 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 10 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, s. 35 (Maritime Ordinance 2017, s.38)]

19. 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 or engagement in a Falkland Islands ship.

(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 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, s. 36 (Maritime Ordinance 2017, s. 39)]

20. 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 19 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, s. 37 (Maritime Ordinance 2017, s.40)]

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

(1) Where an MLC Falkland Islands ship is wrecked or lost and a seafarer whose employment or engagement in the ship is as a result terminated before the date contemplated in the seafarers' employment agreement under which the seafarer is employed or engaged, the seafarer is entitled to wages in accordance with regulations made by the Governor.

(2) Regulations made by the Governor for the purposes of subsection (1) may prescribe the circumstances in which wages may be payable and the rate at which and the period for which they must be paid.

(3) Where a non-MLC Falkland Islands ship is wrecked or lost and a seafarer whose employment or engagement in the ship is as a result terminated before the date contemplated in the crew agreement under which the seafarer is employed or engaged, the seafarer is, subject to subsection (5), 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.

(4) Where a Falkland Islands ship is sold while outside the Falkland Islands or ceases to be registered in the Falkland Islands and a seafarer's employment or engagement in the ship is as a result terminated before the date contemplated in the seafarers' employment agreement or crew agreement under which the seafarer is employed or engaged, then, unless it is otherwise provided in the agreement, the seafarer is, subject to subsection (5), entitled to wages at the rate payable under the agreement at the date on which the seafarer's employment or engagement is terminated for every day on which the seafarer is unemployed in the two months following that date.

(5) A seafarer is not entitled to wages by virtue of subsection (3) or (4) 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 or engagement 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 or engagement for that day but unreasonably refused or failed to take it.

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

[Merchant Shipping Act 1995, s. 38 (Maritime Ordinance 2017, s.41)]

22. 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 or engaged, 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 or engaged 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, s. 39 (Maritime Ordinance 2017, s. 42)]

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

(1) Where, during a seafarer's employment or engagement 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 responsible 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 or her 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 responsible 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 responsible authority has served a notice under this section on the persons employing a seafarer, the Magistrate's Court may, on the application of the responsible authority, make an order for the payment to the responsible 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 responsible 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 or engaged 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 or engaged 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) Any notice or order under this section may be served by registered post or recorded delivery service.

(8) 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 19.

(9) 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, s. 40 (Maritime Ordinance 2017, s.43)]

24. 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, s. 41 (Maritime Ordinance 2017, s.44)]

Health, safety and welfare

25. Minimum age for employment or engagement

(1) Subject to subsection (3)(a), a person under 16 years of age must not be employed or engaged in a ship.

(2) Subject to subsection (3)(b), a seafarer of 16 years of age and under 18 years of age must not be employed or engaged in a Falkland Islands ship at night.

(3) The Governor may make regulations —

(a) prescribing circumstances in which, and conditions subject to which, persons under 16 who have attained such age as may be specified in the regulations may be employed or engaged in a Falkland Islands ship which is —

(i) a non-MLC Falkland Islands ship; or

(ii) a ship confined to internal waters,

in such capacities as may be so specified; and

(b) prescribing circumstances and capacities in which persons over 16 but under the age of 18 or under such lower age as may be specified in the regulations must not be employed or engaged in a Falkland Islands ship or may be so employed or engaged in such capacities or only subject to such conditions as may be specified.

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

(5) If any person is employed or engaged in a ship in contravention of this section or if any condition subject to which a person may be employed or engaged under regulations made for the purposes of this section is not complied with, the shipowner or master is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

(6) In this section “**night**” means a period —

(a) the duration of which is not less than nine consecutive hours; and

(b) which includes the period between midnight and 5 a.m. (local time).

[Merchant Shipping Act 1995, s. 55 (Maritime Ordinance 2017, s. 58)]

26. Obligation of shipowners as to seaworthiness

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

- (a) the shipowner;
- (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 shipowner 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, s. 42 (Maritime Ordinance 2017, s.45)]

27. General measures for the health, safety and welfare of seafarers

(1) The Governor may by regulations make provision in relation to the health, safety and welfare of seafarers.

(2) Regulations made under subsection (1) may make provision in relation to —

- (a) the hours of work and hours of rest of seafarers;
- (b) records to be kept in relation to the hours of work and hours of rest;
- (c) the entitlement of seafarers to leave;
- (d) the appointment or approval of a medical practitioner as a medical examiner or reviewer;
- (e) the fees payable for services performed by a medical practitioner as a medical examiner or reviewer;
- (f) the medical examination of seafarers and persons proposing to become seafarers, including requirements for —
 - (i) periodic medical examinations; and
 - (ii) medical examinations requested by the Governor;

- (g) reporting requirements relating to medical examinations;
- (h) the issuing of certificates of fitness to seafarers and persons proposing to become seafarers;
- (i) requiring seafarers to hold specified certificates of fitness;
- (j) prohibiting the employment or engagement of a person as a seafarer unless the person holds specified certificates of fitness;
- (k) medicines, medical and surgical stores and appliances;
- (l) instructions for dispensing and using medicines, and medical and surgical stores and appliances; and
- (m) the inspection of medicines, medical and surgical stores and appliances and other health or safety related equipment required to be carried on board a ship.

28. Crew accommodation

- (1) The Governor may make regulations with respect to the crew accommodation to be provided in a Falkland Islands ship.
- (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 shipowner or master is liable, on conviction, to a fine not exceeding level 5 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 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, s. 43 (Maritime Ordinance 2017, s.46)]

29. Provision of food or drinking water

(1) The Governor may by regulations make provision in relation to the provision of food and drinking water on board a ship.

(2) Regulations made under subsection (1) may make provision in relation to —

(a) the quantity and quality of food and drinking water to be carried and made available on board a ship;

(b) the arrangements for the provision of the food and drinking water;

(c) the qualifications of seafarers responsible for providing the food;

(d) the inspection of the arrangements for the provision of food and drinking water; and

(e) the mechanisms for making and dealing with complaints about the quantity and quality of food or drinking water on an MLC ship.

(3) If three or more seafarers employed or engaged in a non-MLC Falkland Islands ship consider that the provisions or water provided for the seafarers employed or engaged 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.

(4) 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.

(5) 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.

(6) If the master fails without reasonable excuse to comply with the provisions of subsection (4), the master is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 and if the master has been notified in writing by the person making an examination under subsection (5) 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 shipowner is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 44 (Maritime Ordinance 2017, s.47)]

30. Costs of medical and other treatment during voyage

(1) The Governor may make regulations in relation to an MLC ship, making provision in relation to the cost of medical and other treatment incurred by seafarers employed or engaged in that ship.

(2) If a person, while employed or engaged in a non-MLC Falkland Islands ship, 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 who employed or engaged the seafarer.

(3) If a person dies while employed or engaged in a Falkland Islands ship and is buried or cremated outside the Falkland Islands, the expenses of the person's burial or cremation must be borne by the person who employed or engaged the seafarer.

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

[Merchant Shipping Act 1995, s. 45 (Maritime Ordinance 2017, s.48)]

Repatriation and relief

31. Relief and return of seafarer etc. left behind and shipwrecked: MLC ships

(1) The Governor may make regulations providing for the relief and repatriation of a seafarer employed or engaged in an MLC ship who is left behind, otherwise abandoned or shipwrecked.

(2) Regulations made under subsection (1) may make provision for or in relation to —

(a) the circumstances in which a seafarer is entitled to be repatriated, including in the following circumstances —

(i) expiry or termination of a seafarer's seafarers' employment agreement;

(ii) inability to carry out the seafarer's duties;

(iii) injury or illness to the seafarer; and

(iv) transfer, sale or wreck of the seafarer's ship;

(b) the liability for —

(i) the costs of repatriation,

(ii) outstanding wages of a seafarer;

(iii) the provision of security for such a liability; and

(iv) the recovery of costs;

(c) the mode of transport of repatriation; and

(d) the destination to which the seafarer is repatriated.

32. Relief and return of seafarer etc. left behind and shipwrecked: non-MLC Falkland Islands ships

(1) This section and sections 33 and 34 apply only to a non-MLC Falkland Islands ship.

(2) Where —

(a) a person employed or engaged as a seafarer in a non-MLC Falkland Islands ship 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 or engaged under a crew 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 or engaged 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.

(3) 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.

(4) 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 (2), and any property of that person left on board ship, are to be dealt with.

(5) 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 (4).

(6) 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 Falkland Islands ship 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.

(7) 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 to the Maritime Ordinance 2017 or such lesser amount as may be specified in the regulations.

(8) This section applies to a person left behind on being discharged in pursuance of section 9, whether or not at the time the person is left behind, the ship is still registered in the Falkland Islands.

(9) This section applies to the master of a ship as it applies to a seafarer and sections 33 and 34 have effect accordingly.

(10) In this section, “**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.

[Merchant Shipping Act 1995, s. 73 (Maritime Ordinance 2017, s.75)]

33. Limit of liability under section 32

Where a person left behind in or taken to any country as mentioned in section 32(2) remains there after the end of a period of three months, the persons who last employed or engaged him or her as a seafarer are 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, s. 74 (Maritime Ordinance 2017, s.76)]

34. Recovery of expenses incurred for relief and return, etc.

(1) Where any expenses are incurred in respect of any matter for which the employer or person who engaged the seafarer is required to make provision under section 32, 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 employer or person who engaged the seafarer; or

(b) if the expenses are incurred by the seafarer, the seafarer may recover them from the employer or person who engaged the seafarer unless they prove either that under the terms of the crew agreement, 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 33, the seafarer’s last employer or person who engaged the seafarer would have been required to make provision under section 32; or

(b) in respect of any matter for which provision is required to be made under section 32(6)(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, s. 75 (Maritime Ordinance 2017, s.77)]

35. Financial assistance in respect of crew relief costs

(1) Subject to funds being provided for in an Appropriation Ordinance in accordance with section 299 of the Maritime Ordinance 2017, the Governor may give financial assistance to —

(a) the shipowner of a Falkland Islands ship; or

(b) any manager of a Falkland Islands ship, 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 shipowner or manager in connection with members of the ship's crew joining or leaving the ship outside the Falkland Islands.

(2) If the Governor 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 Governor'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 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, s. 76 (Maritime Ordinance 2017, s.78)]

PART 3 – MANNING, QUALIFICATIONS, TRAINING AND UNIFORM

Manning

36. Application of sections 37 to 41

Sections 37 to 41 apply to —

(a) every Falkland Islands ship; and

(b) to any ship registered outside the Falkland Islands which carries passengers —

(i) between places in the Falkland Islands; or

(ii) 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, s. 46 (Maritime Ordinance 2017, s.49)]

37. 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) Standards of competence or other conditions prescribed or specified by the Governor under subsection (1)(b) may be expressed by reference to —

(a) other documents; or

(b) an international instrument.

(6) 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 47 (Maritime Ordinance 2017, s.50)]

38. 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 37.

(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, s. 48 (Maritime Ordinance 2017, s.51)]

39. Prohibition of going to sea undermanned

(1) Subject to section 38, 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 37 or by regulations made under that section, the shipowner or master is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017; 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 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, s. 49 (Maritime Ordinance 2017, s.52)]

40. 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 37 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 50 (Maritime Ordinance 2017, s.53)]

41. 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 shipowner 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 51; Maritime Ordinance 2017, s.54]

42. 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 to the Maritime Ordinance 2017.

(2) In this section “**qualified**” means qualified for the purposes of section 37.

[Merchant Shipping Act 1995, s. 52 (Maritime Ordinance 2017, s.55)]

43. Medical treatment on board ship

Where a Falkland Islands ship does not carry a doctor among the seafarers employed or engaged 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, s. 53 (Maritime Ordinance 2017, s.56)]

44. Special certificates of competence

(1) The Governor may issue and record documents certifying the attainment of any standard of competence relating to a Falkland Islands ship or its operation, notwithstanding that the standard is not among those prescribed or specified under section 37(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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 54 (Maritime Ordinance 2017, s.57)]

Financial assistance for training

45. Financial assistance for training

(1) Subject to funds being provided for in an Appropriation Ordinance in accordance with section 299 of the Maritime Ordinance 2017, 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 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, s. 56 (Maritime Ordinance 2017, s.59)]

Uniform

46. 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 to the Maritime Ordinance 2017;

(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 to the Maritime Ordinance 2017, or to imprisonment for a term not exceeding one month, or both.

(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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 57 (Maritime Ordinance 2017, s.60)]

PART 4 – CONDUCT OF SEAFARERS

Offences by seafarers etc

47. Conduct endangering ships, structures or individuals

(1) This section applies —

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

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

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

(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 or her 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 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 or to imprisonment for a term not exceeding two years, 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 master or seafarer in his or her capacity as such; and

(b) in relation to a master, includes his or her duty —

(i) with respect to the good management of his or her ship, and

(ii) 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, s. 58; Maritime Ordinance 2017, s.61*]

48. Concerted disobedience and neglect of duty

(1) If a seafarer employed or engaged in a Falkland Islands ship combines with other seafarers employed or engaged 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 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017, or to imprisonment for a term not exceeding two years, 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, s. 59 (Maritime Ordinance 2017, s.62)*]

Disciplinary offences

49. 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 a Falkland Islands ship; 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 shipowner of a Falkland Islands ship against a seafarer alleging that, during his or her employment or engagement 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 64 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, subject to funds being provided for in an Appropriation Ordinance in accordance with section 299 of the Maritime Ordinance 2017, make provision for the payment 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, s. 60 (Maritime Ordinance 2017, s.63)]

50. 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 of the Maritime Ordinance 2017 (report of dangers to navigation),

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 37 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 54(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 37 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, s. 61 (Maritime Ordinance 2017, s.64)]

51. 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 52.

(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 44 and to any certificate issued under section 37 other than one certifying that a person is qualified as an officer.

[Merchant Shipping Act 1995, s. 62 (Maritime Ordinance 2017, s.65)]

52. Inquiry into fitness or conduct of seafarer other than officer

(1) Where a person has, before the date mentioned in section 51(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 54(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, s. 63 (Maritime Ordinance 2017, s.66)]

53. Re-hearing of, and appeal from, inquiries

(1) Where an inquiry has been held under section 50 or 52, 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, if the inquiry was held in the Falkland Islands, to be 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 54(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, s. 64 (Maritime Ordinance 2017, s.67)]

54. Rules as to inquiries and appeals

(1) The Governor may make rules for the conduct of inquiries under sections 50 and 52 and for the conduct of any re-hearing under section 53 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 53 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, s. 65 (Maritime Ordinance 2017, s.68)]

55. Failure to deliver cancelled or suspended certificate

If a person fails to deliver a certificate as required under sections 50, 51 and 52, the person is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 66 (Maritime Ordinance 2017, s.69)]

56. Power to restore certificate

Where a certificate has been cancelled or suspended under section 50, 51, 52 or 53, 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, s. 67 (Maritime Ordinance 2017, s.70)]

57. Power to summon witness to inquiry into fitness or conduct of officer or other seafarer

(1) The persons holding an inquiry under section 50 or 52 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 level 1 on the scale set out in Schedule 7 to the Maritime Ordinance 2017, 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 the Magistrate’s court, the head of the courts and tribunal service.

[Merchant Shipping Act 1995, s. 68 (Maritime Ordinance 2017, s.71)]

Civil liability of seafarers for offences

58. Civil liability for absence without leave

(1) This section applies with respect to the liability of a seafarer employed or engaged in a Falkland Islands ship to damages for being absent from the ship at a time when the seafarer is required under the seafarers’ employment agreement to be on board.

(2) If the seafarer proves that the seafarer’s absence was due to an accident or reasonable 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 one day’s wages of the seafarer’s income;

(b) if special damages are claimed, the seafarer’s liability will not be more than one week’s wages of the seafarer’s income.

[Merchant Shipping Act 1995, s. 70 (Maritime Ordinance 2017, s.72)]

59. Civil liability for smuggling

If, in civil proceedings before a court in the Falkland Islands, a seafarer employed or engaged in a Falkland Islands ship 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, s. 71 (Maritime Ordinance 2017, s. 73)]

60. Civil liability for fines imposed under immigration laws

(1) The following provisions of this section apply where, at a time when a Falkland Islands ship is in the national or territorial waters of another country, a seafarer employed or engaged 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 58, 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 one week’s wages of the seafarer’s income, one week’s wages of the seafarer’s income may be recovered by that person from the seafarer.

[Merchant Shipping Act 1995, s. 72 (Maritime Ordinance 2017, s. 74)]

PART 5 – DOCUMENTATION

61. 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 Falkland Islands ship.

(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 to the Maritime Ordinance 2017.

(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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 77 (Maritime Ordinance 2017, s.79)]

62. 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 the list of the 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 the 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 the 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 78 (Maritime Ordinance 2017, s.80)]

63. 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 Falkland Islands seafarers to produce their Falkland Islands seafarers' 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 to the Maritime Ordinance 2017.

(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 to the Maritime Ordinance 2017.

(5) In this section, “**Falkland Islands Seafarer**” means a person who is employed or engaged as a seafarer in —

(a) a Falkland Islands ship; or

(b) other ships but who holds Falkland Islands status pursuant to section 22 of the Constitution or a Permanent Residence Permit issued under the Immigration Ordinance 1999. [*Merchant Shipping Act 1995, s. 79 (Maritime Ordinance 2017, s.81)*]

64. Discharge books

(1) The Governor may make regulations providing for —

(a) the issue of discharge books to persons who are or have been employed or engaged in —

(i) a Falkland Islands ship; or

(ii) other ships but who hold Falkland Islands status pursuant to section 22 of the Constitution or Permanent Residence Permits issued under the Immigration Ordinance 1999;

(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 Governor 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 paragraph (a) 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 49(4) or (5); 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 to the Maritime Ordinance 2017.

(4) A person who, in the Falkland Islands or elsewhere —

(a) obtains employment or is engaged as a seafarer on board a Falkland Islands ship at a time 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 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 or to imprisonment for a term not exceeding two years, or both.

[Merchant Shipping Act 1995, s. 80 (Maritime Ordinance 2017, s.82)]

65. Handing over of documents by master

(1) If a person ceases to be the master of a Falkland Islands ship 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 81 (Maritime Ordinance 2017, s.83)]

PART 6 – GENERAL PROVISIONS

Application of Ordinance to certain descriptions of ships etc

66. 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 of that description and to masters and seafarers employed or engaged 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, s. 307 (Maritime Ordinance 2017, s. 303)]

67. Application of Ordinance to government ships

(1) This Ordinance applies to —

- (a) a Falklands Islands Government ship; and
- (b) a United Kingdom Government ship.

(2) In this section —

(a) “**Falkland Islands Government ship**” has the meaning given in section 5(3) of the Maritime Ordinance 2017; and

(b) “**United Kingdom Government ship**” has the meaning given in section 5(4) of that Ordinance.

[Merchant Shipping Act 1995, s. 308 (Maritime Ordinance 2017, s. 304)]

68. 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) a Falkland Islands ship; 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 1995 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 67 (as it applies by virtue of section 308(2) of the 1995 Act and that Order in Council),

have (subject to subsections (3) and (4)) the same effect in relation to that ship as they have in relation to a Falkland Islands Government ship (whether referred to as such, or a ship registered in pursuance of that Order in Council).

(3) In the application of any provision of this Ordinance in relation to a ship to which this section applies, any reference to the shipowner of that ship must be construed as a reference to the relevant Falkland Island Government department.

(4) Subsection (2) applies subject to the provisions of an Order in Council made under section 309(4) of the 1995 Act.

(5) In this section, “**the 1995 Act**” means the Merchant Shipping Act 1995.
[*Merchant Shipping Act 1995, s. 309 (Maritime Ordinance 2017, s. 305)*]

69. Application of Ordinance to certain structures, etc.

(1) The Governor may by regulations provide that a thing designed or adapted for use at sea and described in the regulations 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) Regulations under this section may —

(a) make different provision in relation to different occasions and different things; 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 regulations.
[*Merchant Shipping Act 1995, s. 311 (Maritime Ordinance 2017, s. 306)*]

Subordinate legislation

70. Regulations to give effect to the MLC

(1) The Governor may make regulations for giving effect to the MLC.

(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 other provision of this Ordinance.

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

(a) the standards, specifications, training, qualifications, restrictions and certification or licensing requirements of seafarers, including any medical requirements and requirements relating to the keeping of records of qualifications, restrictions, certificates and licences;

(b) the recruitment and placement of seafarers;

(c) the abandonment of seafarers and compensation paid to seafarers for a ship’s loss or foundering;

(d) the accommodation and recreational and other facilities provided for seafarers;

(e) medical care for seafarers on board a ship and ashore, by a medical practitioner or other person;

(f) the liability of a shipowner and requirements to provide security in relation to such liability;

(g) health and safety and accident protection and the provision of a safe and hygienic environment on board a ship;

(h) access to shore-based welfare facilities;

(i) the provision of access to social security protection for seafarers;

(j) the establishment of on-board and onshore seafarer complaint handling procedures;

(k) the survey and inspection of ships and the conditions of seafarers employed or engaged to work in a ship;

(l) the issue of certificates and documents of compliance, including the specification of ships which are required to hold such certificates and declarations; the requirements for the issue and revocation of such certificates and declarations; and the form and content of such certificates and declarations;

(m) the authorisation of organisations appointed to undertake surveys and inspections and issue certificates, including the standards of competency and qualifications required of such organisations; and

(n) any others matters which give effect to the requirements of the MLC.

(4) Regulations made under this section —

(a) may provide for the Governor to exempt a Falkland Islands ship, or particular categories of Falkland Islands ships, which meet the criteria in subsection (5) either generally or for such time or such voyage as the Governor may determine from the requirements of this Ordinance; and

(b) if they so provide, must require the Governor to communicate the Governor's decision to the International Labour Office in accordance with Article II(7) of the MLC.

(5) The criteria referred to in subsection (4) are that the ship —

(a) is of less than 200 gross tonnage; and

(b) is not engaged on an international voyage.

(6) Regulations made under this section may make different provision for a ship which is not a Falkland Islands ship or for categories of such ships and, in particular, make different provision between ships registered in States which are parties to the MLC and ships which are registered in States which are not parties to the MLC.

(7) When making regulations under this section, the Governor must take into account, as appropriate, Article III (fundamental rights and principles) and Article IV (seafarers' employment and social rights) of the MLC.

71. Regulations – general provision

(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) to prescribe 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) to prescribe the class or classes of ship to which the regulations apply;

(c) to prescribe the categories of seafarer to which they apply;

(d) to make different provision for different circumstances and, in particular, make provision for a particular case;

(e) prescribing or changing fees for anything in relation to which, by this Ordinance, a fee is to be or has been prescribed;

(f) 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;

(g) to provide that contravention of the regulations is an offence punishable by a fine not exceeding level 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017, or to a term of imprisonment not exceeding two years, or both;

(h) to provide that in any proceedings for an offence under the regulations, a statement in any complaint or indictment of the fact that anything was done or situated within Falkland Islands waters is, unless the contrary is proved, sufficient evidence of the fact as so stated;

(i) 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;

(j) to provide that specified provisions of any enactment do 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;

(k) to make different provision for different classes or descriptions of submersible or supporting apparatus and for different circumstances;

(l) to make provision in terms of any document or international instrument which the Governor or another person considers relevant from time to time; and

(m) contain such supplemental, saving, transitional and incidental provisions as appear to the Governor to be expedient.

72. Regulations, rules and orders, etc.

(1) Before making regulations under this Ordinance, 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.

73. Forms

Section 309 of the Maritime Ordinance 2017 applies in respect of any book, instrument or paper required under this Ordinance or under any regulations made under it.

[Merchant Shipping Act 1995, s. 306; (Maritime Ordinance 2017, s. 309)]

74. Power of the Authority to issue codes and guidance relating to maritime labour matters

(1) For the purpose of providing practical guidance with respect to regulations made under this Ordinance, the Authority may, from time to time, do all or any of the following —

(a) issue or approve one or more codes of practice, which may include any code of practice issued or approved under another law if the Authority considers that code of practice suitable for this purpose;

(b) issue or approve guidance, which may include any guidance issued or approved under another law (for example, mandatory or general guidance issued or adopted under section 307A of the Maritime Ordinance 2017) or by the United Kingdom Government if the Authority considers that guidance suitable for this purpose; and

(c) amend or revoke any code of practice or guidance issued or approved under this subsection.

(2) Where a code of practice or guidance is issued, approved, amended or revoked by the Authority under subsection (1), the Authority must —

(a) publish a notice of the issue, approval, amendment or revocation in such manner as will secure adequate publicity;

(b) specify in the notice referred to in paragraph (a) —

(i) the date of issue, approval, amendment or revocation;

(ii) the class of hazards, activities or articles in respect of which the code of practice or guidance is issued, approved, amended or revoked; and

(iii) the place at and the time during which, and the Internet website where, the code of practice or guidance which is the subject of the notice may be inspected; and

(c) ensure that, as long as the code of practice or guidance remains in force, copies of that code or guidance, and of all amendments to that code or guidance, are available for inspection by shipowners or seafarers free of charge.

Final provisions

75. Transitional provisions

(1) The Governor may by order make transitional, consequential and saving provision in connection with this Ordinance (or one or more of its provisions).

(2) All UK instruments which apply in the Falkland Islands by virtue of the Law Revision and Publication Ordinance 2017 and which make provision related to this Ordinance 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.

OBJECTS AND REASONS

This Ordinance gives effect to the Maritime Labour Convention 2006 (the “Convention” or “MLC”) and re-enacts the provisions of Part 4 of the Maritime Ordinance 2017 (dealing with masters and seafarers) to bring together the merchant shipping provisions relating to maritime labour in one place. This Ordinance will not apply to fishing vessels which remain governed by Part 6 of the Maritime Ordinance 2017 (as amended by the Maritime (Amendment) Ordinance which will be enacted at the same time as this Ordinance).

Copies of the MLC can be accessed electronically at:

<https://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>

Alternatively, a hard copy is available for viewing at the Department of Natural Resources, Bypass Road, Stanley, Falkland Islands FIQQ 1ZZ.

The MLC does not apply to the Falkland Islands as the United Kingdom Government has not yet extended it. It is necessary for the Falkland Islands to enact domestic legislation giving effect to

the Convention before the Convention can be extended. This Ordinance and regulations made under it will do this.

Currently the Maritime Ordinance 2017 provides for some maritime labour matters under Part 4 but these provisions are not fully aligned with the requirements of the MLC. This Ordinance accordingly makes provision to enable the implementation of the MLC in the Falkland Islands.

The Ordinance also continues to make provision for ships which are outside the scope of the MLC, namely:

- (a) Falkland Islands ships which do not go to sea (i.e. ships which navigate exclusively in internal waters or in port limits);
- (b) Falkland Islands sea-going ships of a traditional build; and
- (c) Falkland Islands sea-going ships which are not ordinarily engaged in commercial activities.

The MLC sets out requirements for employment and working conditions for seafarers on board sea-going ships. It brings together, in one place, international minimum standards for seafarers. Under the MLC, every seafarer has the right to a safe and secure workplace that complies with safety standards, fair terms of employment or engagement, decent working and living conditions on board ship, health protection, medical care, welfare measures and other forms of support.

The MLC is set out as follows:

- (a) the Articles and Regulations set out the core rights and principles and the basic obligations of Members ratifying the Convention.
- (b) the Code contains the details for the implementation of the Regulations. It comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines).

The Regulations and the Code are organized into general areas under five Titles:

- Title 1: Minimum requirements for seafarers to work on a ship
- Title 2: Conditions of employment
- Title 3: Accommodation, recreational facilities, food and catering
- Title 4: Health protection, medical care, welfare and social security protection
- Title 5: Compliance and enforcement

Each Title contains groups of provisions relating to a right or principle (or enforcement measures in Title 5), with connected numbering.

The Convention has three underlying purposes:

- (a) to lay down, in its Articles and Regulations, a firm set of rights and principles;

(b) to allow, through the Code, a considerable degree of flexibility in the way Members implement those rights and principles; and

(c) to ensure, through Title 5, that the rights and principles are properly complied with and enforced.

Part 1 of this Ordinance provides for introductory matters as follows:–

Clause 1 provides for the title of the Ordinance.

Clause 2 provides for commencement of the Ordinance.

Clause 3 defines several terms used in the Ordinance, a number of which are the same as those used in the Maritime Ordinance 2017, but a number reflect the additional measures required in order to give effect to the MLC.

Clause 4 sets out the scope of the Ordinance and its application. The Ordinance does not apply to fishing vessels or warships or naval auxiliaries (*clause 4(2)*). The majority of its provisions apply only to sea-going ships. However, the clauses of the Ordinance listed in *clause 4(4)* also apply to ships which are not sea-going.

Clause 5 enables the Governor to exempt a ship from any provisions of the Ordinance or any regulations made under it. An exemption from *Part 2* can only be granted in relation to ships of less than 200 gross tonnage which is not engaged in an international voyage.

Part 2 provides more generally for the employment and engagement of seafarers (including masters), the conditions on which they can be employed or engaged, the minimum age for seafarers on certain ships and at certain times and generally for their health, safety and welfare.

Clause 6 require there to be a written employment agreement, known as a “seafarers’ employment agreement” for every person employed or engaged as a seafarer on a ship to which the MLC applies. Regulations may be made by the Governor providing for matters relating to seafarers’ employment agreements including the content and form of such agreements and the rights of seafarers to review and obtain advice before signing them.

Clause 7 provides that in the case of a Falkland Islands ship to which the MLC does not apply, if there is no seafarers’ employment agreement in place, there must be a written agreement (referred to as a “crew agreement”) between the person who employs or engages the seafarer and the seafarer. A crew agreement made under this clause with the several persons employed or engaged in a ship as seafarers must be contained in one document. The Governor may make regulations providing exemptions from the requirements of the section in respect of specified things. The ship must carry the crew agreement on every voyage it undertakes, subject to the power of the Governor to exempt a ship from this requirement. Unless the ship has been exempted, failure to carry the crew agreement on a voyage is a criminal offence.

Clause 8 empowers the Governor to make regulations relating to crew agreements.

Clause 9 makes provision for discharge of seafarers from all sea-going ships registered in the Falkland Islands. It allows the Governor to make regulations prescribing the procedure to be followed in connection with such discharge. The regulations may criminalise failure to comply with their provisions.

Clause 10 permits regulations made under *clause 9* to apply, with such modifications as the Governor considers appropriate, to cases where a seafarer employed or engaged in a ship registered in the Falkland Islands is left outside the Falkland Islands otherwise than on being discharged from it.

Clause 11 provides for discharge of seafarers when the relevant ship ceases to be registered in the Falkland Islands. Specifically, it provides that any seafarer employed or engaged in such a ship must be discharged from the ship unless the seafarer consents in writing to continue his or her employment or engagement on the ship. The provisions of *clauses 14 to 16*, which relate to seafarers' wages, apply to such a ship as if the ship had remained registered in the Falkland Islands.

Clause 12 provides for the payment of seafarers' wages under a seafarers' employment agreement and requires a seafarer to be paid in accordance with the agreement and any regulations made by the Governor under *clause 15*.

Clause 13 provides for the payment of seafarers' wages under a crew agreement. The seafarers enjoy the same protection in respect of their wages as in international maritime law. Provision is made for payment of seafarers' wages on discharge, and it is stipulated, for instance, that payment is to be made at intervals not exceeding one month. Interest accrues at the rate of 10% per annum if the wages are not paid when due. The clause provides for specific circumstances in which failure to pay will not attract the payment of interest. Payment may be made by cheque. Specific provision is made in respect of seafarers who are employed or engaged under a crew agreement relating to more than one ship.

Clause 14 requires the master of every ship registered in the Falkland Islands to give each seafarer employed or engaged in the ship under a seafarers' employment agreement or crew agreement an account of wages due to the seafarer under the agreement. The account must specify the deductions subject to which the wages are payable, as well as other specified details contained in regulations made by the Governor.

Clause 15 empowers the Governor to make regulations relating to wages and accounts in respect of seafarers on all sea-going Falkland Islands ships.

Clause 16 provides for disputes about wages on an MLC ship to be determined in accordance with regulations made by the Governor and, in relation to a non-MLC Falkland Islands ship, empowers a superintendent or proper officer to decide disputes about the wages of seafarers employed or engaged under a crew agreement. The superintendent or proper officer has

discretion to decline to attend to the dispute. Where he or she does decide the dispute, his or her decision is final.

Clause 17 imposes restrictions on assignment of and charge upon wages. The wages are not subject to attachment, and the assignment of wages before they have accrued does not bind the seafarer. Further, the payment of wages to the seafarer is valid even though there was a previous assignment or charge in respect of the wages. It is made clear that any power of attorney or authority in respect of wages is revocable. Exceptions are also made to the applicability of this clause.

Clause 18 empowers the court to award interest on wages due to seafarers otherwise than under a seafarers' employment agreement or a crew agreement. Interest is payable at a rate not exceeding 10% per annum. However, no interest is payable if the delay in making payment is due to an excuse that is specifically provided for in the clause.

Clause 19 provides for allotment notes. These allow seafarers to allot a portion of their wages to anyone they choose. By means of this, seafarers will be able to provide for their families whilst they are at sea. However, the Governor may by regulations impose restrictions on the right of seafarers to do so. The regulations may make different provisions for different descriptions of seafarers and for different circumstances relating to seafarers.

Clause 20 gives persons named in allotment notes the right to sue in their own names to recover the portion of the seafarer's wages that was allotted to them.

Clause 21 provides for the right, or loss of right, to wages in certain circumstances. In relation to an MLC Falkland Islands ship, the seafarer's entitlement is in accordance with regulations made by the Governor. In other cases, where a Falkland Islands ship is wrecked or lost, the seafarer is entitled to be paid wages for the next 2 months following the wreck or loss of the ship. The rate at which that payment is to be made is the rate at which, under the agreement, the seafarer was to be paid as at the date on which the ship was wrecked or lost. Similar provisions apply to when the ship is sold whilst outside the Falkland Islands or ceases to be registered in the Falkland Islands resulting, in either case, in the termination of the seafarer's employment or engagement. The payment is not to be made, however, where the seafarer's unemployment is not due to any of the aforementioned circumstances or where the seafarer could have secured employment or engagement within the two month period but unreasonably failed or refused to take up such employment or engagement. The non-entitlement to pay is on a pro-rata basis.

Clause 22 provides protection for certain rights and remedies. The seafarer's lien, remedies for the recovery of wages and right to wages in the circumstances set out in *clause 21* are not capable of being renounced by any agreement. There is an exception made in respect of seafarers employed or engaged on a ship on salvage service, but this exception only applies where such employment or engagement is in accordance with the agreement.

Clause 23 provides for claims to be made on seafarers' wages for maintenance of the seafarers' dependants.

Clause 24 provides that the master of a ship has the same lien for his or her remuneration, and all disbursements and liabilities properly made or incurred by him on account of the ship, as the seafarer has for the seafarer's wages.

Clause 25 provides minimum ages below which a person may not be employed or employed on certain work. *Subsection (1)* prohibits the employment or engagement of a person under 16 years of age on a Falkland Islands ship. In the case of an MLC ship, the prohibition is absolute. In the case of other Falkland Islands ships, the Governor may by regulations provide for exceptions. *Subsection (2)* prohibits a seafarer between 16 and 18 being employed or engaged on a ship at night, but exceptions can be made for all ships in regulations made by the Governor.

Clause 26 imposes obligations on shipowners as to seaworthiness of their ships. Such obligations must be implied in every contract of employment or contract for services between the shipowner of a Falkland Islands ship and the master of the ship, or any seafarer employed in the ship. The obligation applies from the commencement of the voyage and extends to the entire duration of the voyage. No agreement may diminish or extinguish this obligation. There is an exception in respect of a ship knowingly sent to sea in an unseaworthy state where special circumstances dictate that doing so was reasonable and justifiable.

Clause 27 enables the Governor to make regulations providing for the general health, safety and welfare of seafarers. The regulations may in particular make provision for the hours of work and hours of rest of seafarers, their entitlement to leave and the circumstances under which they must be subject to medical examination, and require medical certificates to be obtained before they are permitted to be employed or engaged in a ship.

Clause 28 empowers the Governor to make regulations in respect of crew accommodation. The regulations may prescribe, for example, minimum space per person in respect of sleeping accommodation and the maximum number of persons by whom a specified part of such sleeping accommodation may be used.

Different provisions may be made in respect of different descriptions of ships and certain ships may be exempted from the operation of the regulations, all at the Governor's discretion. Provision may also be made for periodic inspections of ships to ensure compliance with the regulations. Failure to comply with the regulations is designated a criminal offence.

Clause 29 enables the Governor to make regulations providing for the quantity and quality of food and drinking water; the qualifications of those who serve food; and the arrangements for the inspection of food and catering facilities. In relation to MLC ships, regulations may make provision for complaints procedures regarding the quantity and quality of food and drink. Subsections (3) to (6) make provision for complaints about food and drink on a non-MLC Falkland Islands ship. The water provided must comply with safety regulations. Complaints are to be made to the master in the first instance, and in the event of dissatisfaction with the master's handling of the situation, the complaint may be escalated to a superintendent or proper officer. Complaints must be duly investigated and remedial action must be taken,

failing which a criminal offence is committed unless there is a reasonable excuse for the failure.

Clause 30 makes provision for the payment of expenses for medical and other treatment rendered during a voyage. Regulations made by the Governor may make provision for the payment of a seafarer's costs in relation to an MLC ship. In relation to a non-MLC Falkland Islands ship, the seafarer's employer or person who engaged the seafarer must pay the reasonable cost for this treatment, etc. if it cannot be postponed without impairing efficiency (subsection (2)). The clause also requires the employer or other person to pay the reasonable expenses of the seafarer's burial or cremation (as the case may be) if the person dies whilst employed or engaged on a ship registered in the Falkland Islands and is buried or cremated outside the Falkland Islands.

Clause 31 provides for regulations to be made for the relief and return of a seafarer left behind by, and shipwrecked in, an MLC ship. Equivalent provision is made in *clause 32* in relation to non-MLC Falkland Islands ships. A seafarer who is shipwrecked or left behind outside the Falkland Islands is entitled to have provision for his return to the Falkland Islands made by his employer or person who engaged the seafarer. The Governor is empowered to make regulations providing how this scheme is to work. This includes making provision for the payment of the seafarer's wages in such a situation. Regulations may provide that contravention of their provisions is an offence.

Clause 33 limits the liability under *clause 32* to 3 months after the incident in question, unless regulations impose on the employer or person who engaged the seafarer ongoing responsibility beyond that period.

Clause 34 provides for the Governor or the government of a country outside the Falkland Islands to recover from the distressed seafarer's employer or person who engaged the seafarer any amounts they expend to provide the seafarer with relief that that person is duty-bound to provide.

Clause 35 provides for the Governor to give financial assistance to a person who is required to pay relief costs, etc. for a distressed seafarer. This assistance can be offered both to individuals and bodies corporate incorporated in the Falkland Islands. Conditions may be imposed on eligibility for this assistance.

Part 3 deals with the manning of ships in terms of the number of seafarers who should serve in a ship and the qualifications and experience they must possess. It re-enacts sections 49 to 60 of the Maritime Ordinance 2017.

Clause 36 applies *clauses 37 to 41* to every ship registered in the Falkland Islands and, in certain specified circumstances, to ships registered under the law of a country outside of the Falkland Islands. These *clauses* and *clause 43* apply to non-sea-going Falkland Islands ships.

Clause 37 empowers the Governor to make regulations in respect of the manning of ships. The regulations may require ships to carry a specified number of qualified officers of any

description, and prescribing standards of competence and other conditions that the qualified officers should meet. In making regulations, the Governor may prescribe standards of competence or other conditions by reference to documents or international instruments, i.e. conventions or treaties.

Clause 38 empowers the Governor to exempt any ship or description of ship from any requirements of regulations made under *clause 37*.

Clause 39 prohibits ships from going to sea undermanned. This clause applies to both sea-going and non-sea-going ships.

Clause 40 imposes a requirement on any person serving or engaged to serve in any specified ship to produce on demand any certificate or other document which they hold and which evidences that the person is qualified for the purposes of *clause 37*. The certificate or other document is to be produced on demand to any superintendent, the surveyor of ships or proper officer, and the master of the ship.

Clause 41 requires crew members of a Falkland Islands ship to have an appropriate level of English language competence, failing which suitable arrangements must be in place to enable orders to be transmitted to crew members in a language they understand. The ship may be detained if this requirement is not satisfied. If the ship goes or attempts to go to sea without having satisfied these requirements, the shipowner or the master of the ship commits an offence.

Clause 42 creates a criminal offence in respect of unqualified persons going to sea who hold themselves out to be qualified officers or seafarers, as the case may be. The term “qualified” in this context means qualified for the purposes of *clause 37*.

Clause 43 provides that, if a sea-going Falkland Islands ship does not carry a doctor among the seafarers employed or engaged 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 supervision by a person appointed by the master for the purpose.

Clause 44 provides for the issuing by the Governor (which in practice will be by the Maritime Authority on his behalf) of special certificates of competence relating to Falkland Islands ships or their operation. This can be done despite the fact that the standard is not among those prescribed or specified under *clause 37(1)(b)*. A person who intentionally makes a false or misleading statement with the intention of obtaining such a certificate commits an offence.

Clause 45 makes provision for financial assistance to be given for the training of seafarers. Such assistance may be given by way of grant, loan or otherwise, and this assistance is to be given out of funds provided in an Appropriation Ordinance at the Governor’s discretion, following appropriate consultation and the receipt of appropriate advice.

Clause 46 precludes the wearing of the merchant navy uniform by persons not entitled to wear the same (except for the purposes of a play, circus performance or the like). Such unauthorised wearing is designated a criminal offence. Partial wearing of the uniform by a person entitled to wear it is also an offence if likely to bring contempt on the uniform, as is the wearing of a uniform corresponding to a rank higher than that of the wearer.

Part 4 deals with the conduct of seafarers. It re-enacts sections 61 to 74 of the Maritime Ordinance 2017.

Clause 47 provides that a person employed or engaged on any Falkland Islands ship (including a non-sea-going one) who does anything to endanger the ship or neglects to do anything they ought to have done to reduce the danger to the ship commits an offence. This stipulation is subject to specified conditions and defences.

Clause 48 creates the offence of concerted disobedience and neglect of duty by seafarers. This offence does not apply to a ship which is not sea-going.

Clause 49 empowers the Governor to make regulations for the purpose of maintaining discipline on board Falkland Islands ships. The Governor is empowered to establish or approve a disciplinary body that must preside over a hearing of allegations that seafarers have breached any code of conduct that applies. The Governor may also make regulations in respect of this matter. The regulations do not affect any other recourse that may be available under any other enactment or at common law.

Clause 50 empowers the Governor to cause an inquiry to be held (by one or more persons appointed by him or her) into the fitness or conduct of an officer on any Falkland Islands ship. The Governor may in such a case suspend the officer in question pending the outcome of the enquiry. In such a case, any certificate issued to the officer must be handed over to the Governor. The officer may apply to the Supreme Court to have the suspension lifted. At the end of the inquiry and depending on its outcome, any certificate held by the officer may be cancelled or suspended, and an order as to costs may be made. A report must in any case be made to the Governor and it is the Governor who is entitled to recover any costs which have been ordered.

Clause 51 provides for the disqualification of certificate holders other than officers. 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, the Governor may give the person notice in writing that the Governor is considering the suspension or cancellation of the certificate. The notice must state reasons, and the person affected must be afforded an opportunity to make representations. The Governor ultimately decides whether or not the certificate will be suspended or cancelled. The Governor is empowered to make regulations in respect of this matter.

Clause 52 provides that where a person has, before the date mentioned in *clause 49(4)*, required his or her case to be dealt with by an inquiry under this clause, the Governor must cause an inquiry to be held by one or more persons appointed by the Governor. Further detail

is provided regarding the conduct of the hearing. The Governor may require the person to pay the costs of the hearing and may recover those costs.

Clause 53 provides for the re-hearing of, and appeal from, inquiries. The Governor may order the rehearing of a case in whole or in part where, following a hearing under *clause 50 or 52*, new and important evidence is discovered which could not have been produced at the inquiry, or there appear to the Governor to be other grounds for suspecting that a miscarriage of justice may have occurred. The re-hearing may be by a wreck commissioner or by the Supreme Court.

Clause 54 empowers the Governor to make rules for the conduct of inquiries under *clauses 50 and 52* and for the conduct of any re-hearing under *clause 53* which is not held by the Supreme Court. Such rules 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. The clause also makes other stipulations as to what such rules may contain.

Clause 55 provides that if a person fails to deliver a certificate as required under *clauses 50, 51 and 52* the person commits a criminal offence.

Clause 56 empowers the Governor to restore a certificate that has been cancelled or suspended under *clause 50, 51, 52 or 53*, if the Governor believes the justice of the case requires it. The Governor may also reduce the period of suspension and return the certificate. If a new certificate is granted, it may be of the same grade as, or a lower grade than, the cancelled or suspended certificate.

Clause 57 provides for witnesses to be summoned to an inquiry into fitness or conduct of an officer or other seafarer. A warrant may be issued for a summoned witness who fails to attend the inquiry. Further, if a person attending an inquiry refuses to be sworn or to give evidence and does not have a just excuse for doing so, the person commits an offence.

Clause 58 imposes civil liability on seafarers working in a sea-going ship who go absent without leave. The seafarer is liable in damages for being absent from the ship when the seafarer is required under his or her seafarers' employment contract to be on board. However, if the absence was due to an accident or mistake or some other cause beyond the seafarer's control and the seafarer took all reasonable precautions to avoid being absent, then that absence must not be treated as a breach of contract and therefore the seafarer is not liable in damages.

Clause 59 provides that if a seafarer employed or engaged in a sea-going Falkland Islands ship is found by a court in the Falkland Islands 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.

Clause 60 provides for civil liability for fines imposed under immigration laws. Where a Falkland Islands ship is in the national or territorial waters of any country outside the

Falkland Islands and a seafarer employed or engaged in the ship is absent without leave and present in that country in contravention of the country's laws, any fine that the employer or person who engaged the seafarer has to pay as a result of this can be recovered from the seafarer as special damages for breach of contract. An amount equal to one week's wages of the seafarer can be recovered from the seafarer by any other person who incurs a penalty under the laws of the other country as a result of the actions of the seafarer.

Part 5 provides for certain documentation to be carried on a sea-going Falkland Islands ship. It re-enacts sections 79 to 83 of the Maritime Ordinance 2017.

Clause 61 requires official log books, in a form approved by the Governor, to be kept in a Falkland Islands ship. The Governor is empowered to make regulations prescribing the details of what must be recorded in log books as well as to stipulate when and to whom they must be produced or delivered and to exempt certain ships from the requirement to carry them. Regulations under this clause may make failure to comply with them an offence.

Clause 62 requires the master of a Falkland Islands ship to make and maintain a list of the crew. The crew list must contain such particulars as may be prescribed in regulations made by the Governor, which may also provide exceptions to this requirement.

Clause 63 provides for regulations to be made to require seafarers to retain Falkland Islands seafarers' cards.

Clause 64 empowers the Governor to make regulations in respect of discharge books. Discharge books must be issued to persons who are or have been employed or engaged in Falkland Islands ships or to holders of Falkland Island status or permanent residence permits who are or have been employed or engaged in other ships. The clause makes it an offence to hire someone who is disentitled to a discharge book or for such a person to be employed or engaged on a ship whilst being so disentitled.

Clause 65: A person who ceases to be the master of a Falkland Islands ship during a voyage must deliver to his or her successor the documents relating to the ship or its crew which are in the person's custody. The master's failure to do so is an offence unless he or she has a reasonable excuse.

Part 6 makes general provision.

Clause 66 provides that the Governor may make regulations to extend any provisions of the Ordinance or any regulations made under it to ships not registered in the Falkland Islands.

Clause 67 sets out the scope of application of the Ordinance to Government ships.

Clause 68 sets out the scope of application of the Ordinance to ships chartered by demise to the Crown.

Clause 69 sets out the scope of application of the Ordinance to certain structures such as things designed or adapted for use at sea.

Clause 70 empowers the Governor to make regulations, in addition to those found elsewhere in the Ordinance, to give effect to the MLC.

Clause 71 is a general provision empowering the Governor to make subsidiary legislation of various kinds. This does not detract from the other, more specific regulation- and order-making powers in the Ordinance.

Clause 72 requires, among other things, the Governor to consult with representatives of persons who may be affected by regulations made under the Ordinance.

Clause 73 empowers the Governor to prepare and approve forms for any book, instrument or paper required under this Ordinance and also empowers the Governor to alter such forms.

Clause 74 makes provision for the Maritime Authority to issue or approve codes of practice or other guidance (including that issued by the UK Government) for the purpose of providing practical guidance with respect to any regulations made under the Ordinance.

Clause 75 enables the Governor to make transitional, consequential and saving provision. It also provides that subsidiary legislation that may have been made under Part 4 of the Maritime Ordinance 2017 or which has been applied by the Merchant Shipping (Application of UK Legislation) Ordinance 1992 or the Law Revision and Publication Ordinance 2017 continues in force unless and until amended or replaced under the Ordinance.

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Appointment

Elle Ann Jaffray, Medical Stores Assistant, Health and Social Services Department, 01.07.19.

Evangelyn Artazo De Guzman, Carer, Health and Social Services Department, 01.07.19.

Oscar Alexis Zamora Pimental, Security Officer/Driver, Health and Social Services Department, 01.07.19.

Shazelle Monita Sukhnarain, Licensed Aircraft Engineer, Falkland Islands Government Air Service, Development and Commercial Services Department, 01.07.19.

Michael James Davis, Agriculture Assistant (Bio-Security), Agriculture, Natural Resources Department, 08.07.19.

Violet Sithole, Senior Staff Nurse, Health and Social Services Department, 20.07.19.

Karen Joleen Minto, Personal Assistant, Health and Social Services Department, 22.07.19.

Julie Boorman, Building Adviser, Planning and Building Services, Development and Commercial Services Department, 23.07.19.

Completion of contract

Helene Claire Jaumotte, Financial Accountant, Treasury, 01.07.19.

James Kenneth Bryan, Agricultural Adviser – Agronomist, Agriculture, Natural Resources Department, 05.07.19.

Tomasz Boleslaw Zawadowski, Fisheries Observer, Fisheries, Natural Resources Department, 25.07.19.

Andrew Mark Francis, Head of Finance, Treasury, 31.07.19.

Renewal of contract

Joanne Claire Ford, Childcare Advisory Teacher, Infant and Junior School, Education Department, 01.07.19.

Helene Claire Jaumotte, Financial Accountant, Treasury, 02.07.19.

Tomasz Boleslaw Zawadowski, Fisheries Observer, Fisheries, Natural Resources Department, 26.07.19.

Resignation

Daniella Dawn Curtis, Overseas Medical Co-ordinator, Health and Social Services Department, 19.07.19.

Naomi Baxter, Biosecurity Officer, Agriculture, Natural Resources Department, 24.07.19.

Gail Maria Summers, Cook, Health and Social Services Department, 28.07.19.

Transfer

Samantha Catherine Addison from Personal Assistant, Health and Social Services Department to CMT Co-ordinator, Policy and Economic Development Department, 01.07.19.

Irina Chemshirova from Fisheries Observer to PhD Intern (Illex), Fisheries, Natural Resources Department, 23.07.19.

NOTICES

No. 44

21 June 2019

Electricity Supply Regulations 1969 *regulation 10A*

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 21 June 2019 and came into effect on Monday 1 July 2019.
3. The overall price of electricity per unit for all consumers was increased from 21p to 23p.

4. For consumers supplied via pre-payment meters, electricity is being supplied at 23p per unit and cards are now being sold at above face value.

5. For all other consumers, electricity is now being supplied at 23p per unit.

Dated 21 June 2019

J. A. WILSON,
Financial Secretary.

No. 45

2 July 2019

Magistrate's Court of the Falkland Islands

Appointment of Clerk to the Magistrate's Court

1. Pursuant to section 32 of the Administration of Justice Ordinance and with the approval of His Excellency the Governor, I hereby exercise my power to appoint **Elizabeth Jayne Dent** to be Clerk to the Magistrate's Court and as such Clerk to the Summary Court.

2. This appointment shall have immediate effect.

Dated 2 July 2019

C. FAULDS,
Senior Magistrate.

No. 46

10 July 2019

Planning Ordinance 1991
section 5

Appointment of Member of 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 **Gary Clement** and **Roxanne McCarthy King-Clark** 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 10 July 2019

R. A. J. MITHAM,
Acting Governor.

No. 47

11 July 2019

Falkland Islands Constitution Order 2008
section 70

Appointment to Advisory Committee on the Prerogative of Mercy

1. Section 70(1) of the Falkland Islands Constitution Order 2008 provides for the Governor to appoint two elected members of the Legislative Assembly after consultation with the elected members of the Assembly.

2. In exercise of my powers I have previously appointed the following members of the Advisory Committee on the Prerogative of Mercy:

- (a) **Lucila Leona Vidal Roberts**; and
- (b) **Teslyn Siobhan Barkman**.

3. Teslyn Siobhan Barkman has a conflict of interests in relation to the matter covered in the letter dated 8 July 2019 on which the Advisory Committee on the Prerogative of Mercy is being consulted.

4. In exercise of my powers under section 70(1) and after consultation with elected members of the Legislative Assembly, I appoint **Ian Hansen** to the Advisory Committee on the Prerogative of Mercy.

5. This appointment has effect from the date of the signature below, and continues in effect whilst the letter dated 8 July 2019 is under consideration by the Committee.

Dated 11 July 2019

R. A. J. MITHAM,
Acting Governor.

No. 48

11 July 2019

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

Take notice that **Yvonne Alazia** died on 1 May 2019.

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 11 July 2019

E. J. DENT,
Registrar, Supreme Court.

No. 49

25 July 2019

Southern Harvest (Falkland Islands) Limited
Company Number: 10427

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 June 2019.

Dated 25 July 2019

E. J. DENT,
Registrar of Companies.

Communications Ordinance 2017
section 17

**Designation of persons to whom confidential information
may be provided**

1. Section 17(5) of the Communications Ordinance 2017 (“the Ordinance”) provides that the Governor may designate persons or a class of persons who the Governor considers reasonably necessary to receive commercially confidential information from the Communications Regulator for regulatory or other Government functions in connection with duties under the Ordinance or to assist the Regulator or Governor with the discharge of regulatory duties under the Ordinance.

2. In exercise of my powers under section 17(5), I designate the following persons or classes of persons as persons to whom the Regulator may disclose commercially confidential information in accordance with the Ordinance:

- (a) consultants under contract to the Regulator;
- (b) the Attorney General and officers subordinate to Attorney General; and
- (c) the operator or manager of any approved Alternative Dispute Resolution (“ADR”) scheme under section 19 of the Ordinance.

3. This designation continues in force, in the case of:

- (a) consultants under contract to the Regulator, for the duration of the contract with the Regulator;
- (b) the operator or manager of any approved ADR scheme, as long as the scheme continues to be approved under section 19 of the Ordinance; and
- (c) the Attorney General and officers subordinate to the Attorney General, until provided otherwise by notice in the Gazette under section 17(5) of the Ordinance.

Dated 29 July 2019

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

Customs Ordinance 2003
section 7

Appointment of Customs Officer

1. In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **Michael James Davis** to be a Customs Officer with effect from 18 July 2019.

2. This appointment is to continue in effect for so long as the above named person is employed by the Falkland Islands Government in the capacity of Agriculture Assistant (Bio-security), or until earlier revoked.

Dated 29 July 2019

R. J. KING,
Collector of Customs.

Application for Naturalisation

Notice is hereby given that:

**Monica Jocelyn Bravo Rojas; and
Emma Gilda Carrasco Campos**

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 Service, Stanley no later than 22 August 2019.

Dated 31 July 2019

J. E. SMITH,
Immigration Officer.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

01 August 2019

No. 9

The following are published in this Supplement —

Statute Law Database (Rectification) (No 2) Order 2019 (SR&O No 16 of 2019); and

Taxes (Amendment) Ordinance 2019 (No 12 of 2019).

SUBSIDIARY LEGISLATION

Statute Law Database (Rectification) (No 2) Order 2019

S. R. & O. No. 16 of 2019

Made: 29 July 2019

Published: 1 August 2019

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 2019.

2. Commencement

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

3. Rectification of defects in the Statute Law Database

(1) This Order rectifies defects in the Statute Law Database.

(2) The rectifications set out in the Schedule are deemed to have effect from 31 July 2017.

SCHEDULE

RECTIFICATION OF THE STATUTE LAW DATABASE

1. Criminal Procedure and Evidence Ordinance 2014

In Schedule 3 to the Criminal Evidence and Procedure Ordinance 2014 insert in the Code ‘C’ Code of Practice, above paragraph C3.26 —

“F. Requirements for suspects to be informed of certain rights”

2. Cruise Ships Ordinance 1998

In section 3 of the Cruise Ships Ordinance 1998 —

(a) omit sub-paragraph (3); and

(b) re-number sub-paragraphs (4) and (5), as sub-paragraphs (3) and (4) respectively.

3. Road Traffic (Provisional) Regulations Order 1986

In section 5(2)(c) of the Road Traffic (Provisional) Regulations Order 1986 omit “he hold a provisional licence” and replace it with “he holds a provisional licence”.

Made 29 July 2019

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

EXPLANATORY NOTE
(not forming part of this Order)

This Order rectifies 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.

Defects are rectified in respect of —

- (a) Schedule 3 of the Criminal Procedure and Evidence Ordinance 2014;
- (b) Section 3 of the Cruise Ships Ordinance 1998; and
- (c) Section 5(2)(c) of the Road Traffic (Provisional) Regulations Order 1986.

The rectifications are contained in the schedule to the Order, and the consequent changes to the Database are deemed to have effect on 31 July 2017, which is the date when the Database was first published.

ELIZABETH II



FALKLAND ISLANDS

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

Taxes (Amendment) Ordinance 2019

(No: 12 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Taxes Ordinance 1997
4. Section 106 amended (Interpretation for purposes of Chapter II)
5. New section 106B (Machinery and plant on hire purchase)
6. Section 113 amended (The disposal value)
7. Section 114 amended (Demolition and abandonment costs)
8. Section 152A revoked and replaced
 - 152B. Circumstances in which restriction on hire of relevant assets under section 152C applies
 - 152C. Restriction on hire of relevant assets
 - 152D. Hire cap percentages for relevant assets
 - 152E. Meaning of relevant asset
 - 152F. Hire of relevant assets: anti-avoidance
 - 152G. Hire of relevant assets: administration
9. Transitional matter: restriction on hire of relevant assets

ELIZABETH II



FALKLAND ISLANDS

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

TAXES (AMENDMENT) ORDINANCE 2019

(No: 12 of 2019)

(assented to: 31 July 2019)
(commencement: in accordance with section 2)
(published: 1 August 2019)

AN ORDINANCE

To amend the Taxes Ordinance 1997.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Taxes (Amendment) Ordinance 2019.

2. Commencement

- (1) This Ordinance, except section 8, is deemed to have come into force on 1 January 2019.
- (2) Section 8 of this Ordinance is deemed to have come into force on 1 October 2015.

3. Amendment of Taxes Ordinance 1997

This Ordinance amends the Taxes Ordinance 1997.

4. Section 106 amended (Interpretation for purposes of Chapter II)

- (1) In section 106(3)(d) and (e), omit “trade” and substitute “business”.
- (2) In section 106, insert after subsection (3) —

“(3A) A reference in this Chapter to expenditure for acquiring machinery, plant or another asset to which section 112, 116 or 117 applies —

(a) is a reference to the amount of capital expenditure —

(i) which the person, who (subject to sections 121 and 122) claims the depreciation allowance, spends on the provision of the machinery, plant or other asset; and

(ii) by which that person becomes the owner of the machinery, plant or other asset; and

(b) if the reference is a reference to an amount of capital expenditure spent on the provision of a building, car park, hard standing or renewable energy technology (including the technology’s system components), does not include a reference to the cost or value of the land on which the building, car park, hard standing or renewable energy technology is built.”.

(3) In section 106(4), omit the definition of “expenditure”.

5. New section 106B (Machinery and plant on hire purchase)

Insert after section 106A —

“106B. Machinery and plant on hire purchase

(1) In this section —

“contract”—

(a) includes one or more contracts between the same persons which together constitute a single arrangement or part of a single arrangement between those same persons; and

(b) does not include a contract between connected persons;

“machinery or plant” includes a vehicle and a ship;

“person” means a person carrying on a business who incurs capital expenditure on the provision of machinery or plant for the purposes of the business.

(2) This section applies if a person incurs capital expenditure on the provision of machinery or plant under a contract that —

(a) transfers substantially all the risks and rewards incidental to ownership of the machinery or plant to the person; and

(b) provides that the person will or may become the owner of the machinery or plant on the performance of the contract.

(3) The machinery or plant is to be treated as if it were owned by the person (and not by any other person) while the person is entitled to the benefit of the contract to the extent that the benefit of the contract relates to the machinery or plant.

(4) All capital expenditure to be incurred under the contract in respect of the machinery or plant after the machinery or plant is brought into use for the purposes of the person's business is to be treated as if it were expenditure the person incurs at the time the machinery or plant is brought into use.

(5) If the person ceases to be entitled to the benefit of the contract to the extent that the benefit of the contract relates to the machinery or plant without in fact becoming the owner of the machinery or plant, the machinery or plant is to be treated as ceasing to belong to the person at the time the person ceases to be entitled to the benefit of the contract.

(6) Subject to subsection (8), if the person ceases to be entitled to the benefit of the contract after the machinery or plant was brought into use for the purposes of the person's business, the disposal value of the machinery or plant is taken to be an amount equal to the sum of —

(a) the capital sums or other money's worth that the person receives or is entitled to receive by way of consideration, compensation, damages or insurance money in respect of his rights under the contract, or in respect of the machinery or plant; and

(b) so much of the capital expenditure that the person did not in fact incur.

(7) Subject to subsection (8), if the person ceases to be entitled to the benefit of the contract before the machinery or plant was brought into use for the purposes of the person's business, the disposal value of the machinery or plant is taken to be an amount equal to the capital sums or other money's worth that the person receives or is entitled to receive by way of consideration, compensation, damages or insurance money in respect of the person's rights under the contract, or in respect of the machinery or plant.

(8) If the disposal value of the machinery or plant referred to in subsection (6) or (7) is less than the total amount that would be received by the person for the machinery or plant if the person were owner of the machinery or plant and had sold the machinery or plant in the open market or otherwise at arm's length, the disposal value is to be taken to be the total amount that would have been received if the machinery or plant were sold by the person as the owner in the open market."

6. Section 113 amended (The disposal value)

(1) In section 113(1) —

(a) insert "(1A) and" before "(2)"; and

(b) omit "the following provisions of this section" and replace it with "section 106B or this section".

(2) In section 113, insert after subsection (1) —

“(1A) If, in the application of a provision of this section in relation to the relevant event, an inconsistency arises between the provision and section 106B, section 106B prevails.”.

(3) In section 113(2), insert “or treated under this Chapter as incurred” after “incurred”.

7. Section 114 amended (Demolition and abandonment costs)

In section 114(1) omit “112” and replace it with “106B, 112”.

8. Section 152A revoked and replaced

(1) Revoke section 152A and replace it with —

“152B. Circumstances in which restriction on hire of relevant assets under section 152C applies

(1) Section 152C applies to a company which carries on a ring fence trade if —

(a) the company makes or is to make one or more payments under a lease of a relevant asset, or part of a relevant asset, for the purposes of its ring fence trade; and

(b) any of the following applies —

(i) the lessor is an associated person of a contractor;

(ii) the lessor is a person who is connected with the company, or was connected with the company when the lease was imposed;

(iii) the Commissioner notifies the company that the Commissioner considers that the lease is made in connection with arrangements with a main purpose of securing a tax advantage.

(2) For the purposes of subsection (1), a person is a contractor if the person carries out any of the following activities for the company —

(a) exploration or exploitation activities in, or in connection with, providing, operating or using a relevant asset in a relevant offshore service;

(b) any other activity in, or in connection with, providing a relevant offshore service.

(3) For the purposes of subsection (1)(b)(i), a person is an associated person of a contractor if the person —

(a) is or has been connected with the contractor;

(b) acts, has acted or is to act together with the contractor to provide a service; or

(c) is connected with a person specified in paragraph (a) or (b).

(4) For the purposes of subsection (3), a person does not act together with a contractor to provide a service to a person by reason only of leasing an asset that is provided, operated or used in the service.

(5) For the purposes of this section, a person who is a trustee or agent of another person, acts in a conduit arrangement with another person or acts directly or indirectly for and on behalf of another person in any other way is to be treated as if the person were connected with the other person.

(6) In this section —

“**conduit arrangement**” means an arrangement under which a person receives, directly or indirectly, a payment in respect of a relevant asset used in connection with a ring fence trade and pays, directly or indirectly, the whole or a part of the payment to another person;

“**exploration or exploitation activities**” does not include petroleum extraction activities or activities consisting of the acquisition, enjoyment or exploitation of petroleum rights;

“**provide a relevant offshore service**” means provide, operate or use a relevant asset in, or in connection with, carrying on exploration or exploitation activities in controlled waters;

“**relevant asset**” has the meaning given to it in section 152E;

“**tax advantage**” means —

- (a) a relief from tax or increased relief from tax;
- (b) a repayment of tax or increased repayment of tax;
- (c) the avoidance or reduction of a charge to tax or an assessment to tax; or
- (d) the avoidance of a possible assessment to tax.

152C. Restriction on hire of relevant assets

(1) The total amount that may be brought into account in respect of the payments for the purposes of calculating the company’s ring fence income in an accounting period is limited to the hire cap.

(2) The “**hire cap**” is an amount equal to the relevant percentage of TC for the accounting period, subject to subsection (3).

(3) If payments in relation to which subsection (1) applies are also made, or to be made, by one or more other companies in respect of a relevant asset or part of a relevant asset, the “**hire cap**” is to be such proportion of the amount mentioned in subsection (2) as is just and

reasonable, having regard (in particular) to the amounts of the payments made, or to be made, by each company.

(4) In subsection (2), subject to subsection (6), “**relevant percentage**” means —

$URFT/TD \times PRA$, where —

URFT is the number of days in the accounting period that the relevant asset is provided, operated or used for the purposes of the company’s ring fence trade;

TD is the number of days in the accounting period; and

PRA is the percentage appropriate for the relevant asset pursuant to section 152D.

(5) Accordingly, the relevant percentage is zero if the relevant asset is not provided, operated or used in the accounting period.

(6) If the accounting period is less than 12 months, the relevant percentage is to be proportionally reduced.

(7) In subsection (2), TC is $OC + CE$.

(8) Unless subsection (10) applies, and subject to subsections (11) and (12), OC is the sum of —

(a) any consideration given for the acquisition of the relevant asset or part when it was first acquired by an lessor associated person; and

(b) any expenses incurred by a lessor associated person in connection with that acquisition (other than the costs of financing the acquisition).

(9) Subsection (10) applies if the relevant asset or part —

(a) is leased by a lessor associated person from a person who is not a lessor associated person; and

(b) has never been owned by a lessor associated person.

(10) Subject to subsections (11) and (12), OC is the sum of —

(a) the consideration that is reasonable to suppose would have been given for the acquisition of the relevant asset or part, if it had been acquired by a lessor associated person by way of a bargain at arm’s length at the time it was first leased as mentioned in subsection (9)(a); and

(b) the expenses (other than the costs of financing the acquisition) that it is reasonable to suppose would have been incurred by a lessor associated person in connection with such an acquisition.

(11) If the relevant asset or part was first acquired by a lessor associated person, or (as the case may be) first leased as mentioned in subsection (9)(a), before the beginning of the accounting period, OC does not include any part of the consideration mentioned in subsection (8)(a) or (as the case may be) (10)(a) that it is reasonable to attribute to anything that no longer forms part of the relevant asset or part at the beginning of the accounting period.

(12) If the relevant asset or part was first acquired by a lessor associated person, or (as the case may be) first leased as mentioned in subsection (9)(a), in the accounting period, OC for the accounting period is —

$OC \times ((D-DBA)/D)$, where —

D is the total number of days in the accounting period;

DBA is the number of days in the accounting period before the day on which the relevant asset or part was first acquired or first leased; and

OC is the amount given by subsection (8) or (as the case may be) (10).

(13) Subject to subsections (14) and (15), CE is capital expenditure on the relevant asset or part (other than capital expenditure in respect of its acquisition or the acquisition of a lease of it) incurred by a lessor associated person —

(a) after it was first acquired by a lessor associated person or (as the case may be) was first leased as mentioned in subsection (10)(a); and

(b) before the end of the accounting period.

(14) CE does not include any capital expenditure mentioned in subsection (13) that is —

(a) incurred before the beginning of the accounting period; and

(b) not reflected in the state or nature of the relevant asset or part at the beginning of the accounting period.

(15) If any capital expenditure mentioned in subsection (13) is incurred on a day in the accounting period, the amount of CE for the accounting period in respect of that capital expenditure is —

$CEA \times ((D-DBI)/D)$, where —

D is the total number of days in the accounting period;

DBI is the number of days in the accounting period before the day on which that capital expenditure is incurred; and

CEA is the amount of that capital expenditure.

(16) For the purposes of this section —

(a) a lease is (in relation to an asset) an agreement or arrangement under which payments are made for the use of or otherwise in respect of the asset;

(b) a lease includes an agreement or arrangement under which the payments (or any of them) represent instalments of a purchase price or payments towards it; and

(c) notwithstanding paragraphs (a) and (b), an agreement or arrangement to which section 106B(2) applies shall not be treated as a lease unless the Commissioner gives a notification under section 152B(1)(b)(iii).

(17) In this section —

“**relevant asset**” has the meaning given to it in section 152E;

“**lessor**” means lessor under a lease referred to in this section;

“**lessor associated person**” means —

(a) the lessor;

(b) a person who is or has been connected with the lessor; or

(c) a person who is connected with a person referred to in paragraph (b), or acting together with the lessor or a person referred to in paragraph (b) in relation to the lease of a relevant asset.

[UK Corporation Tax Act 2010 s.285A(2)-(4), s. 356N(2)-(15), s.868(2),(3)]

152D. Hire cap percentages for relevant assets

(1) Subject to subsection (2), the percentage appropriate for a relevant asset is 7.5%.

(2) If the Commissioner is satisfied that increasing the percentage appropriate for a relevant asset to a percentage more than 7.5% would be just and reasonable having regard to the economic characteristics of a relevant asset, the Commissioner may, by notice in writing to the company making payments under the lease of the relevant asset, increase the percentage appropriate for the relevant asset.

(3) In subsection (2), reference to the Commissioner having regard to the economic characteristics of a relevant asset includes reference to the Commissioner having regard to the useful life of the relevant asset when it was first constructed.

152E. Meaning of relevant asset

(1) Subject to subsections (4) and (5), in sections 152B, 152C and 152D, “**relevant asset**” means an asset which is of the requisite value.

(2) A reference to an asset in subsection (1) is a reference to an asset (including a ship or other vessel) that —

(a) can be moved from place to place (whether or not under its own power) without major dismantling or modification;

(b) can be used in connection with a ring fence trade; and

(c) is or will be provided, operated or used in controlled waters for 30 days or more in aggregate within a continuous 12 month period.

(3) An asset is of the requisite value if its market value is £2,000,000 or more.

(4) The Governor may, by rules, modify the meaning of relevant asset and requisite value.

(5) Rules made under subsection (4) may —

(a) amend this section;

(b) make different provision for different cases or different purposes; and

(c) make incidental, consequential, supplementary, transitional or saving provisions.

[UK Corporation Tax Act 2010 s.356LA(2)(a), (7)-(9), s.356N(1), s.356NA(2)]

152F. Hire of relevant assets: anti-avoidance

(1) If a person enters into an arrangement the main purpose or one of the main purposes of which is to secure that section 152C(1) does not apply in relation to one or more payments to any extent, that subsection applies in relation to the payments to the extent that it would not otherwise do so.

(2) In subsection (1), “**arrangement**” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

[UK Corporation Tax Act 2010, s.285A(8), (9)]

152G. Hire of relevant assets: administration

(1) A company which leases a relevant asset must include as part of the company's return and accounts the company delivers to the Commissioner under section 30 —

(a) an explanation of whether section 152C applies to the lease; and

(b) if section 152C applies to the lease —

(i) a calculation of the amount of the restrictions applying under that section (which must be based on the company's determination of the value of TC, as defined in section 152C(7)); and

(ii) supporting evidence for the calculation of the amount of the restrictions applying and the basis of any estimates used in doing so.

(2) For the purpose of assessing a company's compliance with section 152C, the Commissioner may, by notice in writing, request the company to provide to the Commissioner the information and copies of the documents the Commissioner specifies in the notice.

(3) A company must comply with a request made to it under subsection (2) as soon as practicable after receiving the request.

(4) The information or copies of documents which the Commissioner may request the company to provide under subsection (2) include the following —

(a) leases of relevant assets;

(b) contractor services it has received;

(c) counterparties to the leases of relevant assets and contractor services received;

(d) commercial and tax purposes for entering into leases of relevant assets.

(5) If a company does not provide the return, accounts, information or copies of documents referred to in subsection (1) or (2), or if the return, accounts, information or copy omits information, contains incomplete or incorrect information or a miscalculation relating to ring fence income or compliance with section 152C, the Commissioner may amend the return, or an assessment relating to the return, to the extent necessary to rectify the omission, incomplete or incorrect information, miscalculation or failure.

(6) If the Commissioner amends a return or assessment under subsection (5), the Commissioner must give written notice to the company of the amendment.”.

9. Transitional matter: restriction on hire of relevant assets

(1) In this section —

“**commencement day**” means 1 October 2015;

“**straddling accounting period**” means an accounting period that begins before the commencement day and ends after the commencement day.

(2) If section 152C applies to a payment brought into account in a straddling accounting period, the total amount of payments brought into account for calculating the company’s ring fence income for the straddling accounting period for the purpose of that section is to be treated as if it were apportioned, on a just and reasonable basis, between —

(a) the part of the accounting period occurring before the commencement day; and

(b) the part of the accounting period occurring on or after the commencement day.

Passed by the Legislature of the Falkland Islands on 25 July 2019.

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.

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FALKLAND ISLANDS GAZETTE

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No. 11

Appointment

William Anthony Jansen Van Rensburg, Programme Manager, Development and Commercial Services Department, 30.07.19

Theofelus Kairua, Fisheries Observer, Fisheries, Natural Resources Department, 29.07.19

Shane Russ Benjamin, Sports Attendant, Stanley Leisure Centre, Development and Commercial Services Department, 01.08.19

Charlotte Elsie Emma Simpson, Residential Support Worker, Health and Social Services Department, 01.08.19

Benjamin George Hall, Fishery Protection Officer, Fisheries, Natural Resources Department, 12.08.19

Callum John Vale, Fishery Protection Officer, Fisheries, Natural Resources Department, 12.08.19

Kim Anthony Bone, Apprenticeship Co-ordinator, Training Centre, Education Department, 12.08.19

Mark Peter Dixon, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 14.08.19

Colin George Davies, SHIELD Job Coach, Training Centre, Education Department, 19.08.19

Graeme Thomas McIntosh, Senior Agriculture Adviser, Agriculture, Natural Resources Department, 19.08.19

Matthew Eden McNee, Agriculture Adviser – Agronomy, Agriculture, Natural Resources Department, 19.08.19

Racquel Emily Irene Francis, Primary Care Assistant, Health and Social Services Department, 22.08.19

Tina Rose Stevens, Residential Support Worker, Health and Social Services Department, 22.08.19

Clayton Craig Crowie, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 26.08.19

Charlotte Fenwick, Art Teacher, Falkland Islands Community School, Education Department, 30.08.19

Emma Samantha Jane Walker, History Teacher, Falkland Islands Community School, Education Department, 30.08.19

Gavin James Roberts, Maths Teacher, Falkland Islands Community School, Education Department, 30.08.19

Jamie Paul Morris, Design Technology Teacher, Falkland Islands Community School, Education Department, 30.08.19

Kathryn Elizabeth Anderle, Maths Teacher, Falkland Islands Community School, Education Department, 30.08.19

Lynsey Helen Easton, Primary Teacher, Infant and Junior School, Education Department, 30.08.19

Patrick Monaghan Cambridge, Special Educational Needs Teacher, Falkland Islands Community School, Education Department, 30.08.19

Paul Robert Hitchcock, Primary Settlement Teacher, Infant and Junior School, Education Department, 30.08.19

Rachel Claire Whitfield, Primary Teacher, Infant and Junior School, Education Department, 30.08.19

Sara Annie-May Croft, Primary Teacher, Infant and Junior School, Education Department, 30.08.19

Sarah Ann Abdel-Mageed, Primary Teacher, Infant and Junior School, Education Department, 30.08.19

Simon David Gilbert, Maths Teacher, Falkland Islands Community School, Education Department, 30.08.19

Sophie Elizabeth Hewitt, Primary Teacher, Infant and Junior School, Education Department, 30.08.19

Victoria Evans, Travelling Primary Teacher, Infant and Junior School, Education Department, 30.08.19

Completion of contract

Charlotte Elsie Emma Simpson, Adult Support Worker, Health and Social Services Department, 30.06.19

Andrew Peter McCartney, Head of Programmes, Development and Commercial Services Department, 03.08.19

Diane Simsovic, Director of Policy and Economic Development, Policy and Economic Development Department, 07.08.19

Simon James Griffiths, Project Manager – Construction, Public Works Department, 07.08.19

Nicholas James Faulkner, Company Taxation Officer, Taxation, Treasury Department, 16.08.19

Zeynab Patel, Crown Counsel, Government Legal Services, Law and Regulation Department, 17.08.19

Adam Leonard Dawes, Senior Agriculture Adviser, Agriculture, Natural Resources Department, 21.08.19

Gethin Wyn Morgan, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 24.08.19

Alan David Moore, Primary Teacher, Infant and Junior School, Education Department, 31.08.19

Charlotte Helen Mountford, Special Educational Needs Teacher, Infant and Junior School, Education Department, 31.08.19

Daniel John Harrison, Primary Teacher, Infant and Junior School, Education Department, 31.08.19

Jennifer Patricia Barclay, Special Educational Needs Co-ordinator, Education Department, 31.08.19

John Paul Downie, History Teacher, Falkland Islands Community School, Education Department, 31.08.19

Joshua Terence Brown, Science Teacher, Falkland Islands Community School, Education Department, 31.08.19

Karen Marie Howard, Primary Teacher, Infant and Junior School, Education Department, 31.08.19

Katherine Louise Farrow, Design Technology Teacher, Falkland Islands Community School, Education Department, 31.08.19

Katherine Sheppard, Primary Teacher, Infant and Junior School, Education Department, 31.08.19

Lawrence Roy Langford, Primary Travelling Teacher, Infant and Junior School, Education Department, 31.08.19

Layla Jennifer Catherine Hanna, Primary Teacher, Infant and Junior School, Education Department, 31.08.19

Lindsay Jean Smith, English Teacher, Falkland Islands Community School, Education Department, 31.08.19

Lynsey Marie Morris, Physical Education Teacher, Falkland Islands Community School, Education Department, 31.08.19

Mallory Deborah Barnes, Primary Settlement Teacher, Infant and Junior School, Education Department, 31.08.19

Miriam Amanda Evelyn Carter-Fraser, Primary Teacher, Infant and Junior School, Education Department, 31.08.19

Paul Muncaster, Art Teacher, Falkland Islands Community School, Education Department, 31.08.19

Robert Rhys Farrow, Science Teacher, Falkland Islands Community School, Education Department, 31.08.19

Robert James Howard, Physical Education Teacher, Falkland Islands Community School, Education Department, 31.08.19

Sarah-Jane Beth Edwards, Primary Settlement Teacher, Infant and Junior School, Education Department, 31.08.19

Timothy Joseph Ross, Primary Teacher, Infant and Junior School, Education Department, 31.08.19

Renewal of contract

Diane Simsovic, Director of Policy and Economic Development, Policy and Economic Development Department, 08.08.19

Nicholas James Faulkner, Company Taxation Officer, Taxation, Treasury Department, 17.08.19

Adam Leonard Dawes, Senior Agriculture Adviser, Agriculture, Natural Resources Department, 22.08.19

Gethin Wyn Morgan, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 25.08.19

Resignation

Rebecca Honeybone, Assistant Taxation Officer, Taxation, Treasury Department, 02.08.19

Demi Rose Greenough, Learning Support Assistant, Infant and Junior School, Education Department, 08.08.19

India Lauren Clarke, Learning Support Assistant, Infant and Junior School, Education Department, 08.08.19

Kim Anthony Bone, Apprenticeship Co-ordinator, Training Centre, Education Department, 20.08.19

Ulrick Eriksen, Driver/Night Security, Health and Social Services Department, 22.08.19

Frances Wilson, Secondary Teacher, Falkland Islands Community School, Education Department, 30.08.19

Jeffrey James Halliday, Technician, Power and Electrical, Public Works Department, 30.08.19

Pauline Lynx Igao, Secondary Teacher, Falkland Islands Community School, Education Department, 30.08.19

Simon Browning, Fishery Protection Officer, Fisheries, Natural Resources Department, 30.08.19

NOTICES

No. 53

8 August 2019

Patriot Helicopters Limited Company Number: 15001

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 8 August 2019

E. J. DENT,
Registrar of Companies

No. 54

9 August 2019

Customs Ordinance 2003
section 7

Appointment of Customs Officer

1. In exercise of the powers conferred by section 7(3) of the Customs Ordinance 2003, I appoint **Daniela Estefania Baigorri Bordon** to be a Customs Officer with effect from 5 August 2019.

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

Dated 9 August 2019

R. J. KING,
Collector of Customs

No. 55

9 August 2019

Falkland Islands Constitution Order 2008
section 84

Appointment of Acting Attorney General

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

2. In exercise of my powers under section 84(4) I appoint **Matthew John Jackson** to be Acting Attorney General to carry out the duties of the Attorney General whenever the substantive holder of the post, Simon David Young, is absent from the Falkland Islands.

3. This appointment has effect and continues in effect whilst Matthew John Jackson holds office as Head of Legal Services for the Falkland Islands Government, unless terminated sooner.

Dated 9 August 2019

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

No. 56

14 August 2019

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, acting in his discretion, 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 4 October 2019 to 14 October 2019 inclusive, unless terminated sooner.

Dated 14 August 2019

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

No. 57

15 August 2019

Companies Act 1948
section 290

Consultancy Services Falklands Limited in Members' Voluntary Liquidation

Notice is hereby given pursuant to section 290 of the Companies Act 1948 that a meeting of the members will be held at 3 Diddle Dee Drive on 2 October 2019 at 12:30pm for the purposes of having an account laid before the meeting and to receive the Liquidator's report showing how the winding-up of the Company has been conducted, and hearing of any explanation that might be given by the Liquidator. At the meeting the Liquidator will be seeking his release.

Dated 15 August 2019

R. MACLENNAN BAIRD,
Liquidator

No. 58

15 August 2019

Police Ordinance 2000
section 52

Take notice that the following items are in the charge of the Royal Falkland Islands Police:

Date Found	Item Description
16.01.2018	1 x silver key + 1 x roman coin keyring
20.09.2018	1 x white, black and blue child's pedal cycle labelled "LYNX" and "BRONZ+X"
05.10.2018	1 x HONDA four strong outboard motor
24.11.2018	1 x Hitachi video camera/recorder in black case
11.12.2018	1 x debit card in the name of Robert Hendrick Van O
17.12.2018	1 x yellow child's pedal cycle in the style of a motorbike
22.12.2018	1 x black Superdry jacket with hood
28.12.2018	1 x wallet
28.12.2018	1 x flower print phone case
10.01.2019	1 x Brazilian ID card in the name of Rosa Maria Farias Asmus
18.01.2019	1 x black sunglasses
07.02.2019	1 x whiteboard marker
12.02.2019	1 x black plastic wrist strap
17.02.2019	1 x white metal necklace
19.02.2019	1 x black Samsung smartphone
10.03.2019	1 x metal framed glasses
25.03.2019	1 x IP68 (rugged style) mobile phone
04.04.2019	1 x £60 FKP
25.04.2019	1 x set of keys on a black lanyard
07.05.2019	1 x key M130 engraved

Date Found	Item Description
22.05.2019	1 x M&S sunglasses, brown
04.06.2019	1 x 1 mile ladies trotting race plaque
06.06.2019	1 x key with tag U226
08.06.2019	1 x black handbag containing key on a white compass keyring
14.06.2019	1 x £85 FKP
11.07.2019	1 x titanium plain wedding ring
14.07.2019	1 x 32GB SD card
16.07.2019	1 x blue motorbike chest guard
04.08.2019	1 x UK driving licence in the name of Adrian Charles Love
05.08.2019	1 x DeWalt black and yellow radio
06.08.2019	1 x Rayban sunglasses and case
12.08.2019	1 x pink child's pedal cycle labelled "enchanted dreams"
Unknown	1 x white metal chain with 3 heart shaped tokens

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.

E. J. DENT,
Clerk, Magistrate's Court

No. 59 20 August 2019

Index of Retail Prices

The Index for the quarter ended 30 June 2019 has now been completed.

The Index has increased during the quarter, to 105.843; this equates to a 0.5% increase for the quarter and a 1.4% increase for the year.

Date	Index	Annual change	Quarterly change
30.06.2018	104.413	3.6%	1.3%
30.09.2018	104.682	3.0%	0.3%
31.12.2018	104.820	2.9%	0.1%
31.03.2019	105.328	2.2%	0.5%
30.06.2019	105.843	1.4%	0.5%

Inflation in the "Fuel and Power" category is the major contributor to total increase for the year (0.9 out of 1.4 percentage points) followed by inflation in the "Transport" and "Restaurant and Hotels" categories (respectively, 0.6 and 0.4 percentage points). On the contrary, price cuts in the "Communications" market have a strong deflationary effect (-1.3 percentage points).

Dated 20 August 2019

D. RANGHETTI,
for Director of Policy and Economic Development

No. 60

21 August 2019

Road Traffic Ordinance 1948

Road Traffic (Provisional) Regulations 1986 section 16

Pursuant to section 16(2) of the Road Traffic (Provisional) Regulations 1986, I designate Police Constable **Mark Dixon** of the Royal Falkland Islands Police as a vehicle inspecting officer, empowering him to be able to carry out such inspections or tests of motor vehicles as may be considered necessary for the purposes of the Regulations.

Dated 21 August 2019

B. ROWLAND,
Chief Executive

No. 61

26 August 2019

Road Traffic Ordinance 1948 section 11

Pursuant to section 11(3) of the Road Traffic Ordinance 1948, I authorise Police Constable **Mark Dixon** of the Royal Falkland Islands Police as a vehicle examining officer, empowering him to be able to carry out such examinations or tests of motor vehicles as may be considered necessary for the purposes of the Ordinance.

Dated 26 August 2019

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

No. 62

27 August 2019

Application for Falkland Islands Status

Notice is hereby given that:

Lucy Elizabeth McGuire
Alan John Crowie
Violeta Ester Castro Estefo
Kevin Adrian Thomas
Amelia McCormick

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 23 September 2019.

Dated 27 August 2019

J. E. SMITH
Immigration Officer

No. 63

27 August 2019

Application for Naturalisation

Notice is hereby given that:

Vince Otadoy
Senclair Otadoy (nee Boybanting)

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 23 September 2019.

Dated 27 August 2019

J. E. SMITH
Immigration Officer



FALKLAND ISLANDS GAZETTE

Extraordinary

PUBLISHED BY AUTHORITY

Vol. 128

25 September 2019

No. 12

NOTICES

No. 64

18 September 2019

PROCLAMATION

MERCHANT SHIPPING

Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2018 (Commencement) Proclamation 2019

(Proclamation No: 1 of 2019)

In exercise of my powers under article 1 of the Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2018 (SI 2018/1159) I proclaim 26 September 2019 as the date on which the said Order comes into force.

Dated 18 September 2019

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

Explanatory Note

This Proclamation sets the date for the coming into force of the Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2018 (SI 2018/1159) so as to enable the Maritime Ordinance 2017 to be brought into force.

No. 65

18 September 2019

Maritime Legislation 2019 Commencement Notice

1. Section 1 of the Maritime Ordinance 2017 provides that the Ordinance comes into force on a date (being a date not earlier than the approval of the Ordinance by an Order in Council) appointed by the Governor by notice published in the *Gazette*.
2. Section 2 of the Maritime (Amendment) Ordinance 2019 provides that the Ordinance comes into force on a date appointed by the Governor by notice in the *Gazette* (except where it is provided that particular provisions come into force on a different date).
3. Section 2 of the Maritime Labour Ordinance 2019 provides that the Ordinance comes into force on a date appointed by the Governor by notice in the *Gazette* (except where it is provided that particular provisions come into force on a different date).
4. Regulation 2 of the Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019 provides that the regulations come into force on a date notified by the Governor by notice in the *Gazette*.
5. Regulation 2(2) of the Maritime (Polar Code) Regulations 2019 provides that the regulations come into force in respect of existing ships on a date notified by the Governor by notice in the *Gazette*.
6. Regulation 2 of the Maritime (International Safety Management Code) Regulations 2019 provides that the

regulations come into force on a day appointed by the Governor by notice in the *Gazette*.

7. Regulation 1(1) of the Maritime (Registration of Ships) Regulations 2019 provides that the regulations come into force on a day appointed by the Governor by notice in the *Gazette*.

8. I give notice that the —

(a) Maritime Ordinance 2017 will come into force as follows —

(i) Part 4 and Chapter 1 of Part 6, on the day on which sections 9 and 11 of the Maritime (Amendment) Ordinance 2019 come into force (26 September 2019);

(ii) sections 162 to 168, 170 and 172 to 178, on the day on which sections 14 to 31 of the Maritime (Amendment) Ordinance 2019 come into force;

(iii) sections 180 to 184, 186 to 189 and 309, on the day on which sections 32 to 40 and 44 and 47 of the Maritime (Amendment) Ordinance 2019 come into force (26 September 2019); and

(iv) the rest of the sections, on 26 September 2019;

(b) Maritime (Amendment) Ordinance 2019 will come into force as follows —

(i) sections 9 and 11, on the date on which the Maritime Labour Ordinance 2019 comes into force (26 September 2019);

(ii) sections 14 to 31, on a day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the Falkland Islands or a date determined under section 2(3)(b) of the Maritime (Amendment) Ordinance 2019;

(iii) sections 32 to 40 and 44 and 47, on the day on which the Supplementary Fund Protocol comes into force in respect of the Falkland Islands or on a date determined under section 2(4)(b) of the Maritime (Amendment) Ordinance 2019;

(iv) the rest of the sections, on 26 September 2019;

(c) Maritime Labour Ordinance 2019 will come into force on 26 September 2019;

(d) Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019 will come into force on 26 September 2019;

(e) Maritime (Polar Code) Regulations 2019 will come into force on 26 September 2019;

(f) Maritime (International Safety Management Code) Regulations 2019 will come into force on 26 September 2019; and

(g) Maritime (Registration of Ships) Regulations 2019 will come into force on 26 September 2019.

Dated 18 September 2019

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



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

25 September 2019

No. 10

The following are published in this Supplement —

Taxes (Amendment) (No. 2) Bill 2019; and

Supplementary Appropriation (2019-2020) Ordinance 2019 (No 13 of 2019).

Taxes (Amendment) (No. 2) Bill 2019

(No: of 2019)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Taxes Ordinance 1997
4. Section 34A revoked and replaced (Deduction of tax)
5. Section 114 amended (Demolition and abandonment costs)
6. Section 124A revoked and replaced (Restriction of writing down allowance by reference to asset value in accounts)
7. Section 152 amended (Payments of interest)
8. Heading to Part VI, Chapter IV revoked and replaced (Miscellaneous costs and expenses)
9. Section 155 amended (Finance costs: deductibility)
10. New sections 155A to 155G
 - 155A. Finance charges restriction: interpretation
 - 155B. Commissioner has power to publish guidance and give directions
 - 155C. Finance charges restriction
 - 155D. Finance charges restriction: de minimis allowance
 - 155E. Finance charges restriction: administration
 - 155F. Finance charges restriction: anti-avoidance
 - 155G. Capitalised borrowing costs
11. Schedule A1 revoked and replaced

TAXES (AMENDMENT) (NO. 2) BILL 2019

(No: of 2019)

(assented to: 2019)
(commencement: in accordance with section 2)
(published: 2019)

A BILL

for

AN ORDINANCE

To amend the Taxes Ordinance 1997.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Taxes (Amendment) (No. 2) Ordinance 2019.

2. Commencement

This Ordinance is deemed to have come into force on 1 January 2019.

3. Amendment of Taxes Ordinance 1997

This Ordinance amends the Taxes Ordinance 1997.

4. Section 34A revoked and replaced (Deduction of tax)

Revoke section 34A and replace it with —

“34A. Deduction of tax

(1) In this section —

“company resident in a territory” means a company which —

(a) by reason of the law of the territory relating to domicile, residence or place of management, is within the charge to tax in the territory; or

(b) if the territory does not have a law referred to in paragraph (a) or the territory has such a law but the law does not apply to the company, is incorporated in the territory;

“overseas payee company” means a company —

(a) to which interest is paid or credited; and

(b) which, in a corporation tax year, is not resident in the Falkland Islands and is not carrying on business through a branch or agency in the Falkland Islands to which the interest income is attributable.

“**payer company**” means a company which —

(a) pays or credits interest to an overseas payee company; and

(b) is resident in the Falkland Islands or is carrying on a business through a branch or agency in the Falkland Islands to which the interest is attributable;

“**payment of interest**” means a payment of interest paid or credited to an overseas payee company by a payer company to which this section applies.

(2) This section applies if, in a corporation tax year, a payer company pays interest or credits interest to an overseas payee company.

(3) This section does not apply if —

(a) the overseas payee company —

(i) is resident in a territory specified in Schedule A1 and the interest income is not attributable to a branch or agency in another territory through which the company is carrying on a business; or

(ii) is carrying on a business through a branch or agency in a territory specified in Schedule A1 and the interest income is attributable to that branch or agency; and

(b) the overseas payee company or branch or agency of the overseas payee company is —

(i) the beneficial owner of the interest;

(ii) subject to tax on the interest income in the territory specified in Schedule A1; and

(iii) not involved in any arrangement the main purpose, or one of the main purposes, of which is to obtain an advantage in relation to Falkland Islands tax for the overseas payee company, the branch or agency or any other person.

(4) Subject to subsection (5), a payment of interest is charged to tax under this section at the rate of 10% of the amount of the payment.

(5) Subsection (4) does not apply in relation to a payment of interest if the Commissioner gives notice to the payer company that tax will not be charged on that payment.

- (6) Tax charged on a payment of interest must be —
- (a) deducted from the gross amount of the payment by the payer company;
 - (b) credited by and recoverable from the payer company; and
 - (c) due and payable to the Commissioner by the payer company within 30 days after the end of the month in which the payer company makes the payment of interest.
- (7) The payer company must —
- (a) submit, together with the amount of tax deducted under subsection (6), a return to the Commissioner that specifies the following —
 - (i) the gross amount of the payment of interest;
 - (ii) the date when the payment of interest was paid or credited;
 - (iii) the identity of the overseas payee company, by specifying at least the name and registered address of the overseas payee company;
 - (iv) if the interest was paid to the overseas payee company, the account into which the interest was paid;
 - (v) the amount of the tax deducted;
 - (b) certify on the return that the return is correct; and
 - (c) send a copy of the return to the overseas payee company within one month of the date referred to in paragraph (a)(ii).
- (8) Part IX applies to and in relation to a payer company who makes a payment of interest with the following modifications —
- (a) an assessment to tax may be made on the payer company under sections 172, 173 and 174;
 - (b) the payer company may object under section 175 to the assessment;
 - (c) a notice may be served on the payer company under section 176(1);
 - (d) the payer company may appeal against the assessment to the Tax Appeal Tribunal under section 181;

(e) references in the Part to a return on income include references to a return made under subsection (7); and

(f) any other necessary modifications.

(9) The overseas payee company (or any other person who is the beneficial owner of the interest) is not entitled to recover any tax paid under this section from any person.”.

5. Section 114 amended (Demolition and abandonment costs)

(1) In section 114(8) —

(a) insert in paragraph (b) “or within the further period that the Commissioner allows,” after “that trade,”; and

(b) omit “the 3 year period referred to in paragraph (b) above” and replace it with “the period referred to in paragraph (b)”.

(2) In section 114(10), omit “the 3 immediately” and replace it with “the 10 immediately”.

6. Section 124A revoked and replaced (Restriction of writing down allowance by reference to asset value in accounts)

Revoke section 124A and replace it with —

“124A. Restriction of writing down allowance by reference to asset value in accounts

(1) In this section —

“person’s accounts” means the accounts of a person or a connected person of the person;

“connected person” means a person who is connected with another person for the purpose of the other person’s business;

“temporary period” means the period, not exceeding 2 years, for which a person uses plant or machinery in the Falkland Islands in connection with the person’s business;

“Falkland Islands” includes controlled waters;

“ordinary reduction” means a reduction, made in accordance with an accounting depreciation policy that accords with generally accepted accounting principles, as it would operate without extraordinary upward revaluations in contemplation of the use of plant and machinery in the Falkland Islands or extraordinary downward revaluations referable to a period of use in the Falkland Islands;

“person” means a person who is —

(a) carrying on a business in the Falkland Islands; or

(b) resident in the Falkland Islands.

(2) This section applies if a person claims a writing down allowance under this Chapter in respect of plant or machinery that is —

(a) brought into the Falkland Islands in connection with the person's business;

(b) in the Falkland Islands for a temporary period; and

(c) used by the person in circumstances in which it is reasonable to expect that the person or a connected person of the person will use the plant or machinery outside the Falkland Islands after the temporary period ends.

(3) A writing down allowance for a chargeable period must not exceed the ordinary reduction in the value of the plant or machinery that is specified in the person's accounts attributable to the chargeable period and to the period of use of the plant or machinery in connection with the person's business in the Falkland Islands during the chargeable period.

(4) The Commissioner may direct that this section applies in relation to the plant and machinery specified in the person's accounts with the modifications specified by the Commissioner in the direction (if any) if the Commissioner is not satisfied that —

(a) the treatment of the plant or machinery in the person's accounts is in accordance with accounting policies generally operated by the person and, if applicable, the connected person;

(b) those accounting policies reflect generally accepted accounting practice; and

(c) the treatment of the plant or machinery in the accounts reflects ordinary reductions.

(5) The person or the connected person must comply with the Commissioner's direction made under subsection (4).

(6) If more than one chargeable period occurs in the person's accounting period, the reduction in value of plant or machinery used by the person in the Falkland Islands during the accounting period is to be apportioned on a just and reasonable basis between those chargeable periods."

7. Section 152 amended (Payments of interest)

In section 152, revoke subsection (6) and replace it with —

"(6) In the case of a contractor within the meaning of section 150(11), interest is allowable as a deduction in accordance with this section only in so far as attributable (through just and reasonable apportionment if necessary) to assets used in the Falkland Islands."

8. Heading to Part VI, Chapter IV revoked and replaced (Miscellaneous costs and expenses)

The heading to Part VI, Chapter IV is revoked and replaced with—

**“CHAPTER IV
MISCELLANEOUS COSTS AND EXPENSES”.**

9. Section 155 amended (Finance costs: deductibility)

(1) In section 155(2), omit paragraph (b) and replace it with —

“(b) one of the following applies —

(i) C has a special relationship with one or more of the parties to the transaction (“SR”);

(ii) it appears to the Commissioner that the financial transaction has a main purpose of securing a tax advantage.”.

(2) Revoke section 155(2B).

(3) Revoke section 155(2C) and replace it with —

“(2C) If this section applies to a person who is referred to in section 150(11) as a contractor for a person who carries on a ring-fence trade, finance charges are deductible in accordance with this section only in so far as attributable (through just and reasonable apportionment if necessary) to assets used in the Falkland Islands.”.

(4) In section 155(3) —

(a) omit “Where” and replace it with “To the extent”;

(b) omit “above” (in each place it occurs); and

(c) omit “section 104 or section 152(3)” (in each place it occurs) and replace it with “section 104, 152(3) or 152C”.

(5) Revoke section 155(4) and replace it with —

“(4) If C enters into a financial transaction under which the finance charges may exceed £50,000 in an accounting period, and to which subsection (2A) applies or may apply, C must, in writing, notify the Commissioner that C has entered into the financial transaction no later than 20 business days after doing so.”.

(6) Revoke section 155(6) and replace it with —

“(6) This section applies to a company carrying on a ring-fence trade.”.

(7) Revoke section 155(7) and replace it with —

“(7) In this section —

“**finance charge**” has the same meaning as in the definition of “finance charge” in section 155A but without the exclusion of the matters referred to in paragraph (c) of that definition;

“**financial transaction**” means a transaction under which a finance charge is to be or may be incurred;

“**securities**” includes securities not creating or evidencing a charge on assets, and interest paid by a company on money advanced without the issue of a security for the advance, or other consideration given by a company for the use of money so advanced, shall be treated as if paid or given in respect of a security issued for the advance by the company;

“**special relationship**” means a relationship as a result of which C and SR are not dealing, or may not be dealing, at arm’s length.

(7A) A direction given by the Commissioner under subsection (2A) may be —

- (a) specific;
- (b) general;
- (c) conditional; or
- (d) absolute.

(7B) The Commissioner may publish guidance on the criteria that the Commissioner must consider in determining whether or not to give a direction under subsection (2A) .”.

10. New sections 155A to 155G

After section 155, insert —

“155A. Finance charges restriction: interpretation

In this section and sections 155B to 155F —

“**de minimis allowance**” has the meaning it has in section 155D;

“**finance charges**” —

- (a) means any of the following —
 - (i) interest expenses on debt;
 - (ii) costs economically equivalent to interest;

- (iii) expenses and losses incurred in connection with raising finance;
- (b) includes the following —
- (i) payments under profit participating loans;
 - (ii) imputed interest on instruments such as convertible bonds and zero coupon bonds;
 - (iii) alternative finance returns payable under alternative financing arrangements, such as Islamic finance;
 - (iv) the finance cost element of finance lease payments or other arrangements accounted for as a financial liability;
 - (v) capitalised interest;
 - (vi) amounts measured by reference to a funding return under transfer pricing rules where applicable;
 - (vii) notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings;
 - (viii) guarantee fees for financing arrangements, arrangement fees and similar costs related to the borrowing of funds;
 - (ix) fees for letters of credit or other financial guarantees in respect of decommissioning liabilities;
 - (x) gains and losses from derivatives which hedge risks associated with the company's finance; and
- (c) does not include the following —
- (i) foreign exchange gains and losses;
 - (ii) impairment losses and their reversal;
 - (iii) gains and losses from derivatives which hedge risks arising in the ordinary course of a trade where the contract was entered into wholly for reasons unrelated to the capital structure of the company or its group;

“finance charges restriction” means the rules on restriction and reactivation of finance charges specified in sections 155C to 155F;

“finance charges restriction return” has the meaning it has in section 155E;

“**net finance charges**” means, in relation a company’s accounting period, the higher of the following amounts —

- (a) the amount of the company’s finance charges that would be deductible before application of the finance charges restriction less the amount of the company’s taxable income earned from finance charges;
- (b) zero;

“**net finance charges allowance**” has the meaning it has in section 155C(2);

“**tax-EBITDA**” means, in relation to a company’s accounting period, the chargeable income (if any) of the company for the accounting period after excluding —

- (a) capital gains and allowable losses under Part VI, Chapter II;
- (b) deductions for finance charges and any taxable income from finance charges;
- (c) depreciation allowances or charges under Part V, Chapter II;
- (d) loss relief under Part V, Chapter III; and
- (e) group relief under Part V, Chapter IV.

155B. Commissioner has power to publish guidance and give directions

(1) The Commissioner may publish guidance, or give directions, for the purpose of ensuring that the finance charges restriction operates on a just and reasonable basis.

(2) Notwithstanding the definitions of “finance charges” and “tax-EBITDA” in section 155A, the Commissioner may exercise the power under subsection (1) to publish guidance or give directions about whether particular classes of amounts are, or are not, finance charges or tax-EBITDA.

155C. Finance charges restriction

(1) This section —

- (a) applies to a company carrying on a ring-fence trade; and
- (b) provides for —
 - (i) disallowing certain amounts that a company would, apart from this section, be entitled to bring into account for the purposes of corporation tax in respect of finance charges; and
 - (ii) allowing certain amounts disallowed under this section in previous accounting periods to be brought into account in later accounting periods.

(2) The net finance charges allowance, in respect of a company's accounting period, is the higher of the following —

- (a) 30% of the company's tax-EBITDA;
- (b) the company's de minimis allowance.

(3) A company is subject to a disallowance under this section if, in an accounting period, the company's net finance charges before application of the finance charges restriction exceed the company's net finance charges allowance.

(4) The disallowance applies to a company's finance charges that would be deductible before application of the finance charges restriction in an amount equal to the excess referred to in subsection (3).

(5) An amount previously disallowed under subsections (3) and (4) may be subsequently reactivated and brought into account by a company as a deduction in an accounting period that ends within 5 years after the end of the accounting period referred to in subsection (3), if and to the extent that —

- (a) in the subsequent accounting period the company's net finance charges are less than 30% of the company's tax-EBITDA; and
- (b) the amount previously disallowed has not previously been reactivated.

155D. Finance charges restriction: de minimis allowance

(1) There is a de minimis allowance.

(2) The maximum value of a de minimis allowance that may be allocated for a company's accounting period is —

- (a) £500,000; or
- (b) if a company's accounting period is less than 12 months, £500,000 reduced pro rata.

(3) To the extent that the de minimis allowance is allocated for a company's accounting period, the de minimis allowance of the company is not available for any other company that is, at any time in an accounting period, connected to the first company.

(4) For connected companies, the following applies —

- (a) the companies must agree how the maximum de minimis allowance of £500,00 is to be allocated between them and each company must specify how the allowance is allocated between the companies in its finance charges restriction return;

(b) if the accounting periods of the connected companies begin or end on different days, each company must adjust its allocation of the allowance agreed to under paragraph (a) as is just and reasonable.

(5) The Commissioner may, by notice, direct what the value of the de minimis allowance is for a company (which may be nil) if —

(a) the company has been allocated a de minimis allowance that exceeds the maximum value specified in subsection (2);

(b) the allocation of the de minimis allowance for the company or companies connected to the company is not clearly indicated on the company's finance charges restriction return;

(c) the company and companies connected to the company appear not to have been able to agree how to allocate the de minimis allowance between them; or

(d) the accounting periods of the company and companies connected to the company begin or end on different days and the company or a company connected to the company has not adjusted its allocation of the de minimus allowance agreed between the connected companies as is just and reasonable.

155E. Finance charges restriction: administration

(1) This section does not apply to a company that —

(a) does not have net finance charges greater than £500,000 in an accounting period relevant to the corporation tax year; and

(b) is not connected with another company within the charge to corporation tax in an accounting period relevant to a corporation tax year.

(2) A company that is within the charge to corporation tax must deliver to the Commissioner a finance charges restriction return for each corporation tax year.

(3) The finance charges restriction return —

(a) must be in the form prescribed by the Commissioner;

(b) forms part of the company's return the company delivers to the Commissioner under section 30 for the corporation tax year the finance charges restriction form relates to; and

(c) must contain the following information —

(i) whether and to what extent an amount of de minimis allowance has been allocated to the company for an accounting period;

(ii) details of any companies connected with the company that are within the charge to corporation tax, and the extent to which those companies have been allocated an amount of de minimis allowance;

(iii) for each of the company's accounting periods that is relevant to the corporation tax year, calculation of the following for the company —

(A) tax-EBITDA;

(B) finance charges that would be deductible before application of the finance charges restriction;

(C) company's taxable income from finance charges;

(D) net finance charges;

(E) net finance charges allowance;

(F) finance charges disallowed or reactivated under section 155C; and

(G) amounts disallowed under section 155C for previous accounting periods and not yet reactivated.

(4) The Commissioner may, by notice, request a company to provide to the Commissioner information or copies of documents for assessing the compliance of the company and companies connected with the company with the finance charges restriction. The company must comply with the request as soon as practicable after receiving the request.

(5) The information or documents the Commissioner may request under subsection (4) include details of —

(a) the company's financing and hedging arrangements;

(b) counterparties to the financing and hedging arrangements; and

(c) the commercial and tax purposes for entering into the financing or hedging arrangements.

(6) The Commissioner may amend a company's return delivered under section 30 to the extent the Commissioner considers necessary if —

(a) the company's finance charges restriction return omits information or contains incomplete or incorrect information or a miscalculation relating to the finance charges restriction; or

(b) the company fails to provide information or documents requested by the Commissioner under subsection (4).

(7) If the Commissioner amends a company's return under subsection (6), the Commissioner must give written notice to the company of the amendment.

(8) If a company fails to deliver a finance charges restriction return to the Commissioner, section 33 applies as if the reference in that section to a company's accounts for an accounting period were a reference to the company's finance charges restriction return.

155F. Finance charges restriction: anti-avoidance

(1) In this section —

“**tax advantage**” includes —

(a) additional finance charges being brought into account;

(b) a reduction in amounts disallowed under section 155C,

(c) additional amounts being reactivated under section 155C;

(d) a company or a connected company obtaining a greater de minimis allowance; and

(e) amounts that are taken into account for the purposes of corporation tax in respect of finance charges earlier or later than they would otherwise be taken into account.

(2) If the Commissioner is satisfied on reasonable grounds that arrangements exist that have as their main purpose, or one of their main purposes, to obtain a tax advantage for or in relation to a company or connected companies, the Commissioner may make the adjustments, as are just and reasonable, to reduce or negate the effect of those arrangements.

155G. Capitalised borrowing costs

(1) This section applies —

(a) subject to the provisions of this Ordinance that impose tax on or provide relief from taxation for an expense or income referred to in this section; and

(b) if the following apply —

(i) a company carries on a ring-fence trade;

(ii) generally accepted accounting practice allows a credit or debit in connection with the company's borrowing for an accounting period to be treated in the company's accounts as an amount brought into account for determining the value of a fixed capital asset or project.

(2) Despite the accounting practice referred to in subsection (1)(b)(ii), the credit or debit must be brought into account as an expense or income for the accounting period in which it is given in the same way as if it were a credit or debit which is brought into account in determining the company's profit or loss for that period in accordance with generally accepted accounting practice.

(3) If a debit is brought into account under subsection (2) —

(a) no expense may be brought into account in respect of the writing down of so much of the value of the asset or project as is attributable to that debit; and

(b) no expense may be brought into account in respect of so much of an amortisation or depreciation that represents a writing off of the interest component of the asset or project.”.

11. Schedule A1 revoked and replaced

Schedule A1 is revoked and replaced with —

“SCHEDULE AI

section 34A(3)

TERRITORIES

A

Afghanistan

Algeria

Angola

Argentina

Armenia

Aruba

Australia

Austria

Azerbaijan

B

Bangladesh

Barbados

Belarus

Belgium

Belize

Benin

Bolivia

Botswana

Brazil

Brunei

Burundi

C

Cameroon

Canada

China

Colombia

Croatia

Cuba

Czech Republic

D

Democratic Republic of the
Congo

Denmark

Dominican Republic

E

Ecuador

Egypt

El Salvador

F

Faroe Islands

Fiji

Finland

France

G

Gabon

Gambia

Germany

Ghana

Greece

Guyana

H

Honduras

I

Iceland

India

Indonesia

Iran

Israel

Italy

Ivory Coast

J

Jamaica

Japan

K

Kenya

L

Lesotho

Libya

Luxembourg

M

Malawi

Malaysia

Malta

Mexico

Monaco

Morocco

N

Namibia

Netherlands

New Zealand

Nigeria

Norway

P

Pakistan

Panama

Papua New Guinea

Peru

Philippines

Poland

Portugal

Puerto Rico

R

Republic of Korea

Russia

S

Saudi Arabia

Senegal

Sierra Leone

Slovakia

Slovenia

Solomon Islands

South Africa

Spain

Sri Lanka

Swaziland

Sweden

T

Tanzania

Thailand

Trinidad and Tobago

Tunisia

Turkey

U

Uganda

Ukraine

United Kingdom

United States of America

Uruguay

V

Venezuela

Vietnam

Z

Zambia

Zimbabwe”.

OBJECTS AND REASONS

This Bill amends the Taxes Ordinance 1997 to provide for tax deductions, allowances and charges relating to corporations tax, depreciation, finance costs and interest charges, and to extend relief in relation to decommissioning expenses, arising in relation to petroleum and other business activities in a manner that maintains the balance between having profitability and benefit from exploration and development within the Falkland Islands and being sufficiently internationally competitive to attract investment.

Clause 1 specifies the short title of the Ordinance.

Clause 2 specifies that the Ordinance commences retrospectively on 1 January 2019.

Clause 3 provides that the Ordinance amends the Taxes Ordinance 1997.

Clause 4 revokes section 34A and replaces it with new section 34A which —

(a) provides that payments or credits of interest made in a corporation tax year by a company resident or carrying on business in the Falkland Islands through a branch or agency which is resident in the Falkland Islands to another company which, in that corporation tax year, is not resident in the Falkland Islands and not carrying on business through a branch or agency in the Falkland Islands are taxed at 10% of the amount of interest paid or credited; and

(b) provides that the section does not apply if —

(i) the company to whom the interest is paid or credited is a resident in a territory listed in Schedule A1 and the interest income is not attributable to a branch or agency in another territory through which the company is carrying on a business;

(ii) the company to which the interest is paid or credited is carrying on a business through a branch or agency in a territory specified in Schedule A1 and the interest income is attributable to that branch; and

(iii) the company, or the branch or agency of the company, to which the interest is paid or credited is the beneficial owner of the interest, is subject to tax on the interest income in a territory specified in Schedule A1 and is not involved in any arrangement the main purpose, or one of the main purposes, of which is to obtain an advantage in relation to Falkland Islands tax for a person; and

(c) updates the administrative machinery for collecting the tax on the interest and the anti-avoidance provisions.

Clause 5 amends section 114 to —

(a) enable the Commissioner to extend the period after a ring-fence trader ceases to carry on the ring-fence trade within which the former ring-fence trader may incur expenditure relating to demolition or abandonment of machinery or plant; and

(b) extending the period for which an allowance for demolition or abandonment can apply to 10 preceding chargeable periods.

Clause 6 revokes section 124A and replaces it with new section 124A to apply a writing down allowance calculated in accordance with generally accepted accounting principles if a person brings plant or machinery into the Falkland Islands, uses the plant or machinery in connection with the person's business temporarily for a period not exceeding 2 years and it is reasonable to expect that the person or a person connected with the person will use the plant or machinery in a place outside the Falkland Islands after the temporary period ends. New section 124A applies to ring-fenced trades and non ring-fenced businesses.

Clause 7 amends section 152(6) by removing references to calculating interest expenses net of interest received.

Clause 8 revokes and replaces the heading to Chapter IV to correctly indicate the content of the Chapter.

Clause 9 amends section 155 to prevent a taxpayer involved in a ring-fence trade claiming excessive deductions for financing charges by—

- (a) providing that finance charges are not deductible in ascertaining the income of a company carrying on a ring-fence trade, unless directed by the Commissioner, if either the company has a special relationship with one or more of the parties to the transaction or it appears to the Commissioner that the financial transaction has a main purpose of securing a tax advantage;
- (b) removing references to calculating finance charges net of finance charges received;
- (c) providing for the relationship between section 155 and sections 104, 152(3) and 155C by giving priority to section 155; and
- (d) providing that, if a company carrying on a ring-fence trade enters into a financial transaction under which the finance charges may exceed £50,000 in an accounting period and to which section 155(2A) applies or may apply, the company must notify the Commission that the company has entered into the transaction within 20 business days of doing so.

Clause 10 inserts after section 155 the following new sections dealing with a finance charges restriction for the deduction by a company or a group of companies of interest expenses and related costs and losses incurred in connection with raising finance —

Section 155A, which sets out definitions of expressions used in sections 155B to 155F;

Section 155B, which sets out the Commissioner's power to publish guidance or give directions for the purposes of the operation of the finance charges restriction;

Section 155C, which describes the amount of finance charges that may be disallowed or allowed before application of the finance charges restriction and being brought into account in an accounting period by —

- (a) comparing a company's net finance charges with its net finance charges allowance and denying deductions for any excess finance charges;
- (b) allowing companies to bring into account previously disallowed amounts as a deduction if, within 5 years, they have excess taxable EBITDA relative to their net finance charges (to allow flexibility recognising net finance charges and EBITDA can be volatile over time);

Section 155D, which provides for a de minimis allowance by —

- (a) setting out the de minimis allowance that may be allocated for a company's accounting period is £500,000 or, if the accounting period is less than 12 months,

£500,00 reduced pro rata (with the effect that companies with lower amounts of net finance charges are not subject to the finance charges restriction);

(b) providing that the de minimis allowance allocated to a company is not available for any other connected company; and

(c) providing how the de minimus allowance is allocated between connected companies;

Section 155E, which sets out the requirement for making a finance charges restriction return for each corporation tax year and provide certain powers for the Commissioner to obtain other information and documents;

Section 155F, which sets out the provisions for counteracting arrangements to obtain a tax advantage by a company or connected companies relating to the finance charges restriction;

Clause 10 also inserts section 155G, which deals with the situation if a company carried on a ring-fence trade and generally accepted accounting practice allows a credit or debit for an accounting period in connection with the company's borrowing to be treated in the company's accounts as an amount brought into account in determining the value of a fixed capital asset or project. The debit or credit is to be brought into account as if it were an expense or income within the company's profit or loss for the period, and not through writing down or on writing off the value of the asset or project.

Clause 11 revokes and replaces Schedule AI to update the list of not low tax Territories referred to in section 34A(3).

ELIZABETH II



FALKLAND ISLANDS

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

Supplementary Appropriation (2019-2020) Ordinance 2019

(No: 13 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation
4. Replacement of amount withdrawn by authority of Contingencies Warrant

Schedule

ELIZABETH II



FALKLAND ISLANDS

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

SUPPLEMENTARY APPROPRIATION (2019-2020) ORDINANCE 2019

(No: 13 of 2019)

(assented to: 18 September 2019)
(commencement: on publication)
(published: 25 September 2019)

AN ORDINANCE

To authorise the appropriation from the Consolidated Fund of the additional amount of £4,355,595 for the financial year ending 30 June 2020.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2019-2020) Ordinance 2019.

2. Commencement

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

3. Appropriation

(1) The additional amount of £4,355,595 is appropriated from the Consolidated Fund for the financial year ending 30 June 2020.

(2) The issue of the additional amount from the Consolidated Fund in the amounts necessary to replace an amount in accordance with section 4 and to supply the vote set out in the Schedule is authorised.

4. Replacement of amount withdrawn by authority of Contingencies Warrant

If an amount has been withdrawn from the Contingencies Fund by the authority of Contingencies Warrant No. 1 of 2019-2020, the amount withdrawn must be replaced from the amount appropriated under section 3.

SCHEDULE

section 3

Number	Head of Service of Government	Amount £
	Operating Budget	
0990	Social Investments, Island Plan Investments and Oil Development	5,000
0200	Development & Commercial Services	21,120
0350	Public Works	250,000
0615	Policy & Economic Development	26,708
	Total Operating Budget	302,828
0999	Fund Transfer and Transfer Payments	4,052,767
	Total Schedule	4,355,595

Passed by the Legislature of the Falkland Islands on 29 August 2019.

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
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FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

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25 September 2019

No. 11

The following is published in this Supplement —

Maritime (Amendment) Ordinance 2019 (No 14 of 2019).

ELIZABETH II



FALKLAND ISLANDS

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

Maritime (Amendment) Ordinance 2019

(No: 14 of 2019)

ARRANGEMENT OF PROVISIONS

Section

PART 1 — INTRODUCTORY

1. Title
2. Commencement

PART 2 — AMENDMENT OF MARITIME ORDINANCE 2017

3. Amendment of Maritime Ordinance 2017
4. Section 1 amended — Title and commencement
5. Section 2 amended — Interpretation
6. Section 5 amended — British ships
7. Section 14 amended — Registration of ships in the Falkland Islands as British ships: basic provisions
8. Section 15 amended — Registration requirements
- 8A. Section 23 amended — Ships bareboat chartered by British or Falkland Islands charterers
9. Part 4 repealed — Masters and Seafarers
10. Addition of section 84A
11. Part 6 amended — Fishing Vessels
12. Section 131 amended — Prevention of pollution from ships, etc
13. Section 132 amended — Further provision for prevention of pollution from ships
14. Section 162 amended — Interpretation
15. Section 163 amended — Liability for oil pollution in case of tankers
16. Addition of section 163A
17. Section 164 amended — Liability for pollution in case of other ships

18. Section 165 amended — Exceptions from liability under sections 163 and 164
19. Section 166 amended — Restriction of liability for oil pollution
20. Addition of section 166A
21. Section 167 amended — Limitation of liability under section 163
22. Section 168 amended — Limitation actions
23. Section 170 amended — Concurrent liabilities of owners and others
24. Section 172 amended — Extinguishment of claims
25. Section 173 amended — Compulsory insurance against liability for pollution
26. Addition of section 173A
27. Section 174 amended — Issue of certificate by Governor
28. Section 175 amended — Rights of third parties against insurers
29. Section 176 amended — Jurisdiction of Falkland Islands courts and registration of foreign judgments
30. Section 177 amended — Government ships
31. Section 178 amended — Limitation of liability under section 164
32. Section 180 amended — Interpretation
33. Section 181 amended — Meaning of the “Liability Convention”, “the Fund Convention” and related expressions
34. Section 182 amended — Contributions by importers of oil and others
35. Section 183 amended — Power to obtain information
36. Addition of sections 184A and 184B
37. Section 186 amended — Jurisdiction and effect of judgments
38. Section 187 amended — Extinguishment of claims
39. Section 188 amended — Subrogation
40. Section 189 amended — Supplementary provisions as to proceedings involving the Fund
41. Section 307 amended — Regulations, rules, and orders, etc.
42. Addition of section 307A
43. Addition of section 308A
44. Section 309 amended — Forms
45. Section 310 amended — Repeals and savings
46. Global amendments relating to Government ships
47. Schedule added — Schedule 2A
48. Schedule 5 amended
49. Schedule 10 amended

**PART 3 – AMENDMENT OF LAW REVISION AND PUBLICATION ORDINANCE
2017**

50. Amendment of Law Revision and Publication Ordinance 2017
51. Schedule 1 amended

**PART 4 – REPEAL OF MERCHANT SHIPPING (ADOPTION OF LEGISLATION)
(AMENDMENT) ORDINANCE 2017**

52. Repeal of Merchant Shipping (Adoption of Legislation) (Amendment) Ordinance 2017

ELIZABETH II



FALKLAND ISLANDS

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

MARITIME (AMENDMENT) ORDINANCE 2019

(No: 14 of 2019)

(assented to: 18 September 2019)
(commencement: in accordance with section 2)
(published: 25 September 2019)

AN ORDINANCE

To amend the Maritime Ordinance 2017 so as to update it to reflect the latest limits of compensation in maritime claims, to update the maritime law so that it reflects international conventions on various maritime matters, to give the Governor the power to make regulations to give effect to those international conventions, to reflect consequential amendments arising out of the repeal of Part 4, to further make several corrections to the schedules to the Maritime Ordinance 2017 and to provide for related matters.

ENACTED by the Legislature of the Falkland Islands —

PART 1 — INTRODUCTORY

1. Title

This Ordinance is the Maritime (Amendment) Ordinance 2019.

2. Commencement

(1) This Ordinance comes into force on a date appointed by the Governor by notice in the *Gazette* except where it is provided that particular provisions come into force on a different date.

(2) Sections 9 and 11 come into force when the Maritime Labour Ordinance 2019 comes into force.

(3) Sections 14 to 31 come into force —

(a) on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the Falkland Islands; or

(b) on such other day as the Governor may appoint following the coming into force of the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 in respect of the Falkland Islands.

(4) Sections 32 to 40 and sections 44 and 47 come into force —

(a) on the day on which the Supplementary Fund Protocol comes into force in respect of the Falkland Islands; or

(b) on such other day as the Governor may appoint, being a day following the coming into force of the Supplementary Fund Protocol in respect of the Falkland Islands.

PART 2 — AMENDMENT OF MARITIME ORDINANCE 2017

3. Amendment of Maritime Ordinance 2017

This Part amends the Maritime Ordinance 2017.

4. Section 1 amended — Title and commencement

Section 1 is amended as follows —

(a) by numbering the current provision as subsection (1); and

(b) by adding the following new subsection immediately after subsection (1) —

“(2) Subject to subsection (1), the Governor may appoint different dates for different provisions and purposes.”

5. Section 2 amended – Interpretation

Section 2 is amended as follows —

(a) by omitting the definition of “Falkland Islands registered ship” and replacing it with the following —

“**Falkland Islands registered ship**” means a ship registered under Part 3 and “Falkland Islands ship” must be construed accordingly”;

(b) by omitting the definition of “Government ship” and replacing it with the following in its correct alphabetical order —

“**United Kingdom Government ship**” has the meaning given to it in section 5(4);

(c) by omitting the definition of “national maritime domain”; and

(d) by adding the following definitions in their correct alphabetical order;

“**Chapter V of the Annex to the SOLAS Convention**” has the same meaning as given under section 84A(4);

“**Falkland Islands Government ship**” has the meaning given to it in section 5(3); and

“**Marine Information Notice**” or “**Marine Guidance Notice**” means general guidance contained in a notice described as such, issued or adopted by the Governor or the Authority under section 307A, and includes a reference to any such document amending or replacing that notice from time to time;

“**Merchant Shipping Notice**” means mandatory guidance contained in a notice described as such, issued or adopted by the Governor or the Authority under section 307A, and includes a reference to any such document amending or replacing that notice from time to time;”.

6. Section 5 amended – British ships

Section 5 is amended as follows —

(a) in subsection (1) —

(i) by omitting paragraph (c) and replacing it with the following —

“(c) the ship is, as a Falkland Islands Government ship, registered as a British ship under Part 3 or under regulations made under section 15;”

(ii) by inserting the following paragraph immediately after paragraph (c) —

“(ca) the ship is, as a United Kingdom Government ship, registered in the United Kingdom in pursuance of an Order in Council made under section 308 of the Act”;

(b) by adding the following subsections immediately after subsection (2) —

“(3) In this section “**Falkland Islands Government ship**” means a ship belonging to the Falkland Islands government and registered as a British ship under Part 3.

(4) In this section “**United Kingdom Government ship**” means a ship not forming part of Her Majesty’s Navy which belongs to Her Majesty, or a ship held by any person on behalf of or for the benefit of the Crown (and for that reason cannot be registered under Part 3).”

7. Section 14 amended — Registration of ships in the Falkland Islands as British ships: basic provisions

Section 14 is amended as follows —

(a) by omitting subsection (3) and replacing it with the following —

“(3) Notwithstanding subsection (2)(b), the following are deemed to have a Falkland Islands connection —

(a) vessels owned by the United Kingdom Research Institute (or any successor body); and

(b) any vessels owned by organisations which the Governor may prescribe by order from time to time.”;

(b) by omitting subsection (5) and replacing it with the following —

“(5) The Governor may give a direction under subsection (4) if he or she is satisfied that having regard to any relevant 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.”; and

(c) in the footnote reference at the end of section 14, by omitting “ *[Merchant Shipping Act 1995 (UK), s. 10]*” and replacing it with “*[Merchant Shipping Act 1995 (UK), s. 9]*”.

8. Section 15 amended – Registration requirements

Section 15(3) is amended as follows —

(a) paragraph (h)(i) is omitted and replaced with the following —

“(i) the approval of forms by the Registrar;”;

(b) by adding the following paragraph immediately after paragraph (j) —

“(k) may provide for the manner in which Falkland Island Government ships may be registered as British ships under this Part, subject to any exceptions and modifications which may be made by the regulations, either generally or as respects any special class of government ships.”.

8A. Section 23 amended – Ships bareboat chartered by British or Falkland Islands charterers

Section 23 is amended as follows —

(a) in subsection (3) by omitting “14(3)” and replacing it with “14(4)”;

(b) in subsection (5) by omitting “14(5)” and replacing it with “14(6)”.

9. Part 4 repealed — Masters and Seafarers

(1) Part 4 is repealed.

(2) The following consequential amendments (*arising out of the repeal of Part 4*) are made to the Ordinance —

(a) in section 238(1)(b) and 238(2) by inserting “or the Maritime Labour Ordinance 2019” immediately after “this Ordinance”;

(b) in section 240(1) —

(i) by inserting “or the Maritime Labour Ordinance 2019” immediately after “161”; and

(ii) by inserting “or that Ordinance” immediately after “(other than those sections)”;

(c) in section 241(2) —

(i) in paragraph (h)(iii) by omitting “this Ordinance or any instrument made under it” and replacing it with “this Ordinance, the Maritime Labour Ordinance 2019, or any instrument made under either Ordinance”;

(ii) in paragraph (j)(i) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(d) in section 243(4) by omitting paragraph (a) and replacing it as follows —

“(a) sections —

(i) 27, 28 and 34 to 43 of the Maritime Labour Ordinance 2019; and

(ii) 84, 85, and 87 (and Schedule 2), 96, 113, 119, 120, 125 to 135, 139 to 161 and 254 of this Ordinance;”

(e) in section 261(1) by omitting “this Ordinance or any instrument made under it” and replacing it with “this Ordinance or the Maritime Labour Ordinance 2019, or to any instrument made under either Ordinance”;

(f) in section 262 by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(g) in section 263(1) and (2) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(h) in section 264(1) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(i) in section 265 by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(j) in section 268(1), (9) and (10) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(k) in section 269 by omitting subsection (1) and replacing it as follows —

“(1) Where any court has power to make an order under this Ordinance or the Maritime Labour Ordinance 2019 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 which made the order may direct the amount remaining unpaid to be levied by distress of the ship and its equipment.”;

(l) in section 271(1) by making the following amendments —

(i) in paragraph (a) by omitting “section 36” and replacing it with “section 17 of the Maritime Labour Ordinance 2019”;

(ii) by omitting paragraph (b) and replacing it as follows —

“(b) the official log book of any ship kept under section 60 of the Maritime Labour Ordinance 2019 or the official log book of any fishing vessel kept under section 124RR and, without prejudice to section 270(2), any document purporting to be a copy of an entry on the log book and to be certified as a true copy by the master of the ship or the skipper of a fishing vessel.”;

(iii) in paragraph (c) —

(aa) by omitting “section 78” and replacing it with “section 124SS”;

(bb) by omitting “Part III” and replacing it with “the Maritime Labour Ordinance 2019”; and

(iv) in paragraph (d) by omitting “section 113” and replacing it with “section 112” and;

(m) in section 275(1) by inserting “under this Ordinance or the Maritime Labour Ordinance 2019” immediately after “on any person”

(n) in section 296(2) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(o) in section 297(1) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Part 7”;

(p) in section 300(1) and (2) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”;

(q) in section 301(a) and (g) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”; and

(r) in section 302(1)(c) by inserting “or the Maritime Labour Ordinance 2019” immediately after “Ordinance”.

10. Addition of section 84A

Part 5 is amended by adding the following section immediately after section 84 —

“84A. Powers to give effect to Chapter V of the Annex to the SOLAS Convention

(1) The Governor may make such regulations as he or she considers appropriate for the purpose of giving effect to Chapter V of the Annex to the SOLAS Convention on the safety of navigation for all vessels at sea.

(2) Regulations made under this section may include requirements for the Authority to put measures in place with respect to the following matters —

- (a) navigational warnings;
- (b) meteorological services information and warnings to ships;
- (c) search and rescue;
- (d) lifesaving signals;
- (e) hydrographic services;
- (f) the use of ship routing systems;
- (g) ship reporting systems
- (h) vessel traffic services;
- (i) the establishment and operation of aids to navigation; and
- (j) coordination in distress situations.

(3) Regulations made under subsection (1) 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; and

(c) specify 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 or to imprisonment for a term not exceeding two years, or both.”

(4) In this section —

“**Chapter V of the Annex to the SOLAS Convention**” means Chapter V, Safety of Navigation, of the Annex to the International Convention for the Safety of Life at Sea (SOLAS V) 2002 as amended; and

“**SOLAS Convention**” means the International Convention for the Safety of Life at Sea, 1974 as amended.”

11. Part 6 amended — Fishing Vessels

Chapter I of Part 6 is repealed and replaced with the following —

“Chapter I: Skipper and Seafarers

Engagement and discharge of crews

113. Interpretation

(1) In this Part —

“**crew agreement**” has the meaning given to it by section 114(2);

“**engaged**” means engaged under a contract, other than a contract of employment with a shipowner, in the circumstances described in subsection (2); and “**engagement**” is to be construed accordingly;

“**relief and maintenance**” include 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) The circumstances referred to in the definition of “engaged” are that —

(a) the person or seafarer engaged under the contract undertakes to do or perform personally any work or services in a fishing vessel; and

(b) the undertaking referred to in paragraph (a) is provided to —

(i) the shipowner; or

- (ii) another person who is a party to the contract.
- (3) For the purposes of the definition of “engaged” in subsection (1), a contract can be —
- (a) express; or
 - (b) implied; and
 - (c) if it is express, made orally or in writing.

114. Crew agreements

(1) Except as provided for under section 115, any person who employs or engages a person to work as a seafarer in a fishing vessel 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 or engaged in a fishing vessel 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 fishing vessel.

(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 section 115, a crew agreement must be carried in the fishing vessel to which it relates, whenever it goes to sea.

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

115. Regulations relating to crew agreements

(1) The Governor may make regulations providing for exemptions from the requirements of section 114 —

- (a) with respect to such descriptions of fishing vessels 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 or engaged by a specified person or in a specified fishing vessel or in the fishing vessels of a specified person) in cases where the Governor is satisfied that the seafarers to be employed or engaged otherwise than under a crew agreement will be adequately protected.

(2) Any fishing vessel 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**”).

(3) Regulations made under this section may —

(a) enable fishing vessels 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.

(4) If a fishing vessel goes to sea or attempts to go to sea in contravention of the requirements of this section the skipper or the person who employs or engages 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 fishing vessel, if in the Falkland Islands, may be detained.

(5) The Governor may make regulations —

(a) prescribing the procedure to be followed in connection with the making of crew agreements between persons employed or engaged in fishing vessels registered in the Falkland Islands and persons employing or engaging 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.

(6) 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 lesser amount as may be specified in the regulations.

[Merchant Shipping Act 1995 [UK], s. 109]

116. Discharge of seafarers

(1) The Governor may make regulations prescribing the procedure to be followed in connection with the discharge of seafarers from fishing vessels 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 fishing vessel 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 lesser amount as may be specified in the regulations.

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

117. Seafarers left behind abroad otherwise than on discharge

Regulations made under section 116 may apply any provision of that section, with such modifications as appear to the Governor to be appropriate, to cases where a seafarer employed or engaged in a Falkland Islands fishing vessel is left behind outside the Falkland Islands otherwise than on being discharged from the fishing vessel.

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

118. Discharge of seafarers when fishing vessel ceases to be registered in the Falkland Islands

Where a fishing vessel registered in the Falkland Islands ceases to be so registered, any seafarer employed or engaged in the fishing vessel must be discharged from the vessel unless the seafarer consents in writing to continue his or her employment or engagement in the fishing vessel.

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

Wages etc.

119. Payments of seafarers' wages

Except as provided for under the Maritime Labour Ordinance 2019 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]

120. Regulations relating to wages: deductions

(1) 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 the Maritime Labour Ordinance 2019 or 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 fishing vessel from which the seafarer is employed or engaged 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 121 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]

(2) The power to make regulations under subsection (1) includes power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment or engagement in a fishing vessel is to be determined by a body established or approved by the Governor in pursuance of regulations made under section 124AA.

[Merchant Shipping Act 1995 (UK), s. 111]

121. Accounts of wages and catch

(1) The persons employing or engaging 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 or engaged in a fishing vessel registered in the Falkland Islands are in any manner related to the catch, the persons employing or engaging the seafarer must —

(a) deliver to the skipper an account (or, if the skipper is the person employing or engaging 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 skipper 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]

122. Restriction on assignment of and charge upon wages

(1) As respects the wages due or accruing to a seafarer employed or engaged in a fishing vessel 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 revocable.

(2) Nothing in this section affects section 124C 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.

(4) Nothing in this section 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 or engaged in a fishing vessel.

[Merchant Shipping Act 1995 (UK), s. 34 and 113]

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

(1) Where a fishing vessel registered in the Falkland Islands is wrecked or lost and a seafarer whose employment or engagement in the vessel is as a result terminated before the date contemplated in the agreement under which the seafarer is employed or engaged, 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 fishing vessel 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 or engagement in the vessel is as a result terminated before the date contemplated in the agreement under which the seafarer is employed or engaged, 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 or engagement 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 fishing vessel or, as the case may be, the termination of the seafarer's employment or engagement on the sale of the fishing vessel or its ceasing to be registered in the Falkland Islands; or

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

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

[Merchant Shipping Act 1995 (UK), s. 38, s. 114]

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

(1) Any dispute relating to the amount payable to a seafarer employed or engaged 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]

124A. Power of court to award interest on wages due otherwise than under crew agreement

In any proceedings by the skipper of a fishing vessel or a person employed or engaged in a fishing vessel 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 reasonable 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 10 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]

124B. 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 or engagement in a fishing vessel 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]

124C. 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 124B 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]

124D. 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 fishing vessel on which the seafarer is employed or engaged, 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 fishing vessel who, in accordance with the agreement, is to be employed or engaged on salvage service, that provide for the remuneration to be paid to the seafarer for salvage services rendered by that fishing vessel.

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

124E. Claims against seafarer's wages for maintenance, etc. of dependants

(1) Where, during a seafarer's employment or engagement in a fishing vessel, 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 responsible authority may by notice in writing complying with the regulations require the persons employing or engaging the seafarer —

(a) to retain for a period specified in the notice such proportion of the seafarer's 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 fishing vessel;

and the persons employing or engaging 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 responsible 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 responsible authority has served a notice under this section on the persons employing or engaging a seafarer, the Magistrate's Court may, on the application of the responsible authority, make an order for the payment to the responsible 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 responsible 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 or engaged 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 or engaged 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) Any notice or order under this section may be served by registered post or recorded delivery service.

(8) 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 the fishing vessel);

(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 122.

(9) 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]

124F. Remedies of skipper for remuneration, disbursements and liabilities

The skipper of a fishing vessel 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 a fishing vessel, as a seafarer has for the seafarer's wages.

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

Health, safety and welfare

124G. Hours of work

(1) The Governor may make regulations prescribing maximum periods of duty and minimum periods of rest for seafarers employed or engaged in fishing vessels registered in the Falkland Islands, and the regulations may make different provision for different descriptions of fishing vessels or seafarers employed or engaged 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 or engaged in a fishing vessel the persons employing or engaging the seafarer and the skipper 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]

124H. Obligation of shipowners as to seaworthiness

(1) In every contract of employment or contract for services between the owner of a fishing vessel registered in the Falkland Islands and the skipper of that fishing vessel, or any seafarer employed or engaged in the fishing vessel, there is an implied obligation on the owner of the fishing vessel that —

- (a) the owner of the fishing vessel;
- (b) the skipper of the fishing vessel; and
- (c) every agent charged with —
 - (i) the loading of the fishing vessel;
 - (ii) the preparing of the fishing vessel for sea; or
 - (iii) the sending of the fishing vessel to sea,

must use all reasonable means to ensure the seaworthiness of the fishing vessel for the voyage at the time when the voyage commences and to keep the fishing vessel 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 fishing vessel arises under subsection (1) in respect of the fishing vessel being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the fishing vessel to sea in such a state was reasonable and justifiable.

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

124I. Crew accommodation

(1) The Governor may make regulations with respect to the crew accommodation to be provided in fishing vessels 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 fishing vessel 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 fishing vessels or with respect to fishing vessels 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 fishing vessels of any description from any requirements of the regulations and the Governor may grant other exemptions from any such requirement with respect to any fishing vessel.

(5) Regulations under this section may require the skipper of the fishing vessel or any officer authorised by the skipper 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 skipper is liable, on conviction, to a fine not exceeding level 5 on the scale set out in Schedule 7 and the fishing vessel, 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 fishing vessels, and whose appointment may be on terms determined by the Governor.

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

124J. Complaints about provisions or water

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

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

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

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

after which the skipper must make adequate arrangements to enable the seafarer to make the complaint as soon as the service of the fishing vessel 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 skipper fails without reasonable excuse to comply with the provisions of subsection (2), the skipper is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 and if the skipper 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 skipper or owner is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7 unless the skipper proves that the failure to replace them was not due to the skipper's neglect or default; or

(b) if the skipper, without reasonable excuse after having been notified, permits them to be used the skipper 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]

124K. Expenses of medical and other treatment during voyage

(1) If a person, while employed or engaged in a fishing vessel 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 who employed or engaged the person.

(2) If a person dies while employed or engaged in a fishing vessel 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 or by the person who engaged him or her.

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

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

Manning and qualifications

124L. Manning

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

(a) requiring fishing vessels 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 fishing vessels 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 fishing vessels or for fishing vessels 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]

124M. Power to exempt from manning requirements

(1) The Governor may exempt any fishing vessel or description of fishing vessel from any of the requirements of regulations made under section 124L.

(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]

124N. Prohibition of going to sea undermanned

(1) Subject to section 124M, if a fishing vessel 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 124L, the owner or skipper is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7; and the fishing vessel, if in the Falkland Islands, may be detained.

(2) This section, in its application to fishing vessels 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]

124O. 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 124L 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 2005.

[Merchant Shipping Act 1995 (UK), s. 116]

124P. Crew’s knowledge of English

(1) Where in the opinion of a superintendent or proper officer the crew of a fishing vessel 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 skipper of that opinion, the fishing vessel must not go to sea; and

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

(2) If a fishing vessel goes to sea or attempts to go to sea in contravention of this section the owner or skipper 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]

124Q. 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 124L.

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

124R. Medical treatment on board fishing vessel

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

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

124S. Special certificates of competence

(1) The Authority may issue and record documents certifying the attainment of any standard of competence relating to fishing vessels registered in the Falkland Islands or their operation, notwithstanding that the standard is not among those prescribed or specified under section 124L(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]*

124T. Young persons

(1) Subject to subsection (2), a person under the school-leaving age must not be employed or engaged in any fishing vessel 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 or engaged in a fishing vessel which is not a sea-going vessel 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 or engaged in a fishing vessel registered in the Falkland Islands which is not a sea-going vessel or may be so employed or engaged 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 or engaged in a sea-going vessel registered in the Falkland Islands or may be so employed or engaged 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 or engagements and different descriptions of fishing vessels and any other different circumstances.

(4) If any person is employed or engaged in a fishing vessel in contravention of this section or if any condition subject to which a person may be employed or engaged under regulations made for the purposes of this section is not complied with, the owner or skipper 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 or engaged in a fishing vessel 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 under the enactments for the time being in force 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]

124U. Financial assistance for training

(1) Subject to funds being provided for in accordance with section 299, 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 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 fishing vessels, 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' fishery 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]

Offences by seafarers

124V. Conduct endangering fishing vessels, structures or individuals

(1) This section applies —

(a) to the skipper of, or any seafarer employed or engaged in, a fishing vessel registered in the Falkland Islands; and

(b) to the skipper of, or any seafarer employed or engaged in, a fishing vessel 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 the fishing vessel 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 the fishing vessel, its machinery or navigational, fishing or safety equipment;

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

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

(b) omits to do anything required —

(i) to preserve the fishing vessel, its machinery or navigational, fishing or safety equipment from being lost, destroyed or seriously damaged;

(ii) to preserve any person on board the fishing vessel from death or serious injury; or

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

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 skipper 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 or her duties, or performs any other function in relation to the operation of his or her fishing vessel 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 7 on the scale set out in Schedule 7 or to imprisonment for a term not exceeding two years, 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 skipper, includes any disobedience to a lawful command;

“**duty**” —

(a) in relation to a skipper 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 skipper, includes his or her duty with respect to the good management and safety of operation of the fishing vessel, its machinery and equipment; and

“**structure**” means any fixed or movable structure (of whatever description) other than a ship or fishing vessel.

[Merchant Shipping Act 1995 (UK), s. 58]

124W. Concerted disobedience and neglect of duty

(1) If a seafarer employed or engaged in a fishing vessel registered in the Falkland Islands combines with other seafarers employed or engaged in that fishing vessel to impede, at such a time, the progress of a voyage or the navigation of the fishing vessel, the seafarer 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 both.

(2) For the purposes of this section, a fishing vessel 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]

124X. 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]

124Y. 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 skipper of the vessel in question;
- (e) the owner of the vessel in question; or
- (f) a person instructed by the skipper 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 skipper, 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]

Disciplinary offences

124Z. Disciplinary offences

(1) 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 skipper or owner of a fishing vessel against a seafarer alleging that during his or her employment or engagement in the vessel, the seafarer contravened a local industrial agreement relating to his or her employment or engagement on the vessel and for requiring the disciplinary body to have regard to the agreement in determining whether the allegation is proved.

(2) The alleged contravention referred to under subsection (1) may be one on or off the fishing vessel and in the Falkland Islands or elsewhere.

(3) Regulations under section 124AA 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 or engagement in a particular vessel.

[Merchant Shipping Act 1995 (UK), s. 119]

Disciplinary offences – Prospective

124AA. 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 fishing vessels 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 skipper or owner of a fishing vessel registered in the Falkland Islands, against a seafarer alleging that during his or her employment or engagement on board the fishing vessel, 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 fishing vessel 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 124TT 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, subject to funds being provided for in accordance with section 299, make provision for the payment of such remuneration and allowances as the Governor may determine to any member of such a body.
- (9) Regulations may make different provisions 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]

124BB. 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, may, if the Governor thinks fit, suspend, pending the outcome of the inquiry,

any certificate issued to the officer in pursuance of section 124L 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 124FF(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 124L 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]

124CC. 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 or her 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 124DD.

(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 124S and to any certificate issued under section 124L other than one certifying that a person is qualified as an officer.

[Merchant Shipping Act 1995 (UK), s. 62]

124DD. Inquiry into fitness or conduct of seafarer other than officer

(1) Where a person has, before the date mentioned in section 124AA(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 124FF(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]

124EE. Re-hearing of and appeal from inquiries

(1) Where an inquiry has been held under section 124BB or 124DD, 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, if the inquiry was held in the Falkland Islands, to be 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 124FF(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]

124FF. Rules as to inquiries and appeals

(1) The Governor may make rules for the conduct of inquiries under sections 124BB and 124DD and for the conduct of any re-hearing under section 124EE 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 124EE 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]

124GG. Failure to deliver cancelled or suspended certificate

If a person fails to deliver a certificate as required under sections 124BB, 124CC and 124DD 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]

124HH. Power to restore certificate

Where a certificate has been cancelled or suspended under section 124BB, 124CC, 124DD, or 124EE, 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]

124II. Power to summon witness to inquiry into fitness or conduct of officer or other seafarer

(1) The persons holding an inquiry under section 124BB or 124DD 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 level 1 on the scale set out in Schedule 7 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 the Magistrate's Court, the head of the courts and tribunal service.

[Merchant Shipping Act 1995 (UK), s. 68]

Civil liability of seafarers for offences

124JJ. Civil liability for absence without leave

(1) This section applies with respect to the liability of a seafarer employed or engaged in a fishing vessel registered in the Falkland Islands to damages for being absent from the fishing vessel at a time when the seafarer is required under the seafarer's contract of employment or contract for services to be on board.

(2) If the seafarer proves that the seafarer's absence was due to an accident or reasonable 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 one day's wages of the seafarer's income;

(b) if special damages are claimed, the seafarer's liability will not be more than one week's wages of the seafarer's income.

[Merchant Shipping Act 1995 (UK), s. 70]

124KK. Civil liability for smuggling

If, in civil proceedings before a court in the Falkland Islands, a seafarer employed or engaged in a fishing vessel 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]

124LL. Civil liability for fines imposed under immigration laws

(1) The following provisions of this section apply where, at a time when a fishing vessel registered in the Falkland Islands is in the national or territorial waters of another country, a

seafarer employed or engaged in the fishing vessel 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 124JJ, 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 one week's wages of the seafarer's income, one 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

124MM. Relief and return of seafarer etc. left behind and shipwrecked

(1) Where —

(a) a person employed or engaged as a seafarer in a fishing vessel 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 or engaged 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 or engaged him or her as a seafarer must make such provision for the seafarer's return and for his or her relief and maintenance until the seafarer'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 the fishing vessel, 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 skipper of any fishing vessel 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 skipper 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 an offence punishable on conviction with a fine not exceeding level 3 on the scale set out in Schedule 7 or such lesser amount as may be specified in the regulations.

(7) This section applies to a person left behind on being discharged in pursuance of section 116, whether or not at the time the person is left behind the fishing vessel is still registered in the Falkland Islands.

(8) This section applies to the skipper as it applies to a seafarer and sections 124NN and 124OO have effect accordingly.

[Merchant Shipping Act 1995 (UK), s. 73]

124NN. Limit of liability under section 75

Where a person left behind in or taken to any country as mentioned in section 124MM(1) remains there after the end of a period of three months the persons who last employed or engaged him or her as a seafarer are 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]

124OO. 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 124MM, 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 the person who engaged the seafarer; or
- (b) if the expenses are incurred by the seafarer, the seafarer may recover them from the employers or the person who engaged the seafarer, unless they prove either that under the terms of the seafarer's employment or engagement 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 124NN, the seafarer's last employers or the person who engaged the seafarer would have been required to make provision under section 124MM; or

(b) in respect of any matter for which provision is required to be made under section 124MM(5)(c),

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]

124PP. Financial assistance in respect of crew relief costs

(1) Subject to funds being provided in accordance with section 299, the Governor may give financial assistance to —

(a) the owner of a fishing vessel registered in the Falkland Islands; or

(b) any manager of a fishing vessel 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 fishing vessel's crew joining or leaving the fishing vessel outside the Falkland Islands.

(2) If the Governor 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 Governor'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 where any such person joins or leaves the fishing vessel.

(3) Assistance under this section may be given by way of a grant, 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 fishing vessel is taken to include the skipper and other officers of the fishing vessel.

[Merchant Shipping Act 1995 (UK), s. 76]

Documentation

124QQ. 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 fishing vessel 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 fishing vessels 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, 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]

124RR. Lists of crew

(1) Except as provided by regulations made under this section, the skipper of every fishing vessel registered in the Falkland Islands 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 fishing vessel, of a copy or copies of the list of the crew, and for the notification to such persons of any changes to the list;

(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 the 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 such descriptions of fishing vessels as may be specified in the regulations from the requirements of this regulation 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]*

124SS. 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 Falkland Islands seafarers to produce their Falkland Islands seafarers' 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; and

(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.

(5) In this section, "**Falkland Islands Seafarer**" means a person who is employed or engaged as a seafarer in —

(a) a fishing vessel registered in the Falkland Islands; or

(b) other fishing vessels but who holds Falkland Islands status pursuant to section 22 of the Constitution or a Permanent Residence Permit issued under the Immigration Ordinance 1999.

[Merchant Shipping Act 1995 (UK) s. 79]

124TT. Discharge books

(1) The Governor may make regulations providing for —

(a) the issue of discharge books to persons who are or have been employed or engaged in—

(i) fishing vessels registered in the Falkland Islands; or

(ii) other fishing vessels but who hold Falkland Islands status pursuant to section 22 of the Constitution or Permanent Residence Permits issued under the Immigration Ordinance 1999;

(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 paragraph (a) 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 124AA(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 or engagement as a seafarer on board a fishing vessel 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 or engages as 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 7 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]

124UU. Handing over of documents by skipper

(1) If a person ceases to be the skipper of a fishing vessel registered in the Falkland Islands during a voyage of the fishing vessel, the person must deliver to his or her successor the documents relating to the fishing vessel or its crew which are in the person's custody.

(2) If, without reasonable excuse, the skipper of a fishing vessel 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]

Exemptions

124VV. Power to grant exemptions from this Chapter

The Governor may grant exemptions from any requirements of 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 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]”.

12. Section 131 amended – Prevention of pollution from ships, etc

Section 131 is amended as follows —

(a) by numbering the current provision as subsection (1); and

(b) by adding the following subsections immediately after subsection (1) —

“(2) The Governor may make regulations in relation to any international conventions or treaty providing for the prevention of pollution and the regulations may make such provisions as the Governor considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.

(3) Regulations under this section may, in particular give effect to the following international conventions or treaties —

(a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973;

(b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil which constitutes attachment 2 to the final act referred to in paragraph (a);

(c) the Protocol relating to the International Convention for the Prevention of Pollution from Ships which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978;

(d) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November 1990;

(e) the Protocol to amend the Convention for the Prevention of Pollution from Ships signed in London on 26 September 1997 (which added to it Annex VI containing regulations for the prevention of air pollution from ships);

(f) any international agreement not mentioned in paragraphs (a) to (e) of this subsection which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships (provided that such an international agreement has been extended to the Falkland Islands);

and in paragraph (f) the reference to an agreement includes an agreement which provides for the modification of another agreement, including the modification of an agreement mentioned in paragraphs (a) to (c) of this subsection.

(4) The powers conferred by subsection (2) to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force before the agreement has come into force.

(5) Regulations made under subsection (2) 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) include provisions imposing on the Authority responsibilities in relation to the preparation, review and implementation of any plans required by any agreement specified in subsection (3); and

(d) specify 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 or to imprisonment for a term not exceeding two years, or both.”.

13. Section 132 amended — Further provision for prevention of pollution from ships

Section 132 is amended as follows —

(a) by numbering the current provision as subsection (1); and

(b) by adding the following subsections immediately after subsection (1) —

“(2) The Governor may make such regulations as are appropriate for giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 for the protection and preservation of the marine environment from pollution by matter from ships.

(3) Without prejudice to the generality of subsection (2), regulations under that subsection may in particular include provision —

(a) corresponding to any provision that is authorised for the purposes of section 131; and

(b) specifying the application of the regulations to —

(i) areas in all appropriate waters, including those outside the Falkland Islands’ territorial waters; and

(ii) any vessel (whether Falkland Islands registered or not) in respect of which the jurisdiction and rights of the Falkland Islands are exercisable in accordance with Part XII of that Convention,

for the protection and preservation of the marine environment.”.

14. Section 162 amended — Interpretation

Section 162 is amended as follows —

(a) in subsection (1) —

(i) by inserting the following definitions in their correct alphabetical order —

“**bunker oil**” means any hydrocarbon mineral oil (including lubricating oil) which is carried by a ship and used or intended to be used for the operation or propulsion of that ship and any residues of such oil;”;

“**the Bunkers Convention**” means the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001;

“**Bunkers Convention country**” means a country in respect of which the Bunkers Convention is in force;

“**Bunkers Convention State**” means a State which is a party to the Bunkers Convention;”;

(ii) in the definition of “Liability Convention State” by omitting “the Convention” and replacing it with “the Liability Convention”;

(iii) in the definition of “oil”, after “mineral oil” by inserting “but does not include bunker oil”;

(iv) by omitting the definition of “owner” and replacing it with the following —

“**owner**” has the meaning given by section 163A(7);”;

(v) by omitting the definition of “relevant threat of contamination” and replacing it with the following —

“**relevant threat of contamination**” includes (unless a contrary intention appears) —

(a) a relevant threat of contamination falling within section 163(2) (as defined in section 163(2A));

(b) a relevant threat of contamination falling within section 163A(2) (as defined in section 163A(4)); and

(c) a relevant threat of contamination falling within section 164(2) (as defined in section 164(2B));” and

(b) in subsection (2) —

(i) by inserting “or bunker oil” immediately after “oil”;

(ii) by inserting “or the registered owner” immediately after “owner” in the first place it appears.

15. Section 163 amended — Liability for oil pollution in case of tankers

(1) Section 163 is amended as follows —

(a) by omitting “owner” and “owners” in each place they appear and replacing them with “registered owner” and “registered owners” respectively;

(b) in subsection (2) by omitting the following words which appear immediately after paragraph (b) —

“and in this Chapter any such threat is referred to as a relevant threat of contamination.”;

(c) by inserting the following subsection immediately after subsection (2) —

“(2A) In this Chapter, a threat referred to in subsection (2) is a relevant threat of contamination falling within that subsection.”; and

(d) by omitting subsections (7) and (8).

16. Addition of section 163A

The following section is added immediately after section 163 —

“163A. Liability for pollution by bunker oil

(1) Subject to subsection (3), where, as a result of any occurrence, any bunker oil is discharged or escapes from a ship then (except as otherwise provided by this Chapter) the registered 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 caused in the territory of the Falkland Islands by any measures so taken.

(2) Subject to subsection (3), where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship by the contamination that might result if there were a discharge or escape of bunker 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.

(3) There is no liability under this section in relation to —

(a) a discharge or escape of bunker oil from a ship to which section 163 applies, or

(b) a threat mentioned in subsection (2) arising in relation to a potential discharge or escape of bunker oil from such a ship,

where that bunker oil is also persistent hydrocarbon mineral oil.

(4) In the subsequent provisions of this Chapter —

(a) a discharge or escape of bunker oil from a ship, other than a discharge or escape of oil excluded by subsection (3), is referred to as a discharge or escape of bunker oil falling within subsection (1) of this section; and

(b) a threat mentioned in subsection (2), other than one excluded by subsection (3), is referred to as a relevant threat of contamination falling within subsection (2) of this section.

(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 Bunkers Convention country.

(6) Where —

(a) as a result of any occurrence, a liability is incurred under this section by the respective owners 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) In this Chapter (except in section 180(1)) “owner”, except when used in the term “registered owner”, means the registered owner, bareboat charterer, manager and operator of the ship.

[Merchant Shipping Act 1995 (UK), s. 153A]”.

17. Section 164 amended —Liability for pollution in case of other ships

Section 164 is amended as follows —

(a) in the heading by omitting “in case of other ships” and replacing it with “in other cases”;

(b) by omitting the words “owner” and “owners” in each place they appear and replacing them with “registered owner” and “registered owners” respectively;

(c) at the beginning of subsections (1) and (2) by inserting “Subject to subsection (2A),”;

(d) in subsection (1) by omitting “other than a ship to which section 163 applies”;

(e) in subsection (2) —

(i) by omitting “other than a ship to which section 164 applies”;

(ii) by omitting the following words which appear immediately after paragraph (b) —

“and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.”;

(f) by inserting the following subsections immediately after subsection (2) —

“(2A) No liability is incurred under this section by reason of —

(a) a discharge or escape of oil from a ship to which section 163 applies or a relevant threat of contamination falling within subsection (2) of that section;

(b) a discharge or escape of bunker oil falling within section 163A(1) or a relevant threat of contamination falling within section 163A(2).

(2B) In the subsequent provisions of this Chapter —

(a) a discharge or escape of oil from a ship, other than one excluded by subsection (2A), is referred to as a discharge or escape of oil falling within subsection (1) of this section; and

(b) a threat mentioned in subsection (2), other than one excluded by subsection (2A), is referred to as a relevant threat of contamination falling within subsection (2) of this section.”; and

(g) in subsection (5), after “section” by inserting “(apart from subsection (2A))”.

18. Section 165 amended — Exceptions from liability under sections 163 and 164

Section 165 is repealed and replaced with the following —

“165. Exceptions from liability under sections 163, 163A and 164

(1) No liability will be incurred by a person (“the defendant”) under section 163, 163A or 164 by reason of a discharge or escape of oil or bunker oil from a ship, or of a relevant threat of contamination, if the defendant proves that subsection (2) applies.

(2) This subsection applies if the discharge or escape or the relevant threat of contamination (as the case may be) —

(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 defendant, 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]”.

19. Section 166 amended — Restriction of liability for oil pollution

Section 166 is amended as follows —

(a) in the heading by omitting “oil pollution” and replacing it with “pollution from oil or bunker oil”;

(b) in subsection (1) by omitting paragraphs (a) and (b) and replacing them with the following —

“(a) there is a discharge or escape of oil from a ship to which section 163 applies or there arises a relevant threat of contamination falling within subsection (2) of that section, or

(b) there is a discharge or escape of oil falling within section 164(1) or there arises a relevant threat of contamination falling within section 164(2),”;

(c) by omitting “owner” and replacing it with “registered owner”;

(d) in subsection (2) by omitting “owner”, in each place it appears and replacing it with “registered owner”;

(e) by inserting the following subsections immediately after subsection (2) —

“(2A) Where, as a result of any occurrence —

(a) there is a discharge or escape of bunker oil falling within section 163A(1), or

(b) there arises a relevant threat of contamination falling within section 163A(2), then, whether or not the registered owner of the ship in question incurs any liability under section 163A —

(i) the registered 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.

(2B) Subsection (2A)(ii) applies to —

(a) any servant or agent of the registered owner;

(b) any person not falling within paragraph (a) above but engaged in any capacity on board the ship or to perform any service for the ship;

(c) any person performing salvage operations with the consent of the registered owner of the ship or on the instructions of the Authority;

(d) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 163A;

(e) any servant or agent of a person falling within paragraph (c) or (d).”; and

(f) in subsection (3) by omitting “the owner of a ship under section 163 or 164” and replacing it with “a person under section 163, 163A or 164”.

20. Addition of section 166A

The following section is added immediately after section 166 —

“166A. Liability under section 163, 163A or 164: supplementary provisions

(1) For the purposes of this Chapter —

(a) references to a discharge or escape of oil or bunker oil from a ship are references to such a discharge or escape wherever it may occur;

(b) references to a discharge or escape of oil from a ship include a discharge or escape of oil carried in the bunkers of the ship;

(c) where more than one discharge or escape of oil or bunker oil results from the same occurrence or from a series of occurrences having the same origin, they will be treated as one, but any measures taken after the first of them is deemed to have been taken after the discharge or escape; and

(d) where a relevant threat of contamination results from a series of occurrences having the same origin, they will be treated as a single occurrence.

(2) 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 section 163, 163A or 164, 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. 156A]".

21. Section 167 amended — Limitation of liability under section 163

Section 167 is amended as follows —

(a) in subsection (1) —

(i) by omitting “owner” in each place it appears and replacing it with “registered owner”; and

(ii) by inserting “falling within subsection (2) of that section” after “contamination”; and

(b) in subsection (3), by omitting “owner” and replacing it with “registered owner”.

22. Section 168 amended — Limitation actions

Section 168 is amended as follows —

(a) in subsection (1), by omitting “owner” and replacing it with “registered owner”; and

(b) in subsection (6)(a) —

(i) by omitting “owner” and replacing it with “registered owner”; and

(ii) by inserting the following at the end of that paragraph —

“(in relation to any insurance or other security provided as mentioned in subsection (1) of that section)”.

23. Section 170 amended — Concurrent liabilities of owners and others

Section 170 is amended by omitting “owner” in each place it appears and replacing it with “registered owner”.

24. Section 172 amended — Extinguishment of claims

Section 172 is amended by inserting “, 163A” immediately after “163”.

25. Section 173 amended — Compulsory insurance against liability for pollution

Section 173(5) is amended by omitting “owner” and replacing it with “registered owner”.

26. Addition of section 173A

The following section is added immediately after section 173 —

“173A. Compulsory insurance against liability for pollution from bunker oil

(1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) applies to any ship having a gross tonnage greater than 1,000 tons calculated in the manner prescribed by an order made by the Governor under paragraph 5(2) of Part II of Schedule 5.

(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 nor, if the ship is a Falkland Islands ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force —

(a) a contract of insurance or other security in respect of the ship satisfying the requirements of Article 7 of the Bunkers Convention; and

(b) a certificate complying with the provisions of subsection (3) showing that there is in force in respect of the ship a contract of insurance or other security satisfying those requirements.

(3) The certificate must be —

(a) if the ship is a Falkland Islands ship, a certificate issued by the Authority;

(b) if the ship is registered in a Bunkers Convention country other than the Falkland Islands, a certificate issued by or under the authority of the government of the other Bunkers Convention country; and

(c) if the ship is registered in a country which is not a Bunkers Convention country, a certificate issued by the Governor or by or under the authority of the government of any Bunkers 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 a Falkland Islands ship, 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 subsection (2), the ship may be detained.

(8) 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 subsection (5) against the company as registered owner of the ship will be treated as duly served on the company if the document is served on the master of the ship.

(9) Any person authorised to serve any document for the purposes of the institution of (or otherwise in connection with) the institution of proceedings for an offence under this section will, for that purpose, have the right to go on board the ship in question.

(10) In the case of a ship of which, at any relevant time, the tonnage has not been and cannot be ascertained in the manner set out in subsection (1), the best available evidence must be used in calculating the tonnage of the ship in accordance with any order under paragraph 5(2) of Part II of Schedule 5.”.

27. Section 174 amended — Issue of certificate by Governor

Section 174 is amended as follows —

(a) in subsection (1) —

(i) by omitting “section 173” and replacing it with “section 173(2)”; and

(ii) by omitting “owner” and replacing it with “registered owner”;

(b) by inserting the following subsection immediately after subsection (1) —

“(1A) Subject to subsection (2), if the Governor is satisfied, on the application for such a certificate as is mentioned in section 163A(2) in respect of a Falkland Islands ship 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 7 of the Bunkers Convention, the Governor must issue such a certificate to the registered owner.”;

(c) by omitting subsection (2) and replacing it with the following —

“(2) The Governor may refuse the certificate if he or she is of the opinion that there is a doubt whether —

(a) the person providing the insurance or other security will be able to meet his or her obligations under that insurance or security; or

(b) the insurance or other security will cover the registered owner's liability under section 163, or the owner's liability under section 163A, as the case may be.”;

(d) by inserting the following subsection immediately after subsection (2) —

“(2A) If the Governor is satisfied, on the application for such a certificate as is mentioned in section 163A(2) in respect of a ship registered in any country which is not a Bunkers 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 7 of the Bunkers Convention, the Governor may issue such a certificate to the registered owner.”.

28. Section 175 amended — Rights of third parties against insurers

Section 175 is amended as follows —

(a) in subsection (1) —

(i) by omitting “owner” and replacing it with “registered owner”;

(ii) by omitting “173” and replacing it with “173(2)”; and

(iii) omitting the words “(in the following provisions of this section referred to as “the insurer”)”;

(b) inserting the following subsections immediately after subsection (1) —

“(1A) Where it is alleged that the owner of a ship has incurred a liability under section 163A as a result of any discharge or escape of bunker oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163A(2) related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security.

(1B) In the following provisions of this section, “**the insurer**” means the person who provided the insurance or other security referred to in subsection (1) or subsection (1A), as the case may be.”;

(c) in subsection (2) —

(i) by inserting “in respect of liability under section 163” immediately after “by virtue of this section”;

(ii) by omitting “owner’s” and replacing it with “registered owner’s”; and

(iii) by omitting “owner” and replacing it with “registered owner”;

(d) in subsection (3) —

(i) by inserting “in respect of liability under section 163 which are” immediately after “in respect of claims”;

(ii) by omitting “owner” in each place it appears and replacing it with “registered owner”;
and

(iii) by inserting “under section 167” immediately after “his or her liability”;

(e) in subsection (4) —

(i) by omitting “owner” and replacing it with “registered owner”; and

(ii) after “liability”, insert “(in relation to liability under section 163)”; and

(f) by inserting the following subsections immediately after subsection (4) —

“(4A) In any proceedings brought against the insurer by virtue of this section in respect of liability under section 163A 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.

(4B) The insurer may limit his or her liability in respect of claims in respect of liability under section 163A which are made against the insurer by virtue of this section in like manner and to the same extent as the owner may limit his or her liability by virtue of section 185; 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 any act or omission mentioned in Article 4 of the Convention set out in Part I of Schedule 5.

(4C) Where the owner and the insurer each apply to the court for the limitation of liability (*in relation to liability under section 163A*) any sum paid into court in pursuance of either application must be treated as paid also in pursuance of the other.”

29. Section 176 amended — Jurisdiction of Falkland Islands courts and registration of foreign judgments

Section 176 is amended as follows —

(a) in subsection (1) —

(i) in paragraph (a), by omitting “any oil is discharged or escapes from a ship but” and replacing it with “there is a discharge or escape of oil from a ship to which section 163 applies, or a discharge or escape of oil falling within section 164(1), which”,

(ii) in paragraph (b), after “contamination” by inserting “falling within section 163(2) or 164(2)”, and

(iii) in paragraph (i), by omitting “owner” and replacing it with “registered owner”;

(b) by inserting the following subsections immediately after subsection (3) —

“(3A) Where —

(a) there is a discharge or escape of bunker oil falling within section 163A(1) which 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 falling within section 163A(2) 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 will 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(2A)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3B) In subsection (3A) above, “**relevant damage or cost**” means —

(a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Bunkers 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 Bunkers 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 Bunkers Convention country; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b); and section 166(2B)(d) has effect for the purpose of subsection (3A)(ii) as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b).”;

(c) by omitting subsection (4) and replacing it with the following —

“(4) The Foreign Judgments (Reciprocal Enforcement) Ordinance 1959 applies, whether or not it would so apply apart from this section, to —

(a) 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

(b) any judgment given by a court in a Bunkers Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 163A,

and in its application to such a judgment that Ordinance has effect with the omission of section 9(2) and (3)”.

30. Section 177 amended — Government ships

Section 177 is amended as follows —

(a) by omitting subsection (2) and replacing it with the following —

“(2) In relation to a ship owned by a State and for the time being used for commercial purposes —

(a) it will be 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 that Convention; and

(b) it will be sufficient compliance with section 163A(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 1 of the Bunkers Convention will be met up to the limits set out in Chapter II of the Convention in Part I of Schedule 5.”;

(b) by adding the following new subsection immediately after subsection (3) —

“(4) Every Bunkers 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 163A, 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.”.

31. Section 178 amended — Limitation of liability under section 164

Section 178 is amended as follows —

(a) in the heading by inserting “163A or” immediately after “section”; and

(b) by omitting “section 164” and replacing it with “section 163A or 164”.

32. Section 180 amended — Interpretation

Section 180(3) is amended by inserting “or a Supplementary Fund Protocol country (as the case may be)” immediately after “Fund Convention country”.

33. Section 181 amended — Meaning of the “Liability Convention”, “the Fund Convention” and related expressions

Section 181 is amended as follows —

(a) in subsection (1) by inserting the following definitions in their correct alphabetical order—

“**the Supplementary Fund**” means the International Supplementary Fund established by the Supplementary Fund Protocol;

“**Supplementary Fund Protocol country**” means a country in respect of which the Supplementary Fund Protocol is in force; and

“**the Supplementary Fund Protocol**” means the Protocol of 2003 to the Fund Convention; and

(b) by adding the following subsection immediately after subsection (2) —

“(3) Subsection (2) applies in relation to the Supplementary Fund Protocol in the same way it applies to the Fund Convention.”.

34. Section 182 amended — Contributions by importers of oil and others

Section 182 is amended as follows —

(a) in subsection (1) by inserting “and to the Supplementary Fund” immediately after “the Fund”;

(b) by omitting subsection (3) and replacing it with the following —

“(3) Contributions are also payable —

(a) 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; and

(b) to the Supplementary 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 Supplementary Fund Protocol country.”;

(c) in subsection (7) —

(i) by omitting paragraph (a) and replacing it with the following —

“(a) be of such amount as may be determined —

(i) in the case of contributions to the Fund, by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;

(ii) in the case of contributions to the Supplementary Fund, by the Director of the Supplementary Fund under Article 11 of the Supplementary Fund Protocol and notified to that person by the Supplementary Fund;”;

(ii) in paragraph (b) by inserting “or the Assembly of the Supplementary Fund (*as the case may be*)” immediately after “Assembly of the Fund”.

35. Section 183 amended — Power to obtain information

Section 183 is amended as follows —

(a) by inserting “or the Supplementary Fund” immediately after each reference to “the Fund” wherever it appears in subsection (1);

(b) in subsection (4) —

(i) by inserting “or the Supplementary Fund” immediately after the first reference to “the Fund”; and

(ii) by omitting the second reference to “the Fund” and replacing it with “either of those Funds”.

36. Addition of sections 184A and 184B

The following sections are added immediately after section 184 —

“184A. Liability of the Supplementary Fund

(1) The Supplementary Fund is liable for pollution damage in the territory of the Falkland Islands in accordance with the Supplementary Fund Protocol in the circumstances mentioned in paragraph 1 of Article 4 of that Protocol (cases where full compensation cannot be obtained because of the limit imposed by paragraph 4 of Article 4 of the Fund Convention).

(2) Subsection (1) applies with the substitution for the words “the Falkland Islands” by the words “a Supplementary Fund Protocol country” where the incident has caused pollution damage in the territory of the Falkland Islands and of another Supplementary Fund Protocol country, and proceedings under the Liability Convention or the Fund Convention for

compensation for the pollution damage have been brought in a country which is not a Supplementary Fund Protocol country or in the Falkland Islands.

(3) Nothing in this section applies to pollution damage resulting from an incident if —

(a) in the case of a single occurrence, it took place before the day on which the Supplementary Fund Protocol enters into force as respects the Falkland Islands; or

(b) in the case of a series of occurrences having the same origin, the first of those occurrences took place before that day.

(4) The text of paragraph 1 of Article 4 of the Supplementary Fund Protocol is set out in Schedule 2A.

[Merchant Shipping Act 1995 (UK), s. 176A]

184B. Limitation of the Supplementary Fund's liability under section 184A

(1) The Supplementary Fund's liability under section 184A is subject to —

(a) paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (which impose an overall limit on the liabilities of the Supplementary Fund); and

(b) paragraphs 2 and 3 of Article 15 of the Supplementary Fund Protocol (which prevent the Supplementary Fund from paying compensation temporarily and permanently where obligations to communicate information to the Director under paragraph 1 of Article 13 and paragraph 1 of Article 15 have not been met).

(2) For the purpose of giving effect to paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol, a court giving judgment against the Supplementary Fund in proceedings under section 184A must notify the Supplementary Fund, and —

(a) no steps are to 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 Supplementary 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.

(3) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (2) 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 will 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 date, namely the date referred to in paragraph 2(b) of Article 4 of the Supplementary Fund Protocol, or

(ii) if no sum has been so fixed for the relevant date, the last day before that date 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 date, or

(ii) that no sum has been so fixed for the relevant date 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 date,

is conclusive evidence of those matters for the purposes of this Chapter.

(4) Any document purporting to be such a certificate as is mentioned in subsection (3)(b) must, in any legal proceedings, be received in evidence and, unless the contrary is proved, is deemed to be such a certificate.

(5) The text of paragraphs 1, 2 and 3 of Article 4, paragraph 1 of Article 13 and paragraphs 1, 2 and 3 of Article 15 of the Supplementary Fund Protocol is set out in Schedule 2A. [*Merchant Shipping Act 1995 (UK), s. 176B*].

37. Section 186 amended — Jurisdiction and effect of judgments

Section 186 is amended as follows —

(a) by omitting subsection (1) and replacing it with the following —

“(1) Where in accordance with rules of court made for the purposes of this subsection, the Fund or the Supplementary Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 163 —

(a) the notice is deemed to have been given to the Supplementary Fund as well; and

(b) any judgment given in the proceedings must, after it has become final and enforceable, become binding on the Fund and the Supplementary Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund or the Supplementary Fund even if it has not intervened in the proceedings.”;

(b) by omitting subsections (3) and (4) and replacing them with the following —

“(3) Subject to subsections (4) and (5), the Foreign Judgments (Reciprocal Enforcement) Ordinance 1959 applies, whether or not it would so apply apart from this subsection, to—

(a) 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

(b) any judgment given by a court in a Supplementary Fund Protocol country to enforce a claim in respect of liability incurred under any provision corresponding to section 184A,

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 must 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 that leave cannot be given unless and until —

(a) in the case of a judgment within subsection (3)(a), the Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 4 and 5 of Article 4 of the Fund Convention (as set out in Part 1 of Schedule 2) or that it is to be reduced to a specified amount; or

(b) in the case of a judgment within subsection (3)(b), the Supplementary Fund notifies the court either that the amount of the claim is not to be reduced under paragraphs 2 and 3 of Article 4 of the Supplementary Fund Protocol (as set out in Schedule 2A) or that it is to be reduced to a specified amount.”; and

(c) by adding the following subsection immediately after subsection (4) —

“(5) Where the court is notified that a claim is to be reduced to a specified amount, the judgment is enforceable only for the reduced amount.”.

38. Section 187 amended — Extinguishment of claims

Section 187 is amended by adding the following subsections immediately after subsection

(3) —

“(4) Subsections (1) and (2) apply to claims against the Supplementary Fund as they apply in relation to claims against the Fund (with the substitution for the reference to the Fund in subsection (1)(b) by a reference to the Supplementary Fund).

(5) For the purposes of this section —

(a) a person who commences an action to enforce a claim against the Fund in relation to any damage is deemed to have also commenced an action to enforce any claim he or she may have against the Supplementary Fund in relation to that damage; and

(b) a person who gives a third party notice to the Fund in relation to any damage as mentioned in subsection (1)(b) is deemed to have also given a notice to the Supplementary Fund in respect of that damage.”.

39. Section 188 amended — Subrogation

Section 188 is amended as follows —

(a) by inserting the following subsection immediately after subsection (1) —

“(1A) In respect of any sum paid by the Supplementary Fund as compensation for pollution damage the Supplementary 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.”;

(b) in subsection (2) by inserting “or the Supplementary Fund” immediately after “the Fund”.

40. Section 189 amended — Supplementary provisions as to proceedings involving the Fund

Section 189 is amended by adding the following subsection immediately after subsection (2) —

“(3) Subsections (1) and (2) apply in relation to the Supplementary Fund in the same way they apply to the Fund (with the substitution for references to the Director, any organ or an official of the Fund by references to the Director, any organ or an official of the Supplementary Fund).”.

41. Section 307 amended — Regulations, rules and orders, etc.

Section 307(1)(c) is amended by omitting “308” and replacing it with “306”.

42. Addition of section 307A

The following section is added immediately after section 307 —

“307A. Issue of mandatory and general guidance

(1) The Governor may —

(a) issue, or delegate to the Authority the issue of, mandatory guidance in the form of Merchant Shipping Notices which is equivalent to, or based on, United Kingdom Merchant Shipping Notices relevant to the provisions of this Ordinance or any regulations made under it; or

(b) adopt, or delegate to the Authority the adoption of, any United Kingdom Merchant Shipping Notices relevant to the provisions of this Ordinance or any regulations made under it as if those United Kingdom Merchant Shipping Notices were issued by the Governor or the Authority.

(2) The Governor may —

(a) issue, or delegate to the Authority, the issuing of general guidance which is equivalent to, or based on, United Kingdom Marine Guidance Notices or United Kingdom Marine Information Notices relevant to the provisions of this Ordinance or any regulations made under it, or

(b) adopt, or delegate to the Authority the adoption of, any United Kingdom Marine Guidance Notices or United Kingdom Marine Information Notices relevant to the provisions of this Ordinance or any regulations made under it as if those United Kingdom Marine Guidance Notices or Marine Information Notices were issued by the Governor or the Authority.

(3) The Governor must cause any mandatory or general guidance issued under this section to be marked with the distinguishing mark of the Authority.

(4) The power to issue any mandatory or general guidance under this section includes power to vary or revoke that guidance.

(5) Any United Kingdom Merchant Shipping Notices, United Kingdom Marine Guidance Notices or United Kingdom Marine Information Notices adopted under this section may be amended or varied with such modifications as may be necessary, or revoked.

(6) Any mandatory or general guidance issued under this section must be published.”.

43. Addition of section 308A

The following section is added immediately after section 308 —

“308A. Power to make ambulatory references to international instruments

(1) This section applies where —

(a) a person has power under this Ordinance to make subsidiary legislation; and

(b) the person proposes to exercise that power to make subsidiary legislation which refers to an international instrument.

(2) The power may be exercised so as to have the effect that the reference to the international instrument is construed —

(a) as a reference to the international instrument as modified from time to time;

(b) if the international instrument is replaced by another instrument, as a reference to that other instrument.

(3) For the purposes of subsection (2)(a), an international instrument is modified if —

(a) omissions, additions or other alterations to the text of the instrument take effect; or

(b) supplementary provision made under the instrument takes effect.

(4) In this section, provision included in subsidiary legislation by virtue of subsection (2) is referred to as ambulatory provision.

(5) Subsidiary legislation which makes ambulatory provision may make provision as to —

(a) when a modification of an international instrument is to be treated as taking effect for the purposes of subsection (2)(a) (read with subsection (3));

(b) when an international instrument is to be treated as having been replaced by another instrument for the purposes of subsection (2)(b).

(6) In this section —

(a) “**international instrument**” means an international convention or treaty or an instrument made under such a convention or treaty;

(b) “**subsidiary legislation**” has the same meaning as in the Interpretation and General Clauses Ordinance 1977.

[Merchant Shipping Ordinance 1995 (UK), s. 306A]”.

44. Section 309 amended — Forms

Section 309(6) is omitted and replaced with the following

“(6) The foregoing provisions do not apply where special provision is made by this Ordinance and in particular to forms approved by the Registrar under section 15(3)(h)(i).”.

45. Section 310 amended — Repeals and savings

Section 310 is repealed and replaced with the following —

“310. Repeals and savings

(1) The Ordinances and subsidiary legislation listed in Part A of Schedule 10 are repealed.

(2) A UK Act listed in Part B of Schedule 10 (being a UK Act that applies in the Falkland Islands by its own force or by virtue of an Order made by Her Majesty the Queen in Council) will no longer have force in the Falkland Islands on commencement of a UK enactment which provides that the UK Act no longer extends to the Falkland Islands.

(3) A UK statutory instrument listed in Part C of Schedule 10 (being a UK statutory instrument that applies in the Falkland Islands by its own force or by virtue of an Order made by Her Majesty the Queen in Council) will no longer have force in the Falkland Islands on commencement of a UK enactment which provides that the UK statutory instrument no longer extends to the Falkland Islands.

(4) Any subsidiary legislation made under a repealed Ordinance, and which could have been made under a corresponding provision of this Ordinance, continues in force as if made under this Ordinance, in so far as it is not inconsistent with this Ordinance, until replaced under this Ordinance.

(5) Subject to subsection (3), any subsidiary legislation made in the Falkland Islands under a UK Act listed in Part B of Schedule 10, and which could have been made under a corresponding provision of this Ordinance, continues in force as if made under this Ordinance, in so far as it is not inconsistent with this Ordinance, until replaced under this Ordinance.

(6) Subject to subsection (3), any UK statutory instrument made under a UK Act listed in Part B of Schedule 10, and which applies in the Falkland Islands by its own force or by virtue of an Order made by Her Majesty the Queen in Council, continues in force until the commencement of a UK enactment which provides that the instrument no longer extends to the Falkland Islands.

(7) If there is no corresponding provision of this Ordinance under which any item of subsidiary legislation referred to in subsection (4) or (5) could be made, the item is repealed, except that it continues to have effect in relation to proceedings that had commenced before the repeal.

(8) Any reference to the registration, in the Falkland Islands, of a ship or fishing vessel made under —

(a) any UK Act or any UK statutory instrument listed in Part B or C of Schedule 10;

(b) any Ordinance or subsidiary legislation listed in Part A of Schedule 10;

(c) any UK Act or any UK statutory instrument not amended by Schedule 10; or

(d) any Ordinance or subsidiary legislation not amended by Schedule 10,

must be construed and continues to have effect (unless the context otherwise requires), as, or as including, a reference to registration under Part 3 of this Ordinance; and connected phrases must be construed accordingly.”.

46. Global amendments relating to Government ships

The Ordinance is amended as follows —

(a) in the Arrangement of sections —

(i) by omitting “160. Application to Government ships” and replacing it with “160. Application to United Kingdom Government ships”;

(ii) by omitting “177. Government ships” and replacing it with “177. United Kingdom Government ships, Falkland Islands Government ships and other government ships”;

(iii) by omitting “304. Application of Ordinance to government ships” and replacing it with “304. Application of Ordinance to United Kingdom Government ships”;

(b) in section 7(2) by omitting “Government ships” and replacing it with “United Kingdom Government ships and Falkland Islands Government ships”;

(c) in section 160 by omitting “Government ships” and replacing it with “United Kingdom Government ships”;

(d) in section 173 by omitting “Government ships” and replacing it with “United Kingdom Government ships”;

(e) in section 304 by omitting subsections (2) and (3) and replacing them as follows —

“(2) Part 2 of this Ordinance applies to United Kingdom Government ships where an Order in Council has been made under section 308 of the Act specifying the registration of United Kingdom 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 United Kingdom Government ships.

(3) In this section “United Kingdom Government ships” has the same meaning given to it in section 5(4)”; and

(f) in section 305(1)(b) by omitting “Government ships” and replacing it with “United Kingdom Government ships”.

47. Schedule added — Schedule 2A

The following Schedule is inserted immediately after Schedule 2 —

“SCHEDULE 2A
(sections 184A(4), 184B(5) and 186(4)(b))

(SCHEDULE 5ZA to the 1995 Act)

TEXT OF SUPPLEMENTARY FUND LIABILITY

Article 4 — paragraphs 1, 2 and 3

1. The Supplementary Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for an established claim for such damage under the terms of the 1992 Fund Convention, because the total damage exceeds, or there is a risk that it will exceed, the applicable limit of

compensation laid down in article 4, paragraph 4, of the 1992 Fund Convention in respect of any one incident.

2.—(a) The aggregate amount of compensation payable by the Supplementary Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount together with the amount of compensation actually paid under the 1992 Liability Convention and the 1992 Fund Convention within the scope of application of this Protocol shall not exceed 750 million units of account.

(b) The amount of 750 million units of account mentioned in paragraph 2(a) 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 determined by the Assembly of the 1992 Fund for conversion of the maximum amount payable under the 1992 Liability and 1992 Fund Conventions.

3. Where the amount of established claims against the Supplementary Fund exceeds the aggregate amount of compensation payable under paragraph 2, 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 Protocol shall be the same for all claimants.

Article 13 — paragraph 1

1. Contracting States shall communicate to the Director of the Supplementary Fund information on oil receipts in accordance with article 15 of the 1992 Fund Convention provided, however, that communications made to the Director of the 1992 Fund under article 15, paragraph 2, of the 1992 Fund Convention shall be deemed to have been made also under this Protocol.

Article 15 — paragraphs 1, 2 and 3

1. If in a Contracting State there is no person meeting the conditions of article 10, that Contracting State shall for the purposes of this Protocol inform the Director of the Supplementary Fund thereof.

2. No compensation shall be paid by the Supplementary Fund for pollution damage in the territory, territorial sea or exclusive economic zone or area determined in accordance with article 3(a)(ii), of this Protocol, of a Contracting State in respect of a given incident or for preventive measures, wherever taken, to prevent or minimize such damage, until the obligations to communicate to the Director of the Supplementary Fund according to article 13, paragraph 1 and paragraph 1 of this article have been complied with in respect of that Contracting State for all years prior to the occurrence of that incident. The Assembly shall determine in the Internal Regulations the circumstances under which a Contracting State shall be considered as having failed to comply with its obligations.

3. Where compensation has been denied temporarily in accordance with paragraph 2, compensation shall be denied permanently in respect of that incident if the obligations to communicate to the Director of the Supplementary Fund under article 13, paragraph 1 and paragraph 1 of this article, have not been complied with within one year after the Director of the Supplementary Fund has notified the Contracting State of its failure to report.”

48. Schedule 5 amended

(1) The heading to Schedule 5 is amended by inserting “Part I” immediately before “Text of LLMC”;

(2) The text of the Convention as set out under Part I of Schedule 5 is amended as follows —

(a) by omitting paragraph 1 of Article 6 (the general limits) and replacing it with the following —

“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) 3.02 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, 1,208 Units of Account;

for each ton from 30,001 to 70,000 tons, 906 Units of Account; and

for each ton in excess of 70,000 tons, 604 Units of Account,

(b) in respect of any other claims,

(i) 1.51 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, 604 Units of Account;

for each ton from 30,001 to 70,000 tons, 453 Units of Account; and

for each ton in excess of 70,000 tons, 302 Units of Account.”;

(b) by adding the following new paragraph immediately after paragraph 5 of Article 6 —

“6. The references in paragraph 1 to relevant limits in this Convention have effect as follows —

(a) the references to the relevant limits are to be construed as references to those limits as modified from time to time pursuant to Article 8 of the 1996 Protocol;

(b) a modification of a reference to a relevant limit by virtue of paragraph (a) has effect at the time that the modification of that limit pursuant to Article 8 of the 1996 Protocol comes into force in accordance with paragraph 8 of that Article;

(c) no modification of a reference to a relevant limit by virtue of paragraph (a) affects any rights or liabilities arising out of an occurrence which took place before the day on which the modification has effect;

(d) paragraph (a) does not apply to a modification pursuant to Article 8 of the 1996 Protocol which reduces a relevant limit.”;

(c) by adding the following Part immediately after Part I —

“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.

Right to limit liability

2. Subject to paragraph 6 below, the right to limit liability under the Convention applies in relation to any ship whether seagoing or not, and the definition of “shipowner” in paragraph 2 of article 1 must be construed accordingly.

Paragraph 1(a) of article 2 has effect as if the reference to “loss of life or personal injury” did not include a reference to loss of life or personal injury to passengers of seagoing ships.

Claims subject to limitation

3. (1) Paragraph 1(d) of article 2 does not apply unless provision has been made by an order of the Governor for the setting up and management of a fund to be used for the making to the Authority of payments needed to compensate the Authority for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by the Authority in claims of the kind mentioned there, and to be maintained by contributions from the Authority raised and collected by it in respect of vessels in like manner as other sums so raised by it.

(2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to the Governor to be necessary or expedient.

Claims excluded from limitation

4. (1) Claims for Damages 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 any amendment of or Protocol to the Convention, which arise from occurrences which take place after the coming into force of the first Order in Council made by Her Majesty under section 182B of the Act are excluded from the Convention.

(2) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 163 of this Ordinance.

(3) The claims excluded from the Convention by paragraph (c) of article 3 are claims made by virtue of any of sections 7 to 11 of the Nuclear Installations Act 1965 (*in its application to the Falkland Islands*).

The general limits

5.(1) In the application of article 6 to a ship with a tonnage less than 300 tons that article has effect as if —

(a) paragraph 1(a)(i) referred to 1,000,000 Units of Account; and

(b) paragraph 1(b)(i) referred to 500,000 Units of Account.

(2) For the purposes of article 6 and this paragraph a ship's tonnage is its gross tonnage calculated in such manner as may be prescribed by an order made by the Governor.

(3) Any order under this paragraph must, so far as appears to the Governor to be practicable, give effect to the regulations in Annex I of the International Convention on Tonnage Measurement of Ships 1969.

Limit for passenger claims

6. Article 7 does not apply in respect of any sea going ship and has effect in respect of any ship which is not as if in paragraph 1 of that article.

In paragraph 2 of article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under the Fatal Accidents Act 1976 (*in its application to the Falkland Islands*).

Units of Account

7. (1) For the purpose of converting the amounts mentioned in articles 6 and 7 from special drawing rights into sterling one special drawing right will be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for —

(a) the relevant date under paragraph 1 of article 8; or

(b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Financial Secretary stating —

(a) that a particular sum in sterling has been fixed as mentioned in sub-paragraph (1) above for a particular date; or

(b) that no sum has been so fixed for that date and that a particular sum in sterling has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

will be conclusive evidence of those matters for the purposes of those articles; and a document purporting to be such a certificate must, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

Constitution of fund

8. (1) The Governor may, with the concurrence of the Financial Secretary, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of article 11.

(2) Any statutory instrument containing an order under sub-paragraph (1) above must be laid before the Legislative Assembly after being made.

(3) Where a fund is constituted with the court in accordance with article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

Distribution of fund

9. No lien or other right in respect of any ship or property will affect the proportions in which under article 12 the fund is distributed among several claimants.

Bar to other actions

10. Where the release of a ship or other property is ordered under paragraph 2 of article 13 the person on whose application it is ordered to be released will be deemed to have submitted to the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

Meaning of “court”

11. References in the Convention and the preceding provisions of this Part of this Schedule to the court are references to the Supreme Court.

Meaning of “ship”

12. References in the Convention and in the preceding provisions of this Part of this Schedule (*paragraphs 1 to 11*) to a ship include references to any structure (whether

completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

Meaning of “State Party”

An Order in Council made under the Act for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention as amended by the 1996 Protocol, subject to the provisions of any subsequent Order made for those purposes, will be conclusive evidence that the State is a party to the Convention as amended by the 1996 Protocol.

49. Schedule 10 amended

Schedule 10 is amended as follows —

(a) in Part B by inserting the following in their correct chronological order —

Chapter or number	Title
Chapter 32 of 1900	Merchant Shipping (Liability of Shipowners and Others) Act 1900
Chapter 62 of 1958	Merchant Shipping Act 1958

(b) by omitting Part C and replacing it with the following —

“Part C
(Section 310(3))

UK Statutory Instruments

Number	Title
SR & O 1935/837	Merchant Shipping (Helm Order) Order 1935
SI 1963/1631	Merchant Shipping (Registration of Colonial Government Ships) Order 1963
SI 1963/1632	Shipowners’ Liability (Colonial Territories) Order 1963
SI 1971/383	Merchant Shipping (Tonnage) (Overseas Territories) Order 1971
SI 1981/424	Merchant Shipping Act 1979 (Falkland Islands) (Amendment) Order 1981
SI 1980/1093	Merchant Shipping (Prevention of Pollution)(Intervention) Order 1980
SI 1980/1513	Merchant Shipping Act 1979 (Falkland Islands) Order 1980
SI 1982/841	Merchant Shipping (Tonnage) Regulations 1982
SI 1982/1664	Carriage of Goods by Sea (Overseas Territories) Order 1982
SI 1982/1666	Merchant Shipping (Prevention of Pollution)(Intervention) (Overseas Territories) Order 1982

SI 1982/1669	Prevention of Oil Pollution (Shipping Casualties) (Overseas Territories) Order 1982
SI 1982/1668	Prevention of Oil Pollution Act 1971 (Overseas Territories) Order 1982
SI 1983/708	Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1983
SI 1983/762	Merchant Shipping (Distress Signals and Prevention of Collisions) (Overseas Territories) Order 1983
SI 1987/1827	Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1987
SI 1988/1084	Environment 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 1989/1798	Merchant Shipping (Distress Signals and Prevention of Collision) Regulations 1989
SI 1989/2400	Merchant Shipping Act 1979 (Overseas Territories) Order 1989
SI 1989/845	Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1989
SI 1992/1717	Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1992
SI 1993/1786	Merchant Shipping Act 1979 (Overseas Territories) (Amendment) Order 1993
SI 1997/1748	Environment Protection (Overseas Territories) (Amendment) Order 1997
SI 1997/2578	Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997
SI 1997/2586	Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997
SI 1997/2584	Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997
SI 2003/1877	Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2003
SI 2003/2559	The Merchant Shipping (Oil Pollution Compensation Limits) Order 2003.”.

Part 3 — Amendment of Law Revision and Publication Ordinance 2017

50. Amendment of Law Revision and Publication Ordinance 2017

This Part amends the Law Revision and Publication Ordinance 2017.

51. Schedule 1 amended

(1) Schedule 1 is amended as follows —

(a) in Part 1 Primary Legislation by omitting the entry relating to Merchant Shipping Act 1995 in its entirety;

(b) in Part 2 Secondary Legislation —

(i) by omitting the following entry and its corresponding columns from the Table —

“Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1998 (SI 1998/1377)”;

(ii) in the entry “Merchant Shipping (Prevention of Oil Pollution) Regulations, (SI 2019/42), in column 2, by omitting “Whole Regulations” and replacing it with “Whole Regulations except regulation 34”; and

(iii) by adding the following in their correct alphabetical order —

“

<i>Column 1 Instrument</i>		<i>Column 2 Provisions Applying to the Falkland Islands</i>	<i>Column 3 Exclusions, modifications and other qualifications</i>
Merchant Shipping (Carriage of Cargoes) Regulations (SI 1999/336)	1999	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Fire Protection: Large Ships) Regulations (SI 1998/1012)	1998	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Fire Protection: Small Ships) Regulations (SI 1998/1011)	1998	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Load Line Convention) (Amendments) Regulations (SI 2018/155)	2018	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Passenger Ship Construction: Ships of	1998	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant

<i>Column 1 Instrument</i>		<i>Column 2 Provisions Applying to the Falkland Islands</i>	<i>Column 3 Exclusions, modifications and other qualifications</i>
Classes III to VI(A) Regulations (SI 1998/2515)			Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Prevention of Air Pollution from Ships) Regulations (SI 2008/2924)	2008	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Prevention of Pollution by Sewage and Garbage) Regulations (SI 2008/3257)	2008	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations (SI 2018/68)	2018	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Registration of Fishing Vessels) Regulations (SI 1988/1926)	1988	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Registration of Fishing Vessels' Names) Regulations (SI 1988/2003)	1988	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Ships' Names) Regulations (SI 1979/341)	1979	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations (SI 2015/782)	2015	Whole Regulations	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. 2. The power of the Secretary of State under the Regulations to issue, vary, amend, cancel,

<i>Column 1 Instrument</i>		<i>Column 2 Provisions Applying to the Falkland Islands</i>	<i>Column 3 Exclusions, modifications and other qualifications</i>
			<p>or recognise a certificate, or to grant an exemption in relation to a certificate, may be exercised by the Governor or by a public officer, department or body to whom the Governor may delegate that power, or by a certifying authority, but the following documents are to be treated as satisfying these Regulations –</p> <p>(a) a certificate held by a seafarer employed or engaged on a Falkland Islands registered ship, which was issued by the Secretary of State under these Regulations as they apply in the United Kingdom;</p> <p>(b) a safe manning document held by a Falkland Islands registered ship, which was issued by the Secretary of State under these Regulations as they apply in the United Kingdom.</p> <p>3. For the purposes of paragraph 2 –</p> <p>(a) “seafarer” and “Falkland Islands registered ship” have the same meaning as they have under the Maritime Ordinance 2017;</p> <p>(b) “certifying authority” means the Falkland Islands maritime authority designated under the Harbours and Ports Ordinance 2017, or a person or organisation with whom the Governor has entered into an</p>

<i>Column 1 Instrument</i>		<i>Column 2 Provisions Applying to the Falkland Islands</i>	<i>Column 3 Exclusions, modifications and other qualifications</i>
			agreement authorising them (or specified employees, agents or contractors of the person or organisation) to exercise a power to issue, vary, amend, cancel, or recognise a certificate, or to grant an exemption in relation to a certificate.
Merchant Shipping and Fishing Vessels (Medical Stores) Regulations (SI 1995/1802)	1995	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations (SI 2003/1809)	2003	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.
Merchant Shipping (Survey and Certification) Regulations (SI 2015/508)	2015	Whole Regulations	The Regulations are subject to the modifications specified in Schedule 2 of the Merchant Shipping (Adoption of Legislation) Ordinance 1992.”.

(2) Subsection (1)(b) has effect as follows —

(a) the Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations (SI 2018/68) are deemed to have effect from 12 March 2018;

(b) the Merchant Shipping (Load Line Convention)(Amendments) Regulations (SI 2018/155) are deemed to have effect from 9 March 2018; and

(c) the amendment of the entry in relation to the Merchant Shipping (Prevention of Pollution) Regulations (SI 2019/42) comes into force on the day on which the Maritime (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 2019 come into force; and

(d) the rest of subsection (1)(b) is deemed to have effect from 31 July 2017.

**PART 4 — REPEAL OF MERCHANT SHIPPING (ADOPTION OF LEGISLATION)
(AMENDMENT) ORDINANCE 2017**

52. Repeal of Merchant Shipping (Adoption of Legislation (Amendment) Ordinance 2017

The Merchant Shipping (Adoption of Legislation) (Amendment) Ordinance 2017 is repealed.

Passed by the Legislature of the Falkland Islands on 29 August 2019.

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.

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The following is published in this Supplement —

Maritime Labour Ordinance 2019 (No 15 of 2019).

ELIZABETH II



FALKLAND ISLANDS

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

Maritime Labour Ordinance 2019

(No: 15 of 2019)

ARRANGEMENT OF PROVISIONS

Section

PART 1 – INTRODUCTORY

1. Title
2. Commencement
3. Interpretation
4. Application
5. Exemption of ships

PART 2 – CONDITIONS OF EMPLOYMENT AND ENGAGEMENT OF SEAFARERS

Seafarers' employment agreements and crew agreements

6. Seafarers' employment agreements
7. Crew agreements
8. Regulations relating to crew agreements
9. Discharge of seafarers
10. Seafarers left behind abroad otherwise than on discharge
11. Discharge of seafarers when ship ceases to be registered in the Falkland Islands

Wages etc

12. Payment of seafarers' wages under seafarers' employment agreements
13. Payment of seafarers' wages under crew agreements
14. Account of seafarers' wages
15. Regulations relating to wages and accounts
16. Disputes about wages
17. Restriction on assignment of, and charge upon, wages

18. Power of court to award interest on wages due otherwise than under a seafarers' employment agreement or crew agreement
19. Allotment notes
20. Right of person named in allotment to sue in own name
21. Right, or loss of right, to wages in certain circumstances
22. Protection of certain rights and remedies
23. Claims against seafarer's wages for maintenance, etc. of dependants
24. Remedies of master for remuneration, disbursements and liabilities

Health, safety and welfare

25. Minimum age for employment or engagement
26. Obligation of shipowners as to seaworthiness
27. General measures for the health, safety and welfare of seafarers
28. Crew accommodation
29. Provision of food or drinking water
30. Costs of medical and other treatment during voyage

Repatriation and relief

31. Relief and return of seafarer etc. left behind and shipwrecked: MLC ships
32. Relief and return of seafarer etc. left behind and shipwrecked: non-MLC Falkland Islands ships
33. Limit of liability under section 32
34. Recovery of expenses incurred for relief and return, etc.
35. Financial assistance in respect of crew relief costs

PART 3 – MANNING, QUALIFICATIONS, TRAINING AND UNIFORM

Manning

36. Application of sections 37 to 41
37. Manning
38. Power to exempt from manning requirements
39. Prohibition of going to sea undermanned
40. Production of certificates and other documents of qualification
41. Crew's knowledge of English
42. Unqualified persons going to sea as qualified officers or seafarers
43. Medical treatment on board ship
44. Special certificates of competence

Financial assistance for training

45. Financial assistance for training

Uniform

46. Uniform

PART 4 – CONDUCT OF SEAFARERS

Offences by seafarers etc

47. Conduct endangering ships, structures or individuals
48. Concerted disobedience and neglect of duty

Disciplinary offences

49. Breaches by seafarers of codes of conduct
50. Inquiry into fitness or conduct of officer
51. Disqualification of holder of certificate other than officer
52. Inquiry into fitness or conduct of seafarer other than officer
53. Re-hearing of, and appeal from, inquiries
54. Rules as to inquiries and appeals
55. Failure to deliver cancelled or suspended certificate
56. Power to restore certificate
57. Power to summon witness to inquiry into fitness or conduct of officer or other seafarer

Civil liability of seafarers for offences

58. Civil liability for absence without leave
59. Civil liability for smuggling
60. Civil liability for fines imposed under immigration laws

PART 5 – DOCUMENTATION

61. Official log books
62. Lists of crew
63. Falkland Islands seafarers' cards
64. Discharge books
65. Handing over of documents by master

PART 6 – GENERAL PROVISIONS

Application of Ordinance to certain descriptions of ships etc

66. Application of Ordinance to ships not registered in the Falkland Islands
67. Application of Ordinance to government ships
68. Application of Ordinance to ships chartered by demise to the Crown
69. Application of Ordinance to certain structures, etc.

Subordinate legislation

70. Regulations to give effect to the MLC
71. Regulations - general provision
72. Regulations, rules and orders, etc.
73. Forms
74. Power of the Authority to issue codes and guidance relating to maritime labour matters

Final provisions

75. Transitional provisions

ELIZABETH II



FALKLAND ISLANDS

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

MARITIME LABOUR ORDINANCE 2019

(No: 15 of 2019)

(assented to: 18 September 2019)
(commencement: in accordance with section 2)
(published: 25 September 2019)

AN ORDINANCE

To make provision in relation to the crewing of ships and the conditions and rights of seafarers; to give effect to the Maritime Labour Convention, 2006, and to provide generally for connected matters.

ENACTED by the Legislature of the Falkland Islands —

PART 1 – INTRODUCTORY

1. Title

This Ordinance is the Maritime Labour Ordinance 2019.

2. Commencement

This Ordinance comes into force on a date appointed by the Governor by notice in the *Gazette* except where it is provided that particular provisions come into force on a different date.

3. Interpretation

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

“**Authority**” means the Falkland Islands Maritime Authority, as designated by the Governor under section 4(1) of the Harbours and Ports Ordinance 2017;

“**crew agreement**” has the meaning given to it by section 7(1);

“**employed**” means employed under a contract of employment, and “employer”, “employee” and “employment” are to be construed accordingly;

“**engaged**” has the meaning given to it by subsection (7);

“**Falkland Islands ship**” means a ship registered in the Falkland Islands in accordance with —

- (a) Part 3 of the Maritime Ordinance 2017;
- (b) the Merchant Shipping Ordinance 2001; or
- (c) Part I of the Merchant Shipping Act 1894;

and, except where otherwise expressly provided, includes both an MLC Falkland Islands ship and a non-MLC Falkland Islands ship;

“**Falkland Islands waters**” has the same meaning given to it in section 2(1) of the Maritime Ordinance 2017;

“**gross tonnage**” means gross tonnage as determined under the Merchant Shipping (Tonnage) Regulations 1997 (SI 1997/1510), as applied by the Law Revision and Publication Ordinance 2017;

“**hours of rest**” means time outside hours of work and does not include short breaks;

“**hours of work**” means time during which a seafarer is required to do work on a ship;

“**international instrument**” means an international convention or treaty, or an instrument made under such a convention or treaty;

“**MLC**” means the Maritime Labour Convention, 2006 (and includes any amendments to the Convention made or to be made in accordance with Article XIV of the Convention), adopted by the International Labour Organisation at Geneva on 23rd February 2006, and includes the Regulations and the Standards in Part A of the MLC Code;

“**MLC Code**” and “**MLC Regulations**” mean respectively the Code and Regulations which are contained within the MLC;

“**MLC Falkland Islands ship**” means a Falkland Islands ship which is an MLC ship;

“**MLC ship**” means a sea-going ship other than a non-MLC ship;

“**master**” includes every person (except a pilot), having command or charge of a ship;

“**medical practitioner**” means a person who —

(a) is a duly qualified medical practitioner under the Medical Practitioners, Midwives and Dentists Ordinance 1914; or

(b) if not duly qualified under that Ordinance, holds a licence, degree, or diploma which would entitle that person to be registered as a medical practitioner by the General Medical Council in the United Kingdom;

“**non-MLC Falkland Islands ship**” means a Falkland Islands ship which is a non-MLC ship;

“**non-MLC ship**” means a sea-going ship which is —

(a) a ship of traditional build; or

(b) a pleasure vessel or other vessel not ordinarily engaged in commercial activities;

“**pleasure vessel**” means —

(a) any vessel which at the time it is being used is —

(i) in the case of a vessel wholly owned by —

(aa) an individual or individuals, used only for the sport or pleasure of the shipowner or the immediate family or friends of the shipowner; or

(bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the shipowner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in paragraph (a) or (b), no other payments are made by or on behalf of users of the vessel, other than by the shipowner; and in this definition “**immediate family**” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual’s spouse or civil partner; and “**relative**” means brother, sister, ancestor or lineal descendant;

“**proper officer**” has the same meaning given to it in section 2(1) of the Maritime Ordinance 2017;

“**Registrar**” and “**Registrar General of Shipping and Seamen**” have the same meanings given to them in section 2(1) of the Maritime Ordinance 2017;

“**requirements of the MLC**” refers to the requirements in the Articles, the MLC Regulations and Part A of the MLC Code;

“**seafarer**” means any person, including the master, who is employed or engaged or works in any capacity on board a ship, but does not include —

- (a) a pilot;
- (b) a port worker; or
- (c) a person temporarily employed or engaged in the ship during the period it is in port;

“**seafarers’ employment agreement**” means a written contract of employment and written articles of agreement made in accordance with section 6 (seafarers’ employment agreements) between a person employed or engaged as a seafarer on a ship and the person employing that person;

“**sea-going**”, in relation to a ship, means a ship which navigates in waters other than —

- (a) internal waters; or
- (b) waters where port regulations apply,

and “**internal waters**” for these purposes means those waters which lie landward of the baseline from which the territorial sea of the Falkland Islands is measured;

“**ship of traditional build**” means a wooden ship of primitive build such as a dhow or junk;

“**ship’s boat**” includes a life-raft;

“**shipowner**”, in relation to a ship, means the owner or any other person (such as the ship manager, agent or bareboat charterer) who has assumed responsibility for the operation of the ship on behalf of the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the MLC, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner; and

“**superintendent**” has the same meaning given to it in section 2(1) of the Maritime Ordinance 2017.

- (2) For the purposes of this Ordinance —
- (a) a seafarer is discharged from a ship when the seafarer’s employment or engagement in that ship is terminated;
 - (b) a seafarer discharged from a ship in any country and left there is deemed to be left behind in that country even if the ship also remains in that country;
 - (c) a ship is considered to have gone to sea if it has got under way for any purpose other than moving the ship from one berth or place in a port to another berth or place in the port; and
 - (d) references to going to sea include references to going to sea from any country outside the Falkland Islands; and
 - (e) references to a death occurring on a ship include a death occurring in a ship’s boat or life-raft and to being lost from a ship, ship’s boat or life-raft.
- (3) Any power conferred by this Ordinance to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.
- (4) Any reference in this Ordinance to a specific provision in the MLC, the MLC Regulations or the MLC Code is to be construed as —
- (a) a reference to the provision in that instrument as modified from time to time; and
 - (b) a reference, if the instrument is replaced by another instrument, to the relevant provision in that other instrument.
- (5) Any power conferred by this Ordinance to enable a reference to be made to a document or international instrument may be exercised so as to have the effect that the reference to the document or instrument is construed —
- (a) as a reference to the document or instrument as modified from time to time;
 - (b) if the document or instrument is replaced by another document or instrument, as a reference to that other document or instrument.
- (6) For the purposes of subsection (5), a document or instrument is modified if —
- (a) an omission, addition or other alteration to the text of the document or instrument takes effect; or
 - (b) supplementary provision made under the document or instrument takes effect.

(7) In this Ordinance, “**engaged**” means engaged under a contract, other than a contract of employment with a shipowner, in the circumstances described in subsection (9); and “**engagement**” is to be construed accordingly.

(8) For the purposes of subsection (7), a contract can be —

- (a) express; or
- (b) implied; and
- (c) if it is express, made orally or in writing.

(9) The circumstances are that —

- (a) the person or seafarer engaged under the contract undertakes to do or perform personally any work or services in a ship; and
- (b) the undertaking referred to in paragraph (a) is provided to —
 - (i) the shipowner; or
 - (ii) another person who is a party to the contract.

4. Application

(1) Subject to subsections (2) to (5), and except where otherwise expressly provided, this Ordinance applies to —

- (a) a sea-going Falkland Islands ship wherever it may be;
- (b) a sea-going ship which is not a Falkland Islands ship, while that ship is in Falkland Islands waters;
- (c) a Falkland Islands ship which is not sea-going; and
- (d) seafarers employed or engaged in a ship falling within (a) to (c).

(2) Sections 7 (crew agreements), 8 (regulations relating to crew agreements), 13 (payment of seafarers’ wages under crew agreements) and 32 (relief and return of seafarer etc. left behind and shipwrecked: non-MLC Falkland Islands ships) do not apply to —

- (a) an MLC ship; and
- (b) a seafarer employed or engaged in an MLC ship.

(3) Sections 6 (seafarers' employment agreements), 12 (payment of seafarers' wages under seafarers' employment agreements), 31 (relief and return of seafarer etc. left behind and shipwrecked: MLC ships) and 70 (regulations to give effect to the MLC) do not apply to —

(a) a non-MLC ship; and

(b) a seafarer employed or engaged in a non-MLC ship.

(4) In relation to a ship within sub-section (1)(c) (Falkland Islands ship which is not sea-going), and to seafarers employed or engaged in the ship, only sections 25 (minimum age for employment or engagement), 28 (crew accommodation), 36 to 42 and 44 (manning) and 45 (financial assistance for training) and 47 to 57 (offences by seafarers and disciplinary offences) apply.

(5) This Ordinance does not apply to —

(a) a fishing vessel; or

(b) a warship or naval auxiliary.

(6) In subsection (5), “**fishing vessel**” has the meaning given to it in section 2(1) of the Maritime Ordinance 2017.

5. Exemption of ships

(1) Subject to this section, where the Governor determines from time to time that it is not reasonable or practicable to apply any provision of this Ordinance, or any regulations made under this Ordinance, to any ship, the Governor may exempt that ship, or particular categories of ships, either generally or for such time or such voyage as the Governor may determine.

(2) In the case of a ship to which Part 2 applies, the Governor may only grant an exemption from the requirements of that Part, or any regulations made under it, if the ship —

(a) is of less than 200 gross tonnage;

(b) is not engaged on an international voyage; and

(c) the Governor has first consulted organisations in the Falkland Islands appearing to the Governor to be representative of the interests of shipowners and seafarers.

(3) The Governor in granting an exemption —

(a) under subsection (1), may impose such conditions on the ship, or particular categories of ships, as the Governor thinks fit; and

(b) under subsection (2), must impose such conditions on the ship, or particular categories of ships, as the Governor considers appropriate to ensure that an equivalent level of protection to that provided by the MLC is applied to the ship or ships.

(4) Without prejudice to the generality of subsections (1) and (3), the conditions may include a requirement that —

(a) the Maritime Ordinance 2017;

(b) any other written law;

(c) the terms of any seafarers' employment agreement, crew agreement or other relevant agreement; or

(d) any other measures,

be complied with in lieu of any provision of this Ordinance, or regulations made under this Ordinance.

PART 2 – CONDITIONS OF EMPLOYMENT AND ENGAGEMENT OF SEAFARERS

Seafarers' employment agreements and crew agreements

6. Seafarers' employment agreements

(1) The master of an MLC ship must not take the ship to sea, or cause or permit another person to take the ship to sea, if —

(a) a seafarer is employed or engaged to work in the ship; and

(b) when the ship is taken to sea, a seafarers' employment agreement which complies with regulations made for the purposes of subsection (4) is not in force in relation to the seafarer.

(2) A person specified in subsection (3) must not, in relation to an MLC ship, take the ship to sea, or cause or permit another person to take the ship to sea, if —

(a) a seafarer is employed or engaged to work in the ship; and

(b) when the ship is taken to sea, a seafarers' employment agreement which complies with regulations made for the purposes of subsection (4) is not in force in relation to the seafarer.

(3) The persons specified for the purposes of subsection (2) are —

(a) the shipowner;

(b) the shipowner's representative; and

(c) where the shipowner is not the employer of the seafarer, the employer of the seafarer.

(4) The Governor may make regulations providing for matters relating to seafarers' employment agreements, including —

(a) the content and form of seafarers' employment agreements;

(b) the parties to a seafarers' employment agreement;

(c) the right of a seafarer to review, and seek advice on, a seafarers' employment agreement before signing it;

(d) the process for signing a seafarers' employment agreement;

(e) the information or documents that must be given to, or made available to, seafarers in relation to seafarers' employment agreements and the manner in which such information or documents must be given or made available;

(f) the termination of seafarers' employment agreement, including minimum notice periods; and

(g) keeping records of seafarers' employment agreements and retaining such records.

(5) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

7. Crew agreements

(1) Except as provided under subsection (5), any person who employs or engages a person to work as a seafarer in a non-MLC Falkland Islands ship, must, if no seafarers' employment agreement is in force in relation to that seafarer, enter into an agreement in writing with that person (referred to as a "**crew agreement**") in accordance with subsections (2) to (7).

(2) A crew agreement made under this section with the several persons employed or engaged as seafarers in non-MLC Falkland Islands ship must be in writing and contained in one document 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 or engaged 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 or engaged 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 section 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 to the Maritime Ordinance 2017 and the ship, if in the Falkland Islands, may be detained.

[Merchant Shipping Act 1995, s. 25 (Maritime Ordinance 2017, s.28)]

8. 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 to the Maritime Ordinance 2017 or such lesser amount as may be specified in the regulations.

[Merchant Shipping Act 1995, s.26 (Maritime Ordinance 2017, s.29)]

9. Discharge of seafarers

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

(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 Falkland Islands ship 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 to the Maritime Ordinance 2017 or such lesser amount as may be specified in the regulations.

[Merchant Shipping Act 1995, s. 27 (Maritime Ordinance 2017, s.30)]

10. Seafarers left behind abroad otherwise than on discharge

Regulations made under section 9 may apply any provision of that section, with such modifications as appear to the Governor to be appropriate, to cases where a seafarer employed or engaged in a Falkland Islands ship is left behind outside the Falkland Islands otherwise than on being discharged from the ship.

[Merchant Shipping Act 1995, s. 28 (Maritime Ordinance 2017, s.31)]

11. 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 or engaged in the ship must be discharged from the ship unless the seafarer consents in writing to continue his or her employment or engagement in the ship; and sections 12 to 17 apply in relation to the seafarer's wages as if the ship had remained a Falkland Islands ship.

[Merchant Shipping Act 1995, s. 29 (Maritime Ordinance 2017, s.32)]

Wages etc

12. Payment of seafarers' wages under seafarers' employment agreements

A seafarer employed or engaged under a seafarers' employment agreement must be paid in accordance with —

- (a) the terms of the seafarers' employment agreement; and
- (b) regulations made by the Governor under section 15.

13. Payment of seafarers' wages under crew agreements

(1) Where a seafarer employed or engaged under a crew agreement relating to a non-MLC Falkland Islands ship leaves the ship on being discharged from it, then, except as provided by or under this Ordinance or any other enactment, the wages due to the seafarer under the crew 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 14 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 14(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 14(4), 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 14(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 10 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 or engagement 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 or engagement 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 10 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 reasonable 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 or engaged 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 or engagement under the crew agreement.

(9) Where a seafarer, by virtue of section 11, is discharged from a ship outside the Falkland Islands but returns to the Falkland Islands or another place which is specified as the place of return under arrangements made by the persons who employed or engaged 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 for that amount was despatched by 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 (Maritime Ordinance 2017, s.33)]

14. Account of seafarers' wages

(1) The master of an MLC Falkland Islands ship must deliver or ensure that there is delivered to every seafarer employed or engaged in the ship under a seafarers' employment agreement an account of the wages due to the seafarer under that seafarers' employment agreement in accordance with —

(a) that agreement; and

(b) regulations made under sections 15 and 31.

(2) Subject to subsections (5) and (6) and to regulations made under section 15 or 32, the master of a non-MLC Falkland Islands ship must deliver or ensure that there is delivered to every seafarer employed or engaged 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.

(3) 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.

(4) If the amounts stated in the account require adjustment, the employer or person who engaged the seafarer must deliver or ensure that there is delivered 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.

(5) Where section 13(4) or (5) applies to the payment of any amount of wages due to a seafarer under a crew agreement —

(a) the employer or the person who engaged the seafarer must deliver or ensure that there is delivered 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 (2) to (4) do not apply,

and section 13(10) applies for the purposes of this subsection as it applies for the purposes of that section.

(6) Where a seafarer is employed or engaged 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 employer or person who engaged the seafarer and must, be delivered on or before the termination of the seafarer's employment or engagement under the crew agreement.

(7) 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 31 (Maritime Ordinance 2017, s. 34)]

15. 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 seafarers' employment agreement or crew agreement (in addition to any authorised by any provision of this Ordinance or of any other enactment for the time being in force) in cases where a breach of the seafarer's obligations under any such 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 any such 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 or engaged 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 14 is to be prepared and the particulars to be contained in the form (which may include estimated amounts).

[Merchant Shipping Act 1995, s.32 (Maritime Ordinance 2017, s.35)]

16. Disputes about wages

(1) Any dispute relating to the amount payable to a seafarer employed or engaged under a seafarers' employment agreement is to be determined in accordance with regulations made by the Governor under subsection (2).

(2) The Governor may make regulations providing for the procedure for, and determination of, any dispute about wages or an account of wages payable in relation to a seafarers' employment agreement.

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

(4) The superintendent or proper officer is not bound to accept a dispute submitted to him or her under subsection (3) 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.

(5) 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, s. 33 (Maritime Ordinance 2017, s.36)]

17. Restriction on assignment of, and charge upon, wages

(1) As respects the wages due or accruing to a seafarer employed or engaged in a Falkland Islands ship, whether under a seafarers' employment agreement or crew agreement —

(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 revocable.

(2) Nothing in this section affects the provisions of sections 19 and 20 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, s. 34 (Maritime Ordinance 2017, s. 37)]

18. Power of court to award interest on wages due otherwise than under a seafarers' employment agreement or crew agreement

In any proceedings by the master of a ship or a person employed or engaged in a ship otherwise than under a seafarers' employment agreement or 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 reasonable 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 10 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, s. 35 (Maritime Ordinance 2017, s.38)]

19. 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 or engagement in a Falkland Islands ship.

(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 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, s. 36 (Maritime Ordinance 2017, s. 39)]

20. 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 19 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, s. 37 (Maritime Ordinance 2017, s.40)]

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

(1) Where an MLC Falkland Islands ship is wrecked or lost and a seafarer whose employment or engagement in the ship is as a result terminated before the date contemplated in the seafarers' employment agreement under which the seafarer is employed or engaged, the seafarer is entitled to wages in accordance with regulations made by the Governor.

(2) Regulations made by the Governor for the purposes of subsection (1) may prescribe the circumstances in which wages may be payable and the rate at which and the period for which they must be paid.

(3) Where a non-MLC Falkland Islands ship is wrecked or lost and a seafarer whose employment or engagement in the ship is as a result terminated before the date contemplated in the crew agreement under which the seafarer is employed or engaged, the seafarer is, subject to subsection (5), 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.

(4) Where a Falkland Islands ship is sold while outside the Falkland Islands or ceases to be registered in the Falkland Islands and a seafarer's employment or engagement in the ship is as a result terminated before the date contemplated in the seafarers' employment agreement or crew agreement under which the seafarer is employed or engaged, then, unless it is otherwise provided in the agreement, the seafarer is, subject to subsection (5), entitled to wages at the rate payable under the agreement at the date on which the seafarer's employment or engagement is terminated for every day on which the seafarer is unemployed in the two months following that date.

(5) A seafarer is not entitled to wages by virtue of subsection (3) or (4) 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 or engagement 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 or engagement for that day but unreasonably refused or failed to take it.

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

[Merchant Shipping Act 1995, s. 38 (Maritime Ordinance 2017, s.41)]

22. 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 or engaged, 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 or engaged 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, s. 39 (Maritime Ordinance 2017, s. 42)]

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

(1) Where, during a seafarer's employment or engagement 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 responsible 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 or her 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 responsible 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 responsible authority has served a notice under this section on the persons employing a seafarer, the Magistrate's Court may, on the application of the responsible authority, make an order for the payment to the responsible 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 responsible 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 or engaged 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 or engaged 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) Any notice or order under this section may be served by registered post or recorded delivery service.

(8) 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 19.

(9) 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, s. 40 (Maritime Ordinance 2017, s.43)]

24. 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, s. 41 (Maritime Ordinance 2017, s.44)]

Health, safety and welfare

25. Minimum age for employment or engagement

(1) Subject to subsection (3)(a), a person under 16 years of age must not be employed or engaged in a ship.

(2) Subject to subsection (3)(b), a seafarer of 16 years of age and under 18 years of age must not be employed or engaged in a Falkland Islands ship at night.

(3) The Governor may make regulations —

(a) prescribing circumstances in which, and conditions subject to which, persons under 16 who have attained such age as may be specified in the regulations may be employed or engaged in a Falkland Islands ship which is —

(i) a non-MLC Falkland Islands ship; or

(ii) a ship confined to internal waters,

in such capacities as may be so specified; and

(b) prescribing circumstances and capacities in which persons over 16 but under the age of 18 or under such lower age as may be specified in the regulations must not be employed or engaged in a Falkland Islands ship or may be so employed or engaged in such capacities or only subject to such conditions as may be specified.

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

(5) If any person is employed or engaged in a ship in contravention of this section or if any condition subject to which a person may be employed or engaged under regulations made for the

purposes of this section is not complied with, the shipowner or master is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

(6) In this section “**night**” means a period —

(a) the duration of which is not less than nine consecutive hours; and

(b) which includes the period between midnight and 5 a.m. (local time).

[Merchant Shipping Act 1995, s. 55 (Maritime Ordinance 2017, s. 58)]

26. Obligation of shipowners as to seaworthiness

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

(a) the shipowner;

(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 shipowner 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, s. 42 (Maritime Ordinance 2017, s.45)]

27. General measures for the health, safety and welfare of seafarers

(1) The Governor may by regulations make provision in relation to the health, safety and welfare of seafarers.

(2) Regulations made under subsection (1) may make provision in relation to —

(a) the hours of work and hours of rest of seafarers;

- (b) records to be kept in relation to the hours of work and hours of rest;
- (c) the entitlement of seafarers to leave;
- (d) the appointment or approval of a medical practitioner as a medical examiner or reviewer;
- (e) the fees payable for services performed by a medical practitioner as a medical examiner or reviewer;
- (f) the medical examination of seafarers and persons proposing to become seafarers, including requirements for —
 - (i) periodic medical examinations; and
 - (ii) medical examinations requested by the Governor;
- (g) reporting requirements relating to medical examinations;
- (h) the issuing of certificates of fitness to seafarers and persons proposing to become seafarers;
- (i) requiring seafarers to hold specified certificates of fitness;
- (j) prohibiting the employment or engagement of a person as a seafarer unless the person holds specified certificates of fitness;
- (k) medicines, medical and surgical stores and appliances;
- (l) instructions for dispensing and using medicines, and medical and surgical stores and appliances; and
- (m) the inspection of medicines, medical and surgical stores and appliances and other health or safety related equipment required to be carried on board a ship.

28. Crew accommodation

- (1) The Governor may make regulations with respect to the crew accommodation to be provided in a Falkland Islands ship.
- (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 shipowner or master is liable, on conviction, to a fine not exceeding level 5 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 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, s. 43 (Maritime Ordinance 2017, s.46)]

29. Provision of food or drinking water

(1) The Governor may by regulations make provision in relation to the provision of food and drinking water on board a ship.

(2) Regulations made under subsection (1) may make provision in relation to —

- (a) the quantity and quality of food and drinking water to be carried and made available on board a ship;
- (b) the arrangements for the provision of the food and drinking water;
- (c) the qualifications of seafarers responsible for providing the food;
- (d) the inspection of the arrangements for the provision of food and drinking water; and
- (e) the mechanisms for making and dealing with complaints about the quantity and quality of food or drinking water on an MLC ship.

(3) If three or more seafarers employed or engaged in a non-MLC Falkland Islands ship consider that the provisions or water provided for the seafarers employed or engaged 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.

(4) 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.

(5) 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.

(6) If the master fails without reasonable excuse to comply with the provisions of subsection (4), the master is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 and if the master has been notified in writing by the person making an examination under subsection (5) 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 shipowner is liable on conviction to a fine not exceeding level 4 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 44 (Maritime Ordinance 2017, s.47)]

30. Costs of medical and other treatment during voyage

(1) The Governor may make regulations in relation to an MLC ship, making provision in relation to the cost of medical and other treatment incurred by seafarers employed or engaged in that ship.

(2) If a person, while employed or engaged in a non-MLC Falkland Islands ship, 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 who employed or engaged the seafarer.

(3) If a person dies while employed or engaged in a Falkland Islands ship and is buried or cremated outside the Falkland Islands, the expenses of the person's burial or cremation must be borne by the person who employed or engaged the seafarer.

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

[Merchant Shipping Act 1995, s. 45 (Maritime Ordinance 2017, s.48)]

Repatriation and relief

31. Relief and return of seafarer etc. left behind and shipwrecked: MLC ships

(1) The Governor may make regulations providing for the relief and repatriation of a seafarer employed or engaged in an MLC ship who is left behind, otherwise abandoned or shipwrecked.

(2) Regulations made under subsection (1) may make provision for or in relation to —

(a) the circumstances in which a seafarer is entitled to be repatriated, including in the following circumstances —

(i) expiry or termination of a seafarer's seafarers' employment agreement;

(ii) inability to carry out the seafarer's duties;

(iii) injury or illness to the seafarer; and

(iv) transfer, sale or wreck of the seafarer's ship;

(b) the liability for —

(i) the costs of repatriation,

(ii) outstanding wages of a seafarer;

(iii) the provision of security for such a liability; and

- (iv) the recovery of costs;
- (c) the mode of transport of repatriation; and
- (d) the destination to which the seafarer is repatriated.

32. Relief and return of seafarer etc. left behind and shipwrecked: non-MLC Falkland Islands ships

(1) This section and sections 33 and 34 apply only to a non-MLC Falkland Islands ship.

(2) Where —

(a) a person employed or engaged as a seafarer in a non-MLC Falkland Islands ship 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 or engaged under a crew 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 or engaged 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.

(3) 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.

(4) 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 (2), and any property of that person left on board ship, are to be dealt with.

(5) 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 (4).

(6) 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 Falkland Islands ship 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.

(7) 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 to the Maritime Ordinance 2017 or such lesser amount as may be specified in the regulations.

(8) This section applies to a person left behind on being discharged in pursuance of section 9, whether or not at the time the person is left behind, the ship is still registered in the Falkland Islands.

(9) This section applies to the master of a ship as it applies to a seafarer and sections 33 and 34 have effect accordingly.

(10) In this section, “**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.

[Merchant Shipping Act 1995, s. 73 (Maritime Ordinance 2017, s.75)]

33. Limit of liability under section 32

Where a person left behind in or taken to any country as mentioned in section 32(2) remains there after the end of a period of three months, the persons who last employed or engaged him or her as a seafarer are 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, s. 74 (Maritime Ordinance 2017, s.76)]

34. Recovery of expenses incurred for relief and return, etc.

(1) Where any expenses are incurred in respect of any matter for which the employer or person who engaged the seafarer is required to make provision under section 32, 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 employer or person who engaged the seafarer; or

(b) if the expenses are incurred by the seafarer, the seafarer may recover them from the employer or person who engaged the seafarer unless they prove either that under the terms of the crew agreement, 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 33, the seafarer's last employer or person who engaged the seafarer would have been required to make provision under section 32; or

(b) in respect of any matter for which provision is required to be made under section 32(6)(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, s. 75 (Maritime Ordinance 2017, s.77)]

35. Financial assistance in respect of crew relief costs

(1) Subject to funds being provided for in an Appropriation Ordinance in accordance with section 299 of the Maritime Ordinance 2017, the Governor may give financial assistance to —

(a) the shipowner of a Falkland Islands ship; or

(b) any manager of a Falkland Islands ship, 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 shipowner or manager in connection with members of the ship's crew joining or leaving the ship outside the Falkland Islands.

(2) If the Governor 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 Governor'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 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, s. 76 (Maritime Ordinance 2017, s.78)]

PART 3 – MANNING, QUALIFICATIONS, TRAINING AND UNIFORM

Manning

36. Application of sections 37 to 41

Sections 37 to 41 apply to —

- (a) every Falkland Islands ship; and
- (b) to any ship registered outside the Falkland Islands which carries passengers —
 - (i) between places in the Falkland Islands; or
 - (ii) 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, s. 46 (Maritime Ordinance 2017, s.49)]

37. 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) Standards of competence or other conditions prescribed or specified by the Governor under subsection (1)(b) may be expressed by reference to —

(a) other documents; or

(b) an international instrument.

(6) 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 47 (Maritime Ordinance 2017, s.50)]

38. 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 37.

(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, s. 48 (Maritime Ordinance 2017, s.51)]

39. Prohibition of going to sea undermanned

(1) Subject to section 38, 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 37 or by regulations made under that section, the shipowner or master is liable on conviction, to a fine not exceeding level 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017; 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 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, s. 49 (Maritime Ordinance 2017, s.52)]

40. 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 37 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 50 (Maritime Ordinance 2017, s.53)]

41. 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 shipowner 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 51; Maritime Ordinance 2017, s.54]

42. 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 to the Maritime Ordinance 2017.

(2) In this section “**qualified**” means qualified for the purposes of section 37.

[Merchant Shipping Act 1995, s. 52 (Maritime Ordinance 2017, s.55)]

43. Medical treatment on board ship

Where a Falkland Islands ship does not carry a doctor among the seafarers employed or engaged 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, s. 53 (Maritime Ordinance 2017, s.56)]

44. Special certificates of competence

(1) The Governor may issue and record documents certifying the attainment of any standard of competence relating to a Falkland Islands ship or its operation, notwithstanding that the standard is not among those prescribed or specified under section 37(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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 54 (Maritime Ordinance 2017, s.57)]

Financial assistance for training

45. Financial assistance for training

(1) Subject to funds being provided for in an Appropriation Ordinance in accordance with section 299 of the Maritime Ordinance 2017, 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 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, s. 56 (Maritime Ordinance 2017, s.59)]

Uniform

46. 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 to the Maritime Ordinance 2017;

(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 to the Maritime Ordinance 2017, or to imprisonment for a term not exceeding one month, or both.

(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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 57 (Maritime Ordinance 2017, s.60)]

PART 4 – CONDUCT OF SEAFARERS

Offences by seafarers etc

47. Conduct endangering ships, structures or individuals

(1) This section applies —

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

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

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

(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 or her 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 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 or to imprisonment for a term not exceeding two years, 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 master or seafarer in his or her capacity as such; and

(b) in relation to a master, includes his or her duty —

(i) with respect to the good management of his or her ship, and

(ii) 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, s. 58; Maritime Ordinance 2017, s.61*]

48. Concerted disobedience and neglect of duty

(1) If a seafarer employed or engaged in a Falkland Islands ship combines with other seafarers employed or engaged 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 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017, or to imprisonment for a term not exceeding two years, 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, s. 59 (Maritime Ordinance 2017, s.62)]

Disciplinary offences

49. 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 a Falkland Islands ship; 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 shipowner of a Falkland Islands ship against a seafarer alleging that, during his or her employment or engagement 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 64 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, subject to funds being provided for in an Appropriation Ordinance in accordance with section 299 of the Maritime Ordinance 2017, make provision for the payment 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, s. 60 (Maritime Ordinance 2017, s.63)]

50. 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 of the Maritime Ordinance 2017 (report of dangers to navigation),

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 37 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 54(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 37 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, s. 61 (Maritime Ordinance 2017, s.64)]

51. 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 52.

(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 44 and to any certificate issued under section 37 other than one certifying that a person is qualified as an officer.

[Merchant Shipping Act 1995, s. 62 (Maritime Ordinance 2017, s.65)]

52. Inquiry into fitness or conduct of seafarer other than officer

(1) Where a person has, before the date mentioned in section 51(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 54(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, s. 63 (Maritime Ordinance 2017, s.66)]

53. Re-hearing of, and appeal from, inquiries

(1) Where an inquiry has been held under section 50 or 52, 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, if the inquiry was held in the Falkland Islands, to be 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 54(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, s. 64 (Maritime Ordinance 2017, s.67)]

54. Rules as to inquiries and appeals

(1) The Governor may make rules for the conduct of inquiries under sections 50 and 52 and for the conduct of any re-hearing under section 53 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 53 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, s. 65 (Maritime Ordinance 2017, s.68)]

55. Failure to deliver cancelled or suspended certificate

If a person fails to deliver a certificate as required under sections 50, 51 and 52, the person is liable on conviction to a fine not exceeding level 3 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 66 (Maritime Ordinance 2017, s.69)]

56. Power to restore certificate

Where a certificate has been cancelled or suspended under section 50, 51, 52 or 53, 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, s. 67 (Maritime Ordinance 2017, s.70)]

57. Power to summon witness to inquiry into fitness or conduct of officer or other seafarer

(1) The persons holding an inquiry under section 50 or 52 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 level 1 on the scale set out in Schedule 7 to the Maritime Ordinance 2017, 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 the Magistrate’s court, the head of the courts and tribunal service.

[Merchant Shipping Act 1995, s. 68 (Maritime Ordinance 2017, s.71)]

Civil liability of seafarers for offences

58. Civil liability for absence without leave

(1) This section applies with respect to the liability of a seafarer employed or engaged in a Falkland Islands ship to damages for being absent from the ship at a time when the seafarer is required under the seafarers’ employment agreement to be on board.

(2) If the seafarer proves that the seafarer’s absence was due to an accident or reasonable 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 one day’s wages of the seafarer’s income;

(b) if special damages are claimed, the seafarer’s liability will not be more than one week’s wages of the seafarer’s income.

[Merchant Shipping Act 1995, s. 70 (Maritime Ordinance 2017, s.72)]

59. Civil liability for smuggling

If, in civil proceedings before a court in the Falkland Islands, a seafarer employed or engaged in a Falkland Islands ship 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, s. 71 (Maritime Ordinance 2017, s. 73)]

60. Civil liability for fines imposed under immigration laws

(1) The following provisions of this section apply where, at a time when a Falkland Islands ship is in the national or territorial waters of another country, a seafarer employed or engaged 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 58, 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 one week's wages of the seafarer's income, one week's wages of the seafarer's income may be recovered by that person from the seafarer.

[Merchant Shipping Act 1995, s. 72 (Maritime Ordinance 2017, s. 74)]

PART 5 – DOCUMENTATION

61. 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 Falkland Islands ship.

(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 to the Maritime Ordinance 2017.

(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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 77 (Maritime Ordinance 2017, s.79)]

62. 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 the list of the 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 the 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 the 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 78 (Maritime Ordinance 2017, s.80)]

63. 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 Falkland Islands seafarers to produce their Falkland Islands seafarers' 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 to the Maritime Ordinance 2017.

(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 to the Maritime Ordinance 2017.

(5) In this section, "**Falkland Islands Seafarer**" means a person who is employed or engaged as a seafarer in —

(a) a Falkland Islands ship; or

(b) other ships but who holds Falkland Islands status pursuant to section 22 of the Constitution or a Permanent Residence Permit issued under the Immigration Ordinance 1999. *[Merchant Shipping Act 1995, s. 79 (Maritime Ordinance 2017, s.81)]*

64. Discharge books

(1) The Governor may make regulations providing for —

(a) the issue of discharge books to persons who are or have been employed or engaged in —

(i) a Falkland Islands ship; or

(ii) other ships but who hold Falkland Islands status pursuant to section 22 of the Constitution or Permanent Residence Permits issued under the Immigration Ordinance 1999;

(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 Governor 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 paragraph (a) 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 49(4) or (5); 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 to the Maritime Ordinance 2017.

(4) A person who, in the Falkland Islands or elsewhere —

(a) obtains employment or is engaged as a seafarer on board a Falkland Islands ship at a time 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 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 or to imprisonment for a term not exceeding two years, or both.

[Merchant Shipping Act 1995, s. 80 (Maritime Ordinance 2017, s.82)]

65. Handing over of documents by master

(1) If a person ceases to be the master of a Falkland Islands ship 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 to the Maritime Ordinance 2017.

[Merchant Shipping Act 1995, s. 81 (Maritime Ordinance 2017, s.83)]

PART 6 – GENERAL PROVISIONS

Application of Ordinance to certain descriptions of ships etc

66. 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 of that description and to masters and seafarers employed or engaged 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, s. 307 (Maritime Ordinance 2017, s. 303)]

67. Application of Ordinance to government ships

(1) This Ordinance applies to —

(a) a Falklands Islands Government ship; and

(b) a United Kingdom Government ship.

(2) In this section —

(a) “**Falkland Islands Government ship**” has the meaning given in section 5(3) of the Maritime Ordinance 2017; and

(b) “**United Kingdom Government ship**” has the meaning given in section 5(4) of that Ordinance.

[Merchant Shipping Act 1995, s. 308 (Maritime Ordinance 2017, s. 304)]

68. 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) a Falkland Islands ship; 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 1995 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 67 (as it applies by virtue of section 308(2) of the 1995 Act and that Order in Council),

have (subject to subsections (3) and (4)) the same effect in relation to that ship as they have in relation to a Falkland Islands Government ship (whether referred to as such, or a ship registered in pursuance of that Order in Council).

(3) In the application of any provision of this Ordinance in relation to a ship to which this section applies, any reference to the shipowner of that ship must be construed as a reference to the relevant Falkland Island Government department.

(4) Subsection (2) applies subject to the provisions of an Order in Council made under section 309(4) of the 1995 Act.

(5) In this section, “**the 1995 Act**” means the Merchant Shipping Act 1995.
[Merchant Shipping Act 1995, s. 309 (Maritime Ordinance 2017, s. 305)]

69. Application of Ordinance to certain structures, etc.

(1) The Governor may by regulations provide that a thing designed or adapted for use at sea and described in the regulations 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) Regulations under this section may —

(a) make different provision in relation to different occasions and different things; 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 regulations.
[Merchant Shipping Act 1995, s. 311 (Maritime Ordinance 2017, s. 306)]

Subordinate legislation

70. Regulations to give effect to the MLC

(1) The Governor may make regulations for giving effect to the MLC.

(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 other provision of this Ordinance.

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

(a) the standards, specifications, training, qualifications, restrictions and certification or licensing requirements of seafarers, including any medical requirements and requirements relating to the keeping of records of qualifications, restrictions, certificates and licences;

(b) the recruitment and placement of seafarers;

(c) the abandonment of seafarers and compensation paid to seafarers for a ship's loss or foundering;

(d) the accommodation and recreational and other facilities provided for seafarers;

(e) medical care for seafarers on board a ship and ashore, by a medical practitioner or other person;

(f) the liability of a shipowner and requirements to provide security in relation to such liability;

(g) health and safety and accident protection and the provision of a safe and hygienic environment on board a ship;

(h) access to shore-based welfare facilities;

(i) the provision of access to social security protection for seafarers;

(j) the establishment of on-board and onshore seafarer complaint handling procedures;

(k) the survey and inspection of ships and the conditions of seafarers employed or engaged to work in a ship;

(l) the issue of certificates and documents of compliance, including the specification of ships which are required to hold such certificates and declarations; the requirements for the issue and revocation of such certificates and declarations; and the form and content of such certificates and declarations;

(m) the authorisation of organisations appointed to undertake surveys and inspections and issue certificates, including the standards of competency and qualifications required of such organisations; and

(n) any others matters which give effect to the requirements of the MLC.

(4) Regulations made under this section —

(a) may provide for the Governor to exempt a Falkland Islands ship, or particular categories of Falkland Islands ships, which meet the criteria in subsection (5) either generally or for such time or such voyage as the Governor may determine from the requirements of this Ordinance; and

(b) if they so provide, must require the Governor to communicate the Governor's decision to the International Labour Office in accordance with Article II(7) of the MLC.

(5) The criteria referred to in subsection (4) are that the ship —

(a) is of less than 200 gross tonnage; and

(b) is not engaged on an international voyage.

(6) Regulations made under this section may make different provision for a ship which is not a Falkland Islands ship or for categories of such ships and, in particular, make different provision between ships registered in States which are parties to the MLC and ships which are registered in States which are not parties to the MLC.

(7) When making regulations under this section, the Governor must take into account, as appropriate, Article III (fundamental rights and principles) and Article IV (seafarers' employment and social rights) of the MLC.

71. Regulations – general provision

(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) to prescribe 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) to prescribe the class or classes of ship to which the regulations apply;

(c) to prescribe the categories of seafarer to which they apply;

(d) to make different provision for different circumstances and, in particular, make provision for a particular case;

(e) prescribing or changing fees for anything in relation to which, by this Ordinance, a fee is to be or has been prescribed;

(f) 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;

(g) to provide that contravention of the regulations is an offence punishable by a fine not exceeding level 7 on the scale set out in Schedule 7 to the Maritime Ordinance 2017, or to a term of imprisonment not exceeding two years, or both;

(h) to provide that in any proceedings for an offence under the regulations, a statement in any complaint or indictment of the fact that anything was done or situated within Falkland Islands waters is, unless the contrary is proved, sufficient evidence of the fact as so stated;

(i) 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;

(j) to provide that specified provisions of any enactment do 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;

(k) to make different provision for different classes or descriptions of submersible or supporting apparatus and for different circumstances;

(l) to make provision in terms of any document or international instrument which the Governor or another person considers relevant from time to time; and

(m) contain such supplemental, saving, transitional and incidental provisions as appear to the Governor to be expedient.

72. Regulations, rules and orders, etc.

(1) Before making regulations under this Ordinance, 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.

73. Forms

Section 309 of the Maritime Ordinance 2017 applies in respect of any book, instrument or paper required under this Ordinance or under any regulations made under it.

[Merchant Shipping Act 1995, s. 306; (Maritime Ordinance 2017, s. 309)]

74. Power of the Authority to issue codes and guidance relating to maritime labour matters

(1) For the purpose of providing practical guidance with respect to regulations made under this Ordinance, the Authority may, from time to time, do all or any of the following —

(a) issue or approve one or more codes of practice, which may include any code of practice issued or approved under another law if the Authority considers that code of practice suitable for this purpose;

(b) issue or approve guidance, which may include any guidance issued or approved under another law (for example, mandatory or general guidance issued or adopted under section 307A of the Maritime Ordinance 2017) or by the United Kingdom Government if the Authority considers that guidance suitable for this purpose; and

(c) amend or revoke any code of practice or guidance issued or approved under this subsection.

(2) Where a code of practice or guidance is issued, approved, amended or revoked by the Authority under subsection (1), the Authority must —

(a) publish a notice of the issue, approval, amendment or revocation in such manner as will secure adequate publicity;

(b) specify in the notice referred to in paragraph (a) —

(i) the date of issue, approval, amendment or revocation;

(ii) the class of hazards, activities or articles in respect of which the code of practice or guidance is issued, approved, amended or revoked; and

(iii) the place at and the time during which, and the Internet website where, the code of practice or guidance which is the subject of the notice may be inspected; and

(c) ensure that, as long as the code of practice or guidance remains in force, copies of that code or guidance, and of all amendments to that code or guidance, are available for inspection by shipowners or seafarers free of charge.

Final provisions

75. Transitional provisions

(1) The Governor may by order make transitional, consequential and saving provision in connection with this Ordinance (or one or more of its provisions).

(2) All UK instruments which apply in the Falkland Islands by virtue of the Law Revision and Publication Ordinance 2017 and which make provision related to this Ordinance 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.

Passed by the Legislature of the Falkland Islands on 29 August 2019.

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.

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**Maritime Labour (General Requirements under the Maritime Labour Convention)
Regulations 2019 (SR&O No 17 of 2019).**

SUBSIDIARY LEGISLATION

Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019

S. R. & O. No: 17 of 2019

ARRANGEMENT OF PROVISIONS

PART 1 - INTRODUCTION

Regulation

1. Title
2. Commencement
3. Interpretation
4. Application

PART 2 - MINIMUM AGE

5. Interpretation of Part 2
6. Employment of young persons at night: exceptions
7. Employment or engagement of young persons: general provisions

PART 3 - RECRUITMENT AND PLACEMENT

8. Duty on shipowner in respect of recruitment and placement services

PART 4 - SEAFARERS' EMPLOYMENT AGREEMENTS

9. Interpretation of Part 4
10. Duty to enter into seafarers' employment agreement
11. Content of seafarers' employment agreement
12. Minimum notice period
13. Documents
14. Foreign language seafarers' employment agreement
15. Duty of master to produce seafarers' employment agreement

PART 5 - WAGES

16. Late payment of wages etc.
17. Account of seafarer's wages etc.

PART 6 – HOURS OF WORK

18. General duty of shipowner, master and employer
19. Minimum hours of rest
20. Authorised exceptions to minimum hours of rest
21. Posting up of table
22. Exception for emergencies
23. Records
24. Power to require information
25. Entitlement to annual and additional leave
26. Shore leave
27. Entitlements under other provisions
28. Remedies
29. Extension of complaint period to facilitate conciliation before institution of proceedings
30. Restriction on contracting out
31. Hours of rest: offences

PART 7 - CREW ACCOMMODATION

32. Crew accommodation requirements
33. Provision for certain older ships
34. Exemptions
35. Approvals to allow substantial equivalences

PART 8 - FOOD AND CATERING

36. Interpretation of Part 8
37. Provision of food and drinking water
38. Organisation and equipment of the catering department
39. Inspection of food and catering facilities
40. Requirement to carry a qualified ship's cook
41. Certificate of competency as a ship's cook
42. Suspension or cancellation of a certificate of competency as a ship's cook
43. Recognition of existing certificates of competency
44. Training requirements for catering staff and other persons processing food in the galley

PART 9 - REPATRIATION

45. Duty to repatriate seafarers
46. Place for return
47. Scope of duty to repatriate
48. Duty pending repatriation
49. Prohibition on recovering costs from seafarer
50. Seafarer property
51. Duty to carry documents
52. Financial security requirement applicable to all ships

53. Governor's functions in the event of shipowner default

PART 10 - MEDICAL CARE

54. Shipowner duty to make provision for seafarer medical and other expenses
55. Duty to carry a medical practitioner on ship
56. Right to medical attention

PART 11- MEDICAL CERTIFICATION

57. Interpretation of Part 11
58. Application of Part 11
59. Seafarer to have valid medical fitness certificate
60. Employment of seafarers
61. Application for and issue of medical fitness certificate
62. Period of validity of medical fitness certificate
63. Medical fitness certificates: non-Falkland Islands certificates
64. Reporting of medical conditions
65. Suspension and cancellation of medical fitness certificate
66. Review of medical practitioner's decision
67. Health assessment and transfer of seafarers on night watchkeeping duties
68. Medical examinations and reviews: records and returns
69. Replacement certificates

PART 12 - SHIPOWNERS' LIABILITY

70. Interpretation of Part 12
71. Shipowners' liability for seafarer unemployment and losses following loss or foundering of ship
72. Shipowners' liability for wages following sickness or injury sustained by seafarer
73. Property left behind by sick or injured seafarer
74. Shipowners' liability in respect of burial or cremation of seafarer

PART 13 - SECURITY AGAINST SHIPOWNER'S LIABILITY FOR DEATH OR LONG TERM DISABILITY OF SEAFARERS

75. Interpretation of Part 13
76. Shipowner's security requirement
77. Shipowner's security
78. Payment of contractual compensation
79. Interim payments
80. Offence of undue pressure
81. Duty to carry and display shipowner's security document
82. Termination of shipowner's security on notice to the Governor
83. Duty on shipowner's security provider to notify the Governor where a shipowner's security has been terminated

84. Duty on shipowner to notify seafarers if shipowner's security is to be terminated

PART 14 - SECURITY AGAINST THE ABANDONMENT OF SEAFARERS

85. Interpretation of Part 14
86. Abandonment
87. Abandonment security requirement
88. Abandonment security
89. Consideration and payment of abandonment claims
90. Subrogation
91. Duty to carry and display an abandonment security document
92. Termination of abandonment security effective only where notice given
93. Duty on shipowner to notify seafarers if abandonment security is to be terminated

PART 15 - COMPLAINTS PROCEDURES

94. On-board and on-shore complaints procedure

PART 16 - INSPECTION AND DETENTION OF SHIPS

95. Inspection of Falkland Islands ship and non-MLC foreign ships
96. Inspection of medical certificates of seafarers on a non-MLC foreign ship
97. Inspection: Supplemental provision
98. Inspection of Government ships
99. Detention of ships
100. Supplementary provisions as respects detention of ships
101. Release of ship detained
102. Arbitration and compensation in relation to detentions
103. Release of information

PART 17 – MLC REQUIREMENTS RELATING TO MLC FOREIGN SHIPS

104. Minimum age: MLC foreign ships
105. Seafarers' employment agreements: MLC foreign ships
106. Wages: MLC foreign ships
107. Hours of rest: MLC foreign ships
108. Requirement to post up table: MLC foreign ships
109. Exception for emergencies: MLC foreign ships
110. Records: MLC foreign ships
111. Annual leave: MLC foreign ships
112. Shore leave: MLC foreign ships
113. Crew accommodation: MLC foreign ships
114. Food and catering: MLC foreign ships
115. Repatriation: MLC foreign ships
116. Medical care: MLC foreign ships

- 117. Security against shipowner's liability for death or long term disability of seafarers: MLC foreign ships
- 118. Security against the abandonment of seafarers: MLC foreign ships
- 119. Inspection: MLC foreign ships
- 120. Detention of ships: MLC foreign ships
- 121. Failure to repatriate - detention of MLC foreign ships at request of foreign State
- 122. Supplementary provisions as respects detention of MLC foreign ships
- 123. Offences: MLC foreign ship

PART 18 - GENERAL PROVISIONS

- 124. Penalties
- 125. Defences

PART 19 - MISCELLANEOUS PROVISION

- 126. Transitional provisions relating to existing Falkland Islands ships

SCHEDULES

Schedule 1 - Provision to be included in a Seafarers' employment agreement

Schedule 2 - Provision to be included in a written record of work in a ship

Schedule 3 - Workforce agreements

Schedule 4 - Information to be included in a shipowner's security document

Schedule 5 - Information to be included in an abandonment security document

SUBSIDIARY LEGISLATION

Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019

S. R. & O. No. 17 of 2019

Made: 18 September 2019

Published: 25 September 2019

Coming into force: in accordance with regulation 2

I make these regulations under sections 6, 12, 15, 16, 21, 23, 25, 27, 28, 29, 30, 31, 37, 66, 67, 68, 70 and 71 of the Maritime Labour Ordinance 2019 and on the advice of Executive Council —

PART 1 - INTRODUCTION

1. Title

These regulations are the Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019.

2. Commencement

These regulations come into force on such date as the Governor may notify by notice published in the *Gazette*.

3. Interpretation

(1) In these regulations unless the context otherwise requires —

“**appropriate fee**” means a fee prescribed in relation to a particular application or service under—

(a) the Merchant Shipping (Fees) Regulations 2018 (SI 2018/1104) as applied by the Law Revision and Publication Ordinance 2017; or

(b) regulations made under section 298 of the Maritime Ordinance 2017;

“**authority**” has the meaning given by section 3 of the Harbours and Ports Ordinance 2017;

“**collective agreement**” has the meaning given under section 3(1) of the Ordinance;

“**controlled waters**” means the waters within the limits of the Interim Fishery Conservation and Management Zone (Proclamation No 4 of 1986) and the Fishery Conservation Outer Zone (Proclamation No 2 of 1990);

“**Declaration of Maritime Labour Compliance**” means, in relation to a ship, the Part 1 and Part 2 documents drawn up and issued in accordance with the MLC, in the forms corresponding to the relevant models given in Appendix A5-II of the MLC and having the contents, duration and validity specified in Regulation 5.1.3 and Standard A5.1.3 of the MLC and as provided under the Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019;

“**Director**” means the Director of Natural Resources;

“**employed**” means employed under a contract of employment; and “**employment**” in relation to a seafarer is to be construed accordingly;

“**employee**” means an individual who is employed under a contract of employment;

“**employer**” in relation to a seafarer, means the person by whom the seafarer is or was employed or engaged;

“**engaged**”, in the application of these regulations to a seafarer, has the meaning given in section 3(1) of the Ordinance;

“**Falkland Islands ship**” has the meaning given in section 3(1) of the Ordinance;

“**Falkland Islands waters**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**fishing vessel**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**gross tonnage**” has the meaning given in section 3(1) of the Ordinance;

“**hours of rest**” has the meaning given in section 3(1) of the Ordinance;

“**hours of work**” has the meaning given in section 3(1) of the Ordinance;

“**Maritime Labour Certificate**” and “**interim Maritime Labour Certificate**” mean, in relation to a ship, a certificate of that name issued in accordance with the MLC, in a form corresponding to the relevant model given in Appendix A5-II of the MLC and having the contents, duration and validity specified in Regulation 5.1.3 and Standard A5.1.3 of the MLC and as provided under the Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019;

“**MCA**” means the Maritime and Coastguard Agency, an executive agency of the United Kingdom Department for Transport;

“**MLC**”, “**MLC Code**” and “**MLC Regulations**” have the meanings given in section 3(1) of the Ordinance;

“**MLC foreign ship**” means a sea-going ship which is not a Falkland Islands ship, if —

(a) the MLC has come into force for the State whose flag the ship is entitled to fly; and

(b) the ship carries —

(i) a Maritime Labour Certificate to which a Declaration of Maritime Labour Compliance is attached; or

(ii) an interim Maritime Labour Certificate;

“**medical condition**” includes both injury and illness, and a “**significant medical condition**” is a medical condition which adversely affects or is reasonably likely to adversely affect the seafarer’s ability to carry out his or her duties, including the seafarer’s ability to undertake emergency duties;

“**medical practitioner**” means a person who —

(a) is a duly qualified medical practitioner under the Medical Practitioners, Midwives and Dentists Ordinance 1914; or

(b) if not duly qualified under that Ordinance, holds a licence, degree, or diploma which would entitle that person to be registered as a medical practitioner by the General Medical Council in the United Kingdom and who, when carrying out the functions of a medical practitioner under Part 11, is approved by the Governor or the Secretary of State to act in that capacity;

“**night**” means a period —

(a) the duration of which is not less than nine consecutive hours; and

(b) which includes the period between midnight and 5 a.m. (local time);

“**non-MLC foreign ship**” means a sea-going ship which is not a Falkland Islands ship, if —

(a) the MLC has not come into force for the State whose flag the ship is entitled to fly; or

(b) the MLC has come into force for the State whose flag the ship is entitled to fly, but the ship does not carry —

(i) a Maritime Labour Certificate to which a Declaration of Maritime Labour Compliance is attached; or

(ii) an interim Maritime Labour Certificate;

“**offshore installation**” means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation;

“**Ordinance**” means the Maritime Labour Ordinance 2019;

“**personal representative**”, in relation to a seafarer who has died, means —

(a) a person responsible for administering the seafarer’s estate under the law of the Falkland Islands; or

(b) a person who, under the law of another country or territory, has functions equivalent to those of administering the seafarer’s estate;

“**pleasure vessel**” has the meaning given in section 3(1) of the Ordinance;

“**proper officer**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**relevant inspector**” means any of the persons mentioned in section 240(1) of the Maritime Ordinance 2017;

“**safe haven**” means a harbour or shelter of any kind which affords safe entry and protection from the weather;

“**seafarer**” has the meaning given in section 3(1) of the Ordinance except that for the purposes of these regulations, it does not include a person whose normal place of work is not on board a ship;

“**seafarers’ employment agreement**” has the same meaning given in section 3(1) of the Ordinance;

“**sea-going**” has the meaning given in section 3(1) of the Ordinance;

“**ship**” includes hovercraft;

“**shipowner**” has the same meaning given in section 3(1) of the Ordinance, and for the purpose of these regulations includes, in relation to a ship which has a valid Maritime Labour Certificate or interim Maritime Labour Certificate, the person identified as the shipowner on that certificate;

“**the STCW Convention**” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended by the Final Act of the Conference of Parties to the STCW Convention, at Manila on 25th June 2010; and

“**United Kingdom Merchant Shipping Notice**” means a Merchant Shipping Notice issued by the MCA as approved by the authority under section 74 of the Ordinance.

(2) In these regulations —

(a) a reference to a United Kingdom enactment “**as applied by the Law Revision and Publication Ordinance**” is a reference to that enactment as applied to the Falkland Islands under section 21 of the Law Revision and Publication Ordinance 2017 and as modified or amended in accordance with sections 22 and 24 of that Ordinance; and

(b) a reference to a United Kingdom statutory instrument “**as adopted by the Merchant Shipping (Adoption of Legislation) Ordinance**” is a reference to that statutory instrument as adopted in the Falkland Islands under section 9, and in accordance with section 6 (as modified by section 10), of the Merchant Shipping (Adoption of Legislation) Ordinance 1992; and

(c) a reference to “**the Merchant Shipping Act 1970 as extended**” is a reference to the Merchant Shipping Act 1970 as extended to the Falkland Islands by the Merchant Shipping Act 1970 (Overseas Territories) Order 1988 (SI 1086/1988).

(3) In the application of these regulations to a hovercraft, a reference to the master of a ship includes a reference to the captain of that hovercraft.

(4) In interpreting the MLC for the purposes of these regulations —

(a) the Regulations contained in the MLC; and

(b) Part A of the MLC Code,

are to be construed as mandatory.

(5) Any reference in these regulations to a specific provision in the MLC, the MLC Regulations or the MLC Code is to be construed as —

(a) a reference to the provision in that instrument as modified from time to time; and

(b) a reference, if the instrument is replaced by another instrument, to the relevant provision in that other instrument.

(6) For the purposes of sub-regulation (5) —

(a) the MLC is modified if an omission, addition or other alteration to the text takes effect in accordance with Article XIV of the MLC;

(b) the MLC Regulations are modified if an omission, addition or other alteration to the text takes effect in accordance with Article XIV of the MLC; and

(c) the MLC Code is modified if an omission, addition or other alteration to the text takes effect in accordance with Article XV of the MLC.

(7) A modification to, or replacement of, the MLC or the MLC Regulations by virtue of sub-regulation (6)(a) and (b) has effect at the time that such modification or replacement comes into force in accordance with Article XIV(6) or (7) of the MLC.

(8) A modification to, or replacement of the MLC Code by virtue of sub-regulation (6)(c) has effect at the time that such modification or replacement comes into force in accordance with Article XV(8) and (9) of the MLC.

(9) No modification or replacement of a reference to an instrument by virtue of sub-regulation (5) and (6) affects any rights or liabilities arising before the date on which the modification or replacement has effect.

4. Application

(1) Subject to sub-regulation (3), Parts 2 to 16 and 18 and 19 apply to —

(a) a sea-going Falkland Islands ship wherever it may be, and to a seafarer employed or engaged in it; and

(b) a sea-going non-MLC foreign ship while that ship is in Falkland Islands waters, and to a seafarer employed or engaged in it.

(2) Subject to sub-regulation (3), Part 3, regulations 59 and 60 and Parts 17 to 19 apply to a sea-going MLC foreign ship while that ship is in Falkland Islands waters, and to a seafarer employed or engaged in it.

(3) These regulations do not apply to —

(a) a pleasure vessel;

(b) a fishing vessel;

(c) a ship of traditional build;

(d) a warship or naval auxiliary; or

(e) a vessel which is not ordinarily engaged in commercial activities.

PART 2 - MINIMUM AGE

5. Interpretation of Part 2

For the purposes of this Part, “**young person**” means any person who is under the age of 18 and is over the age of 16.

6. Employment of young persons at night: exceptions

(1) Section 25(2) of the Ordinance (minimum age or employment or engagement of young person at night) does not apply where —

(a) the effective training of the seafarer, in accordance with established programmes and schedules, would be impaired by its application; or

(b) the specific nature of the duty or of a recognised training programme requires that the seafarer performs duties at night and the work to be carried out is specified in the United Kingdom Merchant Shipping Notice 1838(M) as not being detrimental to the health and well-being of seafarers under the age of 18.

7. Employment or engagement of young persons: general provisions

(1) Appropriate measures must be taken to protect young persons at work from the risks to their health and safety which are a consequence of their lack of experience, or absence of awareness of existing or potential risks or the fact that young persons have not yet fully matured.

(2) No young person shall be permitted to begin work in a ship unless an assessment has first been made of the risks to the health and safety of young persons which might arise during the normal course of their working time, taking into account the inexperience, lack of awareness of risks and immaturity of young persons, and paying particular attention to —

(a) the fitting out and layout of working areas;

(b) the nature, degree and duration of exposure to physical, biological and chemical agents;

(c) the form, range and use of work equipment and the way in which it is handled;

(d) the organisation of processes and activities;

(e) the extent of the health and safety training provided or to be provided to the young persons concerned; and

(f) risks from agents, processes and work of a hazardous nature.

(3) Young persons shall be informed of possible risks to their health and safety identified by the assessment under sub-regulation (2), and of all measures adopted for their protection.

(4) No young person shall be engaged in —

(a) work which is objectively beyond their physical or psychological capacity;

(b) work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affect human health;

(c) work involving harmful exposure to radiation;

(d) work involving the risk of accidents which it may be assumed cannot be recognised or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or

(e) work in which there is a risk to health from —

(i) extreme cold or heat,

(ii) noise, or

(iii) vibration.

(5) In determining whether the work will involve harm or risk for the purposes of this regulation, regard shall be had to the findings of the assessment carried out under sub-regulation (2).

(6) Nothing in sub-regulation (4) shall prevent the employment of a young person to perform any activity where that activity —

(a) is indispensable for their vocational training; and

(b) is performed under the supervision of a competent person,

and in such a case, the duty shall be to ensure, so far as is reasonably practicable, the health and safety of the young person when performing that activity.

(7) A breach of sub-regulation (1), (2), (3), or (4), is an offence by the employer or the person by whom the young person is engaged.

PART 3 - RECRUITMENT AND PLACEMENT

8. Duty on shipowner in respect of recruitment and placement services

(1) A shipowner must not use a recruitment and placement service to recruit a person as a seafarer to work on board a ship within the categories of ship described in regulation 4(1) or (2) unless it is a service falling within sub-regulation (2).

(2) A recruitment and placement service falls within this sub-regulation if it —

(a) is based —

(i) in the Falkland Islands;

(ii) in a country which has ratified the MLC; or

(iii) in a country to which another country's ratification of the MLC has been extended;
or

(b) is based in another country and conforms to the requirements relating to recruitment and placement services referred to in paragraph 5 of Standard A1.4 of the MLC, whether or not those requirements are obligations under the law of the country in which it is based.

(3) A breach of sub-regulation (1) is an offence by the shipowner.

(4) In this regulation, “**recruitment and placement service**” means any person or organisation which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners.

PART 4 - SEAFARERS’ EMPLOYMENT AGREEMENTS

9. Interpretation of Part 4

In this Part, “**approved training provider**” means a person who provides or arranges the provision of seafarer training pursuant to an agreement with the Governor.

10. Duty to enter into seafarers’ employment agreement

(1) For the purposes of section 6 of the Ordinance, a seafarer and the shipowner or a representative of the shipowner must enter into a seafarers’ employment agreement which complies with this regulation.

(2) Subject to sub-regulation (4), if the seafarer is an employee but is not an employee of the shipowner —

(a) the employer of the seafarer must be a party to the seafarers’ employment agreement; and

(b) the seafarers’ employment agreement must include provision under which the shipowner guarantees to the seafarer the performance of the employer’s obligations under the agreement insofar as they relate to the matters specified in —

(i) paragraphs 5 to 11 of Part 1 of Schedule 1; and

(ii) Part 2 of Schedule 1.

(3) Subject to sub-regulation (4), if the seafarer is —

(a) an employee of the shipowner; or

(b) engaged in a ship otherwise than under a contract of employment with the shipowner or any other person,

the shipowner must be a party to the seafarers’ employment agreement.

(4) Sub-regulations (2)(b) and (3) do not apply if the parties to a seafarers’ employment agreement are —

- (a) a seafarer who is on board the ship for the principal purpose of receiving training; and
- (b) an approved training provider.

(5) A breach of sub-regulation (1), (2) or (3) is an offence by the shipowner.

11. Content of seafarers' employment agreement

(1) Subject to sub-regulation (2), a seafarers' employment agreement must include provision about the following —

- (a) the matters in Part 1 and Part 2 of Schedule 1, if the seafarer is an employee of the shipowner or of another person;
- (b) the matters in Part 1 and Part 3 of Schedule 1, if the seafarer is not an employee,

and where the seafarers' employment agreement is one which falls within regulation 10(4), the name and address of the approved training provider must be set out in the agreement.

(2) The provision referred to under sub-regulation (1) may be achieved by way of reference to another document which includes those matters.

(3) A breach of sub-regulation (1) is an offence by the shipowner.

(4) Prior to entering into a seafarers' employment agreement, the shipowner or, in the case of an agreement falling within regulation 10(4), the approved training provider must take reasonable steps to satisfy itself with regard to the following requirements —

- (a) the seafarer must have had a sufficient opportunity to review and take advice on the terms and conditions of the agreement;
- (b) the seafarer must have received an explanation of the rights and responsibilities of the seafarer under the agreement; and
- (c) the seafarer must be entering into the agreement freely.

(5) Where a shipowner —

- (a) fails to take such reasonable steps; or
- (b) in relevant cases, fails to take reasonable steps to ensure that the approved training provider has complied with sub-regulation (4),

the shipowner commits an offence.

(6) Where an approved training provider fails to take the steps required under sub-regulation (4), the approved training provider commits an offence.

(7) A seafarers' employment agreement must contain a declaration by the shipowner and the seafarer or, in the case of an agreement falling within regulation 10(4), by the approved training provider and the seafarer confirming that the requirements in sub-regulation (4)(a) to (c) have been met.

(8) A breach of sub-regulation (7) is an offence by the shipowner or approved training provider.

12. Minimum notice period

(1) Subject to sub-regulation (3), the minimum period of notice which must be given before terminating a seafarers' employment agreement is seven days or such longer period as may be specified in the agreement.

(2) The minimum period of notice which must be given by a seafarer before terminating a seafarers' employment agreement must not be longer than the minimum period of notice which must be given by the shipowner or the approved training provider.

(3) A seafarers' employment agreement may be terminated without penalty where this is requested by the seafarer on compassionate grounds or where it is for reasons of gross misconduct.

13. Documents

(1) As soon as is practicable after entering into a seafarers' employment agreement, the shipowner must provide to the seafarer an original of the agreement signed by each party and a copy of any document referred to in that agreement.

(2) A breach of sub-regulation (1) is an offence by the shipowner.

(3) The shipowner must —

(a) ensure that a copy of the seafarers' employment agreement (and a copy of any document referred to in that agreement) for each seafarer working on board a ship is held on board; and

(b) allow each seafarer to see the copy of the seafarers' employment agreement to which the seafarer is a party (and a copy of any document referred to in that agreement) on request.

(4) A breach of sub-regulation (3) is an offence by the shipowner.

(5) Subject to sub-regulation (6), as soon as is practicable after a seafarer's work on board a ship comes to an end, the shipowner must provide to the seafarer a written record of the seafarer's work on that ship.

(6) For the purposes of sub-regulation (5), the record —

(a) must contain provision about the matters set out in Schedule 2;

(b) must not contain provision about the quality of the seafarer's work; and

(c) must not contain provision about the seafarer's wages.

(7) A breach of sub-regulation (5) or (6) is an offence by the shipowner.

14. Foreign language seafarers' employment agreement

(1) This regulation applies where a seafarer has a seafarers' employment agreement which is not in the English language.

(2) The shipowner must ensure that an English translation of the provisions of the seafarers' employment agreement (including any provisions which are contained in another document referred to in the agreement) is held on board.

(3) A breach of sub-regulation (2) is an offence by the shipowner.

15. Duty of master to produce seafarers' employment agreement

(1) The master of a ship must produce to the Governor (or any person acting on the Governor's behalf) on demand copies of any documentation held on board pursuant to regulations 13(3)(a) and 14(2).

(2) A breach of sub-regulation (1) is an offence by the master of the ship.

PART 5 - WAGES

16. Late payment of wages etc.

(1) Subject to sub-regulation (2), if any amount in respect of wages or other remuneration payable to a seafarer under a seafarers' employment agreement is not paid on the due date, interest must be paid on the unpaid amount at the rate of 10 per cent per annum from the date on which the amount was due until the date of payment.

(2) Sub-regulation (1) does not apply to the extent that the failure to make such payment on the required date was due to —

(a) a reasonable 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 make the payment or of their servants or agents.

17. Account of seafarer's wages, etc.

(1) The shipowner must ensure that an account of the seafarer's wages or other remuneration under a seafarers' employment agreement is prepared and delivered to the seafarer —

- (a) periodically during the term of the seafarers' employment agreement, at intervals not exceeding one month; and
 - (b) within one month of the agreement terminating.
- (2) Where the seafarer is an employee, such account must include the following information —
- (a) the name of the seafarer;
 - (b) the date of birth of the seafarer (if known);
 - (c) the number of the seafarer's current discharge book (if any);
 - (d) the capacity in which the seafarer worked on board the ship;
 - (e) the period covered by the account;
 - (f) the amounts payable for the period covered by the account; and
 - (g) the type and amount of any deductions made during the period covered by the account.
- (3) Where, pursuant to sub-regulation (2), the account includes information in respect of amounts which have been determined by reference to a currency exchange rate, the account must include details of the relevant exchange rate and any commission paid.
- (4) Where the seafarer is not an employee, such account must include the following information—
- (a) payments due;
 - (b) payments made (including any not falling within paragraph (a)); and
 - (c) any rates of exchange and any commissions paid which are relevant to those payments.
- (5) A breach of sub-regulation (1), (2), (3) or (4) is an offence by the shipowner.

PART 6 - HOURS OF WORK

18. General duty of shipowner, master and employer

- (1) It is the duty of the persons mentioned in sub-regulation (2) to ensure that a seafarer in relation to a ship is provided with at least the minimum hours of rest.
- (2) The persons are —
- (a) the shipowner in relation to the ship;

(b) the master of the ship; and

(c) where the seafarer is an employee, the seafarer's employer if not the shipowner.

(3) A muster, drill or training session held pursuant to the Merchant Shipping (Musters, Training and Decision Support Systems) Regulations 1999 (SI 2722/1999), as applied by the Law Revision and Publication Ordinance 2017 —

(a) may require the participation of a seafarer during the seafarer's hours of rest; but

(b) must be conducted in a manner which minimises disturbance of the seafarer's hours of rest and does not induce fatigue.

(4) A seafarer who is required to participate in a muster, drill or training session mentioned in paragraph (3) during the seafarer's hours of rest must be provided with an adequate compensatory rest period.

(5) A seafarer who is on-call on board a ship may be required to do call-outs during hours of rest but must be provided with an adequate compensatory rest period for any call-out work done during hours of rest.

(6) This regulation is subject to regulation 22.

19. Minimum hours of rest

(1) The minimum hours of rest are —

(a) 10 hours in any 24-hour period; and

(b) 77 hours in any 7-day period.

(2) The 10 hours of rest mentioned in sub-regulation (1)(a) may be divided into no more than 2 periods, one of which is to be at least 6 hours in length.

(3) This regulation is subject to regulation 20.

20. Authorised exceptions to minimum hours of rest

(1) The Governor may authorise collective agreements or workforce agreements which —

(a) provide exceptions to the minimum hours of rest mentioned in regulation 19(1)(b);

(b) provide for exceptions to regulation 19(2).

(2) A collective agreement or workforce agreement under sub-regulation (1)(a) must require that —

(a) there are at least 70 hours total rest in any period of 7 days;

(b) the exceptions provided for in the agreement do not apply in relation to a period of more than two consecutive weeks; and

(c) where the exceptions apply in relation to two periods separated by an interval, the interval is at least twice the duration of the longer of the two periods.

(3) A collective agreement or workforce agreement under sub-regulation (1)(b) must require that the 10 minimum hours of rest mentioned in regulation 19(1)(a) are divided into three periods —

(a) one of the three periods is at least 6 hours long and neither of the two other periods are less than one hour long;

(b) intervals between consecutive periods do not exceed 14 hours each; and

(c) the exceptions provided for in the agreement do not apply in relation to more than two 24 hour periods in any 7 day period.

(4) Sub-regulations (2) and (3) do not apply in relation to ships which —

(a) operate only within 60 miles of a safe haven;

(b) are not engaged in the transport of cargo or passengers; and

(c) do not operate to or from, or call at, any port in a country other than the Falkland Islands.

(5) For the purpose of this regulation, a “**workforce agreement**” is an agreement which complies with the conditions set out in Schedule 3.

21. Posting up of table

(1) The master, or a person authorised by the master, must ensure that the following tables are posted up in a prominent and easily accessible place in the ship —

(a) a table of scheduled watchkeeping; and

(b) a table of scheduled hours of rest.

(2) A table under sub-regulation (1) must —

(a) contain the information specified in the United Kingdom Merchant Shipping Notice 1877(M);

(b) be in the format specified in that Merchant Shipping Notice, or in a format substantially like it; and

(c) be in English and in the working language of the ship, if that is not English.

22. Exception for emergencies

(1) A master may require a seafarer to work any hours of work necessary for the immediate safety of a ship, persons on board or cargo, or for the purpose of giving assistance to another ship or to a person in distress at sea.

(2) As soon as practicable after the normal situation has been restored, the master must ensure that any seafarer who has performed work in hours of rest scheduled in the table under regulation 21 is provided with an adequate rest period.

23. Records

(1) The master, or a person authorised by the master, must maintain records of each seafarer's daily hours of rest in accordance with the requirements of the United Kingdom Merchant Shipping Notice 1877(M).

(2) Records under sub-regulation (1) must be in a format which complies with the requirements specified in the United Kingdom Merchant Shipping Notice 1877(M).

(3) Records under sub-regulation (1) must be in English and in the working language of the ship if it is not English.

(4) The records kept under sub-regulation (1) must be endorsed by —

(a) the master, or the person authorised by the master; and

(b) the seafarer to whom the record relates.

(5) The master, or a person authorised by the master, must give a copy of the endorsed record to the seafarer to whom the record relates.

(6) A relevant inspector must examine and endorse, at appropriate intervals, records kept under sub-regulation (1).

(7) The shipowner and the master must ensure that a copy of these regulations, the United Kingdom Merchant Shipping Notice 1877(M) and any collective agreements or workforce agreements relevant to the ship which are authorised under regulation 20 are carried at all times on board ship in an easily accessible place.

24. Power to require information

A shipowner must provide the Governor with such information as the Governor may specify on watchkeepers and other seafarers working at night.

25. Entitlement to annual and additional leave

(1) A seafarer is entitled to —

(a) paid annual leave that is to be calculated on the basis of two and a half days for each month of employment in the leave year and pro rata for incomplete months; and

(b) additional paid leave of eight days in each leave year and pro rata for incomplete years.

(2) Leave to which a seafarer is entitled under this regulation —

(a) may be taken in instalments; and

(b) may not be replaced by payment in lieu, except where the seafarer's employment is terminated.

(3) Justified absences from work are not to be considered annual leave for the purposes of sub-regulation (1)(a).

(4) For the purposes of this regulation, "**justified absences from work**" include any absence authorised by —

(a) any enactment;

(b) any contract between the seafarer's employer and the seafarer;

(c) any collective agreement or workplace agreement to which the seafarer is subject; or

(d) custom and practice.

26. Shore leave

The shipowner and the master must ensure that shore leave is granted to seafarers who work on the ship to benefit their health and well-being where consistent with the operational requirements of their positions.

27. Entitlements under other provisions

Where during any period a seafarer is entitled to hours of rest or paid leave both under a provision of these regulations and under a separate provision (including a provision of the seafarer's contract), the seafarer may not exercise the two rights separately, but may, in taking hours of rest or paid leave during that period, take advantage of whichever right is, in any particular respect, the more favourable.

28. Remedies

(1) A seafarer may present a complaint to the Summary Court that the seafarer's employer —

(a) has refused to permit the exercise of any right that the seafarer has under regulation 25(1)(a) or (b); or

(b) has failed to pay the seafarer the whole or any part of any amount due to the seafarer under regulation 25(1)(a) or (b).

(2) The Summary Court must not consider a complaint under this regulation unless it is presented —

(a) before the end of the complaint period; or

(b) within such further period as the Summary Court considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the complaint period.

(3) Where the Summary Court finds a complaint under sub-regulation (1)(a) to be well-founded, the Summary Court —

(a) must make a declaration to that effect; and

(b) may make an award of compensation to be paid by the employer to the seafarer.

(4) The amount of the compensation is to be such amount as the Summary Court considers just and equitable in all the circumstances having regard to —

(a) the employer's default in refusing to permit the seafarer to exercise the seafarer's right; and

(b) any loss sustained by the seafarer which is attributable to the matters complained of.

(5) Where on complaint under sub-regulation (1)(b) the Summary Court finds that an employer has failed to pay a seafarer in accordance with regulation 25(1), it must order the employer to pay the seafarer the amount which it finds to be due to the seafarer.

(6) The “**complaint period**” is the period of three months beginning on the date on which it is alleged that the exercise of the right should have been permitted (or in the case of a period of annual leave or additional leave extending over more than one day, the date on which it should have been permitted to begin) or, as the case may be, the payment should have been made.

29. Extension of complaint period to facilitate conciliation before institution of proceedings

In calculating when the complaint period expires, the Summary Court may permit, on the application of the seafarer, an extension to that period of such number of days as the Summary Court thinks fit if the seafarer has sought conciliation with the seafarer's employer in relation to the matter in respect of which the proceedings are brought.

30. Restriction on contracting out

(1) Any provision in an agreement (whether a contract of employment or not) is void in so far as it purports to —

(a) exclude or limit the operation of any provision of these regulations; or

(b) preclude a person from bringing proceedings under these regulations before the Summary Court.

(2) Sub-regulation (1) does not apply to any agreement to refrain from instituting or continuing proceedings under regulation 28, if the following conditions are met.

(3) For the purposes of sub-regulation (2) the conditions are —

(a) the agreement is in writing;

(b) the agreement relates to the particular complaint;

(c) the seafarer has received advice from a relevant independent adviser as to the terms and effect of the proposed agreement and, in particular, its effect on the seafarer's ability to pursue the seafarer's rights before the Summary Court;

(d) there is in force, when the adviser gives the advice, a contract of insurance, or an indemnity provided for members of a profession or a professional body, covering the risk of a claim by the seafarer in respect of loss arising in consequence of the advice; and

(e) the agreement states that the conditions in paragraphs (a) to (d) are satisfied.

(4) A person is a relevant independent adviser for the purposes of sub-regulation (3)(c) if the person —

(a) is a qualified lawyer;

(b) is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union; or

(c) works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre.

(5) A person is not a relevant independent adviser for the purposes of sub-regulation (3)(c) —

(a) if the person is employed by, or is acting in the matter for, the employer or an associated employer;

(b) in the case of a person within sub-regulation (4)(b), if the trade union is the employer or an associated employer; or

(c) in the case of a person within sub-regulation (4)(c), if the seafarer makes a payment for the advice received from the person.

(6) In sub-regulation (4)(a), “**qualified lawyer**” means a person who, for the purposes of the Legal Practitioners Ordinance 1997, is an authorised person in relation to an activity which

constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Ordinance);

(7) For the purposes of sub-regulation (5) any two employers are to be treated as associated if —

(a) one is a company of which the other (directly or indirectly) has control; or

(b) both are companies of which a third person (directly or indirectly) has control, and “**associated employer**” is to be construed accordingly.

31. Hours of rest: offences

(1) It is an offence for —

(a) the master of the ship to breach regulation 18(1) or (3)(b), 21(1), 22(2), 23(1), (4)(a), (5) or (7) or 26;

(b) the employer of a seafarer to breach regulation 18(1);

(c) the person authorised by the master of the ship to breach regulation 21(1) or 23(1), (4)(a) or (5); or

(d) the shipowner to breach regulation 18(1), 23(7), 24 or 26.

(2) Where there is a contravention of regulation 25(1)(a) or (b), the employer of the seafarer is guilty of an offence.

PART 7 - CREW ACCOMMODATION

32. Crew accommodation requirements

(1) In this Part, “**crew accommodation**” means accommodation, including the construction, machinery, fittings and equipment of that accommodation, intended for or used by seafarers.

(2) Subject to regulations 33, 34 and 35, a ship must comply with the requirements relating to crew accommodation set out in the United Kingdom Merchant Shipping Notice 1844(M).

(3) A breach of sub-regulation (2) is an offence by the shipowner.

(4) The master of the ship, or an officer appointed by the master for that purpose, must, at intervals not exceeding 7 days and accompanied by at least one member of the crew, inspect the crew accommodation to ensure it is clean, decently habitable and maintained in a good state of repair.

(5) A breach of sub-regulation (4) is an offence by the master of the ship.

(6) The master of the ship, or an officer appointed by the master for that purpose, must record the findings of inspections undertaken pursuant to sub-regulation (4) in the official log book of the ship specifying —

(a) the time and date of the inspection;

(b) the name and rank of each person making the inspection; and

(c) particulars of any respect in which the crew accommodation was found by any of the persons making the inspection not to comply with these regulations.

(7) A breach of sub-regulation (6) is an offence by the master of the ship.

33. Provision for certain older ships

(1) A ship constructed before 1st July 1979 —

(a) as respects crew accommodation which has not been substantially reconstructed or altered on or after that date, must comply with the requirements set out in Schedule 6 to the Merchant Shipping (Crew Accommodation) Regulations 1978 (SI 795/1978), as adopted by the Merchant Shipping (Adoption of Legislation) Ordinance 1992, as if those regulations had not been revoked;

(b) as respects crew accommodation which has been substantially reconstructed or altered on or after that date but before 11th July 1997, must comply with the requirements set out in Part 1 of the Merchant Shipping (Crew Accommodation) Regulations 1978, as adopted by the Merchant Shipping (Adoption of Legislation) Ordinance 1992, as if those regulations had not been revoked; and

(c) as respects crew accommodation which has been substantially reconstructed or altered on or after 11th July 1997 but before 7th August 2014, must comply with the requirements set out in the Merchant Shipping (Crew Accommodation) Regulations 1997, as applied by the Law Revision and Publication Ordinance 2017.

(2) A ship constructed on or after 1st July 1979 but before 11th July 1997 —

(a) as respects crew accommodation which has not been substantially reconstructed or altered on or after 11th July 1997, must comply with the requirements set out in Part 1 of the Merchant Shipping (Crew Accommodation) Regulations 1978, as adopted by the Merchant Shipping (Adoption of Legislation) Ordinance 1992, as if those regulations had not been revoked; and

(b) as respects crew accommodation which has been substantially reconstructed or altered on or after 11th July 1997 but before 7th August 2014, must comply with the requirements set out in the Merchant Shipping (Crew Accommodation) Regulations 1997, as applied by the Law Revision and Publication Ordinance 2017.

(3) A ship constructed on or after 11th July 1997 but before the date on which these regulations come into force must, as respects crew accommodation which has not been substantially reconstructed or altered on or after the date on which these regulations come into force, comply with the requirements set out in the Merchant Shipping (Crew Accommodation) Regulations 1997, as applied by the Law Revision and Publication Ordinance 2017.

(4) A breach of sub-regulation (1), (2) or (3) is an offence by the shipowner.

34. Exemptions

(1) The Governor may exempt a ship from some or all of the requirements of regulation 33(2) where —

(a) the exemption is expressly permitted by Standard A3.1 (accommodation and recreational facilities) of the MLC; and

(b) the Governor has fulfilled any obligation imposed on the competent authority by that Standard in respect of the exemption,

and in paragraph (a), the reference to an exemption which is expressly permitted includes anything permitted in accordance with paragraph 6(a) or (d) of Standard A3.1 of the MLC or allowed in accordance with paragraph 9(g) of Standard A3.1.

(2) An exemption under this regulation —

(a) must be given in writing;

(b) may be granted on such terms as the Governor may specify; and

(c) may be altered or cancelled by the Governor giving written notice to the shipowner.

(3) A breach of the terms of an exemption granted under sub-regulation (1) is an offence by the shipowner.

35. Approvals to allow substantial equivalences

(1) In respect of a particular ship, or ships of a particular description, the Governor may approve arrangements which, when taken together with the conditions to which the approval is subject, the Governor considers are substantially equivalent to the requirements which are set out in the United Kingdom Merchant Shipping Notice 1844(M).

(2) An approval under sub-regulation (1) —

(a) must be given in writing; and

(b) must specify the date on which it takes effect and the conditions (if any) on which it is given.

(3) An approval mentioned under sub-regulation (1) may be cancelled, and the terms of an approval may be altered, in both cases by the Governor giving written notice to the shipowner.

(4) A breach of a condition on which such an approval is given is an offence by the shipowner.

PART 8 - FOOD AND CATERING

36. Interpretation of Part 8

In this Part —

“**catering department**” means the galley, mess rooms and any other areas on board intended or used for the storage or preparation of food for seafarers or the service of meals to seafarers;

“**catering staff**” means seafarers whose normal duties include the preparation and storage of food, the service of meals to seafarers on board the ship or other work in the galley or in areas where food is stored or handled;

“**eligible person**” means a seafarer who —

(a) is 18 years of age or over;

(b) has completed training in accordance with the requirements in United Kingdom Merchant Shipping Notice 1846(M); and

(c) has served for not less than one month at sea;

“**qualified ship’s cook**” means a person who has been issued with a ship’s cook certificate which has not expired or been cancelled and which is not suspended; and

“**ship’s cook certificate**” means —

(a) a certificate of competency as a ship’s cook which has been issued under regulation 41;

(b) a certificate of competency as a ship’s cook which has been issued by the MCA under a regulation which applies in the United Kingdom and is equivalent to regulation 41;

(c) a certificate which under regulation 43 has effect as if it were a certificate of competency as a ship’s cook issued under regulation 41; or

(d) a certificate which is specified in the United Kingdom Merchant Shipping Notice 1846(M) as equivalent to a certificate of competency as a ship’s cook issued under regulation 41.

37. Provision of food and drinking water

(1) The shipowner and the master of a ship must ensure that food and drinking water provided on board the ship —

(a) are suitable in respect of quantity, quality and, in relation to food, nutritional value and variety, taking account of —

(i) the number of seafarers on board and the character, nature and duration of the voyage; and

(ii) the different religious requirements and cultural practices in relation to food of the seafarers on board;

(b) do not contain anything which is likely to cause sickness or injury to health or which renders any food or drinking water unpalatable; and

(c) are otherwise fit for consumption.

(2) The shipowner and master of a ship must ensure that food and drinking water provided in accordance with sub-regulation (1) are provided free of charge to all seafarers while they are on board.

(3) A breach of sub-regulation (1) or (2) is an offence by the shipowner and the master of the ship.

38. Organisation and equipment of the catering department

(1) The shipowner and the master of a ship must ensure that —

(a) food and drinking water which are provided for seafarers are stored and handled; and

(b) the catering department is organised and equipped,

in accordance with the requirements set out in the United Kingdom Merchant Shipping Notice 1845(M).

(2) A breach of sub-regulation (1) is an offence by the shipowner and the master of the ship.

39. Inspection of food and catering facilities

(1) The master of a ship must ensure that, not less than once a week —

(a) the supplies of food and drinking water on board are inspected to check compliance with regulations 37 and 38; and

(b) the catering department and its equipment are inspected to check compliance with regulation 38.

(2) An inspection under sub-regulation (1) must be carried out by —

(a) the master of the ship; or

(b) a person authorised by the master,

together with a member of the catering staff.

(3) The master of the ship must ensure that the results of any inspection under sub-regulation (1) are recorded in the official logbook of the ship.

(4) A breach of sub-regulation (1), (2) or (3) is an offence by the master of the ship.

40. Requirement to carry a qualified ship's cook

(1) This regulation does not apply to —

(a) a ship which ordinarily operates with fewer than 10 seafarers on board; or

(b) a ship which operates only within 60 miles of a safe haven and which does not operate to or from, or call at, a port in a country other than the Falkland Islands.

(2) Subject to sub-regulation (3), a ship must not be operated unless a qualified ship's cook is on board.

(3) In circumstances of exceptional necessity the Governor may grant an exemption from the requirement in sub-regulation (2) —

(a) until the next port of call, or

(b) for a period not exceeding one month,

but only if there is a person on board the ship who is trained or instructed in food and personal hygiene and safe handling and storage of food in accordance with the relevant requirements in the United Kingdom Merchant Shipping Notice 1846(M).

(4) An exemption under this regulation —

(a) must be given by written notice to the shipowner and the master of the ship;

(b) may be granted on such terms as the Governor may specify; and

(c) may be altered or cancelled by the Governor giving written notice to the shipowner.

(5) The Governor may approve as respects a particular ship, or as respects ships of a particular description, arrangements which, when taken together with the conditions to which the approval is subject, the Governor considers are substantially equivalent to the requirement in sub-regulation (2).

(6) An approval under this regulation —

(a) must be given in writing to the shipowner and the master of the ship; and

(b) must specify the date on which it takes effect and the conditions (if any) on which it is given.

(7) Such an approval may be cancelled and the terms of an approval may be altered, in both cases by the Governor giving written notice to the shipowner and the master of the ship.

(8) A breach of —

(a) sub-regulation (2);

(b) the terms of an exemption granted under sub-regulation (3); or

(c) a condition on which an approval is given under sub-regulation (5),

is an offence by the shipowner and the master of the ship.

41. Certificate of competency as a ship's cook

(1) On receipt of an application for a certificate of competency as a ship's cook and the appropriate fee (if any), the Governor must, on being satisfied that the applicant is an eligible person, issue a certificate of competency to the applicant.

(2) Before the issue of any such certificate, the Governor may require the applicant to produce such certificates of discharge and such other documentary evidence as may be necessary to establish to the satisfaction of the Governor that the applicant is an eligible person.

(3) If an eligible person —

(a) satisfies the Governor that a certificate already issued to that person has been lost, destroyed or stolen; and

(b) pays the appropriate fee (if any),

the Governor must issue a copy of the certificate to that person.

(4) Any such copy must, before it is so issued, be certified by such person as the Governor may have directed to keep the record referred to in sub-regulation (5).

(5) A record of all certificates of competency issued under this regulation and of the suspension, cancellation or alteration of, and any other matters affecting, any such certificate must be kept, in such manner as the Governor may require, by such person as the Governor may direct.

42. Suspension or cancellation of a certificate of competency as a ship's cook

(1) The provisions of sections 49 to 57 of the Ordinance apply in respect of a certificate of competency issued under regulation 41(1) as if such a certificate were a certificate to which those sections apply.

(2) A notice served by the Governor pursuant to section 51(1) of the Ordinance must be effected either by serving the holder of the certificate concerned personally or by sending it to their last known address by registered post or by the recorded delivery service.

(3) Within six weeks of the receipt of such notice, or such longer period as the Governor may allow, the holder of the certificate may inform the Governor of his or her intention to make written representations or claim to make oral representations to the Governor.

(4) In the case of a claim to make oral representations, the Governor must seek to agree with the holder of the certificate a suitable date and place for the oral representations to be heard and if no such agreement is reached, they must be heard at the address specified by the Governor on the last working day of the period for representations allowed by sub-regulation (6).

(5) If oral representations are to be made, the holder of the certificate may be accompanied by a friend who may advise him or her or speak on their behalf.

(6) Representations, whether written or oral, must be made within ten weeks of receipt of the notice.

(7) Notice of the Governor's decision shall be given to the holder either by serving the holder of the certificate concerned personally or by delivering or sending it by post to their last known address by registered post or by the recorded delivery service.

43. Recognition of existing certificates of competency

(1) A certificate of competency as a ship's cook —

(a) issued under the Merchant Shipping Act 1970 as extended; or

(b) treated as equivalent to such a certificate under that Act,

which is in force and not suspended on the date when these regulations come into force, has effect as if it were a certificate of competency as a ship's cook issued under regulation 41(1) of these regulations.

(2) A certificate to which sub-regulation (1) applies remains valid for a period of 5 years beginning on the date on which these regulations come into force unless it is suspended or cancelled in accordance with section 51 of the Ordinance.

44. Training requirements for catering staff and other persons processing food in the galley

(1) The shipowner must ensure that —

(a) every member of the catering staff is properly trained or instructed for their position in accordance with the relevant requirements set out in United Kingdom Merchant Shipping Notice 1846(M); and

(b) any person processing food in the galley is properly trained or instructed in food and personal hygiene and handling in accordance with the relevant requirements set out in United Kingdom Merchant Shipping Notice 1846(M).

(2) A breach of sub-regulation (1) is an offence by the shipowner.

PART 9 - REPATRIATION

45. Duty to repatriate seafarers

(1) Subject to regulation 47, a shipowner must make such provision as is necessary for the repatriation of a seafarer as soon as is practicable in the following cases —

(a) where the seafarers' employment agreement expires;

(b) where the seafarers' employment agreement is terminated by the shipowner;

(c) where the seafarers' employment agreement is terminated by the seafarer in accordance with the terms of the agreement;

(d) where the seafarer is no longer able to carry out the seafarer's duties under the seafarers' employment agreement or cannot be expected to carry them out in the specific circumstances, including in the following circumstances —

(i) the seafarer has an illness, injury or medical condition which requires his or her repatriation when found medically fit to travel;

(ii) shipwreck;

(iii) the shipowner is not able to fulfil its legal or contractual obligations to the seafarer following insolvency, the sale of the ship or a change in the ship's registration; or

(iv) the ship is bound for a war zone to which the seafarer does not consent to go;

(e) where the seafarer has completed the maximum period of service on board following which the seafarer is entitled to repatriation in accordance with the seafarers' employment agreement; or

(f) where the seafarers' employment agreement is terminated pursuant to an order of a court or tribunal.

(2) A breach of sub-regulation (1) is an offence by the shipowner.

46. Place for return

(1) Where there is a duty on a shipowner to provide for the repatriation of a seafarer under regulation 45, a seafarer is entitled to repatriation to the destination provided for in the seafarers' employment agreement, or such other place as may subsequently be agreed with the shipowner.

(2) If the seafarers' employment agreement does not identify a destination, and there has been no agreement between the seafarer and the shipowner as to the destination, the seafarer is entitled to repatriation to the seafarer's choice of the following destinations —

(a) the place at which the seafarer entered into the seafarers' employment agreement; or

(b) the seafarer's country of residence.

47. Scope of duty to repatriate

Where there is a duty on a shipowner to provide for the repatriation of a seafarer under regulation 45, that duty ends when —

(a) the seafarer is repatriated in accordance with regulation 46;

(b) the shipowner makes reasonable arrangements for repatriation which are unsuccessful because of the seafarer's unreasonable conduct;

(c) the shipowner has used reasonable endeavours to contact the seafarer for a period of three months or more, but has been unable to make such contact;

(d) the seafarer confirms in writing to the shipowner that repatriation is not required; or

(e) the seafarer is dead.

48. Duty pending repatriation

(1) A shipowner to which a duty in regulation 45 applies must make such provision as is necessary for the seafarer's relief and maintenance pending repatriation.

(2) The shipowner must have regard to the seafarer's personal circumstances and requirements when determining what provision is required under sub-regulation (1).

(3) Without prejudice to the generality of sub-regulation (1) the provision for relief and maintenance must include —

(a) food;

(b) clothing;

(c) accommodation;

(d) toiletries and other personal necessities;

(e) surgical, medical, dental or optical treatment (including the repair or replacement of any appliance) for any condition requiring immediate care; and

(f) in cases where legal aid is unavailable or insufficient, reasonable costs for the defence of the seafarer in any criminal proceedings in respect of any act or omission within the scope of the seafarer's employment, being proceedings where neither the shipowner nor an agent of the shipowner is the complainant.

(4) The duty in sub-regulation (1) ends when the duty in regulation 45 ends in accordance with regulation 47.

(5) A breach of sub-regulation (1) is an offence by the shipowner.

49. Prohibition on recovering costs from seafarer

(1) Subject to sub-regulation (2) and (4), a shipowner must not enter into an agreement with a seafarer under which the seafarer becomes liable in respect of either —

(a) repatriation costs; or

(b) relief and maintenance costs.

(2) A seafarers' employment agreement may provide that the seafarer must reimburse repatriation costs where the agreement is terminated because of the seafarer's serious misconduct.

(3) If a seafarers' employment agreement contains a provision described in sub-regulation (2) and that obligation arises, a deduction equivalent to those costs may be made from the wages due to the seafarer under that agreement.

(4) If a seafarers' employment agreement does not contain provision such as that described in sub-regulation (2), the shipowner may only recover the costs described in sub-regulation (1) (or damages in respect of such costs) where the agreement is terminated because of the seafarer's serious misconduct.

(5) A breach of sub-regulation (1) is an offence by the shipowner.

(6) An agreement is void to the extent it provides that a seafarer must make a payment to the shipowner in respect of either repatriation costs or relief and maintenance costs in breach of sub-regulation (1).

50. Seafarer property

(1) This regulation applies where —

(a) a shipowner is under a duty under regulation 45 in respect of a seafarer; and

(b) property belonging to that seafarer has been left behind on board a ship.

(2) The master of the ship must take charge of that property and enter a description of each item in the official log book.

(3) A breach of sub-regulation (2) is an offence by the master of the ship.

(4) Subject to sub-regulation (6), the master of the ship and the shipowner must ensure that reasonable care is taken of the property pending its delivery in accordance with sub-regulation (10).

(5) A breach of sub-regulation (4) is an offence by the master of the ship and the shipowner.

(6) The master of the ship may at any time —

(a) sell any part of the property which is of a perishable or deteriorating nature; and

(b) destroy or otherwise dispose of any part of the property considered a potential risk to the health or safety of any person.

(7) The proceeds of any sale under sub-regulation (6)(a) are the property of the seafarer and the master of the ship must ensure that details of the sale are entered in the official log book.

(8) The master of the ship must ensure that details of any destruction or disposal under sub-regulation (6)(b) are entered in the official log book.

(9) A breach of sub-regulations (7) or (8) is an offence by the master of the ship.

(10) Subject to sub-regulation (11), the shipowner must cause the property and a document containing the information entered in the log book pursuant to sub-regulations (7) and (8) to be delivered to the seafarer or to the seafarer's next of kin.

(11) The duty in sub-regulation (10) is discharged if the shipowner causes the delivery to be made to the last known address of the seafarer or the seafarer's next of kin, as the case may be.

(12) A breach of sub-regulation (10) is an offence by the shipowner.

(13) The seafarer or the next of kin must reimburse the shipowner for the reasonable delivery costs if demanded.

51. Duty to carry documents

(1) A shipowner must ensure that a copy of this Part of these regulations and United Kingdom Marine Guidance Notice 479(M) are held on board the ship and are available to seafarers.

(2) Unless the shipowner reasonably considers that all of the seafarers on board the ship understand English sufficiently to understand the documents referred to in sub-regulation (1), the duty in sub-regulation (1) includes the duty to hold on board the ship and make available to

seafarers such translated versions of those documents as are sufficient to ensure that all of the seafarers on board the ship can understand at least one version.

(3) A breach of sub-regulations (1) or (2) is an offence by the shipowner.

52. Financial security requirement applicable to all ships

(1) A ship must not be operated unless there is in force a contract of insurance or other financial security adequate to ensure that the shipowner will be able to meet any liabilities arising from the duties in regulations 45 and 48.

(2) A breach of sub-regulation (1) is an offence by the shipowner.

53. Governor's functions in the event of shipowner default

(1) The Governor must make any provision which the shipowner of a Falkland Islands ship is required to make under regulation 45 or 48 (repatriation and duty pending repatriation) (or secure that it is made) if —

(a) the shipowner fails to make the required provision; and

(b) the seafarer in relation to whom the shipowner has failed to make such provision is not entitled to receive financial assistance under an abandonment security in accordance with Part 14.

(2) The Governor may make any provision which the shipowner of a non-MLC foreign ship is required to make under regulation 45 or 48 (repatriation and duty pending repatriation) (or secure that it is made) if —

(a) the shipowner fails to make the required provision; and

(b) the seafarer in relation to whom the shipowner has failed to make such provision is entitled to receive financial assistance under an abandonment security in accordance with Part 14.

(3) Where the Governor makes provision under sub-regulation (1) or (2), the Governor may recover costs incurred from the shipowner as a civil debt.

(4) Subject to sub-regulation (7), the costs which the Governor may recover under sub-regulation (3) include —

(a) costs incurred by the Governor in making the required provision (or securing that it is made); and

(b) costs incurred by the Governor in reimbursing another person (including a State which has made provision pursuant to paragraph 5 of Standard A2.5.1 (repatriation) of the MLC) for having made the required provision (or having secured its provision), whether or not the Governor has requested or required them to do so.

(5) Subject to sub-regulation (6), if a shipowner fails to make provision required under regulation 45 or 48 and the seafarer incurs costs in making the required provision or securing that it is made, the seafarer may recover such costs from the shipowner as a civil debt.

(6) The costs incurred by the seafarer which are referred to in sub-regulation (5) may not be recovered by the seafarer under sub-regulation (5) if they have been recovered by the Governor under sub-regulation (3).

(7) The costs incurred by the Governor which are referred to in sub-regulation (4) may not be recovered by the Governor under sub-regulation (3) if they have been recovered by the seafarer under sub-regulation (5).

PART 10 - MEDICAL CARE

54. Shipowner duty to make provision for seafarer medical and other expenses

(1) This regulation applies in relation to a seafarer who suffers sickness or injury falling within sub-regulation (2).

(2) Sickness or injury falls within this sub-regulation if it —

(a) first occurs during a period —

(i) which starts on the date on which that seafarer's seafarers' employment agreement commences and ends on the next date on which the shipowner's duty to make provision for the repatriation of that seafarer under regulation 45 ends under regulation 47; or

(ii) which starts after a period referred to in sub-paragraph (i) but is caused by circumstances or events arising during that period; and

(b) does not first occur during a period of leave, other than shore leave.

(3) Subject to sub-regulations (5) and (6), the shipowner must —

(a) ensure that the seafarer is provided with medical care on board, so far as is practicable; and

(b) meet any expenses falling within sub-regulation (4) which are reasonably incurred in connection with the seafarer's sickness or injury.

(4) Expenses falling within this sub-regulation are —

(a) expenses of surgical, medical, dental or optical treatment (including the supply, repair or replacement of any appliance); and

(b) expenses for board and lodging.

- (5) The duty to meet expenses referred to in sub-regulation (3)(b) —
- (a) does not apply to expenses which are met by a public authority; and
 - (b) does not affect any duty on the shipowner under regulation 48 and does not apply in respect of any expenses met by the shipowner in accordance with that duty.
- (6) Subject to sub-regulation (7), the duty to meet expenses referred to in sub-regulation (3)(b) is limited to expenses incurred during whichever of the following periods is the shorter —
- (a) a period of 16 weeks beginning on the day on which the sickness or injury first occurs; or
 - (b) a period beginning on the day on which the sickness or injury first occurs and ending on the day on which a person authorised to issue seafarer medical certificates notifies the seafarer of a decision that —
 - (i) the seafarer is not fit to carry out the duties which that seafarer is required to carry out under the terms of that seafarer’s seafarers’ employment agreement; and
 - (ii) the seafarer is unlikely to be fit to carry out duties of that nature in the future.
- (7) If a person authorised to issue seafarer medical certificates has notified a seafarer of a decision in the terms described in sub-regulation (6)(b) and that person or another subsequently notifies the seafarer that such a decision no longer applies in both or either respects, the duty to meet expenses referred to in sub-regulation (3)(b) is limited to expenses incurred during the period set out in sub-regulation (6)(a).
- (8) The shipowner may recover from the seafarer as a civil debt any expenses it has met under the duty to meet expenses referred to in sub-regulation (3)(b) in connection with —
- (a) injury suffered otherwise than in the service of the ship;
 - (b) injury or sickness arising from the wilful misconduct of the seafarer who is injured or sick; or
 - (c) injury or sickness intentionally concealed by the seafarer prior to entering into the seafarers’ employment agreement.
- (9) If any expenses are incurred by a seafarer to which the duty in sub-regulation (3) applies, the seafarer may (other than in the circumstances referred to in paragraphs (a) to (c) of sub-regulation (8)) recover those expenses from the shipowner as a civil debt.
- (10) A breach of sub-regulation (3) is an offence by the shipowner.
- (11) In this regulation “**person authorised to issue seafarer medical certificates**” means a person who has been authorised by or on behalf of the Governor or the Director to issue medical

certificates to seafarers for the purposes of Regulation 1.2 of the MLC (medical certificate) or Regulation I/9 of the STCW Convention.

55. Duty to carry a medical practitioner on ship

(1) Subject to sub-regulation (2), a ship must not be operated unless a medical practitioner is carried on board the ship.

(2) This regulation does not apply to a ship unless —

(a) it has 100 or more persons on board; and

(b) it is engaged on an international voyage lasting more than 72 hours.

(3) A breach of sub-regulation (1) is an offence by the shipowner.

56. Right to medical attention

(1) When a ship is in a port of call, the shipowner must permit a seafarer in need of medical attention of a kind which is not available on board the ship to go ashore for such attention, where this is reasonably practicable.

(2) A breach of sub-regulation (1) is an offence by the shipowner.

PART 11- MEDICAL CERTIFICATION

57. Interpretation of Part 11

In this Part —

“**approval**” means an approval given by the Governor in writing and which specifies the date on which it takes effect, its duration and the conditions (if any) on which it is given, and “**approved**” has a corresponding meaning; and

“**medical fitness certificate**” means a certificate attesting to a person’s fitness to perform the duties which that person will carry out at sea and which is issued under regulation 61 or 66 (whether or not subject to restriction or conditions);

58. Application of Part 11

This Part does not apply to any person whose work is not part of the routine business of the ship and whose principal place of work is ashore.

59. Seafarer to have valid medical fitness certificate

(1) Subject to sub-regulations (3) and (4), no person may work as a seafarer in a ship unless that person has been issued with a medical fitness certificate which is valid and is not suspended.

(2) A seafarer who has been issued with a medical fitness certificate must carry that certificate on board during the term of that seafarer’s employment in a ship.

(3) A seafarer whose medical fitness certificate has expired during the course of a voyage may continue to work until —

(a) the first port of call at which it is possible for the seafarer to make an application for a medical fitness certificate and to be examined by a medical practitioner; or

(b) the expiry of three months starting on the date of the expiry of the certificate,

whichever is the sooner.

(4) In urgent cases, with the Governor's approval, if a person —

(a) does not hold a valid medical fitness certificate; but

(b) has held a medical fitness certificate for a period of not less than 24 months (or in the case of a person under 18 years at the date of issue of the certificate, 12 months) and that certificate has expired no earlier than one month before the date on which that person joined a ship,

that person may work as a seafarer in that ship until the first port of call at which it is possible for an application for a medical fitness certificate as respects that person to be made and for that person to be examined by a medical practitioner, but in any case not for a period exceeding three months.

(5) No person may work as a seafarer in a ship or in a geographical area precluded by any restriction in that person's medical fitness certificate.

(6) No person may work as a seafarer in a ship in breach of a condition of that person's medical fitness certificate.

(7) A breach of this regulation is an offence.

60. Employment of seafarers

(1) Subject to sub-regulations (2) and (3), no person may employ another person as a seafarer in a ship unless that other person has been issued with a medical fitness certificate which is valid and is not suspended.

(2) A person may continue to employ as a seafarer in a ship a person whose medical fitness certificate has expired during the course of a voyage until —

(a) the first port of call at which it is possible for the seafarer to make an application for a medical fitness certificate and to be examined by a medical practitioner; or

(b) the expiry of three months starting on the date of expiry of the certificate,

whichever is the sooner.

(3) In urgent cases, with the Governor's approval, if a person who is a seafarer —

(a) does not hold a valid medical fitness certificate; but

(b) has held a medical fitness certificate for a period of not less than 24 months (or in the case of a person under 18 years at the date of issue of the certificate, 12 months) and that certificate has expired no earlier than one month from the date on which the seafarer joined a ship,

another person may employ that person as a seafarer on that ship until the first port of call at which it is possible for an application for a medical fitness certificate as respects that seafarer to be made and for that seafarer to be examined by a medical practitioner, but in any case not for a period exceeding three months.

(4) No person may employ a person as a seafarer in a ship or in a geographical area precluded by any restriction in that person's medical fitness certificate.

(5) No person may employ a person as a seafarer in a ship in such a way as to breach a condition of the person's medical fitness certificate.

(6) A breach of this regulation is an offence.

61. Application for and issue of medical fitness certificate

(1) If —

(a) an application for a medical fitness certificate is made to a medical practitioner;

(b) the appropriate fee has been paid;

(c) the medical practitioner has examined the person to whom the application relates; and

(d) having had regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M), the medical practitioner considers that the person to whom the application relates is fit to perform the duties which that person will carry out at sea in accordance with his or her seafarers' employment agreement,

the medical practitioner must issue that person with a medical fitness certificate in the form specified in the United Kingdom Merchant Shipping Notice 1839(M).

(2) A person applying for a medical fitness certificate must disclose to the medical practitioner to whom the application is made —

(a) all existing medical conditions from which the person suffers and of which the person is aware (if any); and

- (b) all medication which the person is taking (if any).
- (3) Disclosure required by sub-regulation (2) must be made with the application or as soon as reasonably practicable afterwards.
- (4) A medical fitness certificate may, as the medical practitioner considers appropriate —
 - (a) be restricted to such capacity of work or geographical areas as that practitioner records on the certificate; and
 - (b) be subject to such conditions as that practitioner records in accordance with the requirements of the United Kingdom Merchant Shipping Notice 1839(M).
- (5) If a person is employed as a seafarer, or has been offered employment as a seafarer, at the time an application is made for a medical fitness certificate under sub-regulation (1), the person's employer must ensure that the application is made and processed at no cost to the person to whom it relates.
- (6) An employer who fails to comply with sub-regulation (5) is guilty of an offence.

62. Period of validity of medical fitness certificate

A medical fitness certificate is valid only from the date of the medical examination or the date of consideration by a medical referee, as appropriate, and for the following maximum periods —

- (a) in respect of a person under 18 years of age, one year; and
- (b) in respect of a person of 18 years of age or over, two years,

or, in either case, such shorter period as is specified on the certificate.

63. Medical fitness certificates: non-Falkland Islands certificates

- (1) A certificate of medical fitness to work as a seafarer which has been issued to a person —
 - (a) under regulation 8 or 14 of the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 (S.I. 2010/737) as they apply in the United Kingdom; or
 - (b) by an authority empowered to issue such certificates by the laws of any country or territory outside the Falkland Islands specified in the United Kingdom Merchant Shipping Notice 1815(M) Amendment 1,

is for the purposes of regulations 59, 60 and 64, and for the purposes of regulation 65 other than regulation 65(1)(d), equivalent to a medical fitness certificate, but only until the expiry date specified on the certificate.

- (2) A certificate to which sub-regulation (1) applies is not equivalent to a medical fitness certificate unless it is issued in English, or in English and some other language.

64. Reporting of medical conditions

(1) A seafarer who holds a medical fitness certificate and who —

(a) is, or is likely to be, absent from work for a period of thirty days or more due to a medical condition; or

(b) develops a significant medical condition,

must report that medical condition as soon as practicable.

(2) A report made in accordance with sub-regulation (1) must be made —

(a) in the case of a person who has been issued with a certificate of medical fitness, to the authority which issued that certificate;

(b) in any other case, to a medical practitioner.

(3) If a seafarer must make the report required by sub-regulation (1), the validity of that seafarer's medical fitness certificate or certificate of medical fitness is suspended from the date on which it first becomes practicable for that seafarer to make the report until the date (if any) on which a medical practitioner or the authority (as appropriate) has assessed, if necessary by conducting a medical examination of the seafarer, that the seafarer is fit having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M).

65. Suspension and cancellation of medical fitness certificate

(1) This regulation applies if a medical practitioner has reasonable grounds for believing that —

(a) there has been a significant change in the medical fitness of a person during the period of validity of that person's medical fitness certificate;

(b) a person is not complying with the terms of a condition to which that person's medical fitness certificate is subject;

(c) when a medical fitness certificate was issued to a person, had a medical practitioner been in possession of full details of that person's condition, the medical practitioner could not reasonably have considered that the person was fit, having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M); or

(d) a medical fitness certificate was issued to a person otherwise than in accordance with these regulations.

(2) If this regulation applies, the medical practitioner may —

(a) suspend the validity of that medical fitness certificate until the person to whom the certificate was issued has undergone further medical examination;

(b) suspend the validity of the medical fitness certificate for such period as the medical practitioner considers the person to whom the certificate was issued will remain unfit to perform the duties that person will carry out at sea; or

(c) cancel the certificate if the medical practitioner considers that the person to whom the certificate was issued is likely to remain permanently unfit to perform the duties that person will carry out at sea,

and must notify the person concerned accordingly.

(3) The medical practitioner may require that a seafarer surrenders a medical fitness certificate which has been issued to that person and which has been suspended or cancelled pursuant to sub-regulation (2), as that practitioner directs.

(4) In this regulation, a “**significant change in the medical fitness of a person**” is a condition which affects or would be reasonably likely to affect that person’s ability to carry out their duties, including their ability to undertake emergency duties.

(5) A seafarer who fails without reasonable excuse to comply with a requirement made under sub-regulation (3) is guilty of an offence.

66. Review of medical practitioner’s decision

(1) A person who is aggrieved by —

(a) the refusal of a medical practitioner to issue a medical fitness certificate in accordance with regulation 61;

(b) any restriction imposed on such a certificate; or

(c) the suspension for a period of more than three months or cancellation of such a certificate by a medical practitioner pursuant to regulation 65,

may apply to the Governor for the matter to be reviewed by a single medical referee appointed by the Governor.

(2) The Governor must have the matter reviewed if the application —

(a) was lodged with the Governor within one month of the date on which the applicant was given notice of refusal, imposition of a restriction, suspension or cancellation;

(b) includes a consent for the medical practitioner responsible for the refusal, imposition of a restriction, suspension or cancellation to provide a report to the medical referee; and

(c) specifies the name and address of that practitioner.

(3) If an application is made after the time prescribed in sub-regulation (2)(a), the Governor, upon consideration of any reasons for the lateness of the application, may decide that the matter is nonetheless to be reviewed.

(4) If requested by the applicant, the medical practitioner must send to the applicant a copy of the report of the medical practitioner and any other evidence provided to the medical practitioner to the medical referee.

(5) In a case within sub-regulation (1)(a) or (c), if in the light of the medical evidence, and having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M), the medical referee considers that the applicant is fit to perform the duties that person will carry out at sea, the medical referee must issue to the applicant a medical fitness certificate in the form specified in the United Kingdom Merchant Shipping Notice 1839(M), or terminate the suspension of the applicant's medical fitness certificate, as the case may be.

(6) In a case within sub-regulation (1)(a), (b) or (c), and having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M), if in the light of the medical evidence the medical referee considers that restrictions as to capacity of work or geographical areas should be imposed on a certificate issued to the applicant, or that any restriction so imposed by a medical practitioner should be deleted or varied, the medical referee must issue to the applicant a medical fitness certificate in the form specified in the United Kingdom Merchant Shipping Notice 1839(M) which records any restrictions as so imposed or varied, and the former certificate shall cease to have effect.

(7) If in the light of the medical evidence and having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M), the medical referee considers that the applicant is unfit to perform the duties that person will carry out at sea, the medical referee must notify the applicant of the period during which the medical referee considers that the applicant will remain unfit to go to sea.

(8) If the applicant fails to attend an appointment with the medical referee without giving adequate notice, then the Governor may recover from the applicant as a civil debt the cost incurred by the Governor of that appointment.

67. Health assessment and transfer of seafarers on night watchkeeping duties

(1) If —

(a) a medical practitioner or medical referee has certified that a seafarer engaged on watchkeeping duties is suffering from health problems which the practitioner considers to be due to the fact that the seafarer performs work during the night; and

(b) it is possible for the seafarer's employer to transfer the seafarer to work —

(i) to which the seafarer is suited; and

(ii) which is to be undertaken other than at night,

the employer must transfer the seafarer accordingly.

(2) A breach of sub-regulation (1) is an offence by the employer.

68. Medical examinations and reviews: records and returns

(1) A medical practitioner or medical referee who conducts a medical examination or a review in accordance with this Part must —

(a) make and retain for ten years a record of each such examination or review which that medical practitioner or medical referee carries out pursuant to this Part; and

(b) send to the Governor on the Governor's written request a return of all such examinations or reviews.

(2) In keeping the record and making any return required under sub-regulation (1), the medical practitioner or medical referee must use the relevant form or forms specified in the United Kingdom Merchant Shipping Notice 1839(M).

69. Replacement certificates

(1) Unless a medical fitness certificate has been surrendered under regulation 65(3), if a person who was issued with a medical fitness certificate which is still valid is no longer in possession of that certificate, then upon —

(a) application being made by that person or that person's employer to the medical practitioner or referee who issued the certificate; and

(b) payment of the medical practitioner's or referee's administrative costs of issuing the replacement,

the medical practitioner or referee who issued that certificate may issue to that person a replacement medical fitness certificate.

(2) A replacement medical fitness certificate issued under this regulation expires on the expiration date of the original medical fitness certificate which it replaces.

PART 12 - SHIPOWNERS' LIABILITY

70. Interpretation of Part 12

In this Part —

“**basic wages**” means the pay, however composed, for the seafarer's normal hours of work excluding overtime, bonuses, allowances, paid leave and other remuneration; and

“**wages**” means the pay, however composed, for the seafarer's normal hours of work including overtime, allowances, paid leave and other remuneration (but excluding bonuses).

71. Shipowners' liability for seafarer unemployment and losses following loss or foundering of ship

(1) This regulation applies in relation to a seafarer working on board a ship which founders or is lost.

(2) If the loss or foundering of the ship causes the seafarer to become unemployed, the shipowner must pay to the seafarer an amount equivalent to the wages which would otherwise have been payable under the seafarers' employment agreement for every day on which the seafarer is unemployed in the two month period commencing on the day following the day on which the loss or foundering occurred.

(3) If the loss or foundering of the ship causes the seafarer to suffer injury or loss (other than the loss of wages referred to in sub-regulation (2)), the shipowner must pay compensation to the seafarer subject to, and in accordance with, applicable general law.

(4) In relation to loss other than personal injury or death, the duty in sub-regulation (3) is limited to the amount specified (if any) in the seafarers' employment agreement.

(5) A seafarer may recover any sum due from the shipowner under sub-regulation (2) or (3) as a civil debt.

72. Shipowners' liability for wages following sickness or injury sustained by seafarer

(1) Subject to sub-regulation (11), this regulation applies in relation to a seafarer who suffers sickness or injury which —

(a) first occurs during a period —

(i) which starts on the date on which the seafarer's seafarers' employment agreement commences and ends on the next date on which the shipowner's duty to make provision for the repatriation of that seafarer under regulation 45 ends under regulation 47; or

(ii) which starts after a period referred to in sub-paragraph (i) but is caused by circumstances or events arising during that period;

(b) does not first occur during a period of leave, other than shore leave; and

(c) results in the seafarer's incapacity for work.

(2) If a seafarer falling within sub-regulation (1)(a)(i) does not receive the wages payable under the seafarers' employment agreement in respect of the period specified in sub-regulation (3), the shipowner must pay to the seafarer a sum equal to the difference between —

(a) any sums received by the seafarer in respect of wages for that period under that agreement; and

(b) the wages which would have been payable to the seafarer under that agreement if the seafarer had remained fit for work throughout that period, and (where the agreement would otherwise have terminated during that period) if the agreement had continued on the same terms throughout that period.

(3) The period referred to in sub-regulation (2) is a period —

(a) starting on the date of the injury or the first day of the sickness; and

(b) ending on the date on which the duty to repatriate the seafarer under regulation 45 ends under regulation 47 (or, if such a duty does not arise, the date on which the seafarer leaves the ship).

(4) If a seafarer falling within sub-regulation (1) is incapable of work after the date on which the duty to repatriate the seafarer under regulation 45 ends under regulation 47 (or if such a duty does not arise, the date on which the seafarer leaves the ship), and the seafarer does not receive the basic wages payable under the seafarers' employment agreement for the period starting on that date and ending on the date on which the seafarer is again fit for work, the shipowner must pay to the seafarer a sum equal to the difference between —

(a) any sums received by the seafarer in respect of basic wages for the period of incapacity under that agreement; and

(b) the basic wages which would have been payable to the seafarer under that agreement if the seafarer had remained fit for work throughout the period of incapacity.

(5) “**Period of incapacity**” means —

(a) where the seafarer's seafarers' employment agreement does not specify a date on which the agreement is to terminate, the shorter of the following —

(i) the period of 16 weeks beginning with the day (“**the start day**”) after the date of injury or the first day of sickness referred to in sub-regulation (1);

(ii) the period beginning with the start day and ending with the date that the seafarer is again fit for work; and

(iii) the period beginning with the start day and ending with the date that the agreement terminates; or

(b) where the seafarer's seafarers' employment agreement does specify a date on which the agreement is to terminate, the shorter of the following —

(i) the period specified in sub-regulation (a)(i);

(ii) the period specified in sub-regulation (a)(ii);

(iii) the period specified in sub-regulation (a)(iii); and

(iv) the period beginning with the start day and ending with the termination date specified in the agreement.

(6) The duty in sub-regulation (4) is conditional upon the seafarer applying for all relevant social security benefits payable in consequence of —

(a) the seafarer's incapacity for work; and

(b) the sickness or injury which resulted in the incapacity for work,

under the laws of the Falkland Islands or the laws or arrangements in the country to which the seafarer is repatriated.

(7) If the seafarer receives social security benefits of the kind described in sub-regulation (6) in respect of the period of incapacity or any part of that period —

(a) the amount which the shipowner must pay to the seafarer under sub-regulation (4) is to be reduced by that amount; and

(b) the shipowner may recover as a civil debt any payments already made to the seafarer to the extent that they exceed such reduced amounts.

(8) The seafarer must on request provide information to the shipowner as to the amounts received by the seafarer in social security benefits during the period of incapacity.

(9) The sums payable to the seafarer under sub-regulations (2) and (4) must be paid in the same manner and at the same frequency as wages are (or, as the case may be, were) payable under the seafarers' employment agreement.

(10) The seafarer may recover any sum due from the shipowner under sub-regulation (2) or (4) as a civil debt.

(11) Sub-regulations (1) to (10) of this regulation do not apply to a seafarer where —

(a) the injury referred to in sub-regulation (1) was sustained while the seafarer was not at work;

(b) the injury or sickness referred to in sub-regulation (1) was sustained or arose due to the seafarer's wilful misconduct; or

(c) the sickness or incapacity for work existed at the time when the seafarer entered the seafarers' employment agreement, and the seafarer deliberately concealed the sickness or incapacity from the shipowner.

(12) A collective agreement may exclude or limit the operation of sub-regulations (4) to (9) if it requires the person responsible under the agreement for paying seafarers to pay incapacitated seafarers the relevant amount for the period of incapacity.

(13) In sub-regulation (12) —

“**incapacitated seafarer**” means a seafarer party to the collective agreement who would otherwise receive a payment by virtue of sub-regulation (4); and

“**relevant amount**” in relation to a period of incapacity means the whole or a specified percentage of the basic wages that would have been payable under the incapacitated seafarer’s seafarers’ employment agreement if —

(a) the seafarer had remained fit for work; and

(b) (where the agreement would otherwise have terminated during the period that the seafarer was not fit for work) the agreement had continued on the same terms throughout that period.

(14) The purported termination by any person of a seafarer’s seafarers’ employment agreement is to have no effect if it is solely or mainly for the purpose of avoiding liability to make any payment under this regulation.

73. Property left behind by sick or injured seafarer

To the extent it would not otherwise apply, regulation 50(2), (4), (6) to (8), (10), (11) and (13) applies in respect of property left behind on board a ship by a seafarer falling within regulation 72(1).

74. Shipowners’ liability in respect of burial or cremation of seafarer

(1) Subject to sub-regulation (2), if a seafarer dies while —

(a) on board a ship on which the seafarer works; or

(b) on shore leave in a country other than the seafarer’s country of residence,

the shipowner must meet any expenses reasonably incurred in connection with the seafarer’s burial or cremation.

(2) The duty in sub-regulation (1) does not apply to expenses which are met by a public authority.

(3) Where the seafarer’s personal representatives incur costs in meeting expenses which should be met by the shipowner under sub-regulation (1), whether by incurring such costs directly or by reimbursing another person who has incurred those costs, those representatives may recover those costs from the shipowner as a civil debt.

PART 13 - SECURITY AGAINST SHIPOWNER'S LIABILITY FOR DEATH OR LONG TERM DISABILITY OF SEAFARERS

75. Interpretation of Part 13

In this Part —

“**shipowner's security**” has the meaning given in regulation 77; and

“**shipowner's security document**” has the meaning given in regulation 81(6).

76. Shipowner's security requirement

(1) A ship must not be operated unless a shipowner's security is in force in relation to the ship.

(2) A breach of sub-regulation (1) is an offence by the shipowner.

77. Shipowner's security

(1) “**Shipowner's security**” means a contract of insurance or other form of security relating to a ship that satisfies the first and second conditions.

(2) The first condition is that the shipowner's security must provide financial assurance of an amount which the shipowner reasonably considers adequate to ensure that the shipowner will be able to meet any liabilities that the shipowner may have (including liabilities under seafarer employment agreements), to provide compensation in the event of death or long term disability to seafarers arising from occupational injury, illness or hazard.

(3) The second condition is that the shipowner's security must provide that a claim for compensation may be submitted directly to the shipowner's security provider by —

(a) any relevant seafarer who sustains a long term disability arising from a relevant occupational injury, illness or hazard; and

(b) the personal representatives of any deceased relevant seafarer, the death of whom arose from a relevant occupational injury, illness or hazard.

(4) In this regulation —

“**relevant occupational injury, illness or hazard**” means an occupational injury, illness or hazard —

(a) occurring during the period of validity of the shipowner's security; and

(b) in relation to which the shipowner is, or may be, liable to provide compensation to the seafarer or, as the case may be, the seafarer's estate; and

“**relevant seafarer**” means a seafarer whose normal place of work during the period of validity of the shipowner's security is, or was, on board the ship.

78. Payment of contractual compensation

(1) This regulation applies where a claim for contractual compensation is submitted to a shipowner's security provider.

(2) A shipowner's security provider must pay the contractual compensation to the seafarer, or the seafarer's personal representative, within 7 days beginning with the date on which it is established that the shipowner is liable for the contractual compensation either —

(a) by agreement between —

(i) the shipowner's security provider; and

(ii) the seafarer or the seafarer's personal representative; or

(b) by order of a court or tribunal which is not subject to appeal.

(3) A shipowner's security provider who fails to comply with sub-regulation (2) must pay to the seafarer, or the seafarer's personal representative, interest on the unpaid amount at the rate of 10% per year beginning with the date on which the shipowner's security provider becomes liable to pay compensation to the seafarer under subsection (2).

(4) In this regulation, “**claim for contractual compensation**” means a claim for compensation in the event of death or long term disability of a seafarer arising from occupational injury, illness or hazard where the compensation payable in respect of the claim is set out in the seafarer's seafarer employment agreement; and “**contractual compensation**” is to be construed accordingly.

79. Interim payments

(1) A seafarer is entitled to a payment (an “**interim payment**”) from a shipowner's security provider if the following conditions are satisfied —

(a) the shipowner is liable to pay compensation to the seafarer due to the seafarer having sustained a long term disability arising from an occupational injury, illness or hazard;

(b) the occupational injury, illness or hazard occurred during the period of validity of the shipowner's security;

(c) the shipowner's security provides financial assurance in respect of the compensation mentioned in sub-regulation (a);

(d) the full amount of compensation payable has not yet been determined; and

(e) the seafarer has reasonable grounds to show that he or she is suffering undue hardship.

(2) A seafarer entitled under sub-regulation (1) may make a request for an interim payment to the shipowner's security provider.

(3) A request under sub-regulation (2) must be supported by evidence that the seafarer satisfies the conditions in sub-regulation (1).

(4) A shipowner's security provider must within 14 days of receipt of the request from the seafarer determine whether the conditions in sub-regulation (1) are satisfied.

(5) If, in contravention of sub-regulation (4), a shipowner's security provider does not determine whether the conditions in sub-regulation (1) are satisfied, it must make an interim payment within 21 days of the receipt of the request from the seafarer.

(6) Where a shipowner's security provider determines that the conditions in sub-regulation (1) are satisfied, it must make the interim payment within 21 days of the receipt of the request from the seafarer.

(7) The minimum amount of an interim payment is —

(a) where an amount in respect of any part of the claim has been determined and payment of that amount would be sufficient to alleviate the seafarer's hardship, the amount so determined; or

(b) where no amount in respect of any part of the claim has been determined, or the amount which has been determined is not sufficient to alleviate the seafarer's hardship, the lower of—

(i) such amount as would alleviate the seafarer's hardship; and

(ii) 75% of the likely total amount of compensation payable in respect of the claim as estimated by the shipowner's security provider.

(8) Where, in contravention of sub-regulation (5) or (6), a shipowner's security provider does not make an interim payment, the shipowner's security provider must pay interest on the unpaid amount at a rate of 10% per year from the date of receipt of the request from the seafarer.

(9) A shipowner's security provider who makes an interim payment may deduct the amount of the interim payment from the full amount of compensation payable in respect of the shipowner's liability.

(10) A shipowner's security provider who —

(a) has made an interim payment under sub-regulation (5); and

(b) establishes that the conditions in sub-regulation (1) were not satisfied,

may recover as a civil debt the amount of the interim payment less any interest payable under sub-regulation (8).

(11) A shipowner's security provider may recover as a civil debt any proportion of an interim payment which exceeds the full amount of compensation payable in respect of a claim.

80. Offence of undue pressure

A person is guilty of an offence if the person induces another to accept less than the full amount of compensation payable (as set out in a seafarer's seafarer employment agreement), in respect of the death or long term disability of a seafarer arising from occupational injury, illness or hazard.

81. Duty to carry and display shipowner's security document

(1) The shipowner must ensure that for each shipowner's security in force in relation to the ship, a shipowner's security document containing the information specified in Schedule 4 is carried on board.

(2) The shipowner must ensure that each shipowner's security document that relates to the ship and is not in English, has with it an English translation.

(3) A breach of sub-regulation (1) or (2) is an offence by the shipowner.

(4) The shipowner and master of the ship must ensure that each shipowner's security document that relates to the ship, together with any English translation, is displayed in a conspicuous place on board ship.

(5) A breach of sub-regulation (4) is an offence by the shipowner and the master of the ship.

(6) "Shipowner's security document" means a certificate or other documentary evidence of a shipowner's security issued by the shipowner's security provider.

82. Termination of shipowner's security on notice to the Governor

(1) The termination by a shipowner's security provider of a shipowner's security before the end of its period of validity is effective only if the shipowner's security provider gives at least 30 days' prior notice to the Governor.

(2) A notice under sub-regulation (1) must —

(a) be in writing; and

(b) include a copy of the shipowner's security document.

83. Duty on shipowner's security provider to notify the Governor where a shipowner's security has been terminated

(1) If a shipowner's security provider terminates a shipowner's security before the end of its period of validity, the shipowner's security provider must give notice to that effect to the Governor.

(2) A notice under sub-regulation (1) must —

(a) be in writing; and

(b) include a copy of the shipowner's security document.

(3) Failure to give notice under sub-regulation (1) within the period of 30 days beginning with the date on which the shipowner's security was terminated is an offence by the shipowner's security provider.

84. Duty on shipowner to notify seafarers if shipowner's security is to be terminated

(1) Where a shipowner becomes aware that any shipowner's security that relates to the ship is to be, or has been, terminated before the end of its period of validity, the shipowner must give notice to that effect to all seafarers who work on the ship during the notification period.

(2) A notice under sub-regulation (1) must —

(a) be in writing;

(b) state the date on which the shipowner's security is to be or was terminated; and

(c) be given as soon as reasonably practicable after the shipowner becomes aware that the shipowner's security is to be or was terminated.

(3) A breach of sub-regulation (1) is an offence by the shipowner.

(4) In this regulation, the “**notification period**” means the period —

(a) beginning with the date on which the shipowner becomes aware that the shipowner's security is to be, or has been, terminated before the end of its period of validity; and

(b) ending with the date that the shipowner becomes aware that the shipowner's security has been replaced or reinstated.

PART 14 - SECURITY AGAINST THE ABANDONMENT OF SEAFARERS

85. Interpretation of Part 14

In this Part —

“**abandonment security**” has the meaning given in regulation 88(1);

“**relevant period**” has the meaning given in regulation 86(3); and

“**wages**” has the same meaning as in section 70.

86. Abandonment

(1) A seafarer is “**abandoned**” in relation to a ship if the shipowner —

- (a) fails to make the provision required under regulation 45 (duty to repatriate seafarers);
- (b) having regard to the seafarer's personal circumstances and requirements, leaves the seafarer without necessary maintenance and support, including —

- (i) adequate food;
- (ii) drinking water supplies;
- (iii) clothing, where necessary;
- (iv) accommodation;
- (v) essential fuel for survival on board the ship; or
- (vi) necessary medical care; or

(c) otherwise unilaterally severs ties with the seafarer, including failing to pay any amount in respect of wages payable to the seafarer under the seafarer's seafarer employment agreement for a period of at least two months.

(2) An abandoned seafarer ceases to be abandoned in relation to a ship if, after the end of the relevant period, the seafarer continues, resumes or takes up new employment on board the ship or is engaged on board the ship.

(3) The “**relevant period**” begins with the day on which the seafarer is abandoned and ends with the earliest of the following events —

(a) the seafarer's arrival in or at —

- (i) the seafarer's country of residence;
- (ii) the destination provided in the seafarer's seafarer employment agreement as being that to which the seafarer should be returned in the event that the seafarer is repatriated; or
- (iii) such place as the seafarer has agreed in advance with —

(aa) the abandonment security provider; or

(bb) any person who has made provision for the seafarer's repatriation;

(b) the seafarer refusing unreasonably to be repatriated, or to co-operate with arrangements made for the seafarer's repatriation;

(c) the expiry of a period of 3 months during which the abandonment security provider has used reasonable endeavours to contact the seafarer but has been unable to make such contact;

(d) the abandonment security provider receives written confirmation from the seafarer that financial assistance is no longer required; or

(e) the death of the seafarer.

87. Abandonment security requirement

(1) A ship must not be operated unless an abandonment security is in force in relation to the ship.

(2) A breach of sub-regulation (1) is an offence by the shipowner.

88. Abandonment security

(1) “**Abandonment security**” means a contract of insurance or other form of security relating to a ship that —

(a) provides financial assurance of an amount which the shipowner reasonably considers adequate to cover the items in sub-regulation (2)(a) to (d) for any seafarer who is abandoned in relation to the ship; and

(b) provides that any seafarer who is abandoned in relation to the ship is entitled to —

(i) make an abandonment claim; and

(ii) receive financial assistance in respect of the items in sub-regulation (2)(a) to (d).

(2) The items referred to in sub-regulation (1)(a) and (b)(ii) are —

(a) up to four months’ unpaid wages relating to work undertaken by the seafarer before the end of the relevant period;

(b) the cost during the relevant period of —

(i) adequate food;

(ii) drinking water supplies;

(iii) clothing, where necessary;

(iv) accommodation;

(v) essential fuel for survival on board the ship; and

(vi) necessary medical care;

(c) the cost of repatriation, including —

(i) the cost of appropriate travel arrangements and any related costs of passage, but this may be limited to travel or passage that is completed before the seafarer ceases to be abandoned; and

(ii) the cost of transport of the seafarer’s personal effects; and

(d) all other expenses reasonably incurred by the seafarer before the end of the relevant period as a result of being abandoned.

(3) In this regulation —

“**abandonment claim**” is a claim for financial assistance that —

(a) is submitted directly to the abandonment security provider by —

(i) an abandoned seafarer; or

(ii) a person authorised by the seafarer to act on the seafarer’s behalf; and

(b) is supported by evidence showing that the seafarer is abandoned; and

“**relevant period**” has the meaning given in regulation 86(3).

89. Consideration and payment of abandonment claims

(1) This regulation applies where an abandonment claim is made.

(2) The abandonment security provider to whom the abandonment claim is made must, within 7 days of receipt of the claim, determine whether the seafarer is entitled to receive financial assistance.

(3) An abandonment security provider who determines that a seafarer is entitled to receive financial assistance (whether in relation to the whole or any part of an abandonment claim), must within 14 days of receipt of the claim, provide such assistance, whether or not there are further parts of the claim yet to be determined.

(4) An abandonment security provider who in contravention of sub-regulation (2) fails to determine whether a seafarer is entitled to receive financial assistance in relation to the whole or part of an abandonment claim, must within 14 days of receipt of the claim provide financial assistance in the amount claimed by the seafarer.

(5) Where, in contravention of sub-regulation (3) or (4) financial assistance is not provided, the abandonment security provider must pay interest on the unpaid amount at the rate of 10% per year from the date of receipt of the claim.

(6) An abandonment security provider who —

(a) has provided financial assistance to a seafarer under sub-regulation (3); and

(b) establishes that the seafarer was not entitled to receive the financial assistance,

may recover as a civil debt the amount of the financial assistance less any interest payable under sub-regulation (5).

(7) In this regulation “**abandonment claim**” has the meaning given in regulation 88(3).

90. Subrogation

(1) Sub-regulation (2) applies where an abandonment security provider provides financial assistance (“**the sum provided**”) to a seafarer under an abandonment security.

(2) Any rights which a seafarer has (or but for the payment of that sum would have had) against the shipowner as a result of being abandoned are, with respect to the sum provided, transferred to and vested in the abandonment security provider.

91. Duty to carry and display an abandonment security document

(1) The shipowner must ensure that, for each abandonment security in force in relation to the ship, an abandonment security document containing the information specified in Schedule 5 is carried on board.

(2) The shipowner must ensure that each abandonment security document that relates to the ship and is not in English, has with it an English translation.

(3) A breach of sub-regulation (1) or (2) is an offence by the shipowner.

(4) The shipowner and the master of a ship must ensure that each abandonment security document that relates to the ship, together with any English translation, is displayed in a conspicuous place on board ship.

(5) A breach of sub-regulation (4) is an offence by the shipowner and the master of the ship.

(6) “**Abandonment security document**” means a certificate or other documentary evidence of abandonment security issued by the abandonment security provider.

92. Termination of abandonment security effective only where notice given

(1) The termination by an abandonment security provider of an abandonment security before the end of its period of validity is effective only if the abandonment security provider gives at least 30 days’ prior notice to the Governor.

(2) A notice under sub-regulation (1) must —

(a) be in writing; and

(b) include a copy of the abandonment security document.

(3) “**Abandonment security document**” has the meaning given in regulation 91(6).

93. Duty on shipowner to notify seafarers if abandonment security is to be terminated

(1) Where the shipowner becomes aware that any abandonment security that relates to a ship is to be, or has been, terminated before the end of its period of validity, the shipowner must give notice to that effect to all seafarers who work on the ship during the notification period.

(2) A notice under sub-regulation (1) must —

(a) be in writing;

(b) state the date on which the abandonment security is to be or was terminated; and

(c) be given as soon as reasonably practicable after the shipowner becomes aware that the abandonment security is to be or was terminated.

(3) A breach of sub-regulation (1) is an offence by the shipowner.

(4) In this regulation, the “**notification period**” means the period —

(a) beginning with the date on which the shipowner becomes aware that the abandonment security is to be, or has been, terminated before the end of its period of validity; and

(b) ending with on the date that the shipowner becomes aware that the abandonment security has been replaced or reinstated.

PART 15 - COMPLAINTS PROCEDURES

94. On-board and on-shore complaints procedure

(1) The shipowner and the master of a ship must ensure that there is available to a seafarer on that ship a procedure to lodge a complaint alleging a breach of the requirements of the MLC and for that complaint to be resolved fairly, effectively and expeditiously.

(2) A procedure to lodge a complaint and have it resolved must —

(a) seek to resolve the complaint at the lowest level possible;

(b) enable a seafarer to complain directly to the master of the ship and appropriate external authorities;

(c) include the right of the seafarer to be accompanied or represented during any hearing which takes place under that procedure; and

(d) comply with the requirements of the United Kingdom Merchant Shipping Notice 1849(M).

(3) The shipowner and the master of a ship must ensure that a seafarer joining the ship is or has been provided with —

(a) a copy of the complaints procedure which is available to the seafarer in accordance with sub-regulation (1);

(b) contact information for the certifying authority for the ship;

(c) where applicable, contact information for the authority which is the competent authority for the purposes of the MLC in the seafarer's country of residence; and

(d) the name of a person on board the ship who can, on a confidential basis, provide the seafarer with impartial advice on their complaint and otherwise assist them in following the complaints procedure.

(4) A seafarer may lodge a complaint with the Governor alleging a breach of the requirements of the MLC, and the Governor must treat the source of any such complaint as confidential.

(5) The shipowner and the master of a ship must ensure that a seafarer is not subjected to any detriment on the grounds that the seafarer has lodged a complaint, whether through an on-board procedure or to the Governor, alleging a breach of the requirements of the MLC.

(6) For the purposes of sub-regulation (2)(a), “**seeking to resolve the complaint at the lowest level possible**” means —

(a) having the complaint considered by the lowest level of manager or officer who has the expertise and authority appropriate to consider such a complaint, provided that the person considering the complaint is not directly involved with the particular complaint;

(b) if that person is unable to resolve or reject the complaint, escalating the complaint to be considered by the next level of manager or officer who has the expertise and authority appropriate to consider such a complaint, provided that the person considering the complaint is not directly involved with the particular complaint; and

(c) continuing to escalate the complaint in such manner until it is resolved or rejected.

(7) In sub-regulation (3), “**certifying authority**” means —

(a) the Governor; or

(b) an organisation which –

(i) has an agreement with the Governor which authorises it to undertake surveys of ships; and

(ii) is recognised by the Governor as meeting the requirements of Regulation 5.1.2 and Standard A5.1.2 of the MLC.

PART 16 - INSPECTION AND DETENTION OF SHIPS

95. Inspection of Falkland Islands ship and non-MLC foreign ship

For the purpose of checking compliance with these regulations, a relevant inspector or a proper officer may at all reasonable times go on board a ship and carry out an inspection of the ship, its equipment, any articles on it and any document carried on it in accordance with Standard A5.2.1 of the MLC.

96. Inspection of medical certificates of seafarers on a non-MLC foreign ship

(1) For the purpose of checking compliance with Part 11 a relevant inspector or a proper officer may require any seafarer on board a non-MLC foreign ship to produce any document, in order to ascertain whether the requirements of Regulation 1.2 and Standard A1.2 of the MLC are met in relation to the seafarers working on that ship.

(2) Any person who —

(a) obstructs a relevant inspector in the exercise of his powers under this regulation; or

(b) fails without reasonable excuse to comply with a requirement made under this regulation,

is guilty of an offence.

97. Inspection: Supplemental provision

(1) Sections 239 (powers to require production of ships' documents) and 240(1), (3) and (5) of the Maritime Ordinance 2017 (powers to inspect ships and their equipment, etc.) apply in relation to regulation 95 as if references in those sections to "this section" and "subsection (1) above" were references to regulation 95.

(2) Sections 241(1), (2), (5), (6) and (9) to (11) and 242(1) and (2) of the Maritime Ordinance 2017 (powers of inspectors in relation to premises and ships, and supplementary provisions) apply in relation to the inspection of a ship to which regulation 95 applies as if —

(a) references in those sections to "this Ordinance" were to these regulations;

(b) for section 241(1)(b) there were substituted a reference to any ship to which regulation 95 applies;

(c) in section 241(2)(h)(iii) the words "or any instrument made under it" were omitted; and

(d) in section 241(5) the reference to “subsections (2) and (4) above for the purposes of Chapter II of Part VI” were to “subsection (2) above”, and the reference to “those subsections” were to “that subsection”.

(3) Any regulations made under section 241(7) or section 242(3) of the Maritime Ordinance 2017 apply for the purposes of the provisions of those sections as applied by sub-regulation (2) as they apply for the purposes of the Maritime Ordinance 2017.

(4) Sections 243 to 248 of the Maritime Ordinance 2017 apply for the purposes of these regulations as if the meaning of “the relevant statutory provisions” in section 243(4) included these regulations.

98. Inspection of Government ships

Sections 239 to 248 of the Maritime Ordinance 2017 apply in relation to Government ships which are inspected for the purposes of these regulations.

99. Detention of ships

(1) Where a relevant inspector has reasonable grounds for believing that —

(a) a ship does not comply with these regulations; and

(b) (i) the conditions on board are hazardous to the health, safety or security of seafarers; or

(ii) the non-compliance represents a serious breach or the latest in a series of repeated breaches of these regulations or the requirements of the MLC (including the rights of seafarers referred to in Articles III and IV of the MLC which are secured by it),

that ship is liable to be detained.

(2) Where a relevant inspector has reasonable grounds for believing that —

(a) the shipowner has failed to make provision in connection with which the Governor has incurred costs under regulation 53; and

(b) the Governor has requested reimbursement of those costs but has not been reimbursed,

every ship which is owned by the shipowner is liable to be detained.

100. Supplementary provisions as respects detention of ships

(1) The power under regulation 99 to detain a ship may be exercised as regards a Falkland Islands ship wherever it may be, but as regards a non-MLC foreign ship, it may only be exercised if the ship in question is —

(a) in a port or shipyard in the Falkland Islands; or

(b) at an offshore installation in Falkland Islands waters or controlled waters.

(2) A person having powers to detain a ship may permit a ship which is liable to be detained under regulation 99 to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(3) Section 268 of the Maritime Ordinance 2017 (enforcing detention of a ship) applies where a ship is liable to be detained under this regulation as if —

(a) references to the owner of a ship were to the shipowner under these regulations;

(b) references to detention of a ship under the Maritime Ordinance 2017 were references to detention of the ship in question under these regulations; and

(c) subsection (7) were omitted.

(4) Where a ship is liable to be detained under regulation 99, the person detaining the ship must serve on the master of the ship a detention notice which —

(a) states the grounds for the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 268(1) of the Maritime Ordinance 2017.

(5) Where a ship other than a Falkland Islands' ship is detained, the Governor must immediately 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, and invite them to send a representative to attend the ship.

(6) In the exercise of the power under regulation 99, a ship must not be unduly detained or delayed.

101. Release of ship detained

(1) Where a ship is detained under these regulations, and none of the grounds for detention continue to apply, a person having power to detain the ship must, at the request of the shipowner or the master of the ship, immediately release the ship —

(a) if no proceedings for an offence under these regulations are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for an offence under these regulations, having been instituted within that period, are concluded without the shipowner or master of the ship being convicted;

(c) if either —

(i) the sum of £30,000 is paid to the Governor by way of security; or

(ii) security which, in the opinion of the Governor, is satisfactory and is given for an amount of not less than £30,000, is provided to the Governor,

by or on behalf of the shipowner or the master of the ship;

(d) where the shipowner or the master of the ship is convicted of an offence under these regulations and that person has paid any fines, costs or expenses arising out of that conviction; or

(e) if the release is ordered by a court or tribunal referred to in article 292 of the United Nations Convention on the Law of the Sea, and any bond or other financial security ordered by such court or tribunal is posted.

(2) The Governor must repay any sum paid in pursuance of sub-regulation (1)(c) or release any security so provided —

(a) if no proceedings for an offence under these regulations are instituted within the period of seven days beginning with the day on which the sum is paid or the security is provided; or

(b) if proceedings for such an offence, having been instituted within that period, are concluded without the shipowner or the master of the ship being convicted.

(3) Where a sum has been paid, or security has been provided, by any person in pursuance of sub-regulation (1)(c) and the shipowner or the master of the ship is convicted of an offence under these regulations, the sum so paid or the security provided must be applied as follows —

(a) first in payment of any costs or expenses ordered by the court to be paid by the shipowner or the master of the ship; and

(b) next in payment of any fine imposed by the court,

and any balance must be repaid to the person who paid the sum.

(4) Section 156 of the Maritime Ordinance 2017 (interpretation of section 155) applies for the purposes of sub-regulations (1) and (2) as if —

(a) references to the owner of a ship were to the shipowner under these regulations; and

(b) references to an offence under section 140 were references to an offence under these Regulations.

102. Arbitration and compensation in relation to detentions

(1) This regulation applies to the detention of a ship under regulation 99.

(2) Sections 93 and 94 of the Maritime Ordinance 2017 apply in relation to a detention notice under regulation 100(4) as they apply to a detention notice under section 92(4) of the Maritime Ordinance 2017.

(3) In its application by virtue of sub-regulation (2), section 93 of the Maritime Ordinance 2017 (references of detention notices to arbitration) applies as if —

(a) in subsection (1), for the words “owner of a ship” there were substituted “shipowner”;

(b) in subsection (2) —

(i) for the words “owner of a ship” there were substituted “shipowner”; and

(ii) the words from “unless” to the end were omitted;

(c) in subsection (3), the words “to whether the ship was or was not a dangerously unsafe ship” were omitted;

(d) in subsection (5), the words “as a dangerously unsafe ship” were omitted.

(4) In its application by virtue of sub-regulation (2), section 94 of the Maritime Ordinance 2017 (compensation in connection with invalid detention of a ship) applies as if for subsection (1) there were substituted —

“(1) If on a reference under section 93 relating to a detention notice, the shipowner in relation to the ship shows to the satisfaction of the arbitrator that —

(a) any matter did not constitute a valid basis for the relevant inspector’s opinion; and

(b) there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may award the shipowner such compensation in respect of any loss suffered by the shipowner in consequence of the detention of the ship as the arbitrator thinks fit.”.

103. Release of information

The Governor must ensure the publication, at least annually, of the information specified in the United Kingdom Merchant Shipping Notice 1848(M) concerning ships which during the previous year have been detained in a port in the Falkland Islands under these regulations.

PART 17 – MLC REQUIREMENTS RELATING TO MLC FOREIGN SHIPS

104. Minimum age: MLC foreign ships

A ship must not be operated in breach of the prohibitions in paragraphs 1 and 2 of Standard A1.1 (minimum age) of the MLC, subject to any exceptions made by the State whose flag the ship is entitled to fly in accordance with paragraph 3 of that Standard.

105. Seafarers' employment agreements: MLC foreign ships

A ship must not be operated unless it complies with the requirements in —

- (a) paragraph 1 of Standard A2.1 (seafarers' employment agreements) of the MLC; and
- (b) paragraph 4 of Standard A2.1 of the MLC regarding the particulars to be contained in seafarers' employment agreements,

whether or not the State whose flag the ship is entitled to fly has adopted any relevant laws or regulations.

106. Wages: MLC foreign ships

A ship must not be operated unless the shipowner complies with the requirements in paragraph 2 of Standard A2.2 (wages).

107. Hours of rest: MLC foreign ships

(1) A person mentioned in sub-regulation (2) must ensure that a seafarer in relation to a ship to which this regulation applies is provided with hours of work or hours of rest in accordance with the provisions of Standard A2.3 of the MLC.

(2) The persons are —

- (a) the shipowner in relation to the ship;
- (b) the master of the ship; and
- (c) where the seafarer is an employee, the seafarer's employer.

108. Requirement to post up table: MLC foreign ships

The master of a ship, or a person authorised by the master, must post a table of the working shipboard arrangements in accordance with the provisions of paragraphs 10 and 11 of Standard A2.3 of the MLC.

109. Exception for emergencies: MLC foreign ships

(1) The master of a ship may require a seafarer to work any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to another ship or to a person in distress at sea.

(2) As soon as practicable after the normal situation has been restored the master must ensure that any seafarer who has performed work in hours of rest scheduled in the table under regulation 90 is provided with an adequate rest period.

110. Records: MLC foreign ships

The master of a ship, or a person authorised by the master, must maintain records of seafarers' daily hours of rest or hours of work and provide copies of such records to seafarers in accordance with the provisions of paragraph 12 of Standard A2.3 of the MLC.

111. Annual leave: MLC foreign ships

The employer of a seafarer in relation to a ship must ensure that the seafarer is given paid annual leave in accordance with Regulation 2.4 of the MLC.

112. Shore leave: MLC foreign ships

The shipowner and the master of a ship must ensure that shore leave is granted to seafarers who work on the ship to benefit their health and well-being where consistent with the operational requirements of their positions.

113. Crew accommodation: MLC foreign ships

(1) Subject to sub-regulation (2), a ship must not be operated unless it complies with the minimum standards for on-board accommodation and recreational facilities set out in paragraphs 6 to 17 of Standard A3.1 (accommodation and recreational facilities) of the MLC.

(2) The requirement in sub-regulation (1) is subject to —

(a) the application provision in paragraph 2 of Regulation 3.1 of the MLC; and

(b) any permissions, exemptions or variations which have been granted or allowed by the State whose flag the ship is entitled to fly and which are permitted by the MLC provisions referred to in paragraph (1).

(3) The master of a ship must comply with the requirements in paragraph 18 of Standard A3.1 of the MLC with regard to —

(a) frequent inspections; and

(b) the recording of the results of such inspections and making those results available for review,

whether or not the State whose flag the ship is entitled to fly has imposed those requirements in its national laws or otherwise.

114. Food and catering: MLC foreign ships

(1) A ship must not be operated unless it complies with paragraphs 1 and 2 of Regulation 3.2 (food and catering) of the MLC.

(2) The master of a ship must comply with the requirements in paragraph 7 of Standard A3.2 of the MLC with regard to —

(a) frequent inspections; and

(b) the documenting of such inspections,

whether or not the State whose flag the ship is entitled to fly has imposed those requirements in its national laws or otherwise.

(3) A ship must not be operated unless it meets the minimum standards set out in —

(a) sub-paragraph 2(b) of Standard A3.2 of the MLC; and

(b) sub-paragraph 2(c) of that Standard.

(4) Subject to any dispensation issued by the State whose flag the ship is entitled to fly in accordance with paragraph 6 of standard A3.2 of the MLC, a shipowner must comply with the requirements in paragraphs 3 and 4 of Standard A3.2 of the MLC.

115. Repatriation: MLC foreign ships

(1) A shipowner must make such provision as is necessary for the repatriation of a seafarer as soon as is practicable in the circumstances described in paragraph 1 of Standard A2.5.1 of the MLC, subject to any national provisions which have been adopted by the State whose flag the ship is entitled to fly pursuant to paragraph 2 of Standard A2.5.1.

(2) A shipowner must comply with —

(a) the prohibitions in paragraph 3 of Standard A2.5.1, whether or not those prohibitions apply in the State whose flag the ship is entitled to fly; and

(b) the requirement in paragraph 9 of Standard A2.5.1, whether or not the State whose flag the ship is entitled to fly has imposed that requirement in its national laws or otherwise.

116. Medical care: MLC foreign ships

(1) A seafarer must —

(a) be given access to prompt and adequate medical care whilst working on board the ship at no cost to the seafarer; and

(b) be permitted to visit a qualified medical doctor or dentist without delay in ports of call, where practicable.

(2) Subject to sub-regulation (3), a ship must not be operated unless it carries a qualified medical doctor who is responsible for providing medical care.

(3) Sub-regulation (2) does not apply to a ship unless —

(a) it has 100 or more persons on board; and

(b) it is engaged on an international voyage lasting more than 72 hours.

(4) In sub-regulation (2), “**qualified medical doctor**” means a person who is recognised as such by, and who (for the purposes of sub-paragraph 4(b) of Standard A4.1 (medical care on board ship and ashore) of the MLC) has the qualifications required by, the State whose flag the ship is entitled to fly.

117. Security against shipowner’s liability for death or long term disability of seafarers: MLC foreign ships

A ship must not be operated unless financial security to assure compensation in the event of death or long term disability of seafarers arising from occupational illness, injury or hazard is provided in relation to the ship in accordance with paragraph 1 of Standard A4.2.1 of the MLC.

118. Security against the abandonment of seafarers: MLC foreign ships

A ship must not be operated unless financial security is in place for the ship in accordance with paragraph 3 of standard A2.5.2 of the MLC (financial security for abandoned seafarers).

119. Inspection: MLC foreign ships

(1) A relevant inspector may —

(a) review a ship’s Maritime Labour Certificate and Declaration of Maritime Labour Compliance or the ship’s interim Maritime Labour Certificate; and

(b) where Standard A5.2.1 of the MLC (inspections in port) applies, carry out a more detailed inspection in accordance with that Standard.

(2) A relevant inspector may inspect a ship, and may require any seafarer on board that ship to produce any document, in order to ascertain whether the requirements of Regulation 1.2 and Standard A1.2 of the MLC are met in relation to the seafarers working on that ship

(3) Regulation 97 (Inspection: Supplemental provision) applies to the power conferred by sub-regulation (2).

(4) Where a relevant inspector who has exercised the powers conferred by sub-regulations (1)(b) or (2), is satisfied that any seafarer working in a ship is unable to prove that that seafarer is working in accordance with the medical certification requirements of Regulation 1.2 and Standard A1.2 of the MLC, the relevant inspector may send —

(a) a report to the government of the State whose flag the ship is entitled to fly, and

(b) a copy of the report to the Director General of the International Labour Office.

(5) In the exercise of the power under this regulation, a ship must not be unduly detained or delayed.

120. Detention of ships: MLC foreign ships

Where a relevant inspector has reasonable grounds for believing that —

(a) an MLC foreign ship does not comply with the provisions of these regulations which apply to it: and

(b) (i) the conditions on board are hazardous to the health, safety or security of seafarers; or

(ii) the non-compliance represents a serious breach or the latest in a series of repeated breaches of these regulations or the requirements of the MLC (including the rights of seafarers referred to in Articles III and IV of the MLC which are secured by it),

that ship is liable to be detained.

121. Failure to repatriate - detention of MLC foreign ships at request of foreign State

(1) Subject to sub-regulation (2), a ship is liable to be detained if the Governor receives a request from the consul, diplomatic representative or appropriate maritime authorities of another State which has ratified the MLC that the ship be detained pursuant to paragraph 6 of Standard A2.5.1 of the MLC (power for States to detain or request detention of ships in connection with a shipowner defaulting in its duty to repatriate a seafarer).

(2) A ship may not be detained under this regulation unless the Governor receives satisfactory evidence that —

(a) the State has incurred costs pursuant to paragraph 5 of Standard A2.5 (repatriation) of the MLC in connection with a failure of the shipowner to comply with its legal duties concerning repatriation; and

(b) a request for reimbursement has been made but those costs have not been reimbursed.

(3) Where a ship is detained under this regulation and the Governor receives —

(a) satisfactory evidence that the costs referred to in sub-regulation (2) have been reimbursed; or

(b) a request from the consul, diplomatic representative or appropriate maritime authorities of the relevant State that the ship be released from detention,

a person having power to detain the ship must immediately release the ship.

122. Supplementary provisions as respects detention of MLC foreign ships

(1) The power under regulation 120 to detain a ship may only be exercised if the ship in question is —

(a) in a port or shipyard in the Falkland Islands; or

(b) at an offshore installation in Falkland Islands waters or controlled waters.

(2) Regulations 100 to 103 apply to a detention under regulation 120.

123. Offences: MLC foreign ship

(1) It is an offence for the master of a ship to breach regulation 104, 107(1), 108, 109, 112, 113(3), 114(1), (2), or (3)(a).

- (2) It is an offence for the employer of a seafarer to breach regulation 107(1) or 111.
- (3) It is an offence for the employer of a seafarer under the age prescribed in Regulation 1.1 of the MLC or, in the case, of night work, the age prescribed in paragraph 2 of Standard A1.1 of the MLC, to breach regulation 104.
- (4) It is an offence for a person authorised by a master to breach regulation 90 or 92.
- (5) It is an offence for a shipowner to breach regulation 8(3), 106, 107(1), 112, 113(1), 114(1), (3)(a), (3)(b) or (4), 115(1) or (2), 116(1) or (2), 117 and 118.
- (6) In relation to regulation 105 —
- (a) a breach of regulation 105 (other than a breach of the requirement referred to in sub-regulation (b)) is an offence by the shipowner; and
 - (b) a breach of regulation 105 as a consequence of a breach of the requirement in subparagraph 1(d) of Standard A2.1 of the MLC is an offence by the master of the ship.

PART 18 GENERAL PROVISIONS

124. Penalties

- (1) Subject to sub-regulations (2) to (7), offences under these regulations are punishable on summary conviction by a fine not exceeding level 5 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.
- (2) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 2 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 —
- (a) regulation 17(5);
 - (b) regulation 32(7);
 - (c) regulation 50(3);
 - (d) regulation 61(6);
 - (e) regulation 67(2);
 - (f) regulation 123(1), but only in relation to an offence consisting of a breach of regulation 113(3)(b); and
 - (g) regulation 123(5), but only in relation to an offence consisting of a breach of regulation 106.

(3) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 3 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 —

(a) regulation 13(7);

(b) regulation 14(3);

(c) regulation 32(5);

(d) regulation 39(5);

(e) regulation 50(5), (9) and (12);

(f) regulation 51(3);

(g) regulation 123(1), but only in relation to an offence consisting of a breach of regulation 113(3)(a); and

(h) regulation 123(5), but only in relation to an offence consisting of a breach of regulation 114(1) or 115(2)(b).

(4) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 4 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 —

(a) regulation 11(3) and (7);

(b) regulation 13(4);

(c) regulation 39(4);

(d) regulation 56(2);

(e) regulation 123(5), but only in relation to an offence consisting of a breach of regulation 116(1); and

(f) regulation 123(6)(b).

(5) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 5 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 or to imprisonment for a term not exceeding two years, or to both —

(a) regulation 32(3);

(b) regulation 33(4);

(c) regulation 34(3);

(d) regulation 35(4);

(e) regulation 40(8); and

(f) regulation 123(5), but only in relation to an offence consisting of a breach of regulation 113(1) or 114(4).

(6) An offence under regulation 96 is punishable on summary conviction by a fine not exceeding level 5 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 or to imprisonment for a term not exceeding two years, or to both.

125. Defences

In any proceedings for an offence under these regulations (other than an offence under regulation 11(5)) it is a defence for the person charged to show that all reasonable steps had been taken by that person to ensure compliance with the provision concerned.

PART 19- MISCELLANEOUS PROVISION

126. Transitional provisions relating to existing Falkland Islands ships

(1) In this regulation —

(a) “**existing ship**” means a ship constructed before 1st January 2016; and

(b) a reference to the date by which a ship is constructed is a reference to the date on which —

(i) the keel of the ship is laid; or

(ii) the ship is at a stage of construction at which —

(aa) construction identifiable with a specific ship has begun; and

(bb) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

(2) In relation to an existing Falkland Islands ship, until such date as the MLC is extended to the Falkland Islands —

(a) these regulations do not apply; and

(b) the Ordinance and any instruments made under it apply to such a ship as if it were a non-MLC ship.

(3) For the purposes of sub-regulation (2), the date the MLC is extended to the Falkland Islands is the date when notice is given to the International Labour Organisation to that effect by the United Kingdom Government.

(4) The Governor must notify the date the MLC is extended to the Falkland Islands by notice published in the *Gazette*.

(5) In this regulation, “**non-MLC ship**” has the meaning given in section 3(1) of the Ordinance.

SCHEDULE 1

Provision to be included in a Seafarers’ employment agreement
(*regulations 10 and 11*)

PART 1

Provision to be included in all agreements

1. The full name, birthplace and date of birth (or age at the time of entering into the agreement) of the seafarer.
2. The name and address of the shipowner.
3. The place where the agreement is entered into.
4. The date on which the agreement is entered into.
5. The capacity in which the seafarer is to work.
6. If the agreement has been made for a definite period, the termination date.
7. If the agreement has been made for an indefinite period, the period of notice of termination required and the circumstances in which such notice may be given.
8. If the agreement has been made for a particular voyage, the destination port and the period following arrival after which the agreement terminates.
9. The health and social security protection benefits to be provided to the seafarer under the agreement.
10. The maximum period of service on board following which the seafarer is entitled to repatriation (which must not exceed a period of 12 months less the number of days’ statutory paid leave to which the seafarer is entitled).
11. The seafarer’s entitlement to repatriation (including the mode of transport and destination of repatriation).
12. The circumstances in which the seafarer is required to meet or reimburse the shipowner for the costs of repatriation.

13. The maximum sum which the shipowner will pay to the seafarer in respect of compensation for any loss of personal property arising from the loss or foundering of the ship.

14. Details of any collective agreement which is incorporated (in whole or in part) into the agreement or is otherwise relevant to it.

PART 2

Provision to be included where seafarer is an employee

1. The wages (either the amount or the formula to be used in determining them).
2. The manner in which wages must be paid, including payment dates (the first of which must be no more than one month after the date on which the agreement is entered into, with all subsequent dates being no more than one month apart) and the circumstances (if any) in which wages may or must be paid in a different currency.
3. The hours of work.
4. The paid leave (either the amount or the formula to be used in determining it).
5. Any pension arrangements, including any entitlement to participate in a pension scheme.
6. The grievance and disciplinary procedures.

PART 3

Provision to be included where seafarer is not an employee

1. The remuneration (either the amount or the formula to be used in determining it).
2. The manner in which the remuneration must be paid, including payment dates (the first of which must be no more than one month after the date on which the agreement is entered into, with all subsequent dates being no more than one month apart) and the circumstances (if any) in which the remuneration may or must be paid in a different currency.

SCHEDULE 2

Provision to be included in a written record of work in a ship
(*regulation 13*)

1. Name, port of registry, gross or register tonnage and official number of the ship.
2. Description of voyage.
3. Capacity in which seafarer worked in the ship.

4. Date on which seafarer started work in the ship.
5. Date and location of seafarer's discharge from the ship.

SCHEDULE 3
Workforce agreements
(*regulation 20*)

1. An agreement is a workforce agreement for the purposes of these regulations if the following conditions are satisfied —

- (a) the agreement is in writing;
- (b) the agreement has effect for a specified period not exceeding five years;
- (c) the agreement applies either —
 - (i) to all of the relevant members of the workforce; or
 - (ii) to all of the relevant members of the workforce who belong to a particular group;
- (d) the agreement is signed —
 - (i) in the case of an agreement of the kind referred to in paragraph (c)(i) —
 - (aa) by the representatives of the workforce; or
 - (bb) if the employer employed 20 or fewer individuals on the date on which the agreement was first made available for signature, the majority of the individuals employed by the employer; or
 - (ii) in the case of an agreement of the kind referred to in paragraph (c)(ii) —
 - (aa) by the representatives of the group to which the agreement applies (excluding, in either case, any representative not a relevant member of the workforce on the date on which the agreement was first made available for signature); or
 - (bb) if the employer employed 20 or fewer individuals on the date on which the agreement was first made available for signature, the majority of the individuals employed by the employer; and
- (e) before the agreement was made available for signature, the employer provided all the employees to whom it was intended to apply on the date on which it came into effect with

copies of the text of the agreement and such guidance as those employees might reasonably require in order to understand it in full.

2. For purposes of paragraph 1 —

“**a particular group**” is a group of the relevant members of a workforce who undertake a particular function, work at a particular workplace or belong to a particular department or unit within their employer’s business;

“**employee**” means an individual who has entered into or works under a contract of employment;

“**relevant members of the workforce**” are all of the employees employed by a particular employer, excluding any employee whose terms and conditions of employment are provided for, wholly or in part, in a collective agreement; and

“**representatives of the workforce**” are employees duly elected to represent the relevant members of the workforce, “**representatives of the group**” are employees duly elected to represent the members of a particular group, and representatives are “**duly elected**” if the election at which they were elected satisfies the requirements of paragraph 3 of this Schedule.

3. The requirements concerning elections referred to in the definition of “**representatives of the workforce**” are that —

(a) the number of representatives to be elected is determined by the employer;

(b) the candidates for election as representatives of the workforce are relevant members of the workforce, and the candidates for election as representatives of a group are members of the group;

(c) no employee who is eligible to be a candidate is unreasonably excluded from standing in the election;

(d) all the relevant members of the workforce are entitled to vote for representatives of the workforce, and all the members of a particular group are entitled to vote for representatives of the group;

(e) the employees entitled to vote may vote for as many candidates as there are representatives to be elected; and

(f) the election is conducted so as to ensure that —

(i) so far as practicable, those voting do so in secret; and

(ii) the votes given at the election are fairly and accurately counted.

SCHEDULE 4

Information to be included in a shipowner's security document
(*regulation 81*)

The information to be included in a shipowner's security document is —

- (a) the name of the ship to which the shipowner's security relates;
- (b) the port of registry of the ship;
- (c) the call sign of the ship;
- (d) the International Maritime Organisation number of the ship;
- (e) the name and address of the shipowner's security provider;
- (f) the contact details of the point of contact at the shipowner's security provider responsible for handling claims made by seafarers;
- (g) the name of the owner of the ship;
- (h) the period of validity of the shipowner's security; and
- (i) a declaration from the shipowner's security provider that the shipowner's security meets the requirements of standard A4.2.1 of the MLC.

SCHEDULE 5

Information to be included in an abandonment security document
(*regulation 91*)

The information to be included in an abandonment security document is —

- (a) the name of the ship to which the abandonment security relates;
- (b) the port of registry of the ship;
- (c) the call sign of the ship;
- (d) the International Maritime Organisation number of the ship;
- (e) the name and address of the abandonment security provider;
- (f) the contact details of the point of contact at the abandonment security provider responsible for handling seafarers' abandonment claims;

- (g) the name of the owner of the ship;
- (h) the period of validity of the abandonment security; and
- (i) a declaration from the abandonment security provider that the abandonment security meets the requirements of standard A2.5.2 of the MLC.

Made 18 September 2019

Nigel James Phillips C. B. E.,
Governor.

EXPLANATORY NOTE
(This note is not part of the regulations)

These regulations are made under sections 6, 12, 15, 16, 21, 23, 25, 27, 28, 29, 30, 31, 38, 67, 68, 69, 71 and 72 of the Maritime Labour Ordinance 2019 (“the Ordinance”).

The regulations provide for minimum age, recruitment and placement, seafarers’ employment agreements, wages, hours of work, crew accommodation, food and catering, repatriation, medical care and medical certification, shipowners’ liability, complaints procedures, and inspections and detention of ships. These are the requirements set out in the five Titles of the Maritime Labour Convention (MLC).

Part 1 provides for introductory matters – the title, commencement, interpretation of terms used in the regulations as well as the extent of the application of the regulations.

Regulation 4 sets out which part of the regulations apply to sea-going Falkland Islands ships, ships registered in States which have already ratified the MLC (“MLC foreign ships”) and ships registered in States which have not ratified the MLC (“non-MLC foreign ships”). Parts 2 to 14 and 16 to 17 apply to Falkland Islands ships and non-MLC foreign ships and Parts 15 to 17 only apply to MLC foreign ships.

Regulation 4 excludes these regulations from applying to:

- (a) pleasure vessels;
- (b) fishing vessels;
- (c) ships of traditional build;
- (d) a warship or naval auxiliary; or

(e) a vessel which is not ordinarily engaged in commercial activities.

Part 2 implements aspects of Regulation 1.1 of the MLC (Minimum age) by making provision which supplements section 25(2) of the Ordinance (minimum age for the employment or engagement of young persons at night). Regulation 6 sets out the circumstances where it may be permissible to employ a young person at night. Regulation 7 imposes certain requirements on employers in relation to the employment of young persons and creates offences where those requirements are not met.

Part 3 implements part of Regulation 1.4 of the MLC (Recruitment and placement) and provides for recruitment and placement services to be only provided by Falkland Islands companies or entities except in specific circumstances. Regulation 8 provides for shipowners to employ or engage seafarers from companies or entities which are Falkland Islands based, or if not Falkland Islands based, they must be from a country which has ratified the MLC, to which another country's ratification of the MLC has been extended, or a country which conforms to the requirements relating to recruitment and placement services referred to in paragraph 5 of Standard A1.4 of the MLC. This applies whether or not those requirements are obligations under the law of the country in which the service is based. It is an offence not to observe this requirement.

Part 4 implements Regulation 2.1 of the MLC (Seafarers' employment agreements) and requires shipowners to enter into seafarers' employment agreements with seafarers. Regulation 10 makes it mandatory to enter into a seafarers' employment agreement and for the shipowner to be a party to the agreement even if the shipowner does not employ the particular seafarer. Where the shipowner does not employ the seafarer, a person who is the seafarer's employer should also be a party to the seafarers' employment agreement. It is an offence to contravene this requirement. Regulation 11 and Schedule 1 prescribe the content of seafarers' employment agreements. Regulation 12 requires the minimum notice period for termination to be 7 days or such longer period as the parties may agree. Regulation 13 requires the shipowner to provide the seafarer with an original copy of the agreement signed by all parties and regulation 15 provides for the master to produce a copy of the seafarers' employment agreement on demand. Regulation 14 provides for an agreement in a foreign language to be translated into English and that translated copy to be made available onboard.

Part 5 implements Regulation 2.2 of the MLC (Wages). It provides for seafarer wages, the requirement to keep an account of seafarer's wages and for shipowners to make payments to the seafarer on time. Regulation 16 provides that if any payment due to the seafarer is paid late, interest at a rate of 10% is to be paid. Regulation 17 requires the shipowner to keep an accurate record of the accounts of the wages paid to seafarers. It is an offence for a shipowner to fail to comply with this requirement.

Part 6 deals with hours that a seafarer must work. Regulation 18 obliges shipowners, masters and employers to ensure that seafarers are provided with at least the minimum hours of rest, as set out in regulation 19.

Regulation 20 allows for certain exceptions to the minimum hours of rest to be authorised by the Governor, while regulation 22 allows masters to make exceptions to the hours of rest in the case of emergencies.

Regulation 21 requires masters to post up a table of watchkeeping and hours of rest. Regulation 23 requires records of seafarers' hours of rest to be recorded. Regulation 24 obliges shipowners to provide on request information to the Governor on watchkeepers or seafarers working at night.

Regulation 25 entitles seafarers to a minimum amount of annual and additional leave. Shipowners and masters must grant shore leave to seafarers under regulation 26. Regulation 27 provides that where a seafarer is entitled to hours of rest or paid leave other than under these regulations and under a contract, the seafarer may rely on whichever is more beneficial, but may not rely on both entitlements separately. Regulation 28 makes remedies available to any seafarer who has a complaint. A seafarer may make a complaint to the Summary Court.

Part 7 implements Regulation 3.1 of the MLC (Accommodation and recreational facilities). Ships are required to comply with the requirements relating to crew accommodation set out in United Kingdom Merchant Shipping Notice 1844 (M) and there are related inspection requirements. The requirement under regulation 32 is for the accommodation to be clean, habitable and in a good state of repair. There is also provision for the accommodation to be inspected at regular intervals. Regulation 33 provides specifically for older ships. Regulation 34 provides for exemptions in certain circumstances and regulation 35 gives the Governor the power to approve standards which are substantially equivalent to those prescribed in the United Kingdom Merchant Shipping Notice 1844(M).

Part 8 implements Regulation 3.2 of the MLC (Food and catering). Provision is made in relation to the quantity and quality of food and drinking water provided for seafarers on board a ship. Such food and water must be provided free of charge (regulation 37). Under regulation 38 provision is made in relation to the storage and handling of food and drinking water provided for seafarers and the organisation and equipment of catering departments on board ships, with related inspection requirements under regulation 39. Certain ships are required to carry a qualified ship's cook (regulation 40). Provision is made to allow the Governor to exempt ships from this requirement and to approve arrangements which are substantially equivalent (regulation 40). Related provision is made in relation to the issue of certificates of competency as a ship's cook and the recognition of existing certificates of competency (regulations 41 and 43). Regulation 44 imposes requirements in relation to the training of catering staff and other persons processing food in the galley of a ship.

Part 9 implements Regulation 2.5 of the MLC (Repatriation). In the cases specified, a shipowner must make provision for the repatriation of a seafarer (regulations 45 to 47) and the shipowner is required to make provision for that seafarer's relief and maintenance pending repatriation (regulation 48). A seafarer must not be required to pay towards the costs of such repatriation or relief and maintenance, other than in specific cases including serious misconduct on the part of the seafarer (regulation 49). Regulation 50 makes provision with respect to seafarer property left behind. Regulation 51 requires that a copy of Part 9 of these regulations and certain specified guidance is held on board ships and made available to seafarers. Where a

shipowner fails to make provision for the repatriation of seafarers, or for their relief and maintenance pending repatriation, the Governor is required to make such provision in the case of Falkland Island ships (and may do so in relation to non-Falkland Islands ships) (regulation 53).

Part 10 implements Regulation 4.1 of the MLC (Medical care on board ship and ashore). In specified circumstances, a seafarer who is sick or injured is entitled to medical care on board ship and, for a maximum period of 16 weeks, to certain expenses arising from such sickness or injury (regulation 54). Certain ships are required to carry a medical practitioner (regulation 55). In the circumstances specified, a seafarer is entitled to seek medical attention onshore when the ship is in a port of call (regulation 56).

Part 11 implements Regulation 1.2 of the MLC (Medical certification). It requires all seafarers to have medical certification before going to sea. It applies to seafarers on sea-going Falkland Islands ships wherever they may be.

Regulations 59 and 60 provide that seafarers working on seagoing Falkland Islands ships must possess medical fitness certificates and carry them on board a ship on which they are working, it prohibits employers from employing seafarers who do not have such a certificate. In limited circumstances and for limited periods of time, a seafarer may work in a ship without a medical fitness certificate.

Regulations 61 to 63 make provision for the issue and validity of medical fitness certificates and for equivalent certificates to be accepted as medical fitness certificates in certain circumstances.

Regulation 64 provides that seafarers must report certain medical conditions to the medical practitioner or other authority who issued their medical fitness certificate. Where this obligation applies, a medical certificate will be suspended until such time as the medical practitioner or authority has assessed the seafarer's condition. Regulation 65 provides that a medical practitioner may suspend or cancel the certificate where there has been a significant change in a seafarer's medical fitness, or where the medical practitioner who issued a medical fitness certificate was not in possession of full details about the seafarer (which, if known, would have meant the certificate would not have been issued), or where such a certificate has not been issued in compliance with these regulations.

Regulation 66 provides that the Governor must arrange for the review by a medical referee of certain decisions by a medical practitioner. An application for review must be made within one month of the date of notification of the decision challenged, unless the Governor agrees that a longer period is appropriate. Regulation 67 provides that where a medical practitioner certifies that a seafarer on night watchkeeping duties suffers from health problems which the medical practitioner considers are because the seafarer works at night, and where an employer is able to transfer the seafarer to other suitable work which is not performed at night, the employer must transfer the seafarer to that work.

Regulation 68 provides that medical practitioners or medical referees must keep records, and must send to the Governor, on request, a return of medical examinations which have been carried out. Regulation 69 provides that, on application and payment of the medical practitioner's

administrative costs, a replacement medical fitness certificate may be issued where the person to which that certificate was issued is no longer in possession of it.

Part 12 provides for shipowner's liability. A seafarer who has become unemployed when the ship on which they work founders or is lost, is entitled to receive a sum equivalent to the wages which would have been payable during the period specified and to compensation for other injury or loss (regulation 71). A seafarer who suffers sickness or injury in the circumstances specified is entitled to any unpaid wages (see regulation 72) for a specified period. A seafarer who remains incapable of work after that period is entitled to receive any basic wages (also defined in regulation 72) payable under the agreement for a 16 week period (less the amount of any social security benefits received in respect of that period). Provision is made in respect of property left behind on a ship by such a seafarer (regulation 73), and expenses incurred in connection with the burial or cremation of a seafarer who dies on board a ship or whilst on shore leave in a country other than their country of residence (regulation 74).

Part 13 deals with financial security for shipowner's liability for death or injury to seafarers. Regulations 76 and 77 require Falkland Islands ships to be covered by a contract of insurance or other form of financial security to discharge the shipowner's liability in the event of long term disability or death to seafarers due to occupational illness, injury or hazard ("shipowner's security"). Regulation 78 provides for payment of compensation where the amount payable is set out in the seafarer's seafarer employment agreement. Under this provision compensation must be paid within 7 days of the financial security provider being satisfied that the shipowner concerned is liable to pay the compensation.

Where a seafarer suffers long term disability, the determination of the amount of compensation payable takes longer than 7 days from the date on which the shipowner becomes liable, and the seafarer is suffering hardship, regulation 79 provides that interim payments may be made to the seafarer.

It is an offence for any person to induce another to accept less than the full amount of compensation payable in respect of death or long term disability of a seafarer, as set out in a seafarer's seafarer employment agreement (regulation 80).

Shipowners are under a duty to display each certificate or other documentary evidence relating to the ship in a conspicuous place on board ship and, if it is not in English, along with an English translation (regulation 81). The contents of the certificate or other documentary evidence is set out in Schedule 4.

Regulation 82 provides that the termination of a shipowner's security before the end of its period of validity by the shipowner's security provider is effective only if they give 30 days' prior notice in writing to the Governor. Following the termination of a shipowner's security before the end of its period of validity, the provider must give notice of the termination to the Governor within 30 days (regulation 83). A shipowner who becomes aware that a shipowner's security is to be terminated (or has been terminated) must give notice to all seafarers who work on the ship.

Part 14 deals with financial security to provide financial assistance to abandoned seafarers. Regulations 85 to 89 require Falkland Islands ships to be covered by a contract of insurance or other form of financial security which provides financial assistance to seafarers who are abandoned (as defined) (“abandonment security”). Seafarers may make claims for financial assistance directly to abandonment security providers (defined as “abandonment claims”). Where an abandonment claim is made, providers must determine within 7 days of receipt whether the seafarer making the claim is entitled to assistance. If the seafarer is entitled, payment must be made within 14 days of receipt of the claim. If a provider fails to make this determination, financial assistance must nevertheless be given to the seafarer.

Regulation 90 provides for the subrogation of a seafarer’s rights against a shipowner to an abandonment security provider who has provided the seafarer with financial assistance.

Shipowners are under a duty under regulation 91 to display each certificate or other documentary evidence relating to the ship in a conspicuous place on board ship and, if it is not in English, along with an English translation. The contents of the certificate or documentary evidence is set out in Schedule 5. Regulation 92 provides that the termination of an abandonment security before the end of its period of validity by the abandonment security provider is effective only if the abandonment security provider gives 30 days’ prior notice in writing to the Governor. A shipowner who becomes aware that an abandonment security is to be terminated (or has been terminated) must give notice to all seafarers who work on the ship (regulation 93).

Part 15 (regulation 94) provides for the shipowner to put in place a complaints procedure which will comply with the requirements of the United Kingdom Merchant Shipping Notice 1849(M). The shipowner must provide seafarers with a copy of the complaints procedure. The procedure must be used to resolve complaints at a low level before they are escalated to the courts.

Part 16 confers powers to allow the inspection and detention of ships where breaches of these regulations have occurred.

Part 17 makes provision for MLC foreign ships. Under the MLC, if these ships have been certified by another State to show they comply with the MLC, they are subject to slightly different requirements based on the provisions of the MLC. This Part therefore sets out the MLC requirements applying to these ships which include equivalent provisions in relation to: the minimum age of seafarers (regulation 104); seafarers’ employment agreements (regulation 105); wages (regulation 106); hours of rest (regulations 107 to 110); annual and shore leave (regulations 111 and 112); crew accommodation (regulation 113); food and catering (regulation 114); repatriation (regulation 115); medical care (regulation 116); and for security against a shipowner’s liability for death or long term disability of seafarers or their abandonment (regulations 117 and 118). Regulations 119 to 120 and 122 make provision for the inspection and detention of MLC foreign ships. Provision is made for the detention of a non-Falkland Islands ship with MLC documentation at the request of a foreign State where a shipowner has defaulted in its duty to repatriate a seafarer (regulation 121). Regulation 123 sets out the offences that may be committed by the owners and masters of such ships or employers of seafarers who work in them.

Part 18 specifies the penalties applicable for each offence under the regulations (regulation 124) and provides a “reasonable steps” defence for all offences (except an offence under regulation 11(5)) (regulation 125).

Part 19 contains miscellaneous provisions. Regulation 126 provides for transitional provisions pending the coming into force of the Maritime Ordinance 2017 and regulation 127 for transitional provisions in relation to existing Falkland Islands ships. Until the MLC is extended to the Falkland Islands, these regulations will not apply to these ships. Instead, the Ordinance and any instruments made under it will apply to such a ship as if it were a non-MLC ship as defined in the Ordinance.

Copies of the MLC can be accessed electronically at:

<https://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>

Copies of the United Kingdom Merchant Shipping Notices mentioned in the regulations can be accessed electronically at:

<https://www.gov.uk/government/collections/merchant-shipping-notices-msns>

Alternatively, hard copies are available for viewing at the Department of Natural Resources, Bypass Road, Stanley, Falkland Islands, FIQQ 1ZZ.

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The following are published in this Supplement —

Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019 (SR&O No 18 of 2019);

Maritime (International Safety Management Code) Regulations 2019 (SR&O No 19 of 2019);

Maritime (Polar Code) Regulations 2019 (SR&O No 20 of 2019); and

Maritime (Oil Pollution Preparedness, Response and Co-Operation Convention) Regulations 2019 (SR&O No 21 of 2019).

SUBSIDIARY LEGISLATION

Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019

S. R. & O. No: 18 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

PART 1 - INTRODUCTION

1. Title
2. Commencement
3. Interpretation
4. Application

PART 2 - SURVEY AND CERTIFICATION

5. Survey of Falkland Islands ships
6. Issue of Maritime Labour Certificates
7. Survey and certification of Falkland Islands ships by Governments of other States
8. Interim Maritime Labour Certificates
9. Survey and certification of non-Falkland Islands ships by Falkland Islands authorities
10. Duration and validity of Maritime Labour Certificates
11. Declaration of Maritime Labour Compliance
12. Documents to be carried on board ship and made available
13. Arbitration
14. Offences in respect of Falkland Islands ships

PART 3 - INSPECTION AND DETENTION OF SHIPS

15. Inspection of Falkland Islands ships
16. Detention of Falkland Islands ships
17. Release of detained Falkland Islands ships
18. Documentation and complaint procedure requirements for non-Falkland Islands ships
19. Inspection of non-Falkland Islands ships
20. Detention of non-Falkland Islands ships
21. Release of information

PART 4 - MISCELLANEOUS PROVISIONS

22. Penalties
23. Transitional provisions relating to existing Falkland Islands ships

SUBSIDIARY LEGISLATION

Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019

S. R. & O. No. 18 of 2019

Made: 18 September 2019
Published: 25 September 2019
Coming into force: on publication

I make these regulations under sections 27, 28, 37(1), 66, 67, 68, 70 and 71 of the Maritime Labour Ordinance 2019 and on the advice of Executive Council —

PART 1 - INTRODUCTION

1. Title

These regulations are the Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Interpretation

(1) In these regulations, unless the context otherwise requires —

“**Adopted Maritime Labour Convention standards**” means the standards or requirements that give effect to the MLC in —

(a) these regulations;

(b) the Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019;

(c) section 37(1) of the Ordinance;

(d) Parts 2, 3 and 4 of the Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2015 (SI 2015/742), as applied by the Law Revision and Publication Ordinance 2017;

(e) Regulations 4 to 11 of the Merchant Shipping and Fishing Vessels (Medical Stores) Regulations 1995 (SI 1995/1802), as applied by the Law Revision and Publication Ordinance 2017; and

(f) Regulations 5, 7, 12(1) and (2), 15, 16(1)(b)(ii), 19(1)(b)(ii) and 20 of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (SI 1997/2962), as applied by the Law Revision and Publication Ordinance 2017;

“**authority**” has the same meaning as given by section 3 of the Harbours and Ports Ordinance 2017;

“**certifying authority**” means —

(a) the Governor; or

(b) an organisation which —

(i) has an agreement with the Governor which authorises it to undertake surveys of ships under these regulations; and

(ii) is recognised by the Governor as meeting the requirements of Regulation 5.1.2 and Standard A5.1.2 of the MLC;

“**controlled waters**” means the waters within the limits of the Interim Fishery Conservation and Management Zone (Proclamation No 4 of 1986) and the Fishery Conservation Outer Zone (Proclamation No 2 of 1990);

“**Convention State**” means a State or territory which is a party to the MLC;

“**Declaration of Maritime Labour Compliance**” means, in relation to a ship, the Part 1 and Part 2 documents drawn up and issued in accordance with the MLC, in the forms corresponding to the relevant models given in Appendix A5-II of the MLC, and having the contents, duration and validity specified in Regulation 5.1.3 and Standard A5.1.3, of the MLC;

“**Falkland Islands ship**” has the meaning given in section 3(1) of the Ordinance;

“**Falkland Islands waters**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**fishing vessel**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**gross tonnage**” has the meaning given in section 3(1) of the Ordinance;

“**MCA**” means the Maritime and Coastguard Agency, an executive agency of the United Kingdom Department for Transport;

“**MLC**” has the meaning given in section 3(1) of the Ordinance;

“**MLC Regulations**” and “**MLC Code**” have the meanings given in section 3(1) of the Ordinance;

“**Maritime Labour Certificate**” and “**interim Maritime Labour Certificate**” mean, in relation to a ship, a certificate of that name issued in accordance with the MLC, in a form corresponding to the relevant model given in Appendix A5-II of the MLC, and having the contents, duration and validity specified in Regulation 5.1.3 and Standard A5.1.3, of the MLC;

“**Merchant Shipping Notice 1848(M)**” means the United Kingdom Merchant Shipping Notice 1848(M) Amendment 2 issued by the MCA, as approved by the authority under section 74 of the Ordinance;

“**offshore installation**” means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation;

“**Ordinance**” means the Maritime Labour Ordinance 2019;

“**pleasure vessel**” has the meaning given in section 3(1) of the Ordinance;

“**proper officer**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**relevant inspector**” means any of the persons mentioned in section 240(1) of the Maritime Ordinance 2017;

“**safe haven**” means a harbour or shelter of any kind which affords safe entry and protection from the weather;

“**seafarer**” has the meaning given in section 3(1) of the Ordinance;

“**sea-going**” has the meaning given in section 3(1) of the Ordinance;

“**ship**” includes hovercraft; and

“**shipowner**” has the meaning given to it in section 3(1) of the Ordinance and for the purpose of these regulations includes, in relation to a ship which has a valid Maritime Labour Certificate or interim Maritime Labour Certificate, the person identified as the shipowner on that certificate.

(2) In the application of these regulations to a hovercraft, a reference to the master of a ship includes a reference to the captain of that hovercraft.

(3) In interpreting the MLC for the purposes of these regulations —

(a) the Regulations contained in the MLC; and

(b) Part A of the MLC Code,

are to be construed as mandatory.

(4) Any reference in these regulations to a specific provision in the MLC, the MLC Regulations or the MLC Code is to be construed as —

(a) a reference to the provision in that instrument as modified from time to time; and

(b) a reference, if the instrument is replaced by another instrument, to the relevant provision in that other instrument.

(5) For the purposes of sub-regulation (4) —

(a) the MLC is modified if an omission, addition or other alteration to the text takes effect in accordance with Article XIV of the MLC;

(b) the MLC Regulations are modified if an omission, addition or other alteration to the text takes effect in accordance with Article XIV of the MLC; and

(c) the MLC Code is modified if an omission, addition or other alteration to the text takes effect in accordance with Article XV of the MLC.

(6) A modification to, or replacement of the MLC or the MLC Regulations by virtue of sub-regulation (5)(a) or (b) has effect at the time that such modification or replacement comes into force in accordance with Article XIV(6) or (7) of the MLC.

(7) A modification to, or replacement of the MLC Code by virtue of sub-regulation (5)(c) has effect at the time that such modification or replacement comes into force in accordance with Article XV(8) and (9) of the MLC.

(8) No modification or replacement of a reference to an instrument by virtue of sub-regulations (4) and (5) affects any rights or liabilities arising before the date on which the modification or replacement has effect.

4. Application

(1) Subject to sub-regulation (3), regulations 5 to 8 and 10 to 17 apply to a sea-going Falkland Islands ship wherever it may be.

(2) Subject to sub-regulation (3), regulations 9 and 18 to 20 apply to a sea-going ship which is not a Falkland Islands ship, while the ship is in Falkland Islands waters, except where it is exercising the right of innocent passage.

(3) These regulations do not apply to —

(a) a pleasure vessel;

- (b) a fishing vessel;
- (c) a ship of traditional build;
- (d) a warship or naval auxiliary;
- (e) a vessel which is not ordinarily engaged in commercial activities; and
- (f) a vessel which —
 - (i) operates only within 60 miles of a safe haven; and
 - (ii) does not operate to or from, or call at, a port in a State or territory other than the Falkland Islands.

PART 2 — SURVEY AND CERTIFICATION

5. Survey of Falkland Islands ships

- (1) A ship falling within sub-regulation (2) is subject to the following surveys —
 - (a) before a Maritime Labour Certificate is first issued in relation to the ship, an initial survey by a certifying authority, as set out in Merchant Shipping Notice 1848(M);
 - (b) within five years of the first issue of a Maritime Labour Certificate, and after that at intervals which must be no more than five years, a renewal survey by a certifying authority, as set out in Merchant Shipping Notice 1848(M); and
 - (c) in the period between the first and third anniversaries of the date of a Maritime Labour Certificate, an intermediate survey by a certifying authority, as set out in Merchant Shipping Notice 1848(M).
- (2) A ship falls within this sub-regulation if it is a ship of 500 gross tonnage or over which —
 - (a) is engaged in international voyages; or
 - (b) is operating between ports in a country other than the Falkland Islands.
- (3) A ship which does not fall within sub-regulation (2) is subject to a survey by a certifying authority as set out in Merchant Shipping Notice 1848(M).
- (4) In this regulation, “**international voyage**” means a voyage from a country to a port outside such a country.

6. Issue of Maritime Labour Certificates

- (1) Where a certifying authority is satisfied after the completion of an initial or renewal survey carried out in accordance with regulation 5(1)(a) or (b) that the Adopted Maritime Labour

Convention standards are being complied with, that authority must issue a Maritime Labour Certificate.

(2) Where a certifying authority is satisfied after the completion of an intermediate survey carried out in accordance with regulation 5(1)(c) that the Adopted Maritime Labour Convention standards are being complied with, that authority must endorse the Maritime Labour Certificate to that effect.

(3) Where requested by the shipowner and if satisfied after the completion of a survey carried out in accordance with regulation 5(3) that the Adopted Maritime Labour Convention standards are being complied with, a certifying authority must issue a Maritime Labour Certificate or endorse a Maritime Labour Certificate to that effect.

(4) A certifying authority may have regard to the results of a survey conducted before the date on which these regulations come into force when deciding whether it is satisfied that standards referred to in this regulation are being complied with.

(5) A Maritime Labour Certificate issued under this regulation must be drawn up in a form corresponding to the model given in Merchant Shipping Notice 1848(M) and have the content specified in that Merchant Shipping Notice.

7. Survey and certification of Falkland Islands ships by Governments of other States

(1) The Governor may, through a proper officer or otherwise, request the Government of a Convention State —

(a) to carry out an initial, renewal or intermediate survey, as set out in Merchant Shipping Notice 1848(M), of a Falkland Islands ship to which regulation 5(1) and (2) applies, by reference to the relevant Adopted Maritime Labour Convention standards; and

(b) if satisfied that the standards are met —

(i) issue or authorise the issue of a Maritime Labour Certificate in relation to the ship, or to endorse or authorise the endorsement of that certificate to that effect, in accordance with the requirements of the MLC;

(ii) include in the certificate a statement to the effect that it has been issued at the request of the Governor; and

(iii) transmit a copy of the survey report and the certificate to the Governor as soon as possible.

(2) A certificate issued or endorsed in accordance with sub-regulation (1) has the same force and must receive the same recognition as a certificate issued or endorsed in accordance with regulation 6.

(3) A Maritime Labour Certificate issued under this regulation must be drawn up in a form corresponding to the model given in Merchant Shipping Notice 1848(M) and have the content specified in that Merchant Shipping Notice.

8. Interim Maritime Labour Certificates

(1) This regulation applies to a ship falling within regulation 5(2) —

(a) upon registration of the ship as a Falkland Islands ship, where this is —

(i) the first registration of the ship; or

(ii) upon a transfer of the ship from the flag of another State; or

(b) where a Maritime Labour Certificate has been issued by a certifying authority in respect of the ship, upon a person taking responsibility for the operation of the ship who —

(i) is not the person named as the shipowner in that certificate; and

(ii) has not been named as the shipowner in any Maritime Labour Certificate previously issued in respect of that ship.

(2) Where a certifying authority or (where requested by the Governor) the Government of a Convention State has verified that —

(a) a ship has been subjected to a survey, so far as reasonable and practicable, as set out in Merchant Shipping Notice 1848(M);

(b) the shipowner has demonstrated that the ship has adequate procedures to comply with the Adopted Maritime Labour Convention standards;

(c) the master of the ship is familiar with —

(i) the requirements of the MLC; and

(ii) the responsibilities which people have in connection with the implementation of the MLC as respects a Falkland Islands ship; and

(d) the certifying authority or the Government of that Convention State (as the case may be) has the information which would be necessary to produce Part 1 of the Declaration of Maritime Labour Compliance as respects the ship,

that certifying authority or the Government of that Convention State may issue an interim Maritime Labour Certificate.

(3) No interim Maritime Labour Certificate may be issued in relation to a ship if —

(a) an interim Maritime Labour Certificate has previously been issued in relation to that ship by a certifying authority or the Government of a Convention State; and

(b) no valid Maritime Labour Certificate has since been issued in respect of that ship (whether by that certifying authority or a Government of a Convention State or another body).

(4) An interim Maritime Labour Certificate may be issued for a period not exceeding six months.

(5) An interim Maritime Labour Certificate issued under this regulation must be drawn up in a form corresponding to the model given in Merchant Shipping Notice 1848(M) and have the content specified in that Merchant Shipping Notice.

9. Survey and certification of non-Falkland Islands ships by Falkland Islands authorities

(1) A certifying authority may, at the request of a Government of a Convention State, inspect a ship registered in that State by reference to such standards as may be specified in the request (which must reflect the requirements of the MLC as implemented by that State) and, if satisfied that the standards are met —

(a) issue as respects the ship a Maritime Labour Certificate or endorse such a certificate to that effect; or

(b) issue as respects the ship an interim Maritime Labour Certificate.

(2) The certifying authority must include in any certificate issued or endorsed in accordance with sub-regulation (1) a statement to the effect that it has been issued or endorsed at the request of the Government of the State in which the ship is registered, and must transmit a copy of the survey report and the certificate to that State as soon as possible.

(3) A certificate issued or endorsed in accordance with this regulation has effect as if issued or endorsed by the State which requested the survey of the ship to be carried out.

10. Duration and validity of Maritime Labour Certificates

(1) Subject to sub-regulation (2), a Maritime Labour Certificate must be issued —

(a) on the date of the completion of the relevant survey; and

(b) with a period of validity not exceeding five years from the date of issue.

(2) Where a renewal survey as required by regulation 5(1)(b) has been satisfactorily completed within a period of three months before the expiry of a Maritime Labour Certificate, the new certificate must be issued as being valid from the original date of expiry of the existing certificate.

(3) This sub-regulation applies where a renewal survey as required by regulation 5(1)(b) has been satisfactorily completed but a new Maritime Labour Certificate cannot, on the date of completion of the survey, be —

(a) issued; or

(b) made available on board the ship.

(4) Where sub-regulation (3) applies, the certifying authority may extend the period of validity of the existing Maritime Labour Certificate by a period not exceeding 5 months.

(5) Where a certifying authority extends the period of validity of a Maritime Labour Certificate under sub-regulation (4), it must —

(a) issue the new Maritime Labour Certificate as being valid from the original date of expiry of the existing certificate; and

(b) endorse the certificate accordingly.

(6) A Maritime Labour Certificate ceases to be valid —

(a) as respects a ship falling within regulation 5(2), if an intermediate survey has not been completed within the period specified in regulation 5(1)(c) and the certificate endorsed in accordance with regulation 6(2); or

(b) where a certifying authority has issued the certificate in accordance with regulation 6(3), if that certificate has not been endorsed in accordance with the requirements of Merchant Shipping Notice 1848(M).

(7) Where a certificate ceases to be valid for a reason specified in sub-regulation (4)(a) or (b), the certifying authority may issue a new certificate if satisfied that the non-compliance has been fully addressed and remedied, notwithstanding that the ship has not been subject to a survey falling within regulation 5 since the previous certificate was cancelled.

(8) A Maritime Labour Certificate or interim Maritime Labour Certificate ceases to be valid —

(a) upon transfer of the ship to the flag of another State;

(b) if the person who is named on the certificate as the shipowner ceases to have responsibility for the operation of the ship;

(c) if substantial changes are made to the ship's accommodation or its recreational facilities for seafarers or its food and catering facilities; or

(d) if the ship's accommodation or its recreational facilities for seafarers or the ship's food and catering facilities have sustained damage or otherwise do not comply with the Adopted

Maritime Labour Convention standards and that damage or non-compliance has not been rectified.

(9) The Governor may cancel a Maritime Labour Certificate issued to a Falkland Islands ship where the Governor has reason to believe that the certificate was issued on the basis of incorrect information, and may require such a certificate to be surrendered as directed.

(10) Where a Maritime Labour Certificate or interim Maritime Labour Certificate has been issued to a ship and has not expired and —

(a) an improvement notice under section 243 of the Maritime Ordinance 2017 has been issued in relation to that ship and the contravention specified in the improvement notice has not been remedied within the period specified in the notice; or

(b) the Governor has determined that there is evidence that the ship does not comply with the requirements of the MLC and that the failure of the ship to comply endangers the safety of the ship or its crew,

the Governor may suspend the validity of the Maritime Labour Certificate or interim Maritime Labour Certificate.

(11) Where the Governor suspends the validity of a certificate under sub-regulation (8), the Governor must give notice of the suspension to the shipowner and the master of the ship, and may require the certificate which has been so suspended to be surrendered as directed.

(12) In this regulation, “**original date of expiry**”, in relation to a Maritime Labour Certificate, means the final day of the period of validity of the certificate, excluding any extension to that period added under sub-regulation (4).

11. Declaration of Maritime Labour Compliance

(1) Where a ship is subject to a survey in accordance with regulation 5, 7 or 9, the shipowner must —

(a) provide to the certifying authority or Government of a Convention State undertaking the survey the information necessary for the certifying authority or Government of a Convention State to draw up Part 1 of the Declaration of Maritime Labour Compliance as respects the ship; and

(b) draw up Part 2 of the Declaration of Maritime Labour Compliance as respects the ship and provide it to the certifying authority or Government of a Convention State.

(2) Where a certifying authority or Government of a Convention State has been provided with the necessary information in accordance with sub-regulation (1)(a) and with Part 2 of the Declaration of Maritime Labour Compliance as respects the ship, the certifying authority or Government of a Convention State must —

- (a) draw up Part 1 of the Declaration of Maritime Labour Compliance; and
- (b) if satisfied that Part 2 of the Declaration of Maritime Labour Compliance is compatible with the Adopted Maritime Labour Convention standards —
 - (i) certify it to that effect; and
 - (ii) issue to the shipowner Part 1 and Part 2 of the Declaration of Maritime Labour Compliance.

(3) The certifying authority must, when carrying out —

- (a) any survey as set out in Merchant Shipping Notice 1848(M); or
- (b) any verification of the compliance of a ship with the MLC,

record the results of that survey or verification in Part 1 of the Declaration of Maritime Labour Compliance or otherwise make that information available to seafarers on the ship, certifying authorities, inspectors from other States concerned with flag state or port state inspections, and shipowners' and seafarers' representatives.

(4) In sub-regulations (1) and (2), “**Part 1 of the Declaration of Maritime Labour Compliance**” and “**Part 2 of the Declaration of Maritime Labour Compliance**” mean a document drawn up in a form corresponding to the respective model given in Merchant Shipping Notice 1848(M), and having the contents, duration and validity specified in that Merchant Shipping Notice.

12. Documents to be carried on board ship and made available

(1) The shipowner and the master of a ship must ensure that a copy of the MLC is carried on board the ship at all times.

(2) The shipowner and the master of a ship to which a Maritime Labour Certificate or interim Maritime Labour Certificate has been issued must ensure that the following documents are carried on board the ship and posted in a conspicuous place on board where they are available to seafarers —

- (a) the Maritime Labour Certificate or interim Maritime Labour Certificate for the ship; and
- (b) if the ship has a Maritime Labour Certificate, the Declaration of Maritime Labour Compliance.

(3) The shipowner and the master of a ship must make the documents referred to in sub-regulations (1) and (2) available, upon request, to the persons specified in Merchant Shipping Notice 1848(M).

(4) A breach of sub-regulation (1) or (2) is an offence by the shipowner and the master.

13. Arbitration

(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a Falkland Islands ship, that person may serve a written notice on the responsible person within 21 days of receiving notification of that outcome —

(a) stating that there is a dispute in relation to the survey; and

(b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to sub-regulations (3), (4) and (6) an arbitrator referred to in sub-regulation (1) must be appointed by agreement between the parties.

(3) In default of agreement between the parties, the arbitrator must be such a person as may be appointed in terms of section 93(6) of the Maritime Ordinance 2017 following a request made by—

(a) a party, after giving written notice to the other party; or

(b) the parties jointly.

(4) No person is to be an arbitrator under this regulation unless that person is qualified in accordance with section 93(6) of the Maritime Ordinance 2017.

(5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 241 of the Maritime Ordinance 2017.

(6) The rules for arbitration set out in the Merchant Shipping Notice M1613 issued by the MCA, as approved by the authority under section 74 of the Ordinance, apply unless alternative procedures are agreed between the applicant and the Governor before the commencement of arbitration proceedings.

(7) In this regulation —

(a) “**applicant**” means a person who makes an application for a survey required under these regulations;

(b) “**the parties**” means the applicant and the responsible person, and “**party**” is to be construed accordingly; and

(c) “**responsible person**” means the certifying authority responsible for the issue of the certificate in connection with which a survey required by these regulations is carried out.

14. Offences in respect of Falkland Islands ships

(1) If a ship to which regulation 5(1) and (2) applies proceeds or attempts to proceed to sea or on a voyage or excursion without a valid Maritime Labour Certificate and Declaration of Maritime

Labour Compliance or a valid interim Maritime Labour Certificate, the shipowner and the master of the ship commits an offence.

(2) If a ship to which regulation 5(3) applies, and in respect of which a certifying authority has issued a Maritime Labour Certificate, proceeds or attempts to proceed to sea or on a voyage or excursion without the Maritime Labour Certificate having been endorsed in the manner required by Merchant Shipping Notice 1848(M), the shipowner and the master of the ship commits an offence.

(3) A person is guilty of an offence who —

(a) intentionally alters a Maritime Labour Certificate or interim Maritime Labour Certificate (other than by way of endorsement);

(b) intentionally produces a false Maritime Labour Certificate or interim Maritime Labour Certificate;

(c) in connection with any survey undertaken in accordance with these regulations knowingly or recklessly furnishes false information;

(d) with intent to deceive, uses, lends, or allows to be used by another, a Maritime Labour Certificate or interim Maritime Labour Certificate; or

(e) fails to surrender a Maritime Labour Certificate or interim Maritime Labour Certificate as directed in accordance with regulation 10(9) or (11).

PART 3 —INSPECTION AND DETENTION OF SHIPS

15. Inspection of Falkland Islands ships

(1) For the purpose of checking compliance with these regulations other than regulations 9 and 18 to 20, a relevant inspector or a proper officer may at all reasonable times go on board a ship and inspect, in accordance with Regulation 5.1.4 and Standard A5.1.4 (inspection and enforcement), the ship, its equipment, any article and any document carried on it.

(2) Sections 240(2), (4) and (6) of the Maritime Ordinance 2017 (powers to inspect ships and their equipment, etc) apply in relation to sub-regulation (1) as if references in those subsections to “subsection (1) above” and “this section” were references to sub-regulation (1).

(3) Sections 241(1), (2), (6) and (8) to (11) and 242(1) and (2) of the Maritime Ordinance 2017 (powers of inspectors in relation to premises and ships, and supplementary provisions) apply in relation to the inspection of a ship for the purposes of checking compliance with these regulations as they apply in relation to the inspection of a ship for the purposes of checking compliance with that Ordinance, as if —

(a) references in those sections to “this Ordinance” were to these regulations;

(b) for section 241(1)(b) there were substituted a reference to any ship to which this regulation applies; and

(c) in section 241(2)(h)(iii) the words “or any instrument made under it” were omitted.

(4) Any regulations made under section 241(7) or section 242(3) of the Maritime Ordinance 2017 apply for the purposes of the provisions of those sections as applied by sub-regulations (2) and (3) as they apply for the purposes of that Ordinance.

(5) Sections 243 to 248 of the Maritime Ordinance 2017 (improvement notices and prohibition notices) apply for the purposes of these regulations as if the meaning of “the relevant statutory provisions” in section 243(4) included these regulations.

16. Detention of Falkland Islands ships

(1) Where a relevant inspector has reasonable grounds for believing that —

(a) a ship does not comply with these regulations; and

(b) (i) the conditions on board are hazardous to the health, safety or security of seafarers; or

(ii) the non-compliance represents a serious breach or the latest in a series of repeated breaches of these regulations or the requirements of the MLC (including the rights of seafarers referred to in Articles III and IV of the MLC which are secured by it),

that ship is liable to be detained.

(2) A person having powers to detain a ship may permit a ship which is liable to be detained under this regulation to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard which is available.

(3) Section 268 of the Maritime Ordinance 2017 (enforcing detention of a ship) applies where a ship is liable to be detained under this regulation as if —

(a) references to the owner of a ship were to the shipowner under these regulations;

(b) references to detention of a ship under that Ordinance were references to detention of a ship under these regulations; and

(c) subsection (10) were omitted.

(4) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master of the ship a detention notice which —

(a) states the grounds for the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 268(1) of the Maritime Ordinance 2017.

17. Release of detained Falkland Islands ships

(1) Where a ship is detained under these regulations and none of the grounds for detention continue to apply, a person having power to detain the ship must, at the request of the shipowner or the master of the ship, immediately release the ship —

(a) if no proceedings for an offence under these regulations are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for an offence under these regulations, having been instituted within that period, are concluded without the shipowner or master of the ship being convicted;

(c) if either —

(i) the sum of £30,000 is paid to the Governor by way of security; or

(ii) security which, in the opinion of the Governor, is satisfactory and is for an amount of not less than £30,000 is provided to the Governor,

by or on behalf of the shipowner or the master of the ship;

(d) where the shipowner or the master of the ship is convicted of an offence under these regulations and that person has paid any fines, costs or expenses arising out of that conviction; or

(e) if the release is ordered by a court or tribunal referred to in article 292 of the United Nations Convention on the Law of the Sea, and any bond or other financial security ordered by such court or tribunal is posted.

(2) The Governor must repay any sum paid in pursuance of sub-regulation (1)(c) or release any security so provided —

(a) if no proceedings for an offence under these regulations are instituted within the period of seven days beginning with the day on which the sum is paid or the security is provided; or

(b) if proceedings for such an offence, having been instituted within that period, are concluded without the shipowner or the master of the ship being convicted.

(3) Where a sum has been paid, or security has been provided, by any person in pursuance of sub-regulation (1)(c) and the shipowner or the master of the ship is convicted of an offence under these regulations, 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 shipowner or the master of the ship; and

(b) next in payment of any fine imposed by the court,

and any balance must be repaid to the person who paid the sum.

(4) Section 156 of the Maritime Ordinance 2017 applies for the purposes of sub-regulations (1) and (2) as if —

(a) references to the owner of a ship were to the shipowner under these regulations; and

(b) references to an offence under section 140 were references to an offence under these regulations.

18. Documentation and complaint procedure requirements for non-Falkland Islands ships

(1) A ship to which this regulation applies must comply with the following requirements of the MLC —

(a) Standard A5.1.1 paragraph 2 (requirement to have copy of MLC on board);

(b) Regulation 5.1.3 paragraphs 3 and 4 and Standard A5.1.3 paragraph 12 (Maritime Labour Certificate and Declaration of Maritime Labour Compliance to be carried on board ship);

(c) Regulation 5.1.5 and Standard A5.1.5 (on-board complaint procedures); and

(d) Regulation 5.2.2 and Standard A5.2.2 (onshore seafarer complaint-handling procedures).

(2) If a ship to which this regulation applies proceeds to sea in Falkland Islands waters or attempts to proceed to sea or on a voyage or excursion in Falkland Islands waters without complying with the requirements referred to in sub-regulation (1), the shipowner and the master of the ship are guilty of an offence.

(3) In any proceedings for an offence under this regulation, it is a defence for the person charged to prove that all reasonable steps had been taken by that person to ensure compliance with the requirements in question.

(4) In any proceedings for an offence under sub-regulation (1)(b) where the MLC is not in force for the State whose flag the ship is entitled to fly, it is a defence for the person charged to prove that documents containing substantially similar information to the documents referred to in that sub-regulation are carried on board the ship.

19. Inspection of non-Falkland Islands ships

(1) Where the MLC is in force for the State whose flag the ship is entitled to fly, a relevant inspector may inspect the ship's Maritime Labour Certificate and Declaration of Maritime Labour Compliance or the ship's interim Maritime Labour Certificate and, where Standard

A5.2.1 (inspections in port) applies, may carry out a more detailed inspection in accordance with that Standard.

(2) Where the MLC is not in force for the State whose flag the ship is entitled to fly, a relevant inspector may carry out an inspection of that ship as set out in Standard A5.2.1 of the MLC.

20. Detention of non-Falkland Islands ships

(1) Where a relevant inspector inspects a ship under regulation 19 and has reasonable grounds for believing that —

(a) the ship does not comply with the requirements of the MLC; and

(b) (i) the conditions on board are clearly hazardous to the health, safety or security of seafarers; or

(ii) the non-compliance represents a serious breach or the latest in a series of repeated breaches of the requirements of the MLC (including the rights of seafarers referred to in Articles III and IV of the MLC which are secured by it),

the ship is liable to be detained.

(2) A person having powers to detain a ship may permit a ship which is liable to be detained under this regulation to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(3) The power under this regulation to detain a ship may only be exercised if the ship in question is —

(a) in a port or shipyard in the Falkland Islands; or

(b) at an offshore installation in Falkland Islands waters or controlled waters.

(4) Where a ship is liable to be detained under this regulation, section 268 of the Maritime Ordinance 2017 has effect in relation to that ship as if —

(a) references to the owner of a ship were to the shipowner under these regulations;

(b) references to detention of a ship under that Ordinance were references to detention of the ship in question under this regulation; and

(c) subsection (10) were omitted.

(5) Where a ship is detained under this regulation, the Governor must immediately 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, and invite them to send a representative to attend the ship.

(6) Where a ship is detained under this regulation but the failure to comply referred to in sub-regulation (1) has ceased, a person having power to detain the ship must, at the request of the shipowner or master, immediately release the ship.

21. Release of information

The Governor must ensure the publication, at least annually, of the information specified in Merchant Shipping Notice 1848(M) concerning ships which, during the previous year, have been detained in a port in the Falkland Islands under these regulations.

PART 4—MISCELLANEOUS PROVISIONS

22. Penalties

An offence under regulation 12, 14(1), (2) or (3), or 18(2) is punishable on conviction by a fine not exceeding level 5 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 or to imprisonment for a term not exceeding two years, or to both.

23. Transitional provisions relating to existing Falkland Islands ships

(1) In this regulation —

(a) “**existing ship**” means a ship constructed before 1st January 2016; and

(b) a reference to the date by which a ship is constructed is a reference to the date on which —

(i) the keel of the ship is laid; or

(ii) the ship is at a stage of construction at which —

(aa) construction identifiable with a specific ship has begun; and

(bb) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

(2) In relation to an existing Falkland Islands ship, until such date as the MLC is extended to the Falkland Islands —

(a) these regulations do not apply; and

(b) the Ordinance and any instruments made under it apply to such a ship as if it were a non-MLC ship.

(3) For the purposes of sub-regulation (2), the date the MLC is extended to the Falkland Islands is the date when notice is given to the International Labour Organisation to that effect by the United Kingdom Government.

(4) The Governor must notify the date the MLC is extended to the Falkland Islands by notice published in the *Gazette*.

(5) In this regulation, “**non-MLC ship**” has the meaning given in section 3(1) of the Ordinance.

Made 18 September 2019

Nigel James Phillips C. B. E.,
Governor.

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations implement Regulations 5.1 and 5.2 of the Maritime Labour Convention, 2006 (“MLC”). They apply to sea-going Falkland Islands ships wherever they may be and to foreign sea-going ships in Falkland Islands waters.

Regulation 2 provides for the commencement of the regulations and *regulation 3* contains the interpretation provisions. *Regulation 4* contains the application provisions: *regulations 5 to 8* and *10 to 17* apply to a sea-going Falkland Islands ship wherever it may be, while *regulations 9* and *18 to 20* apply to a sea-going ship which is not registered in the Falkland Islands when it is in Falkland Islands waters.

Regulation 5 requires Falkland Islands ships over 500 gross tonnage to be surveyed for the purposes of issuing a Maritime Labour Certificate and *regulations 6 to 11* make further provision regarding surveys and the issue of certificates.

Regulation 12 requires certain documents to be carried on board a Falkland Islands ship and to be made available, and *regulations 13 and 14* make provision for arbitration on the outcome of surveys and for the enforcement of the preceding regulations. *Regulations 15 to 17* provide for the inspection and, in the event of non-compliance, detention of a Falkland Islands ship.

Regulation 18 requires ships which are not Falkland Islands ships to comply with requirements of the MLC relating to the documents to be carried on board the ship and on-board and on-shore complaints procedures. *Regulations 19 and 20* make provision for the inspection and detention of these ships.

Regulation 21 requires the Governor to publish, on an annual basis, information concerning ships which have been detained in the Falkland Islands under these regulations.

Regulation 22 sets out the penalties to be imposed in respect of offences committed under these regulations and *regulation 23* makes transitional provision.

Copies of the MLC can be accessed electronically at:-

<https://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>

Copies of the United Kingdom Merchant Shipping Notices mentioned in the regulations can be accessed electronically at:-

<https://www.gov.uk/government/collections/merchant-shipping-notices-msns>

Alternatively, hard copies are available for viewing at the Department of Natural Resources, Bypass Road, Stanley, Falkland Islands FIQQ 1ZZ.

SUBSIDIARY LEGISLATION

Maritime (International Safety Management Code) Regulations 2019

S. R. & O. No. 19 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

PART 1 – GENERAL

1. Title
2. Commencement
3. Interpretation
4. Application

PART 2 – COMPLIANCE WITH ISM CODE

5. Duty on ISM company to comply with ISM Code
6. Certification requirements
7. Duty of master
8. Designated person

PART 3 – CERTIFICATION

9. Issue and endorsement of documents by Certifying Authority
10. Interim certificates
11. Issue and endorsement of documents by other governments
12. Issue and endorsement of documents on behalf of other governments
13. Exemptions
14. Powers of audit and inspection
15. Suspension or cancellation of documents

PART 4 – DETENTION AND OFFENCES

16. Detention
17. Offences and penalties
18. Defence

SUBSIDIARY LEGISLATION

Maritime (International Safety Management Code) Regulations 2019

S. R. & O. No. 19 of 2019

Made: 18 September 2019

Published: 25 September 2019

Coming into force: in accordance with regulation 2

IN EXERCISE of my powers under sections 84 and 85 of the Maritime Ordinance 2017 and on the advice of Executive Council I make the following regulations —

PART 1 – GENERAL

1. Title

These regulations are the Maritime (International Safety Management Code) Regulations 2019.

2. Commencement

These regulations come into force on a day appointed by the Governor by notice in the *Gazette*.

3. Interpretation

(1) In these regulations unless the context otherwise requires —

“**audit**”, in relation to a safety management system, means a systematic and independent examination, taking into account the Revised Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations adopted by the IMO pursuant to Assembly Resolution A.1022(26), to determine whether the system is suitable to meet the objectives set out in paragraph 1.2 of the ISM Code and, so far as the system has been operated, whether the system has been implemented effectively;

“**authorised person**” means a person authorised by the Governor to carry out audits for the purpose of these regulations and includes any surveyor of ships appointed under section 238 of the Ordinance;

“**cargo ship**” means a ship which is not a passenger ship or a pleasure vessel;

“**Certifying Authority**” means the Governor or any organisation or authorised contractor of the organisation which has an agreement with the Governor in terms of regulation 9(2);

“**Document of Compliance**” means a document issued under regulation 9(3) which complies with paragraph 13.2 of the ISM Code;

“**high speed craft**” means a craft as defined in Regulation X-1/3 of SOLAS;

“**IMO**” means the International Maritime Organisation;

“**inspector**” means a person appointed under section 238 of the Ordinance;

“**Interim Document of Compliance**” means a document issued in accordance with regulation 10 which complies with paragraph 14.1 of the ISM Code;

“**Interim Safety Management Certificate**” means a document issued in accordance with regulation 10 which complies with paragraph 14.2 of the ISM Code;

“**intermediate audit**” means an audit conducted for the purpose set out in paragraph 13.8 of the ISM Code;

“**ISM Code**” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the IMO by Resolution A.741(18);

“**ISM company**” means —

(a) where a person who is not the owner of the ship has assumed responsibility for the operation of the ship and has agreed with the owner to take over all the duties and responsibilities imposed by the ISM Code, that person; or

(b) in all other cases, the owner of the ship;

“**master**”, in the application of these regulations to hovercraft, includes the captain of a hovercraft;

“**mobile offshore drilling unit**” means a vessel capable of engaging in drilling operations for the exploration for or exploitation of resources beneath the sea-bed such as liquid or gaseous hydrocarbons, sulphur or salt;

“**offshore terminal**” means an installation situated away from the shore, where bulk, fluid or gas cargo (or more than one of these) is —

(a) transferred between ships,

(b) loaded onto a ship after having been transported from the shoreline, or

(c) unloaded from a ship for transporting to the shoreline;

“**passenger**” means any person carried on a ship except —

(a) a person employed or engaged in any capacity on board the ship on the business of that ship; and

(b) a child under one year of age;

“**passenger ship**” means a ship which carries more than 12 passengers;

“**pleasure vessel**” means —

(a) any vessel which at the time it is being used is —

(i) in the case of a vessel wholly owned by —

(aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in (a) or (b), no other payments are made by or on behalf of users of the vessel, other than by the owner; and in this definition “**immediate family**” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual’s spouse or civil partner; and “**relative**” means brother, sister, ancestor or lineal descendant;

“**relevant document**” means a Document of Compliance, an Interim Document of Compliance, a Safety Management Certificate or an Interim Safety Management Certificate;

“**Safety Management Certificate**” means a document issued in accordance with regulation 9(4) which complies with paragraph 13.7 of the ISM Code;

“**safety management system**” means a structured and documented system enabling ISM company personnel to implement effectively the ISM company’s safety and environmental protection policy;

“**ship**” includes a hovercraft, a mobile offshore drilling unit, a passenger submersible craft and a high speed craft;

“**SOLAS**” means the International Convention for the Safety of Life at Sea 1974, its protocols of 1978 and 1988 and all amendments to them in force on the date these regulations come into force; and

“**the Ordinance**” means the Maritime Ordinance 2017.

(2) Any reference in these regulations to a specific provision in SOLAS or the ISM Code is to be construed as a reference —

(a) to the provision in that instrument as modified from time to time; and

(b) if the instrument is replaced by another instrument, to the provision in that other instrument.

(3) For the purposes of sub-regulation (2) —

(a) SOLAS is modified if omissions, additions or other alterations to the text take effect in accordance with Article VIII of that Convention; and

(b) the ISM Code is modified if amendments to that Code are adopted, brought into force and take effect in accordance with —

(i) Article VIII of SOLAS; or

(ii) a Resolution of either the Maritime Safety Committee or the Marine Environment Protection Committee of the IMO in accordance with the rules of procedure of the respective Committee.

(4) A modification to, or replacement of, SOLAS or the ISM Code by virtue of sub-regulation (3) has effect at the time that such modification or replacement comes into force in accordance with Article VIII(vii) of SOLAS.

(5) A modification to, or replacement of the ISM Code by virtue of sub-regulation (3)(b)(ii) has effect at the time specified in any Resolution described in that paragraph.

(6) No modification or replacement of a reference to an instrument by virtue of sub-regulation (2) affects any rights or liabilities arising before the date on which the modification or replacement has effect.

(7) In interpreting the ISM Code for the purposes of these regulations reference to the Administration in relation to Falkland Islands ships is to be taken as reference to the Governor.

4. Application

(1) These regulations apply to a ship which —

(a) is within a category of ship described in sub-regulation (2); and

(b) is either —

(i) a Falkland Islands ship; or

(ii) any other ship (not being a Falkland Islands ship) while it is within Falkland Islands waters.

(2) A ship is within this sub-regulation if it is —

(a) a passenger ship, including a passenger high speed craft;

(b) a cargo ship of 500 gross tonnage or more, engaged in international voyages; or

(c) a mobile offshore drilling unit of 500 gross tonnage or more, engaged in international voyages.

(3) These regulations do not apply to —

(a) a fishing vessel;

(b) a warship;

(c) a naval auxiliary;

(d) a United Kingdom Government ship used for non-commercial purposes;

(e) a Falkland Islands Government ship used for non-commercial purposes;

(f) a pleasure vessel;

(g) a ship not propelled by mechanical means; or

(h) a wooden ship of primitive build.

(4) In this regulation —

“**Falkland Islands Government ship**” has the same meaning given in section 2 of the Ordinance;

“**Falkland Islands ship**” means a ship registered in the Falkland Islands in accordance with Part 3 of the Ordinance;

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

“**United Kingdom Government ship**” has the same meaning given in section 2 of the Ordinance.

PART 2 – COMPLIANCE WITH ISM CODE

5. Duty on ISM company to comply with ISM Code

An ISM company must not operate a ship to which these regulations apply unless the requirements —

- (a) in Part A of the ISM Code are complied with in relation to that ship; and
- (b) in regulation 6 are complied with in relation to that ship.

6. Certification requirements

(1) The requirements referred to in regulation 5(b) are that —

- (a) the ISM company holds a valid Document of Compliance or Interim Document of Compliance in respect of the ship, and a copy is carried on board; and
- (b) a valid Safety Management Certificate or Interim Safety Management Certificate has been issued in respect of that ship, and the original is carried on board.

(2) For the purposes of this regulation —

- (a) a copy of a relevant document must display all the endorsements which have been made to the original document;
- (b) a relevant document is not valid if it has been suspended or cancelled; and
- (c) a relevant document is not valid in connection with a ship which is not a Falkland Islands ship if it does not display endorsements showing satisfactory annual or intermediate audits (as appropriate) as required by the ISM Code.

7. Duty of master

The master of a ship to which these regulations apply must operate that ship in accordance with the safety management system on the basis of which the Safety Management Certificate or Interim Safety Management Certificate was issued.

8. Designated person

(1) In relation to a ship to which these regulations apply, the ISM company must —

(a) designate a person to discharge the responsibility described in sub-regulation (2); and

(b) ensure that the designated person —

(i) is provided with sufficient authority and resources; and

(ii) has appropriate knowledge and sufficient experience of the operation of ships at sea and in port,

to discharge that responsibility.

(2) The responsibility of the designated person is —

(a) to monitor the safe and efficient operation of that ship with particular regard to safety and pollution prevention aspects;

(b) to take such steps as are necessary to ensure compliance with the safety management system on the basis of which the Document of Compliance or Interim Document of Compliance was issued; and

(c) to ensure that proper provision is made for the ship to be so manned, equipped and maintained that it is fit to operate in accordance with that safety management system.

PART 3 – CERTIFICATION

9. Issue and endorsement of documents by Certifying Authority

(1) A Certifying Authority may issue and endorse relevant documents as appropriate in connection with a Falkland Islands ship where satisfied that the relevant requirements of the ISM Code have been met.

(2) The Governor may enter into an agreement with an organisation or an authorised contractor of such organisation pursuant to common rules and standards for ship inspection and survey organisations, and for the relevant activities of maritime administrations in accordance with Regulation XI-1/1 of SOLAS to act as a Certifying Authority on behalf of the Governor and to issue and endorse the relevant documents mentioned under sub-regulation (1).

(3) If the Certifying Authority is satisfied that an ISM company operating a ship to which these regulations apply complies with the requirements of the ISM Code, the Certifying Authority may issue the ISM company with a Document of Compliance valid for a period not exceeding five years.

(4) If the Certifying Authority is satisfied that a ship is operated by an ISM company which has been issued with a Document of Compliance and that the ISM company operates in accordance with the safety management system the Certifying Authority has approved, the Certifying Authority must issue, in respect of that ship, a Safety Management Certificate valid for a period not exceeding five years.

(5) Where an ISM company operates ships which are registered in more than one country, but at least one of which is registered in the Falkland Islands and complies with the requirements of the ISM Code, the Certifying Authority may accept a Document of Compliance issued by the government of one of those other countries to which SOLAS applies if, prior to the issue of that document, the Certifying Authority has agreed to accept it.

(6) Where an ISM company newly registers a ship in the Falkland Islands, the Certifying Authority may accept a Document of Compliance issued by the government of another country to which SOLAS applies in which ships operated by the ISM company are registered.

(7) If the Certifying Authority is satisfied that a Falkland Islands ship is operated by an ISM company which has a Document of Compliance accepted under sub-regulations (5) or (6) and that it operates in accordance with a safety management system which complies with the ISM Code, the Certifying Authority must issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

(8) The Certifying Authority may require an ISM company described under sub-regulations (5) and (6) to be audited by an authorised person before accepting the Document of Compliance issued to that ISM company.

10. Interim certificates

(1) Subject to sub-regulation (2), where an ISM company is newly established, or the ISM company assumes, for the first time, the responsibility for operating a ship type not covered by a Document of Compliance the ISM company already holds, the Certifying Authority may issue an Interim Document of Compliance to facilitate implementation of the ISM Code.

(2) The Certifying Authority may issue an Interim Document of Compliance valid for no more than 12 months to an ISM company following a demonstration that the ISM company —

(a) has a safety management system that meets the objectives of section 1.2.3 of the ISM Code; and

(b) plans to implement a safety management system which will meet the full requirements of the ISM Code within the period of validity of the Interim Document of Compliance.

(3) Subject to sub-regulation (4), the Certifying Authority may issue an Interim Safety Management Certificate, valid for not more than six months, in respect of a new ship on delivery, when an ISM company takes on the responsibility for the management of a ship which is new to the ISM company or when a ship is transferred between flag states.

(4) The Certifying Authority may issue an Interim Safety Management Certificate only when it is satisfied that —

(a) the Document of Compliance, or the Interim Document of Compliance, is relevant to that ship type;

(b) the safety management system provided by the ISM company for the ship includes all key elements of the ISM Code and has been assessed during the audit for issuance of the Document of Compliance or issuance of the Interim Document of Compliance;

(c) the master and the designated person are familiar with the safety management system and the planned arrangements for its implementation;

(d) instructions which have been identified as essential to be provided prior to sailing have been given;

(e) the ISM company has arranged for the audit of the ship within three months from the time when any of the events described under sub-regulation (3) take place; and

(f) the relevant information on the safety management system is given in a working language or languages understood by the ship's personnel.

(5) Where it is appropriate to do so, the Certifying Authority may extend the validity of the Interim Safety Management Certificate once for a further six months.

11. Issue and endorsement of documents by other governments

Where —

(a) the Governor has asked the government of a country which is party to SOLAS to conduct an audit of the safety management system operated on board a Falkland Islands ship; and

(b) that government, after carrying out the audit, is satisfied that it is appropriate to issue or endorse a relevant document in accordance with the ISM Code, pursuant to a request by the Governor under paragraph (a); and

(c) that government has issued or endorsed such a document,

that document has the same effect for the purposes of Falkland Islands law as if it had been issued or endorsed by the Governor under these regulations.

12. Issue and endorsement of documents on behalf of other governments

(1) The Governor may, at the request of a government of a country which is party to SOLAS, arrange for the audit of the safety management system of —

(a) a ship registered in that country; or

(b) the ISM company.

(2) Where the Governor or an authorised person has carried out an audit in response to a request under sub-regulation (1) and is satisfied that the requirements of the ISM Code are met, the Governor may —

(a) issue to the ISM company a Document of Compliance or a Safety Management Certificate; or

(b) where appropriate, endorse such a document in accordance with the requirements of SOLAS after annual or intermediate audits.

(3) Where the Governor issues or endorses a document in accordance with a request under sub-regulation (1), the Governor must insert in that document a statement recording the fact.

(4) A document issued or endorsed in accordance with a request under sub-regulation (1) has the same effect as if it had been issued or endorsed by the government which made the request and not by the Governor.

13. Exemptions

(1) The Governor may by notice in writing grant an exemption from all or any of the provisions of these regulations for such classes of case or individual cases, and on such conditions, as the Governor may specify.

(2) The Governor may amend or revoke an exemption by notice in writing containing the grounds for the amendment or revocation.

(3) A notice under sub-regulation (2) is valid only if —

(a) persons to whom the exemption applies were given the opportunity to make representations before the notice was given; or

(b) the Governor considers that urgent safety or pollution prevention considerations require the notice to be given immediately.

14. Powers of audit and inspection

(1) The Certifying Authority may arrange for an authorised person to audit the safety management system of an ISM company.

(2) If, after an audit, an authorised person considers that an ISM company, notwithstanding that it holds a Document of Compliance, is unable to operate ships without creating a risk of —

- (a) serious danger to safety of life;
- (b) serious damage to property; or
- (c) serious harm to the environment,

the authorised person may make a recommendation to the Certifying Authority to suspend the operation of ships by that ISM company until such time as any such risk is removed.

(3) Where an ISM company's service is to be suspended in terms of a recommendation made under sub-regulation (2), regulation 15 has effect and the Certifying Authority must comply with regulation 15 before suspending the ISM company.

(4) An audit of a ship to which these regulations apply may also include an inspection of the ship.

(5) If an authorised person is satisfied, on inspecting a ship to which these regulations apply, that there is a failure to comply in relation to that ship with the requirements of these regulations, the authorised person may detain the ship.

(6) In any case where a ship is to be detained, regulation 16 has effect.

(7) An authorised person exercising functions under this regulation has the powers conferred on an inspector by the Ordinance.

15. Suspension or cancellation of documents

(1) In any of the circumstances listed in sub-regulation (2), a Certifying Authority may, by notice in writing containing the grounds for the suspension or cancellation, suspend or cancel any relevant document issued under regulations 9 or 10, or issued pursuant to a request under regulation 11.

(2) The circumstances referred to in sub-regulation (1) are that —

- (a) the document was issued on the basis of incorrect information;
- (b) an audit required by Part B of the ISM Code in respect of the document has not taken place in the period required by the ISM Code;
- (c) the management structure of the ISM company has changed since the most recent audit of the ISM company's safety management system carried out by the Governor or an authorised person;

(d) after an audit under regulation 14, there is a recommendation for the suspension of the operations of that ISM company; or

(e) the ISM company or ship is otherwise not compliant with the ISM Code.

(3) Where a notice given under sub-regulation (1) in respect of a Document of Compliance so specifies, any associated Safety Management Certificates or Interim Safety Management Certificates must also be suspended or cancelled.

(4) A notice under sub-regulation (1) is valid only if —

(a) the holder of the relevant document was given the opportunity to make representations before the notice was given; or

(b) the Certifying Authority considers that urgent safety or pollution prevention considerations require the notice to be given immediately.

(5) A Certifying Authority other than the Governor —

(a) acts on behalf of the Governor when exercising functions under this regulation; and

(b) may only exercise functions under sub-regulation (1) in respect of a relevant document which was issued by that Certifying Authority.

PART 4 – DETENTION AND OFFENCES

16. Detention

(1) Where an inspector has clear grounds for believing that, in relation to a ship to which these regulations apply, there has been or will be if the ship puts to sea —

(a) a failure to comply with regulations 5, 7 or 8; or

(b) a breach of any term of an exemption granted under regulation 13;

the ship is liable to be detained.

(2) A person having power to detain a ship may permit a ship which is liable to be detained under sub-regulation (1) to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(3) The power under this regulation to detain a ship may only be exercised in relation to a ship other than a Falkland Islands ship if the ship in question is in a port or offshore terminal in the Falkland Islands.

(4) Section 268 of the Ordinance (*enforcing detention of a ship*) applies where a ship is liable to be detained under this regulation as if —

(a) references to the owner of a ship were references to the ISM company under these regulations;

(b) references to detention of a ship under the Ordinance were references to detention of the ship in question under this regulation; and

(c) subsection (10) was omitted.

(5) Where a ship is detained under sub-regulation (1), the person detaining the ship must serve on the master of the ship a detention notice which —

(a) states the grounds for the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 268(1) of the Ordinance.

(6) Where a ship other than a Falkland Islands ship is detained, the Governor must immediately 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.

(7) Where a ship is detained under sub-regulation (1) but the failure to comply referred to in that sub-regulation has ceased, a person having power to detain the ship must, at the request of the ISM company or master, immediately release the ship —

(a) if no proceedings for an offence under regulation 17 are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for such an offence, having been instituted within that period, are concluded without the ISM company or master being convicted;

(c) if either —

(i) the sum of £30,000 is paid to the Government by way of security; or

(ii) security which, in the opinion of the Governor, is satisfactory and is for an amount not less than £30,000 is given to the Governor by or on behalf of the ISM company or master;

(d) where the ISM company or master is convicted of an offence under regulation 17, if any costs or expenses ordered to be paid by that person, and any fine imposed on that person, have been paid; or

(e) if the release is ordered by a court or tribunal referred to in article 292 of the United Nations Convention on the Law of the Sea 1982, and any bond or other financial security ordered by such court or tribunal is posted.

(8) The Government must repay any sum paid in terms of sub-regulation (7)(c) or release any security so given —

(a) if no proceedings for an offence under regulation 17 are instituted within the period of seven days beginning with the day on which the sum is paid or the security is given; or

(b) if proceedings for such an offence, having been instituted within that period, are concluded without the ISM company or master being convicted.

(9) Where a sum has been paid, or security has been given, by any person in terms of sub-regulation (7)(c) and the ISM company or master is convicted of an offence under regulation 17, 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 ISM company or master;

(b) next in payment of any fine imposed by the court; and

(c) any balance must be repaid to the person who paid the sum or made available the amount by way of security.

(10) For the purposes of sub-regulations (7) to (9) —

(a) proceedings for an offence under regulation 17 are instituted —

(i) when a justice of the peace issues a summons or warrant under the Criminal Procedure and Evidence Ordinance 2014 (*section 257*) in respect of the offence; or

(ii) when an ISM company or master is charged with the offence after being taken into custody without a warrant;

(b) proceedings for an offence under regulation 17 are concluded without the ISM company or master being convicted on the occurrence of one of the following events —

(i) the discontinuance of the proceedings;

(ii) the acquittal of the ISM company or master;

(iii) the quashing of the ISM company's or master's conviction of the offence; or

(iv) the grant of the Governor's pardon in respect of the ISM company's or master's conviction of the offence.

(11) Where the application of paragraph (a) of sub-regulation (10) results in proceedings being instituted more than once, those proceedings are taken to have been instituted at the earliest of those times.

17. Offences and penalties

(1) It is an offence for an ISM company to contravene regulation 5 or regulation 8(1) and, on conviction, the ISM company is liable to a fine not exceeding level 7 on the scale set out in Schedule 7 to the Ordinance or imprisonment for a term not exceeding two years, or both.

(2) It is an offence for an ISM company to contravene regulation 7 or regulation 8(2) and on conviction, the ISM company is liable to a fine not exceeding level 7 on the scale set out in Schedule 7 to the Ordinance or imprisonment for a term not exceeding two years, or both.

(3) An ISM company commits an offence if it breaches a condition of an exemption granted under regulation 13 and on conviction, the ISM company is liable to a fine not exceeding level 7 on the scale set out in Schedule 7 to the Ordinance or imprisonment for a term not exceeding two years, or both.

18. Defence

It is a defence for a person charged with an offence under regulation 17 to show that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Made 18 September 2019

Nigel James Phillips C. B. E.,
Governor.

EXPLANATORY NOTE
(This note is not part of the regulations)

These regulations are made under sections 84 and 85 of the Maritime Ordinance 2017. These regulations implement Chapter IX (Management for the Safe Operation of Ships) of the Safety of Life at Sea Convention 1974 under which the International Safety Management Code (“ISM Code”) is made.

These regulations require ISM companies to comply with the International Safety Management (ISM) Code, including the requirement to hold valid Documents of Compliance and Safety Management Certificates in respect of their ships. An ISM company is a person or body responsible for a ship. This can either be the shipowner or another person or organisation to whom the shipowner has delegated responsibility for the operation of the ship.

Part 1 provides for introductory matters – the title, commencement, interpretation of terms used in the regulations as well as the extent of application of the regulations. Regulation 4 limits the application of the regulations to Falkland Island ships or ships in Falkland Islands waters which are:-

- (a) passenger ships (including a passenger high-speed craft);
- (b) cargo ships of 500 gross tonnage or more, engaged in international voyages; or
- (c) mobile offshore drilling units of 500 gross tonnage or more, engaged in international voyages.

Part 2 provides for general requirements; there is a requirement to comply with the ISM Code and for an ISM company to have the relevant certificates and documents. It also sets out the duties and responsibilities of the master of the ship in relation to ensuring compliance with the safety management system in place for the ship. Another requirement is for an ISM company to designate a person who is tasked with ensuring compliance with the ISM Code and these regulations.

Under Part 3 provision is made for the certifying authority to issue documents of compliance and safety management certificates to ISM companies. The certifying authority may issue interim documents of compliance and certificates to qualifying ISM companies which operate new ships, or which take on the responsibility of a ship on transfer or for ships not covered by their safety management system.

Provision is made under regulation 12 for the Falkland Islands certifying authority to issue and endorse documents of compliance and certificates on behalf of other SOLAS Member States subject to compliance with specified conditions. Regulation 11 provides for a similar provision for other SOLAS Member States to endorse and issue documents of compliance and certificates on behalf of the Falkland Islands certifying authority. Regulation 13 provides for the Governor to exempt any ISM company or classes of companies from the requirement to have documents of compliance or certificates.

Regulation 14 provides for authorised persons to carry out audits of the operation of the safety management systems of ISM companies and ships in respect of their documents of compliance or certificates. There is a power to inspect ships generally to check for compliance with the ISM Code. An authorised person may recommend that the certifying authority suspend services where certain circumstances exist. Regulation 15 provides for suspensions and cancellation of documents of compliance or certificates where ISM companies fail to comply with these regulations and the ISM Code.

Part 4 provides for ancillary provisions as to offences concerning documents of compliance or certificates, a general defence to offences and powers of detention of ships.

Copies of the following documents can be accessed electronically at www.imo.org/publications. Alternatively, hard copies are available for viewing at the Department of Natural Resources, Bypass Road , Stanley, Falkland Islands FIQQ 1ZZ:-

- a. the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM) Code
- b. the International Convention on the Safety of Life at Sea Convention (SOLAS Convention)
- c. Revised Guidelines on Implementation of the International Safety Management (ISM) Code.

SUBSIDIARY LEGISLATION

Maritime (Polar Code) Regulations 2019

S. R. & O. No. 20 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

PART 1 - INTRODUCTION

1. Title
2. Commencement
3. Interpretation
4. Application
5. Exemptions
6. Equivalents
7. Agreements with survey and certification organisations

PART 2 – REQUIREMENTS OF SOLAS

8. Interpretation of Part 2
9. Application of Part 2
10. SOLAS requirements for new ships
11. SOLAS requirements for existing ships
12. Alternative designs and arrangements

PART 3 - REQUIREMENTS OF MARPOL

13. Requirements of Annex I of MARPOL
14. Requirements of Annex II of MARPOL
15. Requirements of Annex IV of MARPOL
16. Requirements of Annex V of MARPOL

PART 4 - SURVEY AND CERTIFICATION

17. Interpretation of Part 4
18. Initial surveys of Falkland Islands ships
19. Renewal surveys of Falkland Islands ships
20. Responsibilities of owners and masters
21. Additional surveys of Falkland Island ships

22. Certification of Falkland Islands ships
23. Survey and certification of Falkland Islands ships by other Contracting States
24. Survey and certification of non-Falkland Islands ships by the Governor
25. Duration and validity of Polar Ship certificate
26. Extension of periods of validity of Polar Ship certificate
27. Procedure to be adopted when a ship is deficient
28. Arbitration
29. Cancellation and surrender of Polar Ship certificate
30. Display of Polar Ship certificate
31. Inspection of ships

PART 5 - ENFORCEMENT

32. Prohibition on operating in Polar waters without appropriate documentation
33. Offences and penalties
34. Defences

SUBSIDIARY LEGISLATION

Maritime (Polar Code) Regulations 2019

S. R. & O. No. 20 of 2019

Made: 18 September 2019

Published: 25 September 2019

Coming into force: in accordance with regulation 2

I make these regulations under sections 131 and 132 of the Maritime Ordinance 2017 and on the advice of Executive Council.

PART 1 - INTRODUCTION

1. Title

These regulations are the Maritime (Polar Code) Regulations 2019.

2. Commencement

(1) In respect of new ships (*as defined under regulation 8(1)*), these regulations come into force on publication in the *Gazette*.

(2) In respect of existing ships (*as defined under regulation 8(1)*), these regulations come into force on such date as the Governor may notify by notice published in the *Gazette*.

3. Interpretation

(1) In these regulations unless the context otherwise requires —

“**Annex I of MARPOL**” means MARPOL, Annex I (Regulations for the prevention of pollution by oil);

“**Annex II of MARPOL**” means MARPOL, Annex II (Regulations for the control of pollution by noxious liquid substances in bulk);

“**Annex IV of MARPOL**” means MARPOL, Annex IV ((Regulations for the prevention of pollution by sewage from ships);

“**Annex V of MARPOL**” means MARPOL, Annex V (Regulations for the prevention of pollution by garbage from ships);

“**Antarctic area**” means the sea area south of latitude 60°S;

“**Arctic waters**” means those waters which are located north of a line from latitude 58°00′.0 N and longitude 042°00′.0 W to latitude 64°37′.0 N, longitude 035°27′.0 W; and

(a) from there by a rhumb line to latitude 67°03′.9 N, longitude 026°33′.4 W;

(b) from there by a rhumb line to latitude 70°49′.56 N and longitude 008°59′.61 W (Sørkapp, Jan Mayen) and by the southern shore of Jan Mayen to 73°31′.6 N and 019°01′.0 E by the Island of Bjørnøya;

(c) from there by a great circle line to latitude 68°38′.29 N and longitude 043°23′.08 E (Cap Kanin Nos);

(d) from there by the northern shore of the Asian Continent eastward to the Bering Strait;

(e) from the Bering Strait westward to latitude 60° N as far as Il'pyrskiy and following the 60th North parallel eastward as far as and including Etolin Strait;

(f) from there by the northern shore of the North American continent as far south as latitude 60° N;

(g) from there eastward along parallel of latitude 60° N, to longitude 056°37′.1 W; and

(h) from there to the latitude 58°00′.0 N, longitude 042°00′.0 W.

“**Authority**” has the same meaning given in section 2 of the Ordinance;

“**certifying authority**” means the Governor or any organisation which has an agreement with the Governor in accordance with regulation 7;

“**Falkland Islands Government ship**” has the same meaning given in section 2 of the Ordinance;

“**Falkland Islands ship**” means a ship registered in the Falkland Islands in accordance with either —

(a) the Merchant Shipping Ordinance 2001; or

(b) Part 3 of the Ordinance;

“**high speed craft**” means a craft as defined in Regulation X-I/3 of SOLAS;

“**IMO**” means the International Maritime Organisation;

“**inspector**” means a person appointed under section 238 of the Ordinance;

“**MARPOL**” means the International Convention for the Prevention of Pollution from Ships, 1973;

“**MCA**” means the Maritime and Coastguard Agency, an executive agency of the United Kingdom Department for Transport;

“**master**”, in the application of these regulations to hovercraft, includes the captain of a hovercraft;

“**Merchant Shipping Notice M1613**” means a notice described as such, adopted and issued by the Governor or the Authority under section 307A of the Ordinance which is equivalent to, or based on, the United Kingdom Merchant Shipping Notice M1613 issued by the MCA;

“**Polar Code**” means the International Code for Ships Operating in Polar Waters, consisting of the Introduction, Parts I-A and II-A and Parts I-B and II-B as —

(a) adopted by —

(i) the Maritime Safety Committee of the IMO on 21 November 2014; and

(ii) the Marine Environment Protection Committee of the IMO on 15 May 2015; and

(b) amended and in force in the Falkland Islands from time to time;

“**Polar Code certificate**” means, in relation to a ship, a certificate issued in accordance with regulation 22 in a form corresponding to the relevant model given in Appendix I of the Polar Code;

“**Polar Water Operational Manual**” means the Polar Water Operational Manual required to be carried on board a ship by Chapter 2 of Part I-A of the Polar Code;

“**Polar waters**” means the Antarctic area and Arctic waters;

“**RO Code**” means the IMO’s Code for Recognized Organizations relating to the recognition of survey and inspection organisations and introduced by IMO Resolutions MSC.350(92), amending SOLAS, MSC.356(92), amending the 1988 Protocol to the International Convention on Load Lines, 1966, and MEPC.237(65), amending Annex I and Annex II of MARPOL, and contained in IMO Resolutions MSC.349(92) and MEPC.237(65);

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

“**SOLAS**” means the International Convention for the Safety of Life at Sea 1974, its protocols of 1978 and 1988 and all amendments to the Convention and its protocols in force on the date these regulations come into force and as they may be amended from time to time;

“**surveyor**” means a surveyor of ships, or any other person appointed by a certifying authority other than the Governor to be a surveyor, and “**survey**” means a survey carried out by a surveyor;

“**the Ordinance**” means the Maritime Ordinance 2017; and

“**United Kingdom Government ship**” has the same meaning given in section 2 of the Ordinance;

(2) References in these regulations to —

(a) a United Kingdom enactment “**as applied by the Law Revision and Publication Ordinance 2017**” is a reference to that enactment as applied to the Falkland Islands under section 21 of the Law Revision and Publication Ordinance 2017 and as modified or amended in accordance with sections 22 and 24 of that Ordinance;

(b) “**endorsement**” in relation to a Polar Ship certificate means an endorsement drawn up in English which —

(i) is issued in connection with a certificate described in regulation 22; and

(ii) satisfies the requirements specified in the Polar Code applicable to that certificate,

and “**endorse**” and “**endorsed**” are to be construed accordingly;

(c) a “**renewal survey**” is a reference to a survey of a ship undertaken at intervals not exceeding five years from the date of either —

(i) the initial survey undertaken before the ship was put into service; or

(ii) a previous renewal service,

as the case may be; and

(d) an “**intermediate survey**” is a reference to a survey required to be undertaken in respect of a ship under Regulation 10 of Chapter 1 of the Annex to SOLAS.

(3) Any approval, exemption, direction or notice given by the Governor pursuant to these regulations is valid only if given in writing and may be —

(a) given subject to such conditions and limitations as the Governor may specify; and

(b) altered or cancelled by a notice given in writing by the Governor,

and any reference in these regulations to the provision of any approval, exemption, direction or notice “**in writing**” includes the provision of such communication by electronic mail, facsimile

or similar means which are capable of producing a document containing the text of any communication.

(4) Any reference in these regulations to a term which is defined in the Polar Code and which is not defined in sub-regulation (1) has the meaning given in that Code.

(5) Any reference in these regulations to a specific provision in SOLAS, MARPOL, the Polar Code or the RO Code is to be construed as —

(a) a reference to the provision in that instrument as modified from time to time; and

(b) a reference, if the instrument is replaced by another instrument, to the corresponding provision in that other instrument.

(6) For the purposes of sub-regulation (5), SOLAS is modified if omissions, additions or other alterations to the text take effect in accordance with Article VIII of that Convention.

(7) For the purposes of sub-regulation (5), MARPOL is modified if omissions, additions or other alterations to the text take effect in accordance with Article 16 of that Convention.

(8) For the purposes of sub-regulation (5), the Polar Code and the RO Code are modified if amendments to those Codes are adopted, brought into force and take effect in accordance with —

(a) Article VIII of SOLAS;

(b) Article 16 of MARPOL; or

(c) a Resolution of either the Maritime Safety Committee or the Marine Environment Protection Committee of the IMO in accordance with the rules of procedure of the respective Committee.

(9) A modification to, or replacement of —

(a) SOLAS by virtue of sub-regulation (6); or

(b) the Polar Code or the RO Code by virtue of sub-regulation (8)(a);

has effect at the time that such modification or replacement comes into force in accordance with Article VIII(vii) of SOLAS.

(10) A modification to, or replacement of —

(a) MARPOL by virtue of sub-regulation (7); or

(b) the Polar Code or the RO Code by virtue of sub-regulation (8)(b);

has effect at the time that such modification or replacement comes into force in accordance with Article 16(2)(g) of MARPOL.

(11) A modification to, or replacement of, the Polar Code or the RO Code by virtue of sub-regulation (8)(c) has effect at the time specified in any Resolution described in that sub-regulation.

(12) No modification or replacement of a reference to an instrument by virtue of sub-regulation (5) affects any rights or liabilities arising before the date on which the modification or replacement first takes effect.

4. Application

(1) These regulations apply to a Falkland Islands ship which operates in Polar waters.

(2) These regulations do not apply to —

(a) a warship;

(b) a naval auxiliary vessel;

(c) a United Kingdom Government ship used for the time being only in United Kingdom government non-commercial service; or

(d) a Falkland Islands Government ship used for the time being only in Falkland Islands Government non-commercial service.

5. Exemptions

(1) Subject to sub-regulation (3), the Governor may exempt any ship or any description of ship from any of the provisions of these regulations.

(2) An exemption under sub-regulation (1) must not be granted unless the exemption is permitted under SOLAS or MARPOL, as the case may be.

(3) The owner and master of a Falkland Islands ship in respect of which an exemption has been granted under this regulation must comply with any conditions or limitations specified by the Governor under regulation 3(3).

6. Equivalents

Any fitting, material, appliance or apparatus may be fitted in or carried on a Falkland Islands ship as an alternative to one that complies with these regulations if it has been approved by the Governor and —

(a) the owner or master of the ship has made an application to the Governor for permission to fit or carry the fitting, material, appliance or apparatus;

(b) a surveyor —

(i) is satisfied that, subject to any conditions or limitations that the surveyor considers necessary, the alternative fitting, material, appliance or apparatus is at least as effective as one that complies with these regulations; and

(ii) has endorsed the application to the Governor to that effect; and

(c) the fitting, material, appliance or apparatus is fitted or carried on the ship, and used, in accordance with any conditions or limitations set out in the approval.

7. Agreements with survey and certification organisations

(1) The Governor may enter into an agreement with a person to authorise that person or specified employees, agents or contractors of that person to undertake surveys of ships and issue and endorse Polar Ship certificates on behalf of the Governor under these regulations.

(2) Until such time as regulations are made enabling the Governor to recognise organisations in accordance with the RO Code, a person must not be authorised pursuant to an agreement under sub-regulation (1) unless that person is —

(a) the MCA or an employee of the MCA; or

(b) an organisation recognised for the purposes of the RO Code by the MCA.

(3) A person authorised by the Governor under sub-regulation (1) must be authorised in accordance and agree to comply with the relevant requirements of —

(a) SOLAS and MARPOL; and

(b) the RO Code.

PART 2 - REQUIREMENTS OF SOLAS

8. Interpretation of Part 2

(1) In this Part —

“**existing ship**” means a ship constructed before 1st January 2017; and

“**new ship**” means a ship constructed on or after 1st January 2017.

(2) Any reference in this regulation to the date by which a ship is constructed is a reference to the date on which —

(a) the keel of the ship is laid; or

(b) the ship is at a stage of construction at which —

(i) construction identifiable with a specific ship has begun; and

(ii) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

9. Application of Part 2

(1) This Part applies to a Falkland Islands ship to which SOLAS applies operating in Polar waters.

(2) This Part does not apply to —

- (a) a fishing vessel;
- (b) a pleasure yacht not engaged in trade;
- (c) a ship not propelled by mechanical means;
- (d) a wooden ship of primitive build; or
- (e) a cargo ship of less than 500 gross tonnage.

10. SOLAS requirements for new ships

The owner and master of a new ship to which this Part applies must ensure that by the compliance date, the construction and operation of the ship complies with Part I-A of the Polar Code.

11. SOLAS requirements for existing ships

(1) The owner and master of an existing ship to which this Part applies must ensure that by the compliance date, the construction and operation of the ship complies with Part I-A of the Polar Code.

(2) For the purposes of this regulation, “**compliance date**” means in relation to an existing ship the date of —

- (a) the first intermediate survey; or
- (b) the first renewal survey,

whichever first occurs after these regulations come into force.

12. Alternative designs and arrangements

(1) An item of equipment or arrangement specified in sub-regulation (2) which deviates from the requirements of chapters 3, 6, 7 and 8 of Part I-A of the Polar Code may be fitted in or applied to a Falkland Islands ship as an alternative to equipment or arrangements that comply with these regulations (“the alternative item of equipment or arrangement”) if the alternative item of equipment or arrangement —

- (a) has been approved by the Governor in accordance with sub-regulation (3); and

(b) complies with the functional requirements and provides an equivalent level of safety to those chapters.

(2) The equipment and arrangements are —

(a) structural arrangements;

(b) machinery;

(c) electrical installation;

(d) fire safety design and arrangement measures; and

(e) life-saving appliance and arrangements.

(3) The Governor must not approve an alternative item of equipment or arrangement under sub-regulation (1) unless —

(a) the owner or master of the ship has made an application to the Governor for permission to fit or use the alternative item of equipment or arrangement;

(b) a surveyor, having carried out an engineering analysis and evaluation in accordance with IMO Guidelines —

(i) is satisfied, subject to any conditions or limitations that the surveyor considers necessary, that the alternative item of equipment or arrangement is at least as effective as one that complies with these regulations; and

(ii) has endorsed the application to the Governor to that effect;

(c) the alternative item of equipment or arrangement is fitted in or applied, and used, on the ship in accordance with any conditions or limitations set out in the approval; and

(d) the alternative item of equipment or arrangement approved by the Governor, together with any conditions or limitations, is recorded in —

(i) the ship's Polar Ship certificate; and

(ii) the ship's Polar Water Operational Manual.

(4) In this regulation, “**IMO Guidelines**” means —

(a) the Guidelines for the approval of alternatives and equivalents as provided for in various IMO Instruments (MSC.1/Circ.1455);

(b) the Guidelines on alternative design and arrangements for SOLAS Chapters II-1 and III (MSC.1/Circ. 1212); and

(c) the Guidelines on alternative design and arrangements for fire safety (MSC/Circ.1002).

PART 3 - REQUIREMENTS OF MARPOL

13. Requirements of Annex I of MARPOL

(1) This regulation applies to a Falkland Islands ship operating in Polar waters to which Annex I of MARPOL applies.

(2) The owner and master of a ship to which this regulation applies must ensure that the construction and operation of the ship complies with Regulation 43 (special requirements for the use or carriage of oils in the Antarctic area) of Annex I of MARPOL.

(3) The owner and master of a ship to which this regulation applies must ensure that the construction and operation of the ship complies with Chapter 1 of Part II-A of the Polar Code.

(4) The prohibition of any discharge into the sea of oil or oily mixtures in Arctic waters in paragraph 1.1.1 of Part II-A of the Polar Code does not apply to —

(a) the discharge into the sea of oil or oily mixture necessary for the purpose of securing the safety of the ship, including the safety of those on board, or saving life at sea; or

(b) the discharge into the sea of oil or oily mixture resulting from damage to a ship or its equipment, provided that —

(i) all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge; and

(ii) the owner or the master has not acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(c) the discharge into the sea of substances containing oil when being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution, where the discharge is approved by —

(i) the Governor; and

(ii) any Government in whose jurisdiction it is contemplated the discharge will occur.

(5) In ensuring compliance with sub-regulation (3)(b) consideration must be given to the guidance in Part II-B of the Polar Code.

14. Requirements of Annex II of MARPOL

(1) This regulation applies to a Falkland Islands ship operating in Polar waters certified to carry noxious liquid substances in bulk.

(2) The owner and master of a ship to which this regulation applies must ensure that the construction and operation of the ship complies with Chapter 2 of Part II-A of the Polar Code.

(3) Sub-regulation (2) does not apply to the discharge into the sea of noxious liquid substances or mixtures containing such substances when such a discharge —

(a) is necessary for the purpose of securing the safety of the ship, including the safety of those on board, or saving life at sea; or

(b) results from damage to a ship or its equipment provided that —

(i) all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge; and

(ii) the owner or the master has not acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(c) is for the purpose of combating specific pollution incidents in order to minimise the damage from pollution, and the discharge is approved by —

(i) the Governor; and

(ii) any Government in whose jurisdiction it is contemplated the discharge will occur.

(4) In ensuring compliance with sub-regulation (2)(b) consideration must be given to the guidance in Part II-B of the Polar Code.

15. Requirements of Annex IV of MARPOL

(1) This regulation applies to a Falkland Islands' ship operating in Polar waters to which Annex IV of MARPOL applies and which is —

(a) of 400 gross tonnage and above; or

(b) of less than 400 gross tonnage which is certified to carry more than 15 persons.

(2) The owner and master of a ship to which this regulation applies must ensure that the construction and operation of the ship complies with Chapter 4 of Part II-A of the Polar Code.

(3) Sub-regulation (2)(b) does not apply to —

(a) the discharge of sewage from a ship necessary for the purpose of securing the safety of the ship, including the safety of those on board, or saving life at sea; or

(b) the discharge of sewage resulting from damage to a ship or its equipment if all reasonable precautions have been taken before and after the occurrence of the damage, for the purpose of preventing or minimising the discharge.

16. Requirements of Annex V of MARPOL

(1) This regulation applies to a Falkland Islands ship operating in Polar waters to which Annex V of MARPOL applies.

(2) The owner and master of a ship to which this Part applies must ensure that the construction and operation of the ship complies with Chapter 5 of Part II-A of the Polar Code.

(3) In ensuring compliance with sub-regulation (2)(b) consideration must be given to the guidance in Part II-B of the Polar Code.

(4) Sub-regulation (2)(b) does not apply —

(a) to the discharge of garbage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea;

(b) to the accidental loss of garbage resulting from damage to a ship or its equipment, provided that all reasonable precautions have been taken before and after the occurrence of the damage, to prevent or minimise the accidental loss;

(c) to the accidental loss of fishing gear from a ship provided that all reasonable precautions have been taken to prevent such loss;

(d) to the discharge of fishing gear from a ship for the protection of the marine environment or for the safety of that ship or its crew; or

(e) in respect of a ship en route, to the discharge of food wastes where it is clear that the retention on board of those food wastes presents an imminent health risk to those on board the ship.

(5) For the purpose of this regulation, a ship is “**en route**” if it is under way at sea on a course which so far as practicable for navigational purposes will cause any discharge to be spread over as great an area of the sea as is reasonably practicable.

PART 4 - SURVEY AND CERTIFICATION

17. Interpretation of Part 4

In this Part —

“**Contracting State**” means a State or Territory which has consented to be bound by SOLAS and MARPOL; and

“**relevant requirements**” means the relevant requirements concerning the construction and operation of a Falkland Islands ship operating in Polar waters contained in regulations 10, 11(1), 13(2) and (3), 15(2) and 16(2).

18. Initial surveys of Falkland Islands ships

The owner and master of a Falkland Islands ship to which these regulations apply must ensure that the ship does not operate in Polar waters unless —

- (a) an initial survey has been carried out in respect of the ship;
- (b) at the date of the survey the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and materials comply with the relevant requirements; and
- (c) a Polar Ship certificate has been issued in respect of the ship and that certificate is valid.

19. Renewal surveys of Falkland Islands ships

The owner and master of a Falkland Islands ship to which these regulations apply must ensure that the ship does not operate in Polar waters after the date of expiry of a relevant Polar Ship certificate in respect of that ship unless —

- (a) a renewal survey has been carried out in respect of the ship;
- (b) at the date of the survey the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and materials comply with the relevant requirements; and
- (c) a new Polar Ship certificate has been issued in respect of the ship following the relevant renewal survey and that certificate is valid.

20. Responsibilities of owners and masters

(1) This regulation applies to —

- (a) a Falkland Islands ship; and
- (b) a non-Falkland Islands ship which has been surveyed under regulation 24, which operates in Polar waters.

(2) The owner and master of every ship to which this regulation applies must ensure that —

- (a) the ship conforms with the relevant requirements which apply to the ship, so as to ensure that the ship in all respects remains fit to operate in Polar waters without presenting an unreasonable threat of harm to the marine environment and without danger to the ship or persons on board;
- (b) after any survey of the ship required by these regulations has been completed, no change is to be made in the structural arrangements, machinery, equipment and other items covered by the survey, except by direct replacement, without the approval of —

(i) the certifying authority who appointed the surveyor to carry out the survey; or

(ii) the Governor, where the relevant survey was carried out and the relevant Polar Ship certificate was issued by a Contracting State other than the Falkland Islands following a request made by the Governor pursuant to regulation 23; and

(c) whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment, it is reported —

(i) at the earliest opportunity to the certifying authority; and

(ii) if a Falkland Islands ship is in such a case in a port outside the Falkland Islands, to the appropriate authorities of the country in which the port is situated.

(3) Whenever an accident or defect is reported to a certifying authority in accordance with sub-regulation (2)(c)(i) and the ship in question is in a port outside the Falkland Islands, the certifying authority or proper officer must take all appropriate steps to ascertain that the requirement in sub-regulation (2)(c)(ii) has been complied with.

(4) If a report is made under sub-regulation (2)(c)(i), the certifying authority must determine whether a survey is necessary, and if so, require one to be carried out.

(5) If the survey referred to in sub-regulation (4) shows that repairs are required, or if any important repairs or renewals are otherwise made to the ship or its equipment, a further survey must be carried out on the completion of those repairs or renewals.

(6) In sub-regulation (2) “**direct replacement**” means the direct replacement of equipment and fittings with equipment and fittings that conform with the relevant requirements which apply to that ship.

21. Additional surveys of Falkland Islands ships

(1) This regulation applies to a Falkland Islands ship where —

(a) a repair resulting from a survey referred to in regulation 20(4) has been made to the ship;
or

(b) an important repair or renewal has been made to the ship.

(2) The owner and master of a Falkland Islands ship to which this regulation applies must ensure that the ship does not operate in Polar waters unless —

(a) an additional survey has been carried out in respect of the ship;

(b) at the date of the survey the surveyor is satisfied that —

- (i) the repair or renewal has been made effectively;
 - (ii) the materials used in, and the workmanship of, the repair or renewal are satisfactory in all respects; and
 - (iii) the ship complies in all respects with the requirements of these regulations; and
- (c) the surveyor has issued a report expressing the satisfaction required by paragraph (b).
- (3) For the purposes of sub-regulation (1)(b) an important repair or renewal is a repair or renewal which is required to be effected in order to —
- (a) address a defect which substantially affects the integrity of the ship or the efficiency or completeness of the equipment of the ship; or
 - (b) ensure compliance with the requirements of Annexes I and II of MARPOL.
- (4) In the case of a dispute as to whether a repair or renewal effected or intended to be effected in respect of a ship is an important repair or renewal for the purposes of sub-regulation (1)(b), the owner or master of a ship may serve a written request upon the Authority seeking advice.
- (5) A repair or renewal is to be regarded as not being an important repair or renewal for those purposes unless the Authority advises to the contrary within 21 days of receipt of a request under sub-regulation (4).

22. Certification of Falkland Islands ships

- (1) A certifying authority must issue a relevant Polar Ship certificate in respect of a Falkland Islands ship where —
- (a) a surveyor makes a notification to the certifying authority that a relevant initial or renewal survey has been carried out;
 - (b) the notification described in paragraph (a) includes confirmation that, at the date of that survey, the surveyor is satisfied that the ship complies with the relevant requirements which apply to that ship; and
 - (c) any fee due under the Merchant Shipping (Fees) Regulations 2006 (SI 2055/2006) (as applied by the Law Revision and Publication Ordinance 2017) has been paid to that authority.
- (2) A certifying authority must issue a relevant Polar Ship certificate in respect of a ship which becomes a Falkland Islands ship on transfer from the flag of another Contracting State where —
- (a) a certificate which satisfies the requirements of the Polar Code has been issued by a Contracting State other than the Falkland Islands in respect of the ship;

- (b) the certificate described in paragraph (a) was valid immediately before the transfer;
- (c) the certifying authority has caused a survey to be carried out in respect of the ship; and
- (d) the certifying authority is satisfied that —
 - (i) the condition of the ship and its structure, equipment, systems, fittings, arrangements and materials is such that it is fit to operate in Polar waters without presenting an unreasonable threat of harm to the marine environment; and
 - (ii) no change, other than a change referred to in sub-regulation (3), has been made to the structure of the ship or its equipment, systems, fittings, arrangements or materials covered by the last survey carried out in accordance with the requirements of the Polar Code without the approval of the Contracting State in question.

(3) The changes referred to in sub-regulation (2)(d)(ii) are the direct replacement of equipment and fittings with equipment and fittings that conform with the relevant requirements.

(4) A Polar Ship certificate must be issued in the form appropriate to that ship as prescribed in the Polar Code.

23. Survey and certification of Falkland Islands ships by other Contracting States

(1) The Governor may request a Contracting State other than the Falkland Islands to carry out a survey of a Falkland Islands ship for the purposes of these regulations.

(2) If a Contracting State which has received a request under sub-regulation (1) is satisfied that the relevant requirements as notified by the Governor have been complied with in respect of that ship, that State must —

- (a) issue or authorise the issue of a relevant Polar Ship certificate in respect of that ship; or
- (b) endorse, or authorise the endorsement of, an existing relevant certificate.

(3) Where a relevant Polar Ship certificate is issued or endorsed in accordance with sub-regulation (2) —

- (a) the Governor is to be treated as the certifying authority in relation to that certificate; and
- (b) any reference in these regulations to the certifying authority that issued a certificate is, in the case of a certificate to which this regulation applies, to be treated as a reference to the Governor.

24. Survey and certification of non-Falkland Islands ships by the Governor

(1) The Governor, when requested to do so by a Contracting State other than the Falkland Islands, may cause a survey to be carried out in respect of a ship which is not a Falkland Islands ship which will operate in Polar waters.

(2) If a survey described in sub-regulation (1) has been carried out and the Governor is satisfied that the relevant requirements are complied with, the Governor must, subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2006 (SI 2055/2006) (as applied by the Law Revision and Publication Ordinance 2017) —

(a) in the case of a ship for which there is no Polar Ship certificate, issue a new certificate; or

(b) in the case of a ship for which there is an existing Polar Ship certificate, endorse that certificate.

(3) A certificate issued or endorsed under sub-regulation (2) —

(a) must be in the form appropriate to that ship as prescribed in the Polar Code;

(b) must contain a statement that it has been so issued or endorsed; and

(c) has the same effect as if it had been issued or endorsed by the Contracting State who made the request referred to in sub-regulation (1).

(4) The Governor must, as soon as possible after completion of a survey carried out under sub-regulation (1), send to the Contracting State who made the request a copy of —

(a) the report of that survey; and

(b) any certificate issued or endorsed under sub-regulation (2).

(5) The Governor must not issue or endorse a certificate in respect of a ship which —

(a) is registered in a country which is not a Contracting State; or

(b) is not so registered, but is entitled to fly the flag of a country which is not a Contracting State.

25. Duration and validity of Polar Ship certificate

(1) Subject to the following sub-regulations and to regulations 27(3) and 29(3), a Polar Ship certificate issued in respect of a Falkland Islands ship is valid for such period as is specified in the certificate, not exceeding five years beginning with the date of completion of the relevant initial or renewal survey which immediately preceded the issue of the certificate.

(2) Subject to sub-regulation (3) and regulation 26(9), where a renewal survey of a Falkland Islands ship is completed —

(a) within the final three month period of a Polar Ship certificate; or

(b) after the expiry of the latest Polar Ship certificate,

the new Polar Ship certificate issued following completion of the renewal survey is valid for such period as is specified in that certificate, beginning with the date of the completion of the renewal survey and ending with a date not exceeding five years from the date of expiry of the previous relevant certificate.

(3) A Polar Ship certificate issued in respect of a Falkland Islands ship ceases to be valid —

(a) if the ship is transferred to the flag of another State;

(b) if the ship is enabled to operate in Polar waters when —

(i) an important repair or renewal has been made to the ship; but

(ii) the requirements of regulation 21 have not been complied with;

(c) if a survey under regulations 18 or 19 is not completed in accordance with the requirements of these regulations;

(d) if the Polar Ship certificate is not endorsed in accordance with the requirements of these regulations;

(e) upon a new Polar Ship certificate being issued in respect of that ship; or

(f) upon the date of expiry of the certificate.

(4) Where a Falkland Islands ship is transferred to the flag of another Contracting State, and within three months after the date of transfer the Government of that State so requests, the Governor must send that Government a copy of —

(a) the Polar Ship certificate issued in respect of that ship; and

(b) any current survey report, if available, in respect of that ship.

(5) In this regulation any dispute as to whether a repair or renewal is an important repair or renewal is subject to the procedure prescribed in regulation 21(4) and (5), and —

“**final three month period**” means the period of three months ending on the date of expiry of the certificate in question; and

“**important repair or renewal**” has the meaning given in regulation 21(3).

26. Extension of periods of validity of Polar Ship certificate

(1) Where —

(a) a renewal survey has been completed by a surveyor; but

(b) a new Polar Ship certificate in respect of that renewal survey cannot be issued or placed on board the ship before the date on which the existing Polar Ship certificate is due to expire,

the surveyor may endorse the existing Polar Ship certificate.

(2) Where a Polar Ship certificate has been endorsed under sub-regulation (1), that certificate is valid for such further period as is specified in the certificate, not exceeding five months beginning with the original date of expiry of the certificate.

(3) Where —

(a) a renewal survey in respect of a Falkland Islands ship has not been completed before the date on which a Polar Ship certificate expires; and

(b) at the date of expiry the ship is not in the port in which the survey is to be carried out,

the certifying authority that issued the Polar Ship certificate may extend the period of validity of that certificate for a period not exceeding three months, if it appears to the certifying authority that it is proper and reasonable to do so solely for the purpose of enabling that ship to proceed to the port in which the survey is to be carried out.

(4) Where the period of validity of a Polar Ship certificate has been extended under sub-regulation (3), the owner and master must ensure that the ship does not operate in Polar waters (other than, in the case of a ship in Polar waters, for the purpose of proceeding out of those waters), until a new Polar Ship certificate has been issued in respect of that ship.

(5) Subject to sub-regulation (6), the certifying authority that issued a Polar Ship certificate in respect of a Falkland Islands ship engaged solely on short voyages may extend the period of validity of that certificate for a period not exceeding one month.

(6) A certifying authority must not extend the period of validity of a Polar Ship certificate under sub-regulation (5) if the period of validity of that certificate has already been extended under sub-regulation (2) or (3).

(7) Subject to sub-regulation (8) and to regulations 27(3) and 29, where a renewal survey has been completed and a new Polar Ship certificate has been issued in respect of a ship referred to in sub-regulation (3) or (5), the new Polar Ship certificate is valid for such period as is specified in the certificate, not exceeding five years beginning with the original date of expiry of the previous Polar Ship certificate.

(8) In the circumstances described in sub-regulation (9) the period of validity of a new Polar Ship certificate which is —

(a) issued in respect of a ship referred to in sub-regulation (3) or (5); or

(b) issued in respect of a ship referred to in regulation 25(2)(b) after the date of expiry of a Polar Ship certificate,

is such period as is specified in the new certificate, not exceeding five years beginning with the date of the completion of the renewal survey in question.

(9) The circumstances are where the owner of the ship —

(a) submits a request to the certifying authority for the new period of certification to begin on the date of the completion of the renewal survey;

(b) satisfies the certifying authority that the owner is justified in making such a request; and

(c) complies with any reasonable additional survey requirements which the certifying authority may impose.

(10) Where the period of validity of a Polar Ship certificate is extended under sub-regulation (3) or (5), or an endorsement is to be made pursuant to sub-regulation (1), the certifying authority in question must endorse the relevant Polar Ship certificate.

(11) In this regulation —

“**short voyage**” means a voyage which —

(a) does not exceed 1,000 nautical miles between the last port of call in the country in which the voyage begins and the last port of call in the voyage before beginning any return voyage; and

(b) on any return voyage does not exceed 1,000 nautical miles between the port of call in which the ship begins its return voyage and the first port of call in the country in which the voyage began,

and, for the purposes of this definition, no account is to be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled; and

“**the original date of expiry**” means the date on which a Polar Ship certificate would have expired but for any extension of its period of validity.

27. Procedure to be adopted when a ship is deficient

(1) This regulation applies to a Falkland Islands ship where a surveyor determines that —

(a) the condition of the ship or its equipment does not correspond substantially with the particulars of the Polar Ship certificate (if any) issued in respect of the ship; or

(b) a ship is not fit to operate in Polar waters without presenting an unreasonable threat of harm to the marine environment.

(2) In the circumstances described in sub-regulation (1) the surveyor must —

(a) immediately advise the owner or master of the corrective action which, in the opinion of the surveyor, is required; and

(b) where the ship has a valid Polar Ship certificate, notify the certifying authority that issued the Polar Ship certificate as respects that ship that the owner or master has been so advised.

(3) The certifying authority must suspend the validity of any Polar Ship certificate if the corrective action advised in accordance with sub-regulation (2)(a) is not taken within the time specified by the surveyor.

(4) Where a certifying authority suspends the validity of the Polar Ship certificate issued in respect of a ship, it must immediately give notice of such suspension —

(a) to the owner of the ship; and

(b) where the ship is in a port outside the Falkland Islands, to the appropriate maritime authorities of the country in which the port is situated.

(5) Where the owner of the ship is given notice of suspension, that owner must notify the master of the ship in question of the suspension.

28. Arbitration

(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a Falkland Islands ship for the purposes of these regulations, the applicant may serve a written notice on the responsible person within 21 days of receiving notification of that outcome—

(a) stating that there is a dispute in relation to the survey; and

(b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to sub-regulation (3), an arbitrator referred to in sub-regulation (1) must be appointed by agreement between the applicant and the responsible person.

(3) In default of an agreement between the applicant and the responsible person, the arbitrator is such person as may be appointed in terms of section 93(6) of the Ordinance following a request made by —

(a) a party, after giving written notice to the other party; or

(b) the parties jointly.

(4) No person is to be an arbitrator under this regulation unless that person is —

(a) a person who holds a certificate to act as —

(i) a master or chief mate on a seagoing ship of 3,000 gross tonnage or more, in accordance with Regulation II/2 of Chapter 2 of the Annex to the STCW Convention; or

(ii) a chief engineer officer or second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000kW propulsion power or more, in accordance with Regulation III/2 of Chapter 3 of the Annex to the STCW Convention;

(b) a person who holds a certificate of competency equivalent to a certificate referred to in paragraph (a);

(c) a naval architect;

(d) a qualified person;

(e) a person with special experience of shipping matters or of activities carried on in ports; or

(f) a member of the Chartered Institute of Arbitrators.

(5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 241 of the Ordinance.

(6) The rules for arbitration set out in Merchant Shipping Notice M1613 applies unless alternative procedures are agreed between the applicant and the responsible person before the commencement of arbitration proceedings.

(7) In this regulation —

“**applicant**” means a person who makes an application for a survey required by these regulations;

“**qualified person**” means a person who satisfies the judicial appointment eligibility condition within the meaning of section 88 of the Constitution;

“**responsible person**” means —

(a) the certifying authority responsible under regulation 22 or 23 for the issue of the relevant Polar Ship certificate in connection with which a survey required by these regulations is carried out; or

(b) in the case of a dispute relating to a relevant additional survey required by regulation 21, the certifying authority which issued the relevant Polar Ship certificate in respect of the ship;

“**the STCW Convention**” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as amended, and any reference to a Regulation in a numbered Chapter of the Annex to the STCW Convention is a reference to a Regulation contained in the numbered Chapter in Attachment 1 to the Final Act of the 2010 Manila Conference of Parties to the STCW Convention.

29. Cancellation and surrender of Polar Ship certificate

(1) The Governor may cancel a relevant Polar Ship certificate issued in respect of a Falkland Islands ship where the Governor has reason to believe that —

(a) the certificate was issued on the basis of false or erroneous information; or

(b) since the completion of any survey required by these regulations, the equipment or machinery of the ship has sustained damage or is otherwise deficient.

(2) Where the Governor gives notice to the owner or master requiring that person to surrender a Polar Ship certificate issued in respect of a Falkland Islands ship and which has expired, or been cancelled, the owner or master must surrender that certificate to the Governor within 21 days of the date of that notice.

(3) In relation to a Falkland Islands ship, a person must not —

(a) without authority, intentionally alter a Polar Ship certificate;

(b) intentionally make a false Polar Ship certificate;

(c) knowingly or recklessly provide false information in connection with a survey required under these regulations;

(d) with intent to deceive, use, lend or allow to be used by another, a Polar Ship certificate; or

(e) fail to surrender a Polar Ship certificate where required to do so under sub-regulation (2).

30. Display of Polar Ship certificate

The owner and the master of a Falkland Islands ship, in respect of which a Polar Ship certificate has been issued, must display the Polar Ship certificate and ensure that the certificate is readily available on board the ship for inspection at all times.

31. Inspection of ships

(1) In so far as sections 240 (powers to inspect ships and their equipment etc.) and 241 (powers of inspectors in relation to premises and ships) of the Ordinance apply in relation to a ship to which these regulations apply, for the purposes of checking compliance with these regulations, those sections have effect subject to the following modifications.

(2) The power in those sections to inspect a ship and its equipment, any part of the ship, any articles on board and any documentation carried in the ship, is limited to —

(a) verifying whether a relevant Polar Ship certificate has been issued in respect of the ship and is still valid; and

(b) inspecting the Polar Water Operational Manual,

except where there are clear grounds for believing that the condition of the ship or its equipment or its operation does not correspond substantially with the particulars of the appropriate certificate.

(3) The power in those sections to go on board a ship may only be exercised if the ship in question is —

(a) in a port in the Falkland Islands; or

(b) at an offshore installation in Falkland Islands fishing waters.

(4) In this regulation —

“**fishing waters**” has the same meaning given under the Fisheries (Conservation and Management) Ordinance 2005; and

“**offshore installation**” means fixed or floating platforms including drilling rigs, floating production, storage and offloading facilities used for the offshore production and storage of oil or noxious liquid substances, and floating storage units used for the offshore storage of produced oil.

PART 5 - ENFORCEMENT

32. Prohibition on operating in Polar waters without appropriate documentation

(1) The owner and master of a Falkland Islands ship to which these regulations apply must ensure that the ship does not operate in Polar waters unless it has been surveyed and there is in force a Polar Ship certificate in relation to that ship.

(2) If a Polar Ship certificate is issued subject to conditions or specifies sea areas in which the ship is certified to operate, the owner and master must ensure that all conditions are complied with or that the ship only operates in the specified sea areas.

33. Offences and penalties

Any contravention of —

(a) regulation 5(4);

(b) regulation 10;

(c) regulation 11(1);

- (d) regulation 13(2) and (3);
- (e) regulation 14(2);
- (f) regulation 15(2);
- (g) regulation 16(2);
- (h) regulation 18;
- (i) regulation 19;
- (j) regulation 20(2);
- (k) regulation 21(2);
- (l) regulation 26(4);
- (m) regulation 27(5);
- (n) regulation 29(2) and (3);
- (o) regulation 30; and
- (p) regulation 32(1) and (2),

is an offence, punishable on summary conviction to a fine not exceeding level 7 on the scale set out in Schedule 7 to the Ordinance or imprisonment for a term not exceeding two years, or both.

34. Defences

In any proceedings for an offence under these regulations, it is a defence for the person charged to show that all reasonable steps were taken by that person to ensure compliance with the provision concerned.

Made 18 September 2019

Nigel James Phillips C. B. E.,
Governor.

EXPLANATORY NOTE
(This note is not part of the regulations)

These regulations are made under sections 131 and 132 of the Maritime Ordinance 2017.

Part 1 provides for introductory matters – the title, commencement, interpretation of terms used in the regulations as well as the extent of application of the regulations. These are covered by regulations 1 to 3.

Regulation 4 limits the application of these regulations to Falkland Islands ships which operate in Polar waters. The regulations do not apply to:

- (a) a warship;
- (b) a naval auxiliary vessel;
- (c) a United Kingdom Government ship used for the time being only in United Kingdom government non-commercial service; or
- (d) a Falkland Islands Government ship used for the time being only in Falkland Islands government non-commercial service.

Regulation 5 provides for exemptions and that the Governor may exempt any ship or any description of ship from the provisions of the regulations.

Regulation 6 provides for equivalents. This is to provide flexibility so that any fitting, material, appliance or apparatus may be fitted in or carried on a Falkland Islands ship as an alternative to one that complies with these regulations provided it is approved and endorsed by the Governor.

Regulation 7 provides for agreements with survey and certification organisations. It allows the Governor to enter into agreements with any person to undertake surveys of ships and issue and endorse Polar Ship certificates on behalf of the Governor as required under these regulations. It stipulates that agreements only be made with:

- (a) the MCA or an employee of the MCA; or
- (b) an organisation recognised for the purposes of the RO Code by the MCA.

Part 2 provides for the requirements under SOLAS (International Convention for the Safety of Life at Sea).

Regulation 8 defines some of the terms used in Part 2.

Regulation 9 provides that Part 2 does not apply to:

- (a) a fishing vessel;
- (b) a pleasure yacht not engaged in trade;
- (c) a ship not propelled by mechanical means;

- (d) a wooden ship of primitive build; or
- (e) a cargo ship of less than 500 gross tonnage.

Regulation 10 lays out the SOLAS requirements for **new ships** (as defined) as set out in the Polar Code. It provides that the owner and master of a new ship must ensure that the construction and operation of the ship complies with the safety-related provisions of Part I-A of the Polar Code.

Regulation 11 lays out the SOLAS requirements for **existing ships** (as defined) as set out in the Polar Code. It provides that the owner and master of an existing ship must ensure that the construction and operation of the ship complies with the safety-related provisions of Part I-A of the Polar Code.

Regulation 12 provides for alternative designs and arrangements (if any) of the equipment and arrangements listed below:

- (a) structural arrangements;
- (b) machinery;
- (c) electrical installation;
- (d) fire safety design and arrangement measures; and
- (e) life-saving appliance and arrangements.

The Governor must approve any alternative item of equipment or arrangement where specific conditions described in this regulation are satisfied.

Part 3 provides for the requirements under MARPOL (International Convention for the Prevention of Pollution from Ships).

Regulation 13 lays down the requirements of MARPOL Annex I which applies to Falkland Islands ships operating in Polar waters. These requirements cover the construction and operation of ships and specifies that there must be compliance with Regulation 43 of Annex I (special requirements for the use or carriage of oils in the Antarctic area) of MARPOL.

Regulation 14 lays down requirements of MARPOL Annex II which apply to Falkland Island ships operating in Polar waters which are also certified to carry noxious liquid substances in bulk. It provides that the owner and master of a ship must ensure that the construction and operation of the ship complies with the environmental-related provisions of Chapter 2 of Part II-A of the Polar Code.

Regulation 15 lays down requirements of MARPOL Annex IV which applies to Falkland Islands ships operating in Polar waters. These requirements apply to ships of 400 gross

tonnage and above or those of less than 400 gross tonnage which are certified to carry more than 15 persons. It provides that the owner and master of a ship must ensure that the construction and operation of the ship complies with the environmental-related provisions of Chapter 4 of Part II-A of the Polar Code.

Regulation 16 lays down requirements of MARPOL Annex V which applies to Falkland Islands ships operating in Polar waters. It provides that the owner and master of a ship must ensure that the construction and operation of the ship complies with the environmental-related provisions of Chapter 5 of Part II-A of the Polar Code.

Part 4 provides for the requirements in the Polar Code for the survey and certification of ships. Regulations 18 to 21 deal with surveys as follows:

Regulation 18 lays down the requirements for initial surveys. It requires an owner and master of a Falkland Islands ship to ensure that the ship does not operate in Polar waters unless an initial survey has been carried out and that a valid Polar Ship certificate has been issued and maintained in respect of the ship.

Regulation 19 provides for the carrying out of renewal surveys. It requires an owner and master of a Falkland Islands ship to ensure that the ship does not operate in Polar waters where the Polar Ship certificate in respect of that ship has expired. It requires that a renewal survey must be carried out and that a new Polar Ship certificate is issued in respect of the ship following the relevant renewal survey.

Regulation 20 lays down the responsibilities of owners and masters to ensure that the ship conforms with the relevant requirements, so as to ensure that the ship remains fit to operate in Polar waters without presenting an unreasonable threat of harm to the marine environment and without danger to the ship or persons on board.

It further requires that the owner and master must ensure that after any survey of the ship has been completed, no change is to be made in the structural arrangements, machinery, equipment and other items covered by the survey, except by direct replacement, without the approval of the relevant authorities. It also requires the master and the owner to make a report of any accident or defect to the ship. A survey may be required by the certifying authority.

Regulation 21 deals with additional surveys as a result of a repair resulting from a survey required by the certifying authority under regulation 20(4) or where an important repair or renewal has been made to the ship. The regulation further requires the owner and master to ensure that the ship does not operate in Polar waters unless the required additional survey has been carried out and that the repair or renewal is made effectively.

Regulations 22 to 28 deal with certification and related matters as follows:

Regulation 22 provides for certification of Falkland Islands ships. The certifying authority must issue a Polar Ship certificate in respect of a Falkland Islands ship, and in respect of a

ship which becomes a Falkland Islands ship on transfer from another Contracting State, in each case where certain conditions are satisfied.

Regulation 23 provides for surveys and certification of Falkland Islands ships by other Contracting States on requests by the Governor.

Regulation 24 provides for surveys and certification of non-Falkland Islands ships by the Governor on request by another Contracting State. The Governor may request a survey to be carried out and issue a certificate or endorse an existing certificate.

Regulation 25 deals with the duration and validity of Polar Ship certificates and *regulation 26* deals with extension of periods of validity of Polar Ship certificates

Regulation 27 outlines the procedure to be adopted when a ship is deficient and specifies actions the surveyor must take. These includes immediately advising the owner or master of the corrective action required; and where the ship has a valid Polar Ship certificate, notifying the certifying authority that issued the Polar Ship certificate that the owner or master has been so advised. It provides for the certifying authority to suspend the validity of any Polar Ship certificate if the corrective action advised by the surveyor is not taken within the time specified. Upon suspending the Polar Ship certificate, the certifying authority must notify the owner of the ship or where the ship is in a port outside the Falkland Islands, notify the appropriate maritime authorities of the country in which the ship is situated

Regulation 28 provides an arbitration process for any person dissatisfied with the outcome of a survey. The procedure to be followed will follow the process set out in Merchant Shipping Notice M1613. Merchant Shipping Notice M1613 as issued by the MCA will be adopted and issued for the Falkland Islands by the Governor or the Authority in terms of section 307A of the Ordinance.

Regulation 29 deals with cancellation and surrender of Polar Ship certificates and provides for the Governor to cancel a relevant Polar Ship certificate where the certificate was issued on false or erroneous information or where, after completion of any survey, the equipment or machinery of the ship has sustained damage or is deficient. The Governor must give the owner or the master notice requiring surrender of the Polar Ship certificate.

Regulation 30 provides for the display of the Polar Ship certificate. It also requires the owner and the master to ensure that the Polar Ship certificate is readily available on board the ship for inspection at all times.

Regulation 31 provides for the carrying out of inspections of a ship and its equipment, any articles on board and any documentation carried in the ship in order to verify whether a relevant Polar Ship certificate has been issued in respect of the ship and is still valid, and to inspect the Polar Water Operational Manual.

Part 5 provides for enforcement provisions as follows:

Regulation 32 sets out a prohibition on operating in Polar waters without appropriate documentation. It requires the owner and master of a Falkland Islands ship to ensure that the ship does not operate in Polar waters unless it has been surveyed and has a valid Polar Ship certificate. It further requires the owner and master to ensure that all conditions are complied with.

Regulation 33 provides for offences and penalties and regulation 34 provides for defences.

Copies of the following documents can be accessed electronically at www.imo.org/publications. Alternatively, hard copies are available for viewing at the Department of Natural Resources, Bypass Road, Stanley, Falkland Islands FIQQ 1ZZ:

- a. the International Convention for the Prevention of Pollution from Ships (MARPOL Convention)
- b. the International Convention for the Safety of Life at Sea (SOLAS Convention)
- c. the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention)
- d. the Polar Water Operational Manual
- e. the IMO's Code for Recognized Organizations (the RO Code)
- f. the IMO Guidelines that is:
 - (i) the Guidelines for the approval of alternatives and equivalents as provided for in various IMO Instruments (MSC.1/Circ.1455);
 - (ii) the Guidelines on alternative design and arrangements for SOLAS Chapters II-1 and III (MSC.1/Circ. 1212); and
 - (iii) the Guidelines on alternative design and arrangements for fire safety (MSC/Circ.1002).

SUBSIDIARY LEGISLATION

Maritime (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 2019

S. R. & O. No. 21 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

PART 1 - GENERAL

1. Title
2. Commencement
3. Objects of regulations
4. Interpretation
5. Ambulatory references
6. Application

PART 2 – SHIPS

7. Oil pollution emergency plan: ships
8. Access to shore-based programmes
9. Reporting of oil pollution events: Falkland Islands registered ships
10. Reporting of oil pollution events: non-Falkland Islands registered ships
11. Form and content of a report
12. Supplementary reports
13. Duties of a shipowner

PART 3 - HARBOURS, PORTS AND OIL HANDLING FACILITIES

14. Oil pollution emergency plan: harbours, ports and oil handling facilities
15. Reporting of observed incident: harbours, ports or oil handling facilities

PART 4 - FUNCTIONS OF THE GOVERNOR AND THE AUTHORITY

16. Systems for preparedness and response
17. Action on receipt of an oil pollution report

PART 5 - INSPECTION AND OFFENCES

18. Power to inspect
19. Offences

SUBSIDIARY LEGISLATION

Maritime (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 2019

S. R. & O. No. 21 of 2019

Made: 18 September 2019
Published: 25 September 2019
Coming into force: on publication

I make these regulations under sections 131, 132, 303, 308 and 308A of the Maritime Ordinance 2017 and on the advice of Executive Council —

PART 1 - GENERAL

1. Title

These regulations are the Maritime (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 2019.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Objects of regulations

These regulations give effect in the law of the Falkland Islands to, and make associated provision for —

- (a) the OPRC Convention; and
- (b) Article 8, Protocol I and Regulation 37 of Annex I of MARPOL.

4. Interpretation

In these regulations —

“**Annex I of MARPOL**” means MARPOL, Annex I (Regulations for the prevention of pollution by oil);

“**Annex II of MARPOL**” means MARPOL, Annex II (Regulations for the control of pollution by noxious liquid substances in bulk);

“**authority**” has the same meaning as given by section 3 of the Harbours and Ports Ordinance 2017;

“**competent authority**” means —

(a) in relation to the Falkland Islands, the authority; and

(b) in relation to any other state, any body designated as such by the state in relation to the relevant function or, if none, the state in question;

“**Falkland Islands contingency plan**” means any plan that may be prepared and maintained by the Governor, 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;

“**Falkland Islands controlled waters**” means —

(a) the area within —

(i) Falkland Islands waters; and

(ii) the definition of designated areas under sections 2(a) and (b) of the Falkland Islands (Continental Shelf) Proclamation 1991 (No. 1 of 1991); and

(b) any area designated from time to time by further Proclamation under section 2(c) of Proclamation No. 1 of 1991;

“**Falkland Islands registered ship**” has the same meaning as given by section 2(1) of the Maritime Ordinance 2017;

“**GT**” means gross registered tonnage; and the gross registered tonnage of a ship having alternative gross registered tonnage shall be taken to be the larger of those tonnages;

“**harbour**” means a harbour designated in accordance with section 14 of the Harbours and Ports Ordinance 2017;

“**IMO**” means the International Maritime Organisation;

“**MARPOL**” means the International Convention for the Prevention of Pollution from Ships, 1973;

“**naval port**” has the same meaning as given by section 2 of the Naval Ports Ordinance 1987;

“**offshore installation**” means a fixed or floating platform including a drilling rig, floating production, storage and offloading facility used for the offshore production and storage of oil or noxious liquid substances, and a floating storage unit used for the offshore storage of produced oil;

“**oil**” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

“**oil handling facility**” means a facility which presents a risk of an oil pollution incident and includes an oil terminal, pipeline and any other facility handling oil but does not include an offshore installation or its connected infrastructure;

“**oil pollution emergency plan**” means a contingency plan (other than the Falkland Islands contingency plan) which sets out arrangements for responding to oil pollution incidents, with a view to preventing such pollution or reducing or minimising its effects;

“**oil pollution incident**” means an occurrence or series of occurrences having the same origin which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of the Falkland Islands or another state or territory, and which requires emergency action or other immediate response;

“**oil tanker**” has the same meaning as given by regulation 1 of Annex I of MARPOL;

“**operator**” means, in relation to a harbour, port or oil handling facility, a person having responsibility for the operation and management of such harbour, port or facility in the Falkland Islands; and in relation to a naval port, means the Queen’s Harbour Master;

“**OPRC Convention**” means the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990, concluded at London on 30 November 1990;

“**port**” means a port declared in accordance with section 6 of the Harbours and Ports Ordinance 2017;

“**Queen’s Harbour Master**” has the same meaning as given by section 2 of the Naval Ports Ordinance 1987;

“**ship**” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles and floating craft of any type; and

“**standard reporting requirements**” means the reporting requirements prescribed by the IMO, based on the guidelines and general principles adopted by that organisation from time to time.

5. Ambulatory references

(1) Any reference in these regulations to a specific provision in MARPOL or the OPRC Convention is to be construed as —

(a) a reference to the provision in that instrument as modified from time to time; and

(b) if the instrument is replaced by another instrument, a reference to the provision in that other instrument.

(2) For the purposes of sub-regulation (1)(a) —

(a) MARPOL is modified if omissions, additions or other alterations to the text take effect in accordance with article 16 of that Convention; and

(b) the OPRC Convention is modified if omissions, additions or other alterations to the text take effect in accordance with article 14(2) of that Convention.

(3) A modification to, or replacement of —

(a) MARPOL by virtue of sub-regulation (2)(a) has effect at the time that such modification or replacement comes into force in accordance with Article 16(8) of that Convention; and

(b) the OPRC Convention by virtue of sub-regulation (2)(b) has effect at the time that such modification or replacement comes into force in accordance with Article 14(2)(g) of that Convention.

6. Application

(1) Unless expressly provided otherwise —

(a) Parts 1, 2 and 5 apply to —

(i) a Falkland Islands registered ship wherever it may be; and

(ii) another ship while it is within Falkland Islands controlled waters; and

(b) Parts 1, 3 and 5 apply to —

(i) the operator of a harbour;

(ii) the operator of a port;

(iii) the Queen's Harbour Master in respect of a naval port, where the Governor has given written notice to the Queen's Harbour Master that these regulations apply to that port; and

(iv) the operator of an oil handling facility in the Falkland Islands.

(2) These regulations do not apply to a warship, naval auxiliary or other ship owned or operated by a state and used, for the time being, only on government non-commercial service.

(3) Notice under sub-regulation (1)(b)(iii) may not be given unless the Governor has first consulted with the Queen's Harbour Master on the proposed application of these regulations to the relevant naval port.

PART 2 - SHIPS

7. Oil pollution emergency plan: ships

(1) This regulation applies to —

- (a) an oil tanker of 150GT and above; and
- (b) a ship (not being an oil tanker) of 400GT and above.

(2) The owner and master of a ship to which this regulation applies must ensure that an approved shipboard oil pollution emergency plan is carried on board the ship.

(3) An approved shipboard oil pollution emergency plan must be prepared in accordance with the IMO guidelines for the development of shipboard oil pollution emergency plans.

(4) The approved shipboard oil pollution emergency plan must include —

- (a) the procedure to be followed by the master or other persons having charge of the ship to report an oil pollution incident in accordance with regulations 9 to 13;
- (b) the list of persons or authorities to be contacted in the event of an oil pollution incident;
- (c) a detailed description of the action to be taken immediately by persons on board to reduce or control the discharge of oil following an oil pollution incident; and
- (d) the procedures and point of contact on the ship for co-ordinating shipboard action with national and local authorities in combating the pollution following an oil pollution incident.

(5) In the case of an NLS ship, such a plan may be combined with the shipboard marine pollution emergency plan for noxious liquid substances required under regulation 17 of Annex II of MARPOL.

(6) Where sub-regulation (5) applies, the title of the combined plan must be the “Shipboard Marine Pollution Emergency Plan”.

(7) In this regulation —

“**approved**” means —

- (a) in the case of a Falkland Islands registered ship, approved by the authority; and
- (b) in any other case, approved by the competent authority of the state in which the ship is registered;

“**IMO guidelines for the development of shipboard oil pollution emergency plans**” means the guidelines for the development of shipboard oil pollution emergency plans adopted by the

Marine Environment Protection Committee of the IMO and includes any amendment to those guidelines from time to time which is considered by the authority to be relevant and is specified in a Merchant Shipping Notice;

“**NLS ship**” means a ship of 150 GT and above certified to carry noxious liquid substances in bulk; and

“**noxious liquid substance**” has the meaning given in regulation 1 of Annex II of MARPOL.

8. Access to shore-based programmes

- (1) This regulation applies to an oil tanker of 5,000 tonnes deadweight or above.
- (2) The owner and master of an oil tanker to which this regulation applies must ensure that —
 - (a) the master; and
 - (b) in the event of an oil discharge, the authority,

has prompt access to computerised shore-based damage stability and residual structural strength calculation programmes.

9. Reporting of oil pollution events: Falkland Islands registered ships

- (1) This regulation applies to a Falkland Islands registered ship wherever it may be.
- (2) The master of a ship to which this regulation applies must report without delay and to the fullest extent possible in accordance with sub-regulation (3) and regulations 11 and 12 —
 - (a) an oil pollution incident involving the ship; and
 - (b) an observed oil pollution incident at sea.
- (3) A report under sub-regulation (2) must be made —
 - (a) if the ship is in Falkland Islands controlled waters, to the authority; or
 - (b) if the ship is elsewhere, to the competent authority of the nearest coastal state.

10. Reporting of oil pollution events: non-Falkland Islands registered ships

- (1) This regulation applies to a ship not registered in the Falkland Islands which is in Falkland Islands controlled waters.
- (2) The master of a ship to which this regulation applies must report without delay and to the fullest extent possible to the authority in accordance with regulations 11 and 12 —
 - (a) an oil pollution incident involving the ship; and

(b) an observed oil pollution incident at sea.

11. Form and content of a report

(1) A report under regulation 9 or 10 must be made by the fastest telecommunications channels available with the highest possible priority.

(2) A report under regulation 9 or 10 or, if there is more than one, the initial report, must —

(a) comply with the standard reporting requirements; and

(b) contain the following information —

(i) the identity of the ship;

(ii) the position of the ship;

(iii) the last port from which the ship departed;

(iv) the next port of call for the ship;

(v) the time, type and location of the oil pollution incident;

(vi) the quantity and type of oil involved;

(vii) the name of a body or person from whom information regarding the oil may be obtained, together with the necessary information to enable that person or body (as the case may be) to be contacted;

(viii) the current sea and weather conditions in the vicinity of the ship; and

(ix) if relevant, details of assistance and salvage measures.

12. Supplementary reports

Any person required under regulation 9 or 10 to make a report must —

(a) make such a supplementary report, or reports, as may be necessary or appropriate in the circumstances to supplement the information contained in the initial report; and

(b) comply as fully as possible with any request for additional information made by, or on behalf of, a competent authority or a state whose interests may be affected by the incident.

13. Duties of a shipowner

(1) When the owner of a ship is informed by the master of that ship of an oil pollution incident, the owner must —

(a) inform the competent authority immediately of the event; and

(b) give such assistance as may be reasonably required by the competent authority.

(2) In the event of a report from the master of such a ship being incomplete or unobtainable, the owner of the ship must, to the fullest extent practicable, make or complete the report required by regulation 9 or 10.

(3) In this regulation, “owner” includes the owner, charterer, manager or operator of the ship or that person’s agent.

PART 3 - HARBOURS, PORTS AND OIL HANDLING FACILITIES

14. Oil pollution emergency plan: harbours, ports and oil handling facilities

(1) Subject to sub-regulation (10), a person to whom this Part applies pursuant to regulation 6(1)(b) must prepare and maintain an oil pollution emergency plan in accordance with this regulation.

(2) A separate plan must be created and maintained for each harbour, port and oil handling facility in the Falkland Islands except that, where the authority agrees, there may be joint plans in respect of harbours, ports and oil handling facilities within an area approved by the authority.

(3) In preparing an oil pollution emergency plan, an operator must take into account any guidance issued by the authority.

(4) Within 15 months of the coming into force of these regulations, an operator to whom this Part applies must submit an oil pollution emergency plan relating to the harbour, port or oil handling facility (as the case may be) for which it is responsible to the authority for approval.

(5) Where, after the coming into force of these regulations, a harbour, port or oil handling facility comes into being, the operator of the harbour, port or oil handling facility (as the case may be) must submit an oil pollution emergency plan to the authority for approval at least two months before the harbour, port or oil handling facility (as the case may be) will commence operation.

(6) A person required to submit an oil pollution emergency plan under this regulation must review its oil pollution emergency plan no later than 5 years after submission of the plan in accordance with sub-regulation (4) or (5) above (as the case may be), and submit a new oil pollution emergency plan within that period.

(7) Where any major change occurs which affects or could affect the validity or effectiveness of an oil pollution emergency plan to a material extent, then the operator must submit a new plan, or amendments to the existing plan, to the authority for approval within 3 months of such change becoming known to the operator.

(8) Where the authority considers that any plan or amendment submitted under sub-regulations (4) to (7) above is:

- (a) not compatible with the Falkland Islands contingency plan for the time being in force; or
- (b) not appropriate for dealing with oil pollution incidents which may occur,

the authority may, after consultation with the operator, direct that the plan be altered accordingly.

(9) An operator must implement its oil pollution emergency plan approved or altered under this regulation in the event of an oil pollution incident.

(10) The authority may, where it considers it appropriate to do so, exempt a harbour, port or oil handling facility from the requirements of this regulation.

15. Reporting of observed incident: harbours, ports or oil handling facilities

(1) An operator who observes or is made aware of any event involving a discharge of, or probable discharge of, oil or the presence of oil in the sea, shall without delay report the event, probable event or the presence of oil (as the case may be) to the authority.

(2) A report under this regulation must —

- (a) so far as appropriate comply with the standard reporting requirements; and
- (b) be made by the fastest telecommunications channels available with the highest possible priority.

PART 4 - FUNCTIONS OF THE GOVERNOR AND THE AUTHORITY

16. Systems for preparedness and response

The Governor must make arrangements for enabling a prompt and effective response to an oil pollution incident in accordance with article 6 of the OPRC Convention.

17. Action on receipt of an oil pollution report

(1) Where a report is received under regulations 9, 10, 12 or 15, the authority must —

- (a) assess the event to determine whether it is an oil pollution incident;
- (b) assess the nature, extent and possible consequences of the oil pollution incident; and
- (c) promptly report to the Governor any oil pollution incident, details of the authority's assessment of it and any action that the authority has taken, or intends to take, to deal with that incident, and provide such further information in respect of the same as may be appropriate from time to time.

(2) Where an oil pollution incident has been reported to the Governor under sub-regulation (1)(c), the Governor must, without delay, inform all states whose interests are affected or likely to be affected by the incident and, where the severity of the incident so justifies, the IMO, together with —

(a) details of the authority's assessments of it and any action that the authority has taken, or intends to take, to deal with the incident; and

(b) further information as appropriate, until the action taken to respond to the incident has been concluded or until joint action has been decided by such states.

PART 5 - INSPECTION AND OFFENCES

18. Power to inspect

(1) A ship to which Part 2 applies pursuant to regulation 6(1)(a) may be subject, in any Falkland Islands' harbour, port or offshore installation, to inspections by persons appointed by the Governor for the purpose of verifying that an approved shipboard oil pollution emergency plan as required by these regulations is carried on the ship.

(2) For the purposes of this regulation, any person appointed as an inspector has the powers of an inspector set out in sections 239 to 242 of the Maritime Ordinance 2017.

19. Offences

(1) A person who fails to —

(a) ensure that an approved shipboard oil pollution emergency plan is carried in accordance with regulation 7(2); or

(b) grant access to computerised shore-based damage stability and residual structural strength calculation programmes in accordance with regulation 8(2),

commits an offence and is liable on conviction to a fine not exceeding level 6 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

(2) An operator of an oil handling facility who —

(a) fails to submit or re-submit an oil pollution emergency plan in accordance with regulations 14(4) to (7);

(b) does not maintain an oil pollution emergency plan, as approved (including any alterations directed by the authority) under regulations 14(1), (2) or (8); or

(c) fails to implement its oil pollution emergency plan in accordance with regulation 14(9),

commits an offence and is liable on conviction to a fine not exceeding level 6 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

(3) A person required to make a report under regulation 9 or 10 who fails to comply with that requirement in all respects commits an offence and is liable on conviction to a fine not exceeding level 6 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

(4) An operator required to make a report under regulation 15 who fails to comply with that requirement in all respects commits an offence and is liable on conviction to a fine not exceeding level 6 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

(5) In any proceedings for an offence under these regulations, it is a defence for the person charged to show that that person took all reasonable precautions to ensure compliance with the provision concerned.

Made 18 September 2019

Nigel James Phillips C. B. E.,
Governor.

EXPLANATORY NOTE
(This note is not part of the regulations)

The regulations implement the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 (OPRC Convention) in the Falkland Islands in relation to ships and onshore facilities; for the purposes of the OPRC Convention, offshore facilities will be regulated by separate regulations. Under the OPRC Convention, governments are required to establish measures for dealing with pollution incidents; certain ships are required to carry a shipboard oil pollution emergency plan; and oil pollution incidents must be reported to coastal authorities.

The regulations are made under sections 131, 132, 303, 308 and 308A of the Maritime Ordinance 2017, as amended by the Maritime (Amendment) Ordinance 2019.

Part 1 of the regulations provides for general matters. Regulation 2 provides for the regulations to commence on the date when they are published in the Gazette. Regulation 3 describes the object of the regulations. Terms used in the regulations are defined in regulation 4, with regulation 5 providing that references to international conventions are ambulatory. Regulation 6 sets out how the regulations are applied to ships and operators of harbours, ports and oil handling facilities.

Part 2 makes provision in relation to ships. Regulation 7 requires the owner and master of (a) oil tankers of 150 gross tons (GT) and above and (b) other ships of 400GT and above, to ensure that an approved oil emergency plan is carried onboard. Such a plan must be prepared in accordance with the relevant International Maritime Organisation guidelines. Regulation 8 requires the owner and master of an oil tanker of 5,000 tonnes deadweight or above to ensure that (a) the master; and (b) in the event of an oil discharge, the maritime authority, has prompt access to computerised shore-based damage stability and residual structural strength calculation programmes.

Regulation 9 imposes a duty on a master of a Falkland Islands ship (wherever it may be) to report to the relevant coastal authority any oil pollution incident involving the ship or any other oil pollution incident observed at sea. Regulation 10 imposes a similar duty on a non-Falkland Islands ship while it is in Falkland Islands controlled waters to report such incidents. Regulations 11 and 12 make provision for the form and content of initial and supplementary reports. Regulation 13 imposes a separate duty on a ship owner to report an oil pollution incident and in particular to make a report where a report from the master is incomplete or unobtainable.

Part 3 deals with the responsibilities of the operators of harbours, ports and oil handling facilities. Regulation 14 applies to the operator of a harbour or port (unless exempted by the authority), the operator of an oil handling facility and, if notice has been given by the Governor that the regulations apply to a naval port, the Queen's Harbour Master. The regulation requires these persons to prepare and maintain an oil pollution emergency plan or, if the authority agrees, a joint plan with another harbour, port or facility. Provision is made for plans to be submitted to the authority for approval; for the submission of plans by newly established harbours, ports and oil handling facilities; for plans to be reviewed within five years of being submitted; and for the authority to direct that alterations be made to a plan if it is not compatible with the Falkland Islands contingency plan or is otherwise not appropriate. An operator must implement its oil pollution emergency plan in the event of an oil pollution incident.

Part 4 requires the Governor to make arrangements for enabling a prompt and effective response to an oil pollution incident in accordance with article 6 of the OPRC Convention, which includes the maintenance of a Falkland Islands' contingency plan (regulation 16). Regulation 17 sets out the responsibilities of the authority and the Governor in the event that an oil pollution incident is reported.

Part 5 provides for a ship in a Falkland Islands' harbour, port or offshore installation to be inspected to verify that it is carrying an approved shipboard oil pollution emergency plan (regulation 18). Regulation 19 sets out the offences committed when a person fails to comply with the regulations.

Copies of the OPRC Convention and MARPOL can be accessed electronically at <https://treaties.fco.gov.uk>

Hard copies of these conventions and copies of the IMO guidelines referred to in the regulations are available for viewing at the Department of Natural Resources, Bypass Road, Stanley, Falkland Islands FIQQ 1ZZ.

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SUBSIDIARY LEGISLATION

Maritime (Registration of Ships) Regulations 2019

S. R. & O. No. 22 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

PART 1 - GENERAL

1. Title and commencement
2. Interpretation

PART 2 - THE REGISTER OF BRITISH SHIPS IN THE FALKLAND ISLANDS

3. Register
4. Registration of fishing vessels
5. Conditions for changing fishing vessels from full registration to simple registration
6. Registration on only one Part of the register
7. Trusts not to be registered

PART 3 - QUALIFICATION AND ENTITLEMENT FOR REGISTRATION ON PART I OF THE REGISTER

8. Persons qualified to be owners of ships to be registered on Part I of the register
9. Falkland Islands connection and majority interest
10. Supplementary to regulation 9
11. Government ships
12. Fishing vessels excluded from Part I

PART 4 - QUALIFICATION AND ENTITLEMENT OF FALKLAND ISLANDS FISHING VESSELS TO BE REGISTERED ON PART II OF THE REGISTER

13. Eligibility and Falkland Islands connection
14. Falkland Islands connection: requirements as to management and control
15. Dispensations: fishing vessels
16. Appointment of inspectors

PART 5 - REGISTRATION

17. Form of application

18. Applicant
19. Applications for registration
20. Appointment of managing owner
21. Applications by bodies corporate
22. Declaration of intent
23. Form of declaration of intent
24. Declaration of eligibility to be submitted before registration
25. Evidence of title on registration
26. Survey and measurement of ship
27. Names
28. Allocation of official number
29. Marking
30. Inspection of marks
31. Verification of measurement and carving and marking
32. Cancellation of carving and marking note
33. Registration and refusal of registration of a ship
34. Issue of certificate of registry
35. Temporary registration documents for fishing vessels
36. Period of registration
37. Documents to be retained by the Registrar
38. Renewal notices and time limit for renewal
39. Application for renewal of registration
40. Evidence of title on registration of transfer of ship
41. Form of bill of sale
42. Registration of transfer of a ship
43. Evidence of title on transmission of a registered ship
44. Declaration of eligibility on transfer or transmission
45. Refusal of registration of transfer or transmission
46. Notifications of changes of ownership
47. Further provisions as to transfer or transmission of a registered ship or share
48. Change in registered particulars of ship
49. Change of name
50. Re-marking of ship
51. Registration of changes of name
52. Removal from the register
53. Direction by Governor to remove vessel from the register

PART 6 - MORTGAGES

54. Form of mortgage
55. Registration of mortgage
56. Notices by intending mortgagees: priority notices
57. Evidence of transmission of mortgage
58. Transfer or transmission of registered mortgage
59. Discharge of mortgages
60. Effect of termination of registration on registered mortgage

PART 7 - PROVISIONAL REGISTRATION

- 61. Provisional registration
- 62. Application for provisional registration
- 63. Particulars required
- 64. Period of provisional registration
- 65. Certificate of provisional registration
- 66. Provisional registration not to be renewed
- 67. Condition of provisional registration for fishing vessels

PART 8 - TRANSFER OF REGISTRATION

- 68. Transfer of registration
- 69. Transfer of registration from United Kingdom or relevant British possession
- 70. Transfer within the register

PART 9 - BAREBOAT CHARTER-IN

- 71. Qualification and entitlement for registration of bareboat charter ships other than fishing vessels
- 72. Qualification and entitlement for registration of a fishing vessel as a bareboat charter ship
- 73. Dispensations for the bareboat charterers of fishing vessels
- 74. Applications
- 75. Names
- 76. Allocation of identifying number
- 77. Marking
- 78. Inspection of marks
- 79. Registration
- 80. Period of registration
- 81. Notification of changes
- 82. Application of other regulations to this Part
- 83. Notification to foreign registries by the Registrar
- 84. Closure of bareboat charter ship's registration by the Registrar
- 85. Direction by Governor to close registration of vessel

PART 10 - REGISTRATION OF SMALL SHIPS

- 86. Qualification and entitlement to be registered as a small ship on Part III of the register
- 87. Persons qualified to be the owners of a small ship to be registered on Part III of the register
- 88. Falkland Islands connection
- 89. Disapplication of Schedule 1 to the Ordinance in respect of small ships
- 90. Applications
- 91. Details to be registered and refusal
- 92. Certificate of registry
- 93. Marking

94. Period of registration
95. Renewal
96. Notifications of changes of ownership
97. Supplementary information and production of ship
98. Termination of registration

PART 11 – MISCELLANEOUS

99. Service of notices
100. Copy of notice to be sent to mortgagee
101. Documents not in the English language to be accompanied by a translation
102. Witnessing of documents
103. Dispensing with declarations
104. Requirement for supplementary information and copies of documents
105. Fees
106. Duplicate certificates
107. Custody of certificate
108. Surrender of certificate on termination or expiry of registration
109. Dispensing with production of certificate
110. Removal of marks on cessation of registration
111. Agreements with survey and certification organisations

PART 12 - OFFENCES

112. Offences

PART 13 - REVOCATION AND TRANSITIONAL

113. Definitions for this Part
114. Revocation and continued validity of old certificates
115. Issue of new certificate of registry
116. Applications for registration made before commencement of these regulations

SCHEDULES

Schedule 1 - Approval of Names

Schedule 2 - Carving and Marking

Schedule 3 - Details to go on Register

Schedule 4 - Certificate of Registry

SUBSIDIARY LEGISLATION

Maritime (Registration of Ships) Regulations 2019

S. R. & O. No. 22 of 2019

Made: 18 September 2019

Published: 25 September 2019

Coming into force in accordance with regulation 1

I make these regulations under sections 14(2), 15(1) and 308 of the Maritime Ordinance 2017 on the advice of the Executive Council.

PART 1 - GENERAL

1. Title and commencement

(1) These regulations are the Maritime (Registration of Ships) Regulations 2019.

(2) These regulations come into force on a day appointed by the Governor by notice published in the *Gazette*.

2. Interpretation

In these regulations, unless the context otherwise requires —

“**application for registration**” includes, unless otherwise stated, an application for —

- (a) registration of a ship or share in a ship;
- (b) registration of a small ship;
- (c) re-registration of a ship, a share in a ship or a small ship; and
- (d) registration of a transfer or transmission of a ship or share in a ship,

but does not include application for the renewal of registration;

“**appropriate attestation**” means attestation in a form approved by the Registrar;

“**authorised measurer**” means the Governor and any person or organisation which has an agreement with the Governor under regulation 111, and any other person appointed by the Governor under regulation 111, to carry out the measurement of ships;

“**bareboat charter ship**” means a ship registered under section 23 of the Ordinance;

“**beneficial ownership**” is to be determined by reference to every beneficial interest of the vessel, however arising (whether held under a trust or arising under a contract or otherwise), other than an interest held by a person as mortgagee; and “**beneficially owned**” shall be construed accordingly;

“**builder’s certificate**” means a certificate signed by the builder of the ship and containing a true account of the proper denomination and the tonnage of the ship, as estimated by him or her, of the date and place where it was built, and of the name of the person, if any, for whom the ship was built, or the name of the person to whom it was delivered;

“**certificate of bareboat charter**” means a certificate of registration issued to a ship which is registered under section 23 of the Ordinance;

“**certificate of registry**” means a certificate of registration which is issued to a ship which is registered under the Ordinance, and includes a certificate of bareboat charter unless the context otherwise requires;

“**certifying authority**” means the Governor or any person or organisation (or the specified employees, agents or authorised contractors of such person or organisation) which has an agreement with the Governor, or any person appointed by the Governor, in each case in terms of regulation 111;

“**closure transcript**” means a certified extract from the Registrar showing that the entry in the register in respect of a ship has been closed, the date of its closure, and the details about the ship and its ownership at the time of the closure;

“**declaration of eligibility**” means a declaration which complies with regulation 19(1);

“**Falkland Islands Government ship**” has the same meaning as in section 2(1) of the Ordinance;

“**Falkland Islands status**” has the same meaning as in section 22(5) of the Constitution;

“**fishing vessel**” has the same meaning as in section 2(1) of the Ordinance;

“**fishing vessel certificate**” means a certificate specified in section 127 of the Ordinance;

“**freeze**” means to prevent any entry (which includes a deletion of an entry) being made in the register;

“**full registration**” means registration of vessels to which the provisions of Schedule 1 to the Ordinance relating to transfers by Bill of Sale and the registration of mortgages apply;

“**identifying number**” means —

(a) the number allocated by the Registrar to a bareboat charter ship under regulation 76(1) or (2); or

(b) the unique number allocated to a bareboat charter ship for identification purposes by its primary register;

“**IMO**” means the International Maritime Organisation;

“**inspector of marks**” means any person appointed by the Governor to verify the carving and marking of a ship under these regulations;

“**length**” in regulations 26 and 30 and Schedule 2 has the same meaning as in the Tonnage Regulations;

“**MCA**” means the Maritime and Coastguard Agency, an executive agency of the United Kingdom Department of Transport;

“**official number**” has the same meaning as in regulation 28(1);

“**Ordinance**” means the Maritime Ordinance 2017;

“**overall length**” has the same meaning as “**length overall**” in the Tonnage Regulations;

“**owner**” means, in relation to a ship or share in a ship, the person owning the ship or, as the case may be, a share in a ship (whether or not registered as owner); and “**owned**” and “**ownership**” shall be construed accordingly;

“**pleasure vessel**” means —

(a) any vessel which at the time it is being used is —

(i) in the case of a vessel wholly owned by —

(aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in (a) or (b), no other payments are made by or on behalf of users of the vessel, other than by the owner; and in this definition “**immediate family**” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual’s spouse or civil partner, and “**relative**” means brother, sister, ancestor or lineal descendant;

“**primary register**” means the register on which the ship is registered at the time the application is made to register the ship as a bareboat charter ship;

“**register**” has the same meaning as in section 2(1) of the Ordinance;

“**Registrar**” has the same meaning as in section 2(1) of the Ordinance;

“**relevant requirement**” has the same meaning as in section 14(9) of the Ordinance;

“**representation**” means probate, administration, confirmation or other instrument constituting a person the executor, administrator or other legal representative of a deceased person, including a certificate of confirmation relating to a vessel;

“**RO Code**” means the IMO’s Code for Recognized Organizations relating to the recognition of survey and inspection organisations and introduced by IMO Resolutions MSC.350(92), amending SOLAS, MSC.356(92), amending the 1988 Protocol to the International Convention on Load Lines, 1966, and MEPC.237(65), amending Annex I and Annex II of MARPOL, and contained in IMO Resolutions MSC.349(92) and MEPC.237(65);

“**ship**” includes a fishing vessel but does not include a small ship or a bareboat charter ship except for the purposes of Part 11 (Miscellaneous) and Part 12 (Offences);

“**simple registration**” means registration of vessels to which the provisions of Schedule 1 to the Ordinance relating to transfers by Bill of Sale and the registration of mortgages do not apply;

“**small ship**” has the same meaning as in section 2(1) of the Ordinance;

“**submersible vessel**” means a vessel used or designed to be used under the surface of any waters;

“**surveyor of ships**” means a surveyor of ships appointed by a certifying authority (other than the Governor) to be a surveyor of ships; and “**survey**” means a survey carried out by a surveyor;

“**Tonnage Regulations**” means the Merchant Shipping (Tonnage) Regulations 1997 (SI 1510/1997), as applied by the Law Revision and Publication Ordinance 2017;

“**transfer of a ship**” includes a transfer of a share in a ship; and

“**United Kingdom Government ship**” has the same meaning as in section 2(1) of the Ordinance.

PART 2 - THE REGISTER OF BRITISH SHIPS IN THE FALKLAND ISLANDS

3. Register

(1) The register maintained by the Registrar in accordance with section 13 of the Ordinance must be divided into the following Parts —

(a) Part I for ships owned by persons qualified in accordance with these regulations, which are not —

(i) fishing vessels; or

(ii) small ships registered on Part III;

(b) Part II for fishing vessels;

(c) Part III for small ships; and

(d) Part IV for bareboat charter ships.

(2) The register may consist of both paper and computerised records and other records as the Registrar considers expedient.

(3) A person is entitled, on application to the Registrar, to obtain a transcript, certified by an officer authorised by the Registrar, of the entries in the register.

(4) A person is entitled on request to inspect the entries in the register during the hours that the Registrar’s office is open for business.

(5) Entries in the register are made as follows —

(a) the property in a ship must be divided into 64 shares;

(b) subject to the Ordinance and these regulations with respect to joint owners or owners by transmission, not more than 64 persons may be registered at the same time as owners of any one ship but this rule does not affect the beneficial title of persons represented by, or claiming under or through, a registered owner or joint owner;

(c) a person may not be registered as owner of a part of a share but persons not exceeding five in number may be registered as joint owners of a ship or of any share or shares in a ship; and

(d) joint owners are considered as constituting one person only as regards the persons entitled to be registered, and may not dispose in severalty of any interest in a ship, or in any share in a ship in respect of which they are registered.

(6) The Registrar may amend the register where —

- (a) a clerical error has occurred; or
- (b) the Registrar is satisfied that the entry is incorrect,

and on making the amendment, he or she may issue a new certificate of registry if necessary.

4. Registration of fishing vessels

Registration on Part II of the register is either simple registration or full registration.

5. Conditions for changing fishing vessels from full registration to simple registration

A fishing vessel which has once been registered with full registration may not thereafter be registered with simple registration unless —

- (a) the vessel is not subject to a registered mortgage;
- (b) the vessel has in the meantime been registered outside the Falkland Islands; and
- (c) the Registrar consents.

6. Registration on only one Part of the register

No ship, including a small ship, may be registered on more than one Part of the register at any one time.

7. Trusts not to be registered

(1) Subject to sub-regulation (2), no trust (express, implied or constructive) may be registered on the register by the Registrar.

(2) Where, on the bankruptcy of a registered owner or mortgagee, the title is transmitted to his or her trustee in bankruptcy, that person, if qualified under these regulations, may be registered as the owner or mortgagee of a Falkland Islands ship or share in a ship.

PART 3 - QUALIFICATION AND ENTITLEMENT FOR REGISTRATION ON PART I OF THE REGISTER

8. Persons qualified to be owners of ships to be registered on Part I of the register

(1) The following persons are qualified to be the owners of ships which are to be registered on Part I of the register —

- (a) British citizens;

(b) British Overseas Territories citizens;

(c) British Overseas citizens;

(d) persons who are British subjects under the British Nationality Act 1981;

(e) persons who, under the Hong Kong (British Nationality) Order 1986, are British Nationals (Overseas);

(f) bodies corporate incorporated in the Falkland Islands; and

(g) bodies corporate incorporated in the United Kingdom or in any relevant British possession and having their principal place of business in the United Kingdom or in any such possession.

(2) A person who is not qualified under sub-regulation (1) to be the owner of a ship registered on Part I of the register may still qualify to be one of the owners of such a ship if —

(a) a majority interest in the ship (within the meaning of regulation 10(a)) is beneficially owned by persons who are so qualified under sub-regulation (1); and

(b) the ship is registered on Part I of the register.

9. Falkland Islands connection and majority interest

(1) Subject to a direction by the Governor under section 14(4) of the Ordinance and to regulations 11 and 33, a ship is entitled to be registered on Part 1 of the register if —

(a) a majority interest in the ship is beneficially owned by one or more persons qualified to be owners of British ships under regulation 8(1); and

(b) the ship is beneficially owned, to the extent of 25% or more of the ship, by —

(i) persons having Falkland Islands status;

(ii) one or more qualifying companies; or

(iii) a combination of persons having Falkland Islands status and one or more qualifying companies.

(2) In sub-regulation (1), “**qualifying company**” means a company that satisfies the following requirements —

(a) the company is incorporated in the Falkland Islands; and

(b) at least 75% of the issued share capital of the company (and where there is more than one class of share capital of the company, at least 75% of each such class) is beneficially owned by persons having Falkland Islands status.

10. Supplementary to regulation 9

For the purposes of regulation 9 —

(a) one or more persons must be treated as beneficially owning a majority interest in a ship if that person (or those persons taken together) beneficially owns 33 or more shares in the ship (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not entitled to be the owner of a British ship under regulation 8(1)); and

(b) one or more persons must be treated as beneficially owning 25% or more of a ship if that person (or those persons taken together) beneficially owns 16 or more shares in the ship (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who does not have Falkland Islands status or who is not a qualifying company as defined in regulation 9(2)).

11. Government ships

This Part does not apply to a ship which, for the purposes of section 2 of the Ordinance, is a United Kingdom Government ship or a Falkland Islands Government ship, or which is owned by an agency of Her Majesty's Government in the United Kingdom.

12. Fishing vessels excluded from Part I

A fishing vessel must not be registered on Part I of the register.

PART 4 - QUALIFICATION AND ENTITLEMENT OF FALKLAND ISLANDS FISHING VESSELS TO BE REGISTERED ON PART II OF THE REGISTER

13. Eligibility and Falkland Islands connection

(1) Subject to sub-regulation (2), a body corporate incorporated in the Falkland Islands is qualified to be the owner of a fishing vessel which is to be registered on Part II of the Register.

(2) Subject to a direction by the Governor under section 14(4) of the Ordinance and to regulations 14, 15 and 33, a fishing vessel is entitled to be registered on Part II of the register if the vessel is wholly beneficially owned by a company incorporated in the Falkland Islands ("**the owning company**") and —

(a) at least 25% of the issued share capital of the owning company (and where there is more than one class of share capital of the owning company, at least 25% of the issued share capital of each class) is beneficially owned by persons having Falkland Islands status; and

(b) taking into account for this purpose the shares beneficially owned as required by paragraph (a), at least 50% of the issued share capital of the owning company (and where there is more than one class of share capital of the owning company, at least 50% of the issued share capital of each class) is beneficially owned by persons who are —

(i) British citizens;

- (ii) British Overseas Territories citizens;
- (iii) British Overseas citizens;
- (iv) persons who are British subjects under the British Nationality Act 1981;
- (v) persons who, under the Hong Kong (British Nationality) Order 1986, are British Nationals (Overseas);
- (vi) bodies corporate incorporated in the Falkland Islands; and
- (vii) bodies corporate incorporated in the United Kingdom or in any relevant British possession and having their principal place of business in the United Kingdom or in any such possession.

(3) Subject to sub-regulation (4), where a fishing vessel, immediately prior to 15 September 2003, was registered on the Stanley Register of Ships maintained under Part I of the Merchant Shipping Act 1894 in its application to the Falkland Islands, nothing in sub-regulation (2) applies in respect of any application for the continued renewal of registration of that fishing vessel.

(4) Sub-regulation (3) does not apply in respect of an application for registration of a fishing vessel by an owner who is different from that in whose name the fishing vessel was last registered.

14. Falkland Islands connection: requirements as to management and control

Notwithstanding that the requirements of regulation 13 are satisfied with respect to a vessel, the Governor may require as a condition of the registration of a fishing vessel that —

- (a) the fishing vessel is managed, and its operations controlled and directed, from within the Falkland Islands; or
- (b) any charterer, manager or operator of the vessel satisfies the requirements of regulation 13(2)(a) and (b) as if they applied to the nature of ownership of the charterer or operator of the vessel rather than to ownership of the vessel.

15. Dispensations: fishing vessels

The Governor may direct that sub-regulation 13(2)(a) or (b) (or both) may be dispensed with in respect of a fishing vessel, and that such fishing vessel must, for so long as such direction applies and remains in force, be treated as being eligible for registration on Part II of the register, if the Governor is satisfied that —

- (a) the fishing vessel would be eligible to be registered on Part II but for the fact that any particular individual does (or individuals do) not meet the requirements of Falkland Islands status or of citizenship for the purposes of a Falkland Islands connection under sub-regulation 13(2)(a) or (b) (or both); and

(b) it would be appropriate to dispense with the provisions of sub-regulation 13(2)(a) or (b) (or both) in the case of the individual or individuals referred to in paragraph (a) in view of the length of time such individual or individuals have resided in the Falkland Islands and have been involved in the fishing industry of the Falkland Islands.

16. Appointment of inspectors

(1) The Governor may appoint a person for the purpose of determining whether a fishing vessel is eligible to be registered on Part II of the register, and the person may investigate the eligibility of the vessel to be so registered.

(2) A person appointed under sub-regulation (1) has the powers conferred on an inspector by sections 241 and 242 of the Ordinance (other than paragraphs (d) to (h) of section 241(2)).

PART 5 – REGISTRATION

17. Form of application

(1) An application for registration of a ship must be made to the Registrar.

(2) The application for registration must be made in a form approved by the Registrar and must contain the name and address of the applicant and sufficient information to enable the ship to be identified.

18. Applicant

An application for registration must be made —

(a) in the case of individuals, by one or more of the individuals registered or requiring to be registered as owners or by their agent; or

(b) in the case of a body corporate, by an authorised officer of that body corporate, or by its agent.

19. Applications for registration

(1) Subject to regulation 22, an application for registration must be supported by a declaration of eligibility in a form approved by the Registrar and must include —

(a) a declaration of a Falkland Islands connection;

(b) a declaration of ownership by every owner, setting out his or her qualification to own a British ship;

(c) a statement of the number of shares in the ship, the legal title to which is vested in each owner (whether alone or jointly with another person or persons), and a statement of beneficial ownership of any share which is not beneficially owned by its legal owner; and

(d) in respect of an application to register a fishing vessel, a certified copy of the memorandum of articles of association and the register of shareholders in relation to the company which is the applicant for registration; or

(e) a dispensation by the Governor (if applicable) under regulation 15 and sufficient evidence to demonstrate that any conditions of that dispensation have been or will be complied with by or on behalf of the applicant.

(2) An application for registration of a ship which has, immediately prior to the application, been registered on any other register must be accompanied by a certified extract from that register in respect of that ship.

(3) An application for registration of a fishing vessel on Part II of the register must state whether the application is for full registration or simple registration.

20. Appointment of managing owner

(1) Where application is made in respect of a ship which has more than one owner, or whose shares are owned by more than one owner, one of those owners who is resident in the Falkland Islands must be nominated as the managing owner, and the register will be marked accordingly and all correspondence must be sent to that person only, at the address recorded in the register in respect of that owner.

(2) Where the owners decide to appoint a different managing owner, the Registrar must be notified in writing and the register noted accordingly but an appointment of a managing owner who is not resident in the Falkland Islands is ineffective for any purpose and no notation of that appointment will be made in the register.

(3) Any document required or authorised to be served by or under the Ordinance, any other enactment of the Falkland Islands or any UK enactment which applies in the Falkland Islands, which is required or authorised, by virtue of any statutory provision, to be served on the owner of a ship for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under the Ordinance, other enactment of the Falkland Islands or any UK enactment, must be treated as served on him or her if —

(a) delivered to the managing owner;

(b) sent to the managing owner by post at the address notified or last notified to the Registrar under sub-regulation (1) or (2) in relation to that person; or

(c) left for the managing owner at that address.

21. Applications by bodies corporate

An application which is made on behalf of a body corporate must be accompanied —

(a) if it is a company registered in the Falkland Islands or in any part of the United Kingdom, by a copy of its certificate of incorporation and, in the case of a company which has changed its name since incorporation, its certificates of change of name;

(b) if it is a company incorporated in any relevant British possession, by proof in accordance with the laws of that relevant British possession, that the company has been duly incorporated;

(c) if it is a body corporate incorporated by virtue of an Act of Parliament, a Charter granted by Her Majesty, or an enactment of a relevant British possession, by proof, sufficient to satisfy the Registrar, of its incorporation; and

(d) if it is a company (other than a company incorporated in the Falkland Islands) with a place of business in the Falkland Islands, by a certificate from the Registrar General that the company filed the documents required by section 5 of the Companies and Private Partnership Ordinance 1922.

22. Declaration of intent

If, at the time of application for registration, the ownership of a ship has not yet passed (or fully passed) to the persons who are to be its owners when it is registered, the application must be accompanied by a declaration of intent instead of a declaration of eligibility.

23. Form of declaration of intent

A declaration of intent consists of —

(a) a draft declaration of eligibility, setting out particulars of ownership of the ship as they are intended to be when the ship is registered; and

(b) a declaration that the ownership of the ship will, at the time when registration occurs, be as stated in the draft declaration of eligibility.

24. Declaration of eligibility to be submitted before registration

Where an application for registration is accompanied by a declaration of intent and not by a declaration of eligibility, a completed declaration of eligibility must be submitted to the Registrar prior to registration.

25. Evidence of title on registration

(1) An application to register a ship, other than a fishing vessel requiring simple registration, must be accompanied by the following evidence of title —

(a) in the case of a new ship, the builder's certificate;

(b) in the case of a ship which is not new;

(i) in respect of a pleasure vessel —

- (aa) a previous bill or bills of sale showing the ownership of the ship for at least five years before the application is made; or
 - (bb) if the ship has been registered with a full registration at any time within the last five years, a bill or bills of sale evidencing all transfers of ownership during the period since it was so registered;
- (ii) in respect of a fishing vessel —
- (aa) a previous bill or bills of sale showing the ownership of the vessel for at least three years before the application is made;
 - (bb) if the vessel has been registered with full registration at any time within the last three years, a bill or bills of sale evidencing all transfers of ownership during the period since it was so registered; or
 - (cc) evidence that the vessel has been for at least three years continuously registered as a Falkland Islands fishing vessel with simple registration in the names of the owners applying to be registered, and remains so registered;
- (iii) in respect of a ship other than a pleasure vessel or a fishing vessel, one bill of sale showing the most recent transfer of ownership; and
- (c) where the evidence required by sub-paragraph (a) or (b) of this sub-regulation is not available, other evidence of title satisfactory to the Registrar.

(2) Where a ship has entered the register by virtue of sub-regulation (1)(b)(iii) and subsequently becomes a pleasure vessel or a fishing vessel, the owner must then provide the title evidence required under sub-regulation (1)(b)(i) or (ii) respectively or under sub-regulation (1)(c) for the ship to be registered.

26. Survey and measurement of ship

(1) A ship (other than a fishing vessel less than 24 metres in length) must, before registration, be surveyed by a surveyor of ships and its tonnage ascertained in accordance with the Tonnage Regulations.

(2) A fishing vessel of less than 24 metres must, before registration, be measured by an authorised measurer and its tonnage calculated in accordance with the Tonnage Regulations.

(3) After survey or measurement, the surveyor or measurer must issue a certificate specifying the ship's tonnage and build and such other particulars describing the identity of the ship as may be required by the Registrar and the certificate must be delivered to the Registrar before the ship is registered.

(4) Subject to sub-regulation (5), a ship which is being —

(a) registered for the first time which has been surveyed or measured and its tonnage ascertained within the previous 12 months; or

(b) re-registered within 12 months of its registration on the register ceasing,

will not be required to be surveyed or measured, or its tonnage ascertained, again in accordance with sub-regulation (1) or (2) if a declaration is made by the owner confirming that the survey or measurement and tonnage details have not changed from those previously provided to the Registrar.

(5) The Registrar may direct, if he or she thinks it appropriate, that such declaration be provided by an authorised measurer or surveyor.

27. Names

(1) On making an application for registration of a ship, the applicant must propose a name by which the ship is to be called.

(2) Schedule 1 (which provides for the approval of names) has effect.

(3) A ship may only be described by its registered name.

(4) A change in a registered ship's name may only be made with the prior written permission of the Registrar.

28. Allocation of official number

(1) On receipt of an application for registration of a ship for the first time, the Registrar, if satisfied that the ship is eligible to be registered, must allocate to the ship a register number (“**official number**”) and issue a carving and marking note.

(2) The Registrar may, on request by a certifying authority, allocate an official number to a ship notwithstanding that he or she is not yet satisfied as to its eligibility.

(3) Where a number is allocated to a ship under sub-regulation (2) and the number is carved into the ship's beam but the ship is not accepted as being eligible for registration, the number must be permanently defaced and a certificate to that effect provided by the certifying authority to the Registrar.

29. Marking

On receipt of a carving and marking note on first registration, the owner must —

(a) if the ship has not already been surveyed or measured as required by regulation 26, cause it to be surveyed or measured;

(b) cause the ship to be carved and marked in accordance with Schedule 2; and

(c) where required under regulation 30, cause the ship's carving and marking to be inspected by an inspector of marks.

30. Inspection of marks

(1) In respect of a ship other than a pleasure vessel which is under 24 metres in length, an inspector of marks must be satisfied that the ship has been carved and marked in accordance with Schedule 2 and thereafter complete the carving and marking note and return it to the Registrar.

(2) In respect of a pleasure vessel which is under 24 metres in length, the owner must certify that the ship has been carved and marked in accordance with Schedule 2 and return the certified carving and marking note to the Registrar.

31. Verification of measurement and carving and marking

(1) If the Registrar is not satisfied —

(a) that the particulars of the measurement and tonnage of the ship (or such other particulars describing the identity of the ship, as have been required by the Registrar) furnished to him or her are correct; or

(b) that the ship is carved and marked in the manner required by Schedule 2,

he or she may direct the owner to have the measurement, carving or marking of the vessel verified by an authorised measurer or inspector of marks as appropriate.

(2) If the owner fails to comply with the direction of the Registrar, the Registrar may —

(a) if the ship is not registered, refuse registration until the direction has been complied with; or

(b) if the ship is registered, serve notice on the owner or managing owner, or any charterer, manager or operator of the ship, requiring evidence within 30 days sufficient to satisfy the Registrar that the particulars of the measurement and tonnage are, or that the marking of the ship is, correct.

(3) If at the expiry of 30 days, the Registrar is not so satisfied, he or she may —

(a) extend the notice and ask for further information; or

(b) serve a final notice which closes the ship's registration with effect from seven days after the service of the notice.

(4) Where a ship's registration is closed under sub-regulation (3), the owner of the ship must forthwith surrender its certificate of registry.

(5) Where the Registrar serves a notice under this regulation on the owner of a ship in respect of which a mortgage is registered, he or she must send a copy of that notice to the mortgagee at the address recorded in the register for the mortgagee.

32. Cancellation of carving and marking note

If a carving and marking note issued under regulation 29 is not completed and returned to the Registrar within three months of its issue, the Registrar may cancel it and the application is treated as having been withdrawn.

33. Registration and refusal of registration of a ship

(1) Subject to a direction by the Governor under section 14(4) of the Ordinance, where the Registrar is satisfied in respect of an application that —

- (a) the ship is eligible to be registered as a Falkland Islands ship;
- (b) the ship has been carved and marked and that the appropriate survey or measuring certificate has been provided;
- (c) the particulars of the ship furnished are correct;
- (d) the title to the ship has been adequately proved (where necessary); and
- (e) the relevant requirements of these regulations have been complied with;

the Registrar must, subject to sub-regulations (2) and (3), register the ship by entering in the register the particulars of the ship and its owners as specified in Schedule 3.

(2) The Registrar may refuse to register a fishing vessel if he or she is not satisfied that there is in force in respect of the vessel a certificate required by section 127 of the Ordinance.

(3) If the Registrar is not satisfied as mentioned in sub-regulation (1), he or she must, subject to regulation 104, refuse the application.

34. Issue of certificate of registry

On registering a ship, the Registrar must issue and send to the owner a certificate of registry containing the particulars set out in Schedule 4.

35. Temporary registration documents for fishing vessels

(1) The Registrar may, upon registering a fishing vessel, if the owner so requests, issue to the owner a temporary registration document containing the registered particulars of the vessel and specifying the period (not exceeding two months) for which it is valid.

(2) A temporary registration document, during the period of its validity, has the effect of a certificate of registry.

36. Period of registration

Subject to regulation 114, the registration of a ship, unless terminated under these regulations, is valid for a period of five years from the date of registration specified in the certificate of registry unless the registration is renewed in accordance with regulation 38.

37. Documents to be retained by the Registrar

(1) On registering a ship, the Registrar must retain a copy of any builder's certificate or bill of sale or other evidence of title produced on first registration, any certificate of measurement or survey, any dispensation under regulation 15 and all declarations of eligibility.

(2) When a fishing vessel changes from simple registration to full registration, the Registrar must retain a copy of the evidence adduced for that change.

(3) All documents which are produced to the Registrar to establish title must be stamped by the Registrar to indicate that they have been used for the registration of a ship and must be returned to the applicant once the ship has been registered.

38. Renewal notices and time limit for renewal

(1) At least three months (but not more than six months) before the expiry of the registration period, the Registrar must issue to the owner of a ship a renewal notice.

(2) Subject to sub-regulation (3), the owner of a ship may apply for renewal of registration at any time between the date of issue of the renewal notice and the date of expiry of the current registration period.

(3) An application for renewal of registration may be made during the last three calendar months before the expiry of the current registration period, for issue of a certificate of registry commencing prior to the expiry of the current registration period.

(4) A certificate issued under sub-regulation (3) is not valid for a period greater than five years commencing on the date of issue.

39. Application for renewal of registration

(1) An application for renewal of registration must be in a form approved by the Registrar and accompanied by —

(a) a declaration of eligibility; and

(b) a declaration that there have been no changes to any registered details of the ship that have not been notified to the Registrar.

(2) Where no application for renewal is made, the Registrar must notify every mortgagee of the expiration of the ship's registration.

40. Evidence of title on registration of transfer of ship

(1) A bill of sale must be produced to the Registrar when an application is made under paragraph 2(2) of Schedule 1 to the Ordinance for the transfer of a registered ship or a share in a registered ship, other than a fishing vessel registered with simple registration.

(2) When an application is made for the registration of a transfer of a fishing vessel which is registered with simple registration, evidence of the transfer satisfactory to the Registrar must be produced to the Registrar

41. Form of bill of sale

A bill of sale effecting a transfer of a registered ship or a share in a ship under paragraph 2(1) of Schedule 1 to the Ordinance and these regulations, must be in the form approved by the Registrar with appropriate attestation containing a description of the ship sufficient to identify it.

42. Registration of transfer of a ship

(1) If the Registrar grants an application under paragraph 2(2) of Schedule 1 to the Ordinance, he or she must —

(a) register the bill of sale by entering the name of the new owner in the register as owner of the ship or share in question; and

(b) endorse on the bill of sale that the entry has been made, together with the date and time when it was made.

(2) If the Registrar is satisfied with the evidence under regulation 40 that the ship or share in a ship has been transferred, he or she must enter the name of the new owner in the register as the owner of the ship or share in question and issue a new certificate valid for a period of five years.

43. Evidence of title on transmission of a registered ship

(1) An application for registration of a transmission of a registered ship or a share in a registered ship under paragraph 3(1) of Schedule 1 to the Ordinance must be made in the form approved by the Registrar.

(2) The following evidence must be produced to the Registrar on an application for a transfer of a registered ship or transfer of a share in a registered ship by way of transmission, if the transmission was consequent on —

(a) death, the grant of representation or an office copy of, or an extract from, the representation;

(b) bankruptcy, such evidence as is for the time being receivable in courts of justice as proof of title of persons claiming under bankruptcy; and

(c) an order of a court, a copy of the order or judgment of that court.

44. Declaration of eligibility on transfer or transmission

An application for the registration of a transfer or transmission of a registered ship or of a share in a registered ship must be accompanied by a declaration of eligibility and, where the application is made on behalf of a body corporate, the document or documents mentioned in regulation 21.

45. Refusal of registration of transfer or transmission

(1) If, on an application for transfer or transmission of a ship or shares in a ship, the Registrar is not satisfied that the ship is eligible to be registered —

(a) the Registrar must serve a notice on the owner of the ship; and

(b) the ship's registration terminates at the end of 14 days from the date of service of that notice.

(2) A notice under sub-regulation (1) must state that —

(a) the Registrar is not satisfied that the vessel in question is eligible to be registered; and

(b) the ship's registration will accordingly terminate by virtue of sub-regulation (1) at the end of the period referred to in that sub-regulation.

46. Notifications of changes of ownership

(1) If there occurs, in relation to a registered ship —

(a) a change affecting the eligibility of the ship to be registered, which change does not affect the qualification or eligibility of the owner (as prescribed in regulations 8 and 13) or the Falkland Islands connection of a ship (as prescribed in regulations 9, 13 and 14); or

(b) a change which affects the qualification or eligibility of the owner (as prescribed in regulations 8 and 13) or the Falkland Islands connection of a ship (as prescribed in regulations 9, 13 and 14), (including, without limitation, any change in the percentage of the property in the ship beneficially owned by qualified persons or companies which has such effect,

the owner of the ship must, as soon as practicable after the change occurs, notify the Registrar.

(2) The notification referred to in sub-regulation (1) must be made in writing, signed by the owner and specify the nature of the change and the name and the official number of the ship.

(3) A person who contravenes sub-regulation (1) commits an offence and is liable on conviction to a fine not exceeding level 2 on the scale in Schedule 7 to the Ordinance.

47. Further provisions as to transfer or transmission of a registered ship or share

(1) Where there is a transfer or transmission of a registered ship or a share in a registered ship —

(a) the person ceasing to own the ship or share (or, in the event of the person's death, his or her legal personal representative) must notify the Registrar and surrender the certificate of registry; and

(b) the Registrar must cancel the certificate of registry and must freeze the register pending the application for the registration of the transfer or transmission by the new owner or owners of the ship or share.

(2) Where there is a transfer of a registered ship, the new owners must, within 30 days of the transfer, apply under these regulations for the transfer to be registered and —

(a) if the transfer is of all the shares in the ship and the application is not made within the 30 days, the Registrar may cancel the registration of the ship and the certificate of registry;

(b) if the transfer is of one or some of the shares in the ship and application is not made within the 30 days, the Registrar must serve a notice on the remaining registered owners notifying them that, unless an application to transfer the share or shares in question is made within 30 days of the date of the notice, the registration of the ship and the certificate of registry may be cancelled.

(3) Where there is a transmission of a registered ship, the new owners must promptly apply under these regulations for the transmission to be registered and —

(a) if the transmission is of all the shares in the ship, and application is not made within a reasonable time, the Registrar may cancel the registration of the ship and the certificate of registry;

(b) if the transmission is of one or some of the shares in the ship and application is not made within a reasonable time, the Registrar must serve a notice on the remaining registered owners notifying them that, unless an application to register the transmission of the share or shares in question is made within 30 days of the date of the notice, the registration of the ship and the certificate of registry may be cancelled.

(4) A person who fails to notify the Registrar, to surrender the certificate of registry, or to make an application as required by sub-regulation (1), (2) or (3) commits an offence and is liable on conviction to a fine not exceeding level 5 on the scale in Schedule 7 to the Ordinance.

48. Change in registered particulars of ship

(1) An application must be made to the Registrar as soon as practicable where there is a change—

(a) in the registered particulars of a ship other than a change in the tonnage of the ship; or

(b) in the name or address of an owner entered in the register (not being a change of ownership).

(2) An application must be in writing and subject to regulation 109, be accompanied by the certificate of registry and such evidence as to the change as may be required by the Registrar.

(3) Where there is a change in the tonnage —

(a) the ship must be resurveyed or re-measured in accordance with regulation 26;

(b) an application in a form approved by the Registrar must be made as soon as practicable after the survey and measurement for the change to be recorded in the register; and

(c) the application must be accompanied by the certificate of survey or measurement and the certificate of registry.

(4) The Registrar must record the change in registered particulars in the register and on recording the change, the Registrar must cancel the existing certificate and issue to the owner a new certificate of registry, expiring on the same date as the existing one.

(5) A person who fails to make an application as required by sub-regulation (1) or (3)(b) commits an offence and is liable on conviction to a fine not exceeding level 5 on the scale in Schedule 7 to the Ordinance.

49. Change of name

(1) An owner of a registered ship may apply to the Registrar to change the name of the ship in a form approved by the Registrar and, subject to regulation 109, the application must be accompanied by the certificate of registry.

(2) If it appears to the Registrar that the name complies with Schedule 1, he or she must issue a marking note to the owner.

50. Re-marking of ship

(1) On receipt of the marking note, the owner must cause the ship to be marked with the new name and, in respect of ships other than pleasure vessels which are under 24 metres in length, must cause the marking to be inspected in accordance with regulation 30(1).

(2) The owner or inspector must, if satisfied that the ship is marked in the manner required by Schedule 2, complete the marking note and return it to the Registrar.

51. Registration of changes of name

On receipt of the completed marking note, the Registrar must re-register the ship with its new name, cancel the existing certificate and issue to the owner a new certificate of registry, expiring on the same date as the existing certificate.

52. Removal from the register

(1) The Registrar may, subject to regulation 99, terminate a ship's registration in the following circumstances —

- (a) on being directed by the Governor under regulation 53;
- (b) on application by the owner;
- (c) if the registered owner has not notified the Registrar that ownership of the ship has changed;
- (d) on the ship no longer being eligible to be registered;
- (e) on the destruction of the ship (destruction for this purpose including, but not limited to, shipwreck, demolition, fire and sinking);
- (f) when a registered fishing vessel which has been licensed to fish in the Falkland Islands waters or elsewhere, ceases to be so licensed for a continuous period of six months or more;
- (g) when a fishing vessel which requires a licence to fish, did not have such a licence at the time of registration and has not acquired a licence within six months of the issue of its certificate of registry;
- (h) when any penalty imposed on the owner of a ship in respect of a contravention of the Ordinance, a UK enactment which applies in the Falkland Islands, any enactment of the Falkland Islands relating to fishing, or of any instrument in force under any such enactment, has remained unpaid for a period of more than three months (and no appeal against that penalty is pending);
- (i) when a summons for such contravention has been served on the owner of the ship but the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time;
- (j) where the owner of a fishing vessel fails to respond to the Registrar within 15 days of a request from the Registrar to supply information concerning details on the register of a fishing vessel;
- (k) where the owner of a fishing vessel supplies information requested by the Registrar but that information is either false or incorrect, or is reasonably considered by the Registrar to be insufficient;
- (l) where a fishing vessel certificate has expired;
- (m) where under regulation 47, a person is required to notify the Registrar, or make an application but has not done so; or
- (n) where under regulation 48, a person is required to make an application but has not done so.

(2) Where the Registrar terminates registration under paragraph (b) or (e) of sub-regulation (1), he or she must —

(a) immediately issue a closure transcript to the owner of the ship; and

(b) notify any mortgagees of the closure of the registration.

(3) On receipt of the closure transcript, the owner must immediately surrender the ship's certificate of registry to the Registrar for cancellation.

(4) Where the registration of a fishing vessel is terminated under sub-regulation (1)(c) then, without prejudice to the operation of any provision of the Ordinance or these regulations, the ship may not be registered again as a Falkland Islands ship unless the Governor consents to the registration and if the Governor is satisfied that —

(a) the vessel was removed from the register in error; or

(b) the vessel was disposed of by its former registered owner by means of a transaction at arms' length and that no person who for the time being is a relevant owner of the vessel, was a relevant owner of it at the time the registration was terminated.

(5) For the purposes of sub-regulation (4), a person is a relevant owner of a vessel at any time if at that time —

(a) the legal title to the vessel or any share in it is vested in that person;

(b) the vessel or any share in it is beneficially owned by that person; or

(c) any share in a body corporate falling within paragraph (a) or (b) is legally or beneficially owned by that person,

whether vested in, or so owned by, that person alone or together with any other person or persons.

53. Direction by Governor to remove vessel from the register

(1) The Governor may, in accordance with sections 14(4) and (5) of the Ordinance, direct the Registrar to remove a vessel from the register if the Governor is satisfied, taking into account any relevant requirement, that it would be inappropriate for the ship to remain registered in the register.

(2) The Governor must not give a direction under sub-regulation (1) —

(a) before giving at least 21 days' notice to the owner of the vessel of his or her intention to give the direction; and

(b) before the Governor has taken into account any representations made in writing by the owner of the vessel.

PART 6 – MORTGAGES

54. Form of mortgage

A mortgage produced for registration under Schedule 1 to the Ordinance, a transfer of a registered mortgage, and a discharge of a registered mortgage, must be in a form approved by the Registrar, in each case with appropriate attestation.

55. Registration of mortgage

Where a mortgage executed in terms of regulation 54 is produced to the Registrar for registration, he or she must —

- (a) register the mortgage; and
- (b) endorse on it the date and time it was registered.

56. Notices by intending mortgagees: priority notices

(1) Where a person who is an intending mortgagee under a proposed mortgage of —

- (a) a registered ship; or
- (b) a share in a registered ship,

notifies the Registrar of the interest which it is intended that the person should have under the proposed mortgage, the Registrar must record that interest.

(2) The notice to the Registrar under sub-regulation (1) must be in a form approved by the Registrar, containing the name and official number of the ship, the name, address and signature of the intending mortgagor, the number of shares to be mortgaged, and the name and address of the intending mortgagee.

(3) Where a person who is an intending mortgagee under a proposed mortgage of a ship which is not for the time being registered, or of a share in any such ship, notifies the Registrar in writing of the interest which it is intended that he or she should have under the proposed mortgage, the Registrar —

- (a) must record that interest in the register; and
- (b) if the ship is subsequently registered, register the ship subject to that interest or, if the mortgagee has by then executed a mortgage in accordance with regulation 54 and produced it to the Registrar, subject to that mortgage.

(4) The notice under sub-regulation (3) must be in a form approved by the Registrar and must contain the following information —

- (a) the present name of the ship;
- (b) the intended name of the ship;
- (c) the approximate length of the ship;
- (d) where the ship is registered outside the Falkland Islands, a copy of its certificate of registry or other document evidencing its registration and giving its port of registration;
- (e) where the ship is a new ship, the builder's certificate or, if that is not available, the name and address of the builder and the ship's yard number;
- (f) where the ship is neither a new ship nor a registered ship, details of any permanent marks on the ship which enable it to be clearly identified; and
- (g) the name, address and signature of the intending mortgagor, the number of shares to be mortgaged, and the name and address of the intending mortgagee.

(5) In a case where —

- (a) paragraph 8 of Schedule 1 to the Ordinance operates to determine the priority between two or more mortgagees; and
- (b) any of those mortgagees gave notification under sub-regulation (1) or (3) with respect to his or her mortgage,

paragraph 8 of Schedule 1 has effect in relation to that mortgage as if it had been registered at the time when the relevant entry was made in the register under paragraphs (1) or (3).

(6) Any notification given by a person under sub-regulation (1) or (3) (and anything done as a result of it) ceases to have effect —

- (a) if the notification is withdrawn; or
- (b) at the end of the period of 30 days beginning with the date of the notification, unless the notification is renewed under sub-regulation (7).

(7) The person by whom notification is given under sub-regulation (1) or (3) may renew or further renew the notification on each occasion for a period of 30 days, by notice in writing given to the Registrar —

- (a) before the end of the period mentioned in sub-regulation (6)(b); or
- (b) before the end of a period of renewal.

(8) Any notice given under this regulation must be in a form approved by the Registrar.

57. Evidence of transmission of mortgage

On an application for registration of a transmission of a registered mortgage as required in paragraph 12 of Schedule 1 to the Ordinance, the following evidence must be produced to the Registrar —

- (a) a declaration of transmission of mortgage in a form approved by the Registrar; and
- (b) if the transmission was consequent on death, the grant of representation or an office copy or an extract of the representation;
- (c) if the transfer was consequent on bankruptcy, such evidence as is for the time being receivable in courts of justice as proof of title of persons claiming under bankruptcy; or
- (d) if the transmission was consequent on an order of a court, a copy of the order of that court.

58. Transfer or transmission of registered mortgage

(1) Where a transfer of a registered mortgage or evidence of a transmission of a registered mortgage is produced to the Registrar, he or she must —

- (a) enter the name of the transferee, or the name of the person to whom the mortgage has been transmitted, in the register as mortgagee of the ship or share in question;
- (b) in respect of a transfer, endorse on the instrument of transfer the date and time that the entry is made.

(2) On an application for registration of a transmission of a registered mortgage, the evidence to be produced to the Registrar is the same as is required under regulation 43.

59. Discharge of mortgages

(1) Where a registered mortgage has been discharged, the Registrar must, on production of the mortgage deed and evidence satisfactory to the Registrar that the mortgage has been properly discharged, record in the register that the mortgage has been discharged.

(2) If for good reason the registered mortgage cannot be produced to the Registrar, he or she may, on being satisfied that the mortgage has been properly discharged, record in the register that the mortgage has been discharged.

60. Effect of termination of registration on registered mortgage

Where the registration of a ship terminates by virtue of any of these regulations, that termination will not affect an entry in the register of any undischarged registered mortgage of that ship or a share in it.

PART 7 - PROVISIONAL REGISTRATION

61. Provisional registration

Where a ship which the owner intends to register on Part I or Part II of the register is outside the Falkland Islands, the owner may apply to the Registrar for provisional registration.

62. Application for provisional registration

An application for provisional registration must be in a form approved by the Registrar.

63. Particulars required

An application for provisional registration must be accompanied by the particulars required by regulation 19(1) and regulation 21.

64. Period of provisional registration

The Registrar, on being satisfied that the ship is eligible for registration, may proceed to register the ship provisionally for a period of three months.

65. Certificate of provisional registration

The Registrar must issue to the owner of the ship a certificate of provisional registration in a form approved by the Registrar and the certificate has the effect of a certificate of registry until—

- (a) the expiration of three months from its date of issue;
- (b) the ship's arrival in the Falkland Islands; or
- (c) termination by the Registrar, on request from the owner, of the certificate of provisional registration,

whichever occurs first.

66. Provisional registration not to be renewed

A ship which has been provisionally registered once may not be provisionally registered again within one year of the date of issue of the first certificate of provisional registration, except with the consent of the Governor.

67. Condition of provisional registration for fishing vessels

- (1) A fishing vessel which is provisionally registered must not fish for profit.
- (2) A fishing vessel which contravenes sub-regulation (1) will have its provisional registration terminated immediately and the owner of that fishing vessel must, as soon as practicable, surrender the certificate of provisional registry to the Registrar.

PART 8 - TRANSFER OF REGISTRATION

68. Transfer of registration

(1) Subject to sub-regulation (2), the registration of a ship registered on Part I of the register may be transferred from the register to the register of a port in the United Kingdom or of a port in a relevant British possession.

(2) Where an application is made under this regulation for the transfer of a ship's registration under sub-regulation (1), the Registrar may only proceed with the application if he or she is satisfied that registration of the ship at the intended port of registration is not precluded by a law in force —

(a) in the United Kingdom; or

(b) in the British possession in question;

and any certificate purporting to be signed by a registrar of the intended port of registration and stating that any such provision is in force must be conclusive evidence of the matters stated in it for the purposes of this sub-regulation.

(3) The Registrar must terminate the registration of a ship —

(a) where the registrar of the intended port of registration issues a certificate of registry following any such application; or

(b) on notification of the transfer by the registrar of the new port of registration.

(4) Where the registration of a ship is transferred under this regulation, the certificate of registry must be transferred to the Registrar for cancellation.

69. Transfer of registration from United Kingdom or relevant British possession

(1) Where a ship (excluding a fishing vessel) is registered in the United Kingdom or in a relevant British possession, the registration of that ship may be transferred to Part I of the register if —

(a) an application to the registrar of the existing port of registration has been made for that purpose by a declaration in writing by all the persons appearing on his or her register to be interested in the ship as owners; and

(b) the following documents have been transmitted to the Registrar —

(i) a copy of the application and declaration required by paragraph (a) transmitted to the registrar at the existing port of registration;

(ii) a copy transmitted by that registrar of all the registered particulars of the ship and the names of all persons appearing on the register of the existing port of registration as being interested in the ship as owners and mortgagees; and

(iii) the ship's certificate of registry.

(2) Where the ship has not previously been required by the registrar of its existing port to have its name approved by the Registrar in accordance with Schedule 1, the applicant must propose a name by which the ship is to be called.

(3) On being satisfied that the name complies with the requirements of Schedule 1, the Registrar must issue a marking note.

(4) On receipt of a marking note, the owner must proceed as provided in regulation 50.

(5) On receipt of the documents specified in sub-regulation (1) and the completed marking note, the Registrar must —

(a) enter in the register all the particulars and names so transmitted; and

(b) issue a new certificate of registry.

(6) Where the entitlement of a ship to be registered is subject to any condition specified in regulation 9 being satisfied, the registration of the ship must not be transferred to the register unless it appears to the Registrar that the condition is satisfied.

(7) A transfer of registration under this regulation does not affect the rights of a person mentioned in sub-regulation (1)(a).

(8) In accordance with a direction by the Governor under section 14(4) of the Ordinance, the Registrar may refuse to register a ship if, taking into account any relevant requirement, the Registrar is satisfied that it would be inappropriate for the ship to be registered.

70. Transfer within the register

(1) On an application being made, the Registrar may, after provision of such information and evidence as is required and if the Registrar is satisfied that the ship is eligible to be registered in the new Part, transfer the registration of the ship to a different Part of the register.

(2) All entries in the register relating to the ship (including any entries relating to mortgages) must be transferred.

PART 9 - BAREBOAT CHARTER-IN

71. Qualification and entitlement for registration of bareboat charter ships other than fishing vessels

A person who is qualified to be the owner of a Falkland Islands ship under regulation 8(1) who charters a ship (other than a fishing vessel) on bareboat charter terms, is qualified to register a bareboat charter ship under section 23 of the Ordinance.

72. Qualification and entitlement for registration of a fishing vessel as a bareboat charter ship

(1) A body corporate incorporated in the Falkland Islands which charters a fishing vessel on bareboat charter terms is eligible to register it on Part IV of the register under section 23 of the Ordinance.

(2) The Governor may require, as a condition of a fishing vessel being registered on Part IV of the register, that it is managed, and its operations controlled and directed, from within the Falkland Islands.

73. Dispensations for the bareboat charterers of fishing vessels

The charterer of a fishing vessel which is, or is to be, registered as a bareboat charter ship may apply for dispensation from the eligibility requirements in terms of regulation 15.

74. Applications

(1) An application for registration of a bareboat charter ship must be made to the Registrar.

(2) Regulation 18 applies to this Part as if the charterer were the owner.

(3) An application for registration of the ship must be in a form approved by the Registrar and accompanied by —

(a) a declaration of eligibility which includes —

(i) a declaration by every charterer, setting out his or her qualification to register a bareboat charter ship; and

(ii) if the Governor requires, in terms of regulation 72(2), that the management, direction and control of the ship be carried out from within the Falkland Islands, the management, direction and control will be so carried out;

(b) a copy of the charter-party showing —

(i) the name of the ship;

(ii) the name of the charterer or charterers and the name of the owner or owners of the ship;

(iii) the date of the charter-party; and

(iv) the duration of the charter-party;

(c) the certificate of registry, or other document, issued by the authority responsible for the registration of ships in the country of its primary register, showing the ownership of the ship; and

(d) where the charterer is a body corporate, the document or documents required by regulation 21.

(4) Regulation 26 applies to this Part.

(5) The Registrar may refuse to register any fishing vessel as a bareboat charter ship if he or she is not satisfied that there is in force in respect of the vessel any certificate required to be so in force by virtue of section 127 of the Ordinance.

75. Names

(1) On making an application for registration of a bareboat charter ship, the applicant must propose a name by which the ship is to be called while so registered.

(2) The Registrar must approve a name if he or she is satisfied that it complies with Schedule 1.

76. Allocation of identifying number

(1) Where the application is made in respect of a fishing vessel, the Registrar must allocate a number to the vessel, if he or she is satisfied that the ship is eligible to be registered as a bareboat charter ship.

(2) A ship which does not have a unique identifying number allocated by its primary register, must be allocated such a number by the Registrar.

77. Marking

(1) On being satisfied that the ship is eligible for registration and on production of any certificate for survey required under regulation 26, the Registrar must issue a carving and marking note.

(2) On receipt of a carving and marking note, the charterer must —

(a) where the ship is not already so marked, cause it to be marked with —

(i) its name;

(ii) Stanley; and

(iii) in respect of a fishing vessel, its allocated identifying number;

(b) where the ship is not already carved, cause it to be carved with its identifying number and the number denoting its tonnage,

in terms of Schedule 2.

78. Inspection of marks

Regulations 30 and 32 apply to this Part as if any reference in them to the owner was a reference to the charterer.

79. Registration

(1) Where the Registrar is satisfied in respect of an application —

- (a) that the ship has been carved and marked;
- (b) that, where required, the appropriate certificate of survey has been provided; and
- (c) that the other requirements preliminary to registration have been complied with,

he or she must enter in the register the details prescribed in Schedule 3.

(2) On registering a ship, the Registrar must issue and send to the charterer a certificate of bareboat charter registry containing the particulars set out in Schedule 4.

(3) On registering a ship, the Registrar must retain a copy of the charter, a copy of any certificate of survey and all declarations of eligibility, and if applicable, any declarations required by regulation 22.

(4) The Registrar may refuse to register a ship if the Governor so directs in accordance with section 14(4) and (5) of the Ordinance.

80. Period of registration

(1) The registration of a bareboat charter ship expires —

- (a) on the expiry of the charter period; or
- (b) on the date specified in the certificate of bareboat charter registry which must not exceed five years;

whichever is the earlier.

(2) Where the registration is for more than six months, the Registrar must, not less than three months before the expiry of the registration period, issue to the charterer of the ship a renewal notice.

(3) An application for renewal of registration may be made during the last three calendar months before the expiry of the registration period.

(4) An application for renewal must be in a form approved by the Registrar and accompanied by a declaration of eligibility and by the certificate of bareboat charter.

81. Notification of changes

(1) If at any time there occurs in relation to a bareboat charter ship a change affecting the eligibility of the ship to be registered, the charterer of the ship must, as soon as practicable after the change occurs, notify the Registrar.

(2) Notification made under sub-regulation (1) must be made in writing, signed by the charterer and specify the nature of the change, and the name and the identifying number of the ship.

(3) A person who contravenes sub-regulation (1) commits an offence and is liable on conviction to a fine not exceeding level 2 on the scale in Schedule 7 to the Ordinance.

82. Application of other regulations to this Part

Regulations 48, 49 and 50 apply to this Part as if any reference in them to the owner was a reference to the charterer.

83. Notification to foreign registries by the Registrar

The Registrar must notify the responsible authority for registration of ships in the country of the ship's primary register when —

(a) a ship has been registered as a bareboat charter ship on the register;

(b) the ship's registration has closed by reason of the expiry of the certificate of registry under regulation 80(1); or

(c) the ship's registration has been closed by the Registrar by reason of regulation 84.

84. Closure of bareboat charter ship's registration by the Registrar

(1) The Registrar may, subject to regulation 99, close the registration of a bareboat charter ship—

(a) on being directed to do so by the Governor under regulation 85;

(b) on application by the charterer;

(c) on the ship no longer being eligible to be registered;

(d) on the destruction of the ship (which includes, but is not limited to, shipwreck, demolition, fire and sinking);

(e) if the bareboat charter vessel is a fishing vessel which requires a licence to fish but did not have such a licence at the time of registration and has not acquired a licence within six months of the issue of the certificate of bareboat charter registry;

(f) where the charterer of a fishing vessel fails to respond to the Registrar within 15 days of a request to supply information concerning details on the register of a fishing vessel;

(g) where the charterer of a fishing vessel supplies information requested by the Registrar but that information is either false or incorrect, or is reasonably considered by the Registrar to be insufficient;

(h) where under regulation 81 a person is required to notify the Registrar, or make an application but has not done so;

(i) where under regulation 48 as applied by regulation 82, a person is required to make an application but has not done so; or

(j) where a fishing vessel certificate has expired.

(2) On closure of a ship's registration under sub-regulation (1), the charterer must immediately surrender the certificate of bareboat charter to the Registrar for cancellation.

85. Direction by Governor to close registration of vessel

(1) Subject to sections 14(4) and (5) of the Ordinance, the Governor may direct the Registrar to close the registration of a bareboat charter ship if the Governor is satisfied, taking into account any relevant requirement, that it would be inappropriate for the ship to remain registered.

(2) The Governor must not give a direction under sub-regulation (1) before —

(a) giving at least 21 days' notice to the owner of the vessel of his or her intention to give the direction; and

(b) taking into account any representations made in writing by the owner of the vessel.

PART 10 - REGISTRATION OF SMALL SHIPS

86. Qualification and entitlement to be registered as a small ship on Part III of the register

For a ship to be registered on Part III of the register, it must be a small ship which is not —

(a) a fishing vessel; or

(b) a submersible vessel.

87. Persons qualified to be the owners of a small ship to be registered on Part III of the register

The following persons are entitled as owners of a small ship to be registered on Part III of the register —

(a) British citizens;

- (b) British Overseas Territories citizens;
- (c) British Overseas citizens;
- (d) persons who are British subjects under the British Nationality Act 1981;
- (e) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas); and
- (f) Commonwealth citizens not falling within those paragraphs.

88. Falkland Islands connection

Subject to regulation 91(2), a small ship is entitled to be registered if it is beneficially owned —

- (a) by one or more persons who are ordinarily resident in the Falkland Islands and who are qualified to be the owners of a small ship by virtue of regulation 87; or
- (b) by one or more persons who (or if more than one, each of whom) —
 - (i) has Falkland Islands status; and
 - (ii) is qualified to be the owner of a small ship by virtue of regulation 87.

89. Disapplication of Schedule 1 to the Ordinance in respect of small ships

Schedule 1 to the Ordinance relating to the private law provisions (transfers by bill of sale and the registration of mortgages) does not apply to small ships.

90. Applications

Applications must be in a form approved by the Registrar and must include —

- (a) a description of the ship;
- (b) the overall length of the ship;
- (c) the name of the ship;
- (d) the name and address of every owner of the ship; and
- (e) a declaration by every owner —
 - (i) that he or she is eligible to be the owner of a small ship under regulation 87; and
 - (ii) that the ship is entitled to be registered on Part III of the register in accordance with regulation 88.

91. Details to be registered and refusal

(1) On receiving an application for registration and being satisfied that the ship may properly be registered and that the name of the ship does not appear to be undesirable, the Registrar must, subject to a direction by the Governor under section 14(4) of the Ordinance, register the ship and record in the register the following details —

- (a) the registration number of the ship;
- (b) the date of registration;
- (c) the date of expiry of registration in accordance with regulation 94; and
- (d) the details specified in regulation 90 (a) to (d).

(2) Where the Registrar is not satisfied that the ship is eligible to be registered on this Part of the register, he or she may, subject to regulation 104, refuse to register the ship.

92. Certificate of registry

On registration, the Registrar must issue a certificate which contains the details recorded in the register under regulation 91 except for the address of any owner.

93. Marking

The person registered as owner of the ship must ensure that —

- (a) within one month of the date on which the registration of the ship takes effect, there is clearly painted on, or affixed to, a visible external surface of the ship the number of its registration preceded by the letters “FSS”; and
- (b) such marking is effectively maintained and renewed when necessary during the period of the registration of the ship.

94. Period of registration

The registration of a ship under this Part, unless terminated in terms of these regulations, is valid for a period of five years beginning with the date of registration specified in the certificate of registry, and expires at the end of that period unless it is renewed under regulation 95.

95. Renewal

(1) An application for renewal of registration may be made during the last three calendar months before the expiry of the registration period.

(2) An application for renewal must be made in writing and be accompanied by a declaration as required by regulation 90(e).

96. Notifications of changes of ownership

(1) If at any time there occurs in relation to a ship registered under this Part a change —

- (a) affecting the eligibility of the ship to be registered as a Falkland Islands ship;
- (b) in relation to the address of the registered owner of the ship; or
- (c) in the details relating to the ship,

the registered owner of the ship must, as soon as practicable after the change occurs, notify the Registrar.

(2) A notification made under sub-regulation (1) must be in writing, signed by the registered owner and specify the nature of the change and the name and the number of the ship.

97. Supplementary information and production of ship

(1) Where there is any doubt as to the right of the ship to be registered on Part III of the register, the Registrar may require evidence to be produced by the person registered as the owner that the ship is entitled to be registered.

(2) The evidence may include the production of the ship for inspection at a place and under such conditions as the Registrar requires; and, if the necessary evidence is not provided within one month of being so required, the Registrar may terminate the registration of the ship.

98. Termination of registration

(1) The registration of a ship is terminated by —

- (a) the ship ceasing to be a ship to which this Part applies; or
- (b) a change in the details recorded on the certificate of registry.

(2) Where the registration of a ship is terminated, the certificate of registry ceases to have effect and within one month, must be surrendered to the Registrar —

- (a) by the person registered prior to the termination as the owner of the ship; or
- (b) if the person mentioned in paragraph (a) has died, by the person's legal personal representative.

PART 11 – MISCELLANEOUS

99. Service of notices

(1) Where it appears to the Registrar that regulations 52(1) (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) or (n) or 84(1)(c), (d) (e), (f), (g), (h), (i) or (j) apply, he or she may serve notice on the owner or managing owner, or on any charterer, manager or operator, of the ship requiring him or her to produce, within 30 days, evidence (which may include a declaration of a Falkland Islands connection), sufficient to satisfy the Registrar that the ship is eligible to remain on the register, and must not remove the ship from the register unless such notice has been served and the period of 30 days has expired.

(2) If at the expiry of the 30 days period, the Registrar is not so satisfied, he or she may —

(a) extend the notice and ask for further information or evidence; or

(b) serve a final notice which closes the ship's registration, and the closure takes effect seven days after the service of the notice.

(3) Where a ship's registration is terminated under sub-regulation (2), the Registrar must issue a closure transcript and the owner of the ship must surrender its certificate of registry immediately.

100. Copy of notice to be sent to mortgagee

Where the Registrar serves a notice under regulation 99 on the owner, managing owner or any charterer, manager or operator of a vessel in respect of which a mortgage is registered, the Registrar must send a copy of that notice to the mortgagee at the address recorded in the register.

101. Documents not in the English language to be accompanied by a translation

A document produced in support of an application which is not in the English language must be accompanied by a notarised translation in the English language.

102. Witnessing of documents

Where the signature on a document made under these regulations has to be witnessed, the witness must have reached the age of 18 years and not be the spouse or partner of the signatory.

103. Dispensing with declarations

When under these regulations —

(a) a person must make a declaration either as an individual or on behalf of a body corporate, but is unable to do so and can satisfy the Registrar that it is due to reasonable cause, the Registrar may, on such terms as he or she thinks fit, dispense with the declaration; or

(b) evidence must be produced to the Registrar, but the evidence is unable to be produced and the Registrar is satisfied that it is due to reasonable cause, the Registrar may, on production of such other evidence as he or she considers appropriate, dispense with the need for such evidence.

104. Requirement for supplementary information and copies of documents

(1) Where the Registrar is not satisfied by the information provided on an application for registration that the ship is eligible for registration or that any of the particulars or other information supplied is sufficient, the Registrar may require such supplementary information or evidence as he or she considers appropriate.

(2) Where any document listed in sub-regulation (3) is to be provided by or to the Registrar, the Registrar may provide or receive a copy of that document, including a copy provided or received by means of an electronic communication.

(3) The documents referred to in paragraph (2) are —

- (a) a transcript of the entries in the register referred to in regulation 3(3);
- (b) an appointment of a managing owner pursuant to regulation 20;
- (c) a certified extract in respect of the ship referred to in regulation 19(2);
- (d) proof of incorporation in accordance with the laws of the respective part of the United Kingdom or a British possession as referred to in regulation 21;
- (e) a certificate from the Registrar General referred to in regulation 21(d);
- (f) a builder's certificate referred to in regulation 25(1)(a) or 56(4)(e);
- (g) a bill of sale referred to in regulation 25(1)(b)(iii) or 40(1);
- (h) a certificate of survey or measurement specifying a ship's tonnage and build referred to in regulation 26(3), 48(3)(c), 79(1)(b) or 110(2);
- (i) a carving and marking note referred to in regulation 28(1), 29, 32 or 77;
- (j) a certificate of permanent defacement referred to in regulation 28(3);
- (k) a renewal notice referred to in regulation 39 or 95(2);
- (l) a grant of representation or an extract from that grant referred to in regulation 43(2)(a) or 57(b);
- (m) evidence of proof of title referred to in regulation 43(2)(b);
- (n) a signed notification referred to in regulation 46, 81 or 96;
- (o) a marking note referred to in regulation 49(2), 50 or 68;
- (p) a copy of certificate of registry, and any other document evidencing registration, referred to in regulation 56(4)(d) or 74(3)(c);
- (q) an instrument of transmission of a registered mortgage referred to in regulation 57;
- (r) a mortgage deed referred to in regulation 59(1);
- (s) an order or judgement of the court referred to in regulation 43(2)(c) or 57(d); and
- (t) a notarised translation in the English language of any other document, as referred to in regulation 101.

(4) For the purposes of sub-regulation (2) —

“**electronic communication**” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) —

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form; and

“**electronic communications network**” has the meaning set out in section 2 of the Communications Ordinance 2017.

105. Fees

Where a fee is prescribed in respect of a service or other transaction to be carried out under these regulations, the Registrar must not carry out the service or other transaction unless the appropriate fee has been paid.

106. Duplicate certificates

(1) If it is shown to the satisfaction of the Registrar that the certificate of registry has been lost, stolen or destroyed or has become defaced or illegible, the Registrar may issue to the owner a duplicate certificate, which must be marked as such, and it has the same effect as the original.

(2) Where a duplicate certificate of registry is issued and the original is then available or is subsequently found or recovered, the duplicate certificate must be surrendered immediately to the Registrar.

(3) Where a ship in respect of which a duplicate certificate is to be issued, is away from the Falkland Islands and the Registrar is satisfied that the ship is entitled to be issued with a duplicate certificate, the Registrar may send a copy of the duplicate to the ship by electronic communication and “**electronic communication**” has the same meaning as in regulation 104(4).

(4) A person who fails without reasonable cause to surrender a certificate of registry under this regulation commits an offence and is liable on conviction to a fine not exceeding level 1 on the scale in Schedule 7 to the Ordinance.

107. Custody of certificate

(1) A certificate of registry must be used only for the purposes of allowing the lawful navigation of the ship, and is not to be subject to detention by reason of any title, lien, charge or interest whatever had or claimed by any owner, mortgagee or other person to, on, or in the ship.

(2) A person who refuses to surrender the certificate of registry (when it is in his or her possession or under the person’s control) to the person entitled to its custody for the purpose of allowing the lawful navigation of the ship, or to the Registrar, or a customs officer or any other person entitled by law to demand such delivery, commits an offence and is liable on conviction to a fine not exceeding level 1 on the scale in Schedule 7 to the Ordinance.

108. Surrender of certificate on termination or expiry of registration

(1) On the termination (whether by expiration of the registration period or otherwise) of a ship's registration, the certificate of registry must be returned by the owner or charterer to the Registrar for cancellation.

(2) The owner or charterer referred to in sub-regulation (1) who fails without reasonable cause to surrender the certificate of registry when required to do so commits an offence and is liable on conviction to a fine not exceeding level 1 on the scale in Schedule 7 to the Ordinance.

109. Dispensing with production of certificate

Where it is required that a certificate of registry accompanies an application and it is shown to the satisfaction of the Registrar that, for any reasonable cause (which includes, but is not limited to, the ship being in a port outside the Falkland Islands, or the certificate being needed for an imminent voyage, at the time the application was made) the certificate cannot be produced, the Registrar may, subject to such conditions as he or she thinks fit, dispense with its production.

110. Removal of marks on cessation of registration

(1) If a ship's registration is terminated (whether by expiration of the registration period or otherwise), the marking prescribed under these regulations must be removed from the ship and written confirmation of that removal must be sent to the Registrar.

(2) Subject to sub-regulation (3), no transfer of ownership of a ship or shares in a ship, renewal of registration, or change of details of the ship or its owners must be registered in respect of any ship —

(a) which must have its tonnage measured in accordance with the International Convention on Tonnage Measurement of Ships 1969, but

(b) for which no such measurement has been undertaken and registered,

until such re-measurement takes place and, where necessary, the certificate of survey has been lodged with the Registrar for amendment of the register.

(3) Sub-regulation (2) does not apply where the transfer, or change of details, arises by reason of the death of an owner of a ship or of a share in a ship.

111. Agreements with survey and certification organisations

(1) The Governor may —

(a) only appoint a person to act as a certifying authority on behalf of the Governor in respect of small ships which are not to be registered on Part III of the register; or

(b) enter into an agreement with any person or any organisation (or the specified employees, agents or authorised contractors of such person or organisation), pursuant to common rules and standards for ship inspection and survey organisations, to act as a certifying authority on behalf of the Governor.

(2) Subject to sub-regulation (1)(a), a certifying authority may issue and endorse relevant documents under these regulations as appropriate where satisfied that the requirements of the Ordinance and these regulations have been met.

(3) Until such time as regulations are made enabling the Governor to recognise organisations in accordance with the RO Code, the Governor must not enter into an agreement with any person or organisation (or the specified employees, agents or authorised contractors of such person or organisation) under sub-regulation (1)(b) unless that person or organisation (or its employee, agent or authorised contractor) is —

(a) the MCA or an employee of the MCA; or

(b) an organisation recognised for the purposes of the RO Code by the MCA.

(4) A person or organisation (or its employee, agent or authorised contractor) with whom the Governor enters an agreement under sub-regulation (1)(b), must be authorised in accordance, and agree to comply, with the requirements of the RO Code, the Ordinance and these regulations.

PART 12 – OFFENCES

112. Offences

(1) A person who, with intent to deceive, uses or lends to, or allows to be used by, another, a certificate of registry (whether in force or not), commits an offence and is liable on conviction to a fine not exceeding level 2 on the scale in Schedule 7 to the Ordinance.

(2) The owner or master of a registered ship commits an offence if any of the marks required to be marked on a ship is effaced, altered, allowed to become illegible, covered or concealed and is liable on conviction to a fine not exceeding level 5 on the scale in Schedule 7 to the Ordinance.

(3) It is a defence for a person charged with an offence under sub-regulation (2) to prove —

(a) that the person took all reasonable precautions and exercised due diligence to avoid the commission of the offence; or

(b) that the effacing, alteration, covering or concealing of the marking was for the purpose of escaping capture by an enemy.

(4) A person who knowingly or recklessly furnishes information which is false in a material particular in connection with the registration of a ship, commits an offence and is liable on conviction to a fine not exceeding level 2 on the scale in Schedule 7 to the Ordinance.

(5) A person who intentionally alters, suppresses, conceals or destroys a document which the person is required to produce to the Registrar, commits an offence and is liable on conviction to a fine not exceeding level 2 on the scale in Schedule 7 to the Ordinance.

PART 13 - REVOCATION AND TRANSITIONAL

113. Definitions for this Part

For the purposes of this Part —

“**new certificate**” means a certificate of registry issued under these regulations;

“**old certificate**” means any certificate of registry issued under the revoked regulations; and

“**revoked regulations**” means the regulations revoked under regulation 114(1).

114. Revocation and continued validity of old certificates

(1) Subject to this Part, the Merchant Shipping (Registration of Ships) Regulations 2001 are revoked.

(2) An old certificate remains in force until —

(a) a new certificate is issued; or

(b) the old certificate expires.

115. Issue of new certificate of registry

(1) Where a valid old certificate is lost, stolen or destroyed or has become defaced or illegible and a duplicate certificate is issued to a ship (including a small ship) under the revoked regulations, the duplicate certificate continues to be valid until the expiry date of the old certificate or until a new certificate is issued.

(2) The Registrar may, at his or her discretion, replace a ship’s old certificate with a new certificate of registry.

116. Applications for registration made before commencement of these regulations

Any application for registration for a ship or small ship in respect of which registration was not effected before the commencement of these regulations must be completed under these regulations.

SCHEDULE 1

APPROVAL OF NAMES

regulations 27, 49, 69 and 75

1. An application to the Registrar to approve a name must specify a name which is in Roman letters; any numerals must be in Roman or Arabic numerals.

2. In respect of an application to register a ship (other than a fishing vessel) in Parts I or IV of the register, the Registrar must not approve the proposed name if it is —

(a) already the name of a vessel registered on the register;

(b) a name so similar to that of a ship registered in the United Kingdom or a relevant British possession that in any special circumstances related to that ship, it is, in the opinion of the Registrar, likely to be confused with that of the other ship;

(c) a name which may be confused with a distress signal; or

(d) a name which is pre-fixed by any letters or name which could be taken to indicate a type of ship or any other word, pre-fix or suffix which might cause confusion as to the name of the ship.

3. In respect of an application to register a fishing vessel in Parts II or IV of the register, the Registrar must not approve the proposed name if it is —

(a) already the name of a vessel registered on the register;

(b) a name so similar to that of a fishing vessel registered on the register as to be calculated to deceive or likely to confuse;

(c) a name which may be confused with a distress signal; or

(d) a name which is pre-fixed by any letters or name which could be taken to indicate a type of ship or any other word, pre-fix or suffix which might cause confusion as to the name of the ship.

4. Subject to paragraph 5, if the Registrar is satisfied that a name does not fall within any subparagraph of paragraph 2 or paragraph 3, he or she must notify the applicant in writing that the name is approved and that the ship may be registered with that name.

5. If the Registrar is satisfied as to paragraphs 2 and 3, he or she may refuse to approve a name—

(a) which might cause offence or embarrassment; or

(b) which has a clear and direct connection with the Royal Family.

6. Subject to paragraph 8, approval given under paragraphs 2 or 3 is valid for a period of three months from the date it is notified to the applicant.

7. If the Registrar is not so satisfied, he or she must notify the applicant accordingly.

8. The Registrar may allow the reservation of a ship's name or designation for a period of 10 years if he or she is satisfied that —

(a) the ship is intended to replace another of the same name which is to be registered within 10 years of the date of the application; and

(b) the applicant is the owner of the registered ship of the same name as that which is to be reserved and its registration on the register will be closed before the registration of the new vessel; or

(c) the applicant is the owner of a registered ship with the same name as that which is to be reserved and it will be sold before the registration of the new vessel on condition that it changes its name and that the name is so changed.

9. Applications for a reservation under paragraph 8 must be accompanied by a full statement of the circumstances of the case.

10. Where a ship having once been registered has ceased to be registered, no person (unless ignorant of the previous registration, proof of which will lie on them), may apply for registration of a ship other than by the name by which it was previously registered except with the written permission of the Registrar.

SCHEDULE 2
CARVING AND MARKING
regulations 29, 30, 31 and 77

1. Before it is registered, a ship must be marked permanently and conspicuously to the satisfaction of the Registrar in terms of this Schedule.

2. The Governor may exempt any class of ship from all or any of the requirements of this Schedule, subject to such conditions, if any, as he or she thinks fit.

3. Subject to any exemption in respect of that class of ship, a ship other than —

(a) a fishing vessel; or

(b) a pleasure vessel which is under 24 metres in length,

is to be marked as follows —

(i) its name must be marked on each of its bows, and its name and “Stanley” must be marked on its stern;

(ii) the marking is to be on a dark background in white or yellow letters, or on a light background in black letters, the letters not being less than 10 centimetres high and of proportional breadth; and

(iii) its official number and the number denoting its registration tonnage must be cut on its main beam or if that is not possible, marked or fixed on its main beam in the manner prescribed in paragraph 4(a).

4. A pleasure vessel which is under 24 metres in length must be marked as follows —

(a) the official number and registered tonnage are —

(i) to be marked on the main beam (or, if there is no main beam, on a readily accessible visible permanent part of the structure of the pleasure vessel) either by cutting in, centre punching or raised lettering; or

(ii) to be engraved on plates of metal, wood or plastic, secured to the main beam (or, if there is no main beam, to a readily accessible visible permanent part of the structure) with rivets, through bolts with the ends clenched or screws with the slots removed;

(b) the name and “Stanley” (unless an exempted ship under paragraph 2), are to be marked on a conspicuous and permanent part of the stern on a dark background in white or yellow letters or on a light background in black letters, the letters being not less than 5 centimetres high and of proportionate breadth, or, where this is not possible, by one of the following methods —

(i) by engraving on plates of metal or of plastic or by cutting in on a shaped wooden chock, and where a shaped wooden chock is used, it should be secured to the hull through bolts, the end being clenched;

(ii) by individual glass reinforced plastic letters and numbers (approximately 2mm in thickness) which are to be fixed to the hull with epoxy adhesive, painted with suitable paint and coated with translucent epoxy resin; or

(iii) where metal or plastic plates have been used, these must be affixed by the use of epoxy adhesives. Metal or plastic plates secured by adhesives must be coated with translucent epoxy resin after they have been fixed in position.

5. A fishing vessel must be marked as follows —

(a) the name of the vessel and “Stanley” must be painted in a permanent colour (contrasting with the colour of the background on which they are painted) outside the stern of the boat in letters which are not less than 10 centimetres in height and 2 centimetres in breadth;

(b) the designating letters and number of the vessel must, if the vessel is less than 24 metres in length, be painted or displayed on both sides of the vessel as high above the water as possible so as to be clearly visible from the sea and the air, in a permanent colour contrasting with the colour of the background on which they are painted; and, if the vessel is more than 24 metres in length, the same must also be painted in a prominent position on each side of the bows of the vessel;

(c) for vessels not over 17 metres in length, the height of the letters and number mentioned in sub-paragraph (b) must be at least 25 centimetres with a line thickness of at least 4 centimetres;

(d) for vessels over 17 metres in length, the height of the letters and numbers referred to in sub-paragraph (b) must be at least 45 centimetres with a line thickness of at least 6 centimetres;

(e) the vessel's official number must be carved into the main beam of the vessel or, if that is not possible, marked or fixed on the main beam in the manner prescribed in paragraph 4(a); and

(f) a fishing vessel over 24 metres in length is to display its international radio call sign at all times in letters and numbers at least one metre in height and 25 centimetres breadth, painted in white on a black background or in black on a white background in prominent positions, so as to be clearly visible and free of obstruction from view on each side of the vessel's superstructure.

6. A scale of decimetres, or metres and decimetres, denoting a draft of water must be marked on a ship (other than an exempted ship under paragraph 2) on each side of its stem and its stern post, as follows —

(a) in figures in 2 decimetre intervals, if the scale is in decimetres; and

(b) in figures at each metre interval and at intervening 2 decimetre intervals, if the scale is in metres and decimetres;

the capital letter "M" being placed after each metre figure; the top figure of the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure; the lower line of the figures, or figures and letters (as the case may be), coinciding with the draft line denoted thereby; the figures and letters being not less than one decimetre in length and being marked by being cut in and painted white or yellow on a dark background, or in such other way as the Registrar approves.

7. The name of a ship must be marked in Roman letters and any numerals in Roman or Arabic numerals.

SCHEDULE 3
DETAILS TO GO ON REGISTER
regulations 33 and 79

1. The following information is to be registered about each owner who is an individual —

(a) surname, forename and title;

(b) address;

(c) nationality;

- (d) number of shares owned by them, and if held jointly, with whom the shares are held; and
 - (e) the name of the managing owner.
2. The following information is to be registered about each owner which is a body corporate —
- (a) name of owner;
 - (b) the address of its registered office;
 - (c) country of incorporation;
 - (d) where it is a body corporate incorporated in the Falkland Islands, any part of the United Kingdom or in a relevant British possession, its principal place of business; and
 - (e) number of shares owned by the company, and if held jointly, with whom the shares are held.
3. In respect of any charterer of a fishing vessel, there is to be registered —
- (a) the full name of the individual or body corporate;
 - (b) the address of the individual; and
 - (c) where the charterer is a body corporate, the address of its registered office.
4. The following information is to be registered about ships registered or to be registered on Part I of the register —
- (a) name;
 - (b) either the IMO number or the International Standards Organisation Hull Identification Number, as appropriate;
 - (c) radio call sign;
 - (d) official number;
 - (e) year of build;
 - (f) method of propulsion (for example, whether sail, steam, motor or dumb);
 - (g) where built;
 - (h) name and address of builders;

- (i) date keel laid/when built;
- (j) length in metric units;
- (k) breadth in metric units;
- (l) depth in metric units;
- (m) type of ship (for example, whether dry cargo, oil tanker, passenger or bulk carrier);
- (n) material used to construct hull;
- (o) such of the gross, net or registered tonnages as are specified in the certificate of survey;
- (p) make and model of engine(s); and
- (q) total power of engines in kilowatts.

5. The following is to be registered about fishing vessels registered or to be registered on Part II of the register —

- (a) official number;
- (b) either the IMO number or the International Standards Organisation Hull Identification Number, as appropriate;
- (c) fishing vessel number;
- (d) name;
- (e) radio call sign;
- (f) whether full or simple registration;
- (g) material used to construct hull;
- (h) name of builder;
- (i) year of build;
- (j) place and country of build;
- (k) date of entry into service;
- (l) overall length in metric units;

- (m) registered length in metric units;
- (n) breadth in metric units;
- (o) depth in metric units;
- (p) gross tonnage;
- (q) net tonnage;
- (r) maximum continuous engine power in kilowatts; and
- (s) make and model/s of engine/s.

SCHEDULE 4
CERTIFICATE OF REGISTRY
regulations 34 and 79

1. A certificate of registry for a ship registered or to be registered on Part I of the register must contain —

- (a) the full name and address of the owner(s);
- (b) the number of shares owned by each owner and if any are jointly owned, with whom they are owned;
- (c) the following information about the ship —
 - (i) name;
 - (ii) either the IMO number or the International Standards Organisation Hull Identification Number, as appropriate;
 - (iii) radio call sign;
 - (iv) official number;
 - (v) year of build;
 - (vi) method of propulsion (for example, whether sail, steam, motor or dumb);
 - (vii) length in metric units;
 - (viii) breadth in metric units;

- (ix) depth in metric units;
- (x) type of ship (for example, whether dry cargo, oil tanker, passenger or bulk carrier);
- (xi) such of the gross, net or registered tonnages as are specified in the certificate of survey;
- (xii) engine makes and models; and
- (xiii) maximum continuous engine power in kilowatts;

(d) the date of issue of the certificate; and

(e) the date the certificate expires.

2. A certificate of registry for a fishing vessel registered or to be registered on Part II of the register must contain —

- (a) the name and address of each owner;
- (b) the name and address of any charterer;
- (c) the number of shares and, if any are jointly owned, with whom they are owned;
- (d) the following details about the vessel —
 - (i) name;
 - (ii) fishing vessel number;
 - (iii) official number;
 - (iv) IMO number;
 - (v) radio call sign;
 - (vi) registered length;
 - (vii) overall length in metric units;
 - (viii) breadth in metric units;
 - (ix) depth in metric units;
 - (x) such of the gross or net tonnages as are specified in the certificate of survey;

- (xi) engine make/s and model/s;
- (xii) year of build; and
- (xiii) date of entry into service;
- (e) the date and time of the issue of the certificate;
- (f) the date of the expiry of the certificate, and
- (g) the kind of registration (whether it is full or simple registration).

3. Bareboat charter ships: a certificate of bareboat charter registry for ships registered or to be registered on Part IV of the register must contain the details prescribed by either paragraph 1(a), (c), (d) and (e) (for ships other than fishing vessels) or paragraph 2(a), (b), (d), (e) and (f) (for fishing vessels) and the following —

- (a) the name and address of the charterer;
- (b) the unique number allocated to the ship for identification purposes by its primary register;
- (c) country of primary registration; and
- (d) original name (or a translation thereof) if different from its registered name.

Made 18 September 2019

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

EXPLANATORY NOTE
(not forming part of these regulations)

The regulations set out in detail the registration processes and procedures for ships. The Maritime Ordinance was passed in 2017 (the Ordinance) and this necessitated a review of the then Merchant Shipping (Registration of Ships) Regulations 2001. These regulations replace the 2001 regulations, bringing them up-to-date and aligning them with the Ordinance.

Part 1 provides for general matters and regulation 1 provides for commencement on a date to be fixed by the Governor by notice in the Gazette. Various terms used in the regulations are defined in regulation 2.

Part 2 provides for the register of British Ships in the Falkland Islands. Section 13 of the Ordinance requires the Registrar to maintain a register of ships. *Regulation 3* provides that the register be divided into 4 parts:-

- Part I for ships, other than fishing vessels or small ships, which are owned by qualified persons as listed in regulation 8;
- Part II for fishing vessels;
- Part III for small ships; and
- Part IV for bareboat charter ships.

Under *regulation 3* the register is open for inspection by any person at the Registrar's office during its hours of business. The Registrar is given power to amend the register in specific circumstances. Registration of fishing vessels is of two kinds, simple or full registration (*regulation 4*). No ship may be registered on more than one part of the register (*regulation 6*). Trusts may not be registered, (*regulation 7*).

Part 3 sets out the qualifications and entitlements for registration on Part I of the register. Those persons eligible to be owners of ships which may be registered under Part I of the register are listed in *regulation 8*. *Regulation 9* stipulates a Falkland Islands connection and majority interests beneficially owned by one or more qualified persons as pre-requisites for registration. The Governor may direct the Registrar in terms of section 14(4) of the Ordinance to the effect that a ship may not be registered. This part does not apply to fishing vessels or to ships which are Government ships for the purposes of section 304 of the Ordinance (*regulations 11 and 12*).

Part 4 sets out the qualifications and entitlements for Falkland Islands fishing vessels to satisfy in order to be registered on Part II of the register. A fishing vessel must be wholly owned by a company incorporated in the Falkland Islands whose shares should in turn be owned in specified proportions by eligible members (*regulation 13(3)*). The Governor may also direct the Registrar under section 14(4) of the Ordinance not to register a fishing vessel. The Governor may appoint inspectors who may investigate the eligibility of a vessel to be registered (*regulation 16*).

Part 5 provides the registration process, covering the submission of an application, who may submit an application, the appointment of a managing owner, applications by bodies corporate, and declarations of intent and eligibility. An applicant must submit evidence of title (*regulation 25*) and the ship must be surveyed and measured by a surveyor or measurer (*regulation 26*). The applicant must propose a name for the ship. The Registrar allocates a number to the ship if satisfied that the ship is eligible for registration. The Registrar may require the verification of the measurement, carving and marking of a ship (*regulation 31*). A number of technical requirements have to be met to the satisfaction of the Registrar before he or she registers the ship in terms of *regulation 33*. Registration is for 5 years although the Registrar may terminate registration in the circumstances set out in *regulation 52*.

Part 6 provides for mortgages. *Regulation 55* provides for the registration of mortgages executed under *regulation 54*. The discharge of mortgages is dealt with in *regulation 59*, and *regulation 60* provides for the effect of termination of registration on a registered mortgage.

Part 7 provides for provisional registration of a ship that is to be registered in, but is outside, the Falkland Islands (*regulation 61*). Provisional registration is valid for three months or until the ship arrives in the Falkland Islands (*regulation 65*). This registration is not renewable (*regulation 66*). A fishing vessel which is provisionally registered may not fish for profit (*regulation 67*).

Part 8 provides for the transfer of registration. Registration of a ship may be transferred to the register of a port in the United Kingdom or in a relevant British possession. The Registrar has to be satisfied that registration at the intended port is not precluded by law in the United Kingdom or in the British possession (*regulation 68*). The Registrar may transfer registration from one part of the register to another subject to the requirements of *regulation 70*.

Part 9 provides for the registration of bareboat charter ships. Different requirements apply to the registration of a fishing vessel on bareboat charter terms (*regulation 72*). Applications for registration of a bareboat charter ship are provided for in *regulation 74*, as are the requirements for naming, allocation of identifying numbers, marking and inspection. The period of registration is the charter period or a period not exceeding five years or, in the case of fishing vessels, the period of the charter agreement (*regulation 80*). The Registrar may close a bareboat charter ship's registration under *regulation 84*, subject to giving notice.

Part 10 provides for the registration of small ships (other than fishing vessels or submersible vessels) on Part III of the register. Persons who qualify to register small ships are listed in *regulation 87*. A Falkland Islands connection is a requirement for registration under *regulation 88*. Registration is valid for a period of five years although registration may be terminated under *regulation 98*.

Part 11 provides for miscellaneous matters, including service of documents, witnessing of documents, fees, duplicate certificates and removal of marks on cessation of registration (*regulations 99 - 110*). *Regulation 111* provides that the Governor may appoint persons to act as a certifying authority on the Governor's behalf only in respect of small ships not registered on Part III of the register.

Part 12 provides for offences which include deception in the use of a certificate of registration and the effacing and concealing of marks. Conviction for an offence under this Part is punishable by a fine not exceeding level 5 on the scale set out in Schedule 7 to the Ordinance.

Part 13 provides for transitional provisions. *Regulation 114* provides for the revocation of the 2001 registration regulations. However, a certificate of registration issued under the 2001 regulations will continue to apply until a new certificate is issued or until it expires.

Schedule 1 deals with the approval of ships' names.

Schedule 2 deals with carving and marking.

Schedule 3 sets out the details to go on the register.

Schedule 4 specifies the content of a certificate of registry.

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FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. 128

30 September 2019

No. 13

Appointment

Sarah Klein, Learning Support Assistant, Infant and Junior School and Camp Education, Education Department, 30.08.19.

Leah Joanne Lewis, Teacher, Falkland Islands Community School, Education Department, 30.08.19.

Kirsty Johnson, Teacher, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Vanessa Lisseth Valler-Nannig, Learning Support Assistant, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Sabrina Alejandra Cambor-Rodriguez, Learning Support Assistant, Infant and Junior School and Camp Education, Education Department, 02.09.19.

Chester Robert Crowie, Biomedical Technician, Health and Social Services Department, 02.09.19.

Sherrilee Louise Phillips, Overseas Medical Administrator and Medical Immigration Co-ordinator, Health and Social Services Department, 02.09.19.

Kayleigh Scott-Pillow, Dental Nurse, Health and Social Services Department, 02.09.19.

Graham Taylor, Clerk, Customs and Immigration, Emergency Services Department, 02.09.19.

Robyn Chanelle Berntsen, SHIELD Support Worker, Training Centre, Education Department, 03.09.19.

Donna Elizabeth Casey, Learning Support Assistant, Falkland Islands Community School, Education Department, 03.09.19.

Jennifer Marie Cockwell, Primary Health Care Facilitator, Health and Social Services Department, 09.09.19.

Rhys Medforth, Apprentice Joiner/Carpenter, Training Centre, Education Department, 09.09.19.

Roshaan Victoria Stashynsky, Clerk, Training Centre, Education Department, 09.09.19.

Hamunyari Mapepa, General Assistant, Health and Social Services Department, 10.09.19.

Richard James Bullivant, Company Taxation Officer, Taxation, Treasury Department, 13.09.19.

Sophie Elizabeth Hewitt, Primary Teacher, Infant and Junior School and Camp Education, Education Department, 20.09.19.

Zoe Dorothy May James, Community Librarian, Training Centre, Education Department, 23.09.19.

Wendy Jansen Van Rensburg, Part-time Station Enquiry Officer, Royal Falkland Islands Police, Emergency Services Department, 23.09.19.

Completion of contract

Adam Leonard Dawes, Senior Agriculture Adviser, Agriculture, Natural Resources Department, 10.09.19.

Ruth Hannah Ayre, Radiographer/Sonographer, Health and Social Services Department, 14.09.19.

Susannah Ruth Nightingale, Regulator, Law and Regulation Directorate, 18.09.19.

Victoria Elizabeth Aitken, Legislative Drafter, Government Legal Services, Law and Regulation Directorate, 20.09.19.

James William Johnson, Assistant Materials Manager, Materials Section, Public Works Department, 25.09.19.

Renewal of contract

Mallory Deborah Barnes, Primary Settlement Teacher, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Joshua Terence Brown, Science Teacher, Falkland Islands Community School, Education Department, 01.09.19.

Miriam Amanda Evelyn Carter-Fraser, Primary Teacher, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Sarah-Jane Beth Edwards, Primary Settlement Teacher, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Daniel John Harrison, Primary Teacher, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Robert James Howard, Physical Education Teacher, Falkland Islands Community School, Education Department, 01.09.19.

Lawrence Roy Langford, Primary Travelling Teacher, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Alan David Moore, Primary Teacher, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Lynsey Marie Morris, Physical Education Teacher, Falkland Islands Community School, Education Department, 01.09.19.

Charlotte Helen Mountford, Special Educational Needs Teacher, Infant and Junior School and Camp Education, Education Department, 01.09.19.

Ruth Hannah Ayre, Radiographer/Sonographer, Health and Social Services Department, 15.09.19

Susannah Ruth Nightingale, Regulator, Law and Regulation Directorate, 19.09.19.

James William Johnson, Assistant Materials Manager, Materials Section, Public Works Department, 26.09.19.

Transfer

Helen Louise Davies, from Teacher, Infant and Junior School and Camp Education, to SHIELD Job Coach, Training Centre, Education Department, 01.09.19.

Ailyana Salumbides, from Learning Support Assistant, Falkland Islands Community School, Education Department, to Customs and Immigration Officer, Customs and Immigration, Emergency Services Department, 01.09.19.

Katheryn Phoebe D'Avino, from Business Administration Apprentice, Training Centre, Education Department, to Engineering Administration Officer, Health and Social Services Department, 02.09.19.

Sandy Bridget Kelly, from General Assistant to Senior General Assistant, Health and Social Services Department, 02.09.19.

Carlos Aguilera, from Plant Operator to Static Plant Operator, Materials Section, Public Works Department, 27.09.19.

Resignation

Amiee-Jo Kirsty Maché Henry, Business Administration Apprentice, Training Centre, Education Department, 30.08.19.

Marco Andres Leyton Estrada, Sports Attendant, Stanley Leisure Centre, Development and Commercial Services Department, 31.08.19.

Ximena Ida Minto, General Assistant, Health and Social Services Department, 06.09.19.

Joanne Lisa Lane-Sansam, Staff Nurse, Health and Social Services Department, 27.09.19.

Christopher James Ford, Wind Farm Foreman, Power and Electrical Section, Public Works Department, 30.09.19.

Retirement

John Christopher Rowland, Aircraft Re-fueller/Handyperson, Falkland Islands Government Air Service, Development and Commercial Services Department, 30.09.19.

NOTICES

No. 66

6 September 2019

Nautilus Limited Company Number: 14906

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 6 September 2019

E. J. DENT,
Registrar of Companies

No. 67

15 September 2019

Land Ordinance 1949 section 11A

Notice of Application for Vesting Deed

Notice is given that **Ailsa Heathman** of Estancia Farm, East Falkland, Falkland Islands has made application in accordance with section 11A of the Land Ordinance to have executed in favour of Ailsa Heathman, Derek Richard Pettersson and Toni Donna Stevens (referred to as "the Claimants") a Vesting Deed of land in Stanley, Falkland Islands measuring approximately 2.5 acres or thereabouts forming part of Crown Grant 154 bounded on the south and west by undeveloped land in the ownership of the Crown, bound on the north by land in ownership of the Claimants forming part of Lot 19 and bounded by the east by land in the ownership of Colin Owen Summers forming part of Lot 19 and which plot or parcel of land forms part of the larger area known as "Dettleffs Paddock".

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 Ailsa Heathman, Derek Richard Pettersson and Toni Donna Stevens a Vesting Deed of the said land.

Dated 15 September 2019

E. J. DENT,
Registrar General.

No. 68 24 September 2019

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 2020

Total Allowable Effort: 12.2 (Vessel Units)

Dated 24 September 2019

A. J. BARTON,
Director of Natural Resources.

No. 69 24 September 2019

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 2020

Total Allowable Effort: 15.05 (Vessel Units)

Dated 24 September 2019

A. J. BARTON,
Director of Natural Resources.

No. 70 24 September 2019

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 2020

Total Allowable Effort: 23.85 (Vessel Units)

Dated 24 September 2019

A. J. BARTON,
Director of Natural Resources.

No. 71 24 September 2019

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 2020

Total Allowable Effort: 13.46 (Vessel Units)

Dated 24 September 2019

A. J. BARTON,
Director of Natural Resources.

No. 72 24 September 2019

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 2020

Total Allowable Effort: 27.01 (Vessel Units)

Dated 24 September 2019

A. J. BARTON,
Director of Natural Resources.

No. 73 24 September 2019

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 2020

Total Allowable Effort: 27.01 (Vessel Units)

Dated 24 September 2019

A. J. BARTON,
Director of Natural Resources.

No. 74 24 September 2019

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 2020

Total Allowable Catch: 2000 metric tonnes

Dated 24 September 2019

A. J. BARTON,
Director of Natural Resources.

No. 75 24 September 2019

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 2020

Total Allowable Catch: 1040 metric tonnes

Dated 24 September 2019

A. J. BARTON,
Director of Natural Resources.

No. 76 30 September 2019

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:

Patricio Antonio Garces Trivisany;
Daniela Estefania Baigorri Bordon;
Jennifer Mae Reece;
Jessica Briony Jones;
Ross Alun Weir;
Sharon Baldos;

Carlos Gonzalo Fajardo Valdebenito;
Morgen Mapepa; and
Hamunyari Mapepa.

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 2019.

Dated 30 September 2019

J. E. SMITH,
Immigration Officer.

No. 77 30 September 2019

Application for Naturalisation

Notice is hereby given that:

Nelson Ariel Hernandez Casanova

is applying to His Excellency the Governor for naturalisation as 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 22 October 2019.

Dated 30 September 2019

J. E. SMITH,
Immigration Officer.

No. 78 30 September 2019

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, and further to prohibition notice (number 27 dated 24 April 2019) published in the Falkland Islands Gazette Number 5 dated 30 April 2019 I hereby notify that the prohibition notice is extended to have effect until 7 October 2019 (inclusive) on the publicly maintainable highways advised in the prohibition notice.

Dated 30 September 2019

C. O. SUMMERS,
Director of Public Works.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

16 October 2019

No. 16

The following are published in this Supplement —

Currency (Coin) (No 4) Regulations Order 2019 (SR&O No 23 of 2019); and

Communications (Amendment) Bill 2019.

SUBSIDIARY LEGISLATION

Currency (Coin) (No. 4) Regulations Order 2019

S. R. & O. No: 23 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Prescribed denomination, weight, form, design, metal composition of 20p coins
4. Prescribed denomination, weight, form, design, metal composition of 10p coins

Schedule 1 – Design of 20p coin

Schedule 2 – Design of 10p coin

SUBSIDIARY LEGISLATION

Currency (Coin) (No. 4) Regulations Order 2019

S. R. & O. No: 23 of 2019

Made: 3 October 2019

Published: 16 October 2019

Coming into force: on publication

I make these regulations by order under section 22 of the Currency Ordinance 1987 on the advice of Executive Council.

1. Title

This Order is the Currency (Coin) (No. 4) Regulations Order 2019.

2. Commencement

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

3. Prescribed denomination, weight, form, design, metal composition of 20p coins

For the purposes of section 6(5)(a) of the Currency Ordinance 1987, the Commissioners may arrange the minting of a coin that —

- (a) is of the denomination of 20 pence;
- (b) is 5.00 g in weight;
- (c) has the following form —
 - (i) diameter of 21.40 mm;
 - (ii) a plain edge finish;
- (d) has the following design (as set out in Schedule 1) —
 - (i) obverse design is Pobjoy Mint Effigy of H.M. Queen Elizabeth II;
 - (ii) reverse design features an image of a sheep; and
 - (iii) the value “20”, the words “Falkland Islands” and the year of issue is shown on the reverse side; and
- (e) is made of cupro nickel.

4. Prescribed denomination, weight, form, design, metal composition of 10p coins

For the purposes of section 6(5)(a) of the Currency Ordinance 1987, the Commissioners may arrange the minting of a coin that —

- (a) is of the denomination of 10 pence;
- (b) is 6.50 g in weight;
- (c) has the following form —
 - (i) diameter of 24.5 mm;
 - (ii) a milled edge finish;
- (d) has the following design (as set out in Schedule 2) —
 - (i) obverse design is Pobjoy Mint Effigy of H.M. Queen Elizabeth II;
 - (ii) reverse design features an image of two Sea Lions; and
 - (iii) the value “10”, the words “Falkland Islands” and the year of issue is shown on the reverse side; and
- (e) is made of nickel plated steel.

Made 3 October 2019

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

SCHEDULE 1



SCHEDULE 2



EXPLANATORY NOTE

(not forming part of the regulations)

Section 6(1) of the Currency Ordinance 1987 gives the Commissioners of Currency (appointed under section 5(1) of the Ordinance) the sole right to issue currency notes and coins, and section 6(3) of the Ordinance provides that only notes and coins issued by the Commissioners are legal tender. Under section 6(5)(a) of the Ordinance the Commissioners must arrange for the minting of coins in the denominations, weight, form, design and metal composition as are prescribed. Section 9 also specifies requirements relating to amounts of notes and coins having legal tender.

Section 22(a) of the Ordinance gives the Governor in Council the power to make regulations by order to prescribe anything that is required to be prescribed by the Ordinance. Section 6(5)(a) requires the prescription of the denomination, weight, form, design and metal composition of coins that the Commissioners arrange to be minted.

This Order makes regulations prescribing the denomination, weight, form, design and metal composition of a 20 pence coin and a 10 pence coin for the purposes of section 6(5)(a) of the Ordinance.

Communications (Amendment) Bill 2019

(No. OF 2019)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 - INTRODUCTION

1. Title
2. Commencement
3. Amendment of Communications Ordinance 2017

PART 2 - AMENDMENT OF PARTS 1, 3, 4 AND 5 COMMUNICATIONS ORDINANCE

Amendment of Part 1 Communications Ordinance

4. Section 3 amended - Interpretation

Amendment of Part 3 Communications Ordinance

5. Section 13 amended - Enforcement orders, penalties and compensation awards
6. Section 17 amended - Confidentiality and personal data security

Amendment of Part 4 Communications Ordinance

7. Section 25 amended - Private facilities
8. Section 26 amended - Transmission stations
9. Section 27 amended - Foreign transport
10. Section 28 amended - Emergency services
11. Section 29 amended - Radio spectrum use
12. Section 31 amended - Broadcasting licensees
13. New section 44A inserted

Amendment of Part 5 Communications Ordinance

14. Section 45 amended - Requirement for licence
15. Section 46 amended - Grant of licence

PART 3 - AMENDMENT OF PART 6 COMMUNICATIONS ORDINANCE

16. Heading to Part 6 replaced - Radio spectrum management
17. Section 53 repealed - Management of the radio spectrum
18. New sections 53A to 53C inserted
19. Section 54 repealed and replaced - Spectrum Plan
20. New sections 54A and 54B inserted
21. New crossheading inserted before section 55 - Radio spectrum licence
22. Section 55 repealed and replaced - Radio spectrum licence
23. New sections 55A to 55F inserted
24. Section 56 repealed - Licensee's installations
25. Section 57 repealed and replaced - Exemptions
26. New section 57A inserted
27. Section 58 amended - Vacation of radio spectrum,
28. Section 59 amended - Spectrum trading
29. Section 61 repealed and replaced - Penalties for non-compliance with licence

30. New sections 61A to 61C inserted
31. Section 70 amended - Failure to provide information

PART 4 - AMENDMENT OF PARTS 9, 10 AND 11 COMMUNICATIONS ORDINANCE

Amendment of Part 9 Communications Ordinance

32. Section 83 repealed - Equipment standards

Amendment of Part 10 Communications Ordinance

33. Section 88 amended - War and emergencies

Amendment of Part 11 Communications Ordinance

34. Section 92 amended - Misleading messages
35. Section 93 amended - Improperly obtaining and disclosing information and interfering with communications
36. Section 94 amended - Deliberate interference
37. New section 97A inserted

PART 5 - REPEAL AND REPLACE PART 14 COMMUNICATIONS ORDINANCE

38. Part 14 repealed and replaced
39. New sections 112A and 112B inserted in Part 14

PART 6 - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

40. Repeal of Wireless Telegraphy Ordinance 1994
41. Saving of Wireless Telegraphy licences issued by the Superintendent of Posts and Telecommunications
42. Validation of fees charged for licences under the Wireless Telegraphy Ordinance 1994
43. Transitional provisions applying to other Wireless Telegraphy licences
44. Transitional provisions applying to other use of spectrum
45. Amendment of Civil Cases (Fees) Rules 1992

Communications (Amendment) Bill 2019

(No. OF 2019)

(assented to: 2019)
(commencement: in accordance with section 2)
(published: 2019)

A BILL

for

AN ORDINANCE

To amend the Communications Ordinance 2017.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 - INTRODUCTION

1. Title

This Ordinance is the Communications (Amendment) Ordinance 2019.

2. Commencement

- (1) This Ordinance comes into force on a day specified by the Governor by notice published in the *Gazette*.
- (2) Different dates may be specified for different provisions.

3. Amendment of Communications Ordinance 2017

This Ordinance amends the Communications Ordinance 2017.

PART 2 - AMENDMENT OF PARTS 1, 3, 4 AND 5 COMMUNICATIONS ORDINANCE

Amendment of Part 1 Communications Ordinance

4. Section 3 amended - Interpretation

- (1) This section amends section 3.
- (2) Insert the following definitions in the appropriate alphabetical order —

““electronic communications apparatus” means —

- (a) any apparatus which is designed or adapted for use in connection with the provision of an electronic communications network;
- (b) any apparatus that is designed or adapted for a use which consists of or includes the sending or receiving of communications or other signals that are transmitted by means of an electronic communications network;
- (c) any line;
- (d) any conduit, structure, pole or other thing in, on, by or from which any electronic communications apparatus is or may be installed, supported carried or suspended; and references to the installation of electronic communications apparatus are to be construed accordingly;

“**harmful interference**” means interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with international or Falkland Island regulations;

“**ITU**” means the International Telecommunications Union;

“**line**” means any wire, cable, tube, pipe or similar thing (including its casing or coating) which is designed or adapted for use in connection with the provision of any electronic communications network or electronic communications service;

“**radiocommunication**” means the emitting or receiving over paths which are not provided by any material substance constructed or arranged for that purpose, of electromagnetic energy which either —

- (a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not) or for the actuation or control of machinery or apparatus; or
- (b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class;

and references to stations for radiocommunications and apparatus for radiocommunications or radiocommunications apparatus shall be construed as references to stations and apparatus for the emitting or receiving of such electromagnetic energy:

Provided that where —

- (i) a station or apparatus for radiocommunications cannot lawfully be used without a radiocommunications licence but for regulations under Part 6 of this Ordinance;
- (ii) any such electromagnetic energy which is received by that station or apparatus serves for the conveying of messages, sound or visual images; and

- (iii) any apparatus is coupled by wire, radio, optical or any electromagnetic means with that station or apparatus for the purpose of enabling any person to receive any such messages, sound or visual images;

the apparatus so coupled shall be deemed for the purposes of Part 6 of this Ordinance to be apparatus for radiocommunications;

“**radiocommunications licence**” means a licence granted under section 55A.”.

(3) Omit the following definitions —

“electronic communications”;

“electronic communications equipment”;

“network”;

“radio”;

“radio spectrum licence”;

“spectrum plan”;

“wireless telegraphy”.

(4) Omit the following definitions and replace them as follows —

“**content service**” means so much of any service as consists of one or both of the following —

- (a) the provision of material with a view to it being comprised in signals conveyed by means of an electronic communications network;
- (b) the exercise of editorial control over the contents of signals conveyed by means of such a network;

“**electronic communications network**” means —

- (a) a transmission system for the conveyance, by the use of electrical, magnetic or electromagnetic energy, of signals of any description; and
- (b) such of the following as are used, by the person providing the system and in association with it, for the conveyance of signals —
 - (i) apparatus comprised in the system;
 - (ii) apparatus used for the switching or routing of the signals including network elements which are not active; and
 - (iii) software and stored data;

“**electronic communications service**” means a service consisting in, or having as its principal feature, the conveyance by means of an electronic communications network of signals, except insofar as it is a content service;

“**with lawful authority**” means —

- (a) in accordance with a provision of this Ordinance or any other enactment, in accordance with a provision of a licence issued under this Ordinance, in connection with or in the course of activities licensed under this Ordinance, in accordance with a warrant, notice or requirement issued under this Ordinance, or in accordance with an order of a court; or
- (b) where the issue concerns disclosure of information or documents, with the consent of the sender and recipient of the information or documents.”

(5) In the definition of “**carriage service**”, after ““carriage service”” insert “for the purposes of the exclusive licence,”.

(6) Add the following subsections and the existing section becomes subsection (1) —

“(2) The reference in the definition of “**electronic communications network**” to a transmission system includes a reference to a transmission system consisting of no more than a transmitter used for the conveyance of signals.

(3) In this section, references to the conveyance of signals include references to the transmission or routing of signals or parts of signals and to the broadcasting of signals for general reception.

(4) Any reference in this Ordinance to the emission of electromagnetic energy, or to emission (as opposed to reception) is to be construed as including a reference to the deliberate reflection of electromagnetic energy by means of any apparatus designed or specially adapted for the purpose, whether the reflection is continuous or intermittent.

(5) References in this Ordinance to apparatus on board a ship or vessel include references to apparatus on a kite, balloon or any other device flown from a ship or vessel.”.

Amendment of Part 3 Communications Ordinance

5. Section 13 amended - Enforcement orders, penalties and compensation awards

In section 13, after subsection (9) insert —

“(9A) A person who is guilty of an offence under subsection (9) is liable on conviction —

- (a) to imprisonment for a term not exceeding 3 months;
- (b) to a fine not exceeding level 3 on the standard scale; or
- (c) to both.

(9B) In addition to any penalty imposed under subsection (9A), the court may also order the person to comply with the enforcement order.”

6. Section 17 amended – Confidentiality and personal data security

In section 17(2), delete the full stop at the end and insert —

“except —

- (a) in accordance with an order of court; or
- (b) with the consent of the licensee and the person to whom the data relates.”

Amendment of Part 4 Communications Ordinance

7. Section 25 amended - Private facilities

In section 25, omit subsection (1) and replace it with —

“(1) The licence requirement does not apply to private electronic communications facilities.”

8. Section 26 amended - Transmission stations

In section 26 —

- (a) replace “Networks” with “Electronic communication networks”; and
- (b) replace “wireless telegraphy” with “radiocommunications”.

9. Section 27 amended - Foreign transport

In section 27(1), replace “Networks and carriage services” with “Electronic communications networks and electronic communications services”.

10. Section 28 amended - Emergency services

In section 28(1), replace “network facilities” with “electronic communications networks”.

11. Section 29 amended - Radio spectrum use

(1) This section amends section 29.

(2) In subsection (1) —

- (a) omit paragraph (a); and
- (b) in paragraph (b), omit “that Part.” and replace it with “Part 6”.

(3) After subsection (1), insert —

“(1A) The Regulator may, by notice, provide that anything exempt from a licence under this Part because of subsection (1), is not exempt.”

(4) Omit subsection (2).

12. Section 31 amended - Broadcasting licensees

- (1) This section amends section 31.
- (2) Omit the heading and replace with “Broadcasting licences”.
- (3) In paragraph (a) —
 - (a) omit “under the Wireless Telegraphy Ordinance 1994 or”; and
 - (b) after “the Broadcasting Ordinance 2004”, insert “a person holding a licence granted under Part 5 of this Ordinance”.

13. New section 44A inserted

After section 44, insert —

“Miscellaneous

44A. Electronic communications apparatus

- (1) The Regulator may prohibit the connection of electronic communications apparatus to an electronic communications network if the Regulator considers the apparatus may cause harm to the network.
- (2) The Governor may by regulations provide for an approvals regime for electronic communications apparatus.”

Amendment of Part 5 Communications Ordinance

14. Section 45 amended - Requirement for licence

In section 45, omit paragraph (b).

15. Section 46 amended - Grant of licence

- (1) This section amends section 46.
- (2) In section 46, omit subsection (3) and replace it with —

“(3) A licence granted under this Part does not exempt a person from the requirement to hold a licence under Part 6 of this Ordinance for any activities falling within Part 6.”
- (3) After subsection (3), add —

“(4) Section 55E applies to broadcasting station licences as it does to radiocommunications licences, save that in respect of a broadcasting station licence, the powers set out in that section are exercisable by the Governor and not the Regulator.”

PART 3 - AMENDMENT OF PART 6 COMMUNICATIONS ORDINANCE

16. Heading to Part 6 replaced - Radio Spectrum Management

Omit the heading to Part 6 and replace with —

**“ELECTROMAGNETIC SPECTRUM AND RADIOCOMMUNICATIONS
LICENCES”.**

17. Section 53 repealed - Management of the radio spectrum

Section 53 is repealed.

18. New sections 53A to 53C inserted

Before section 54 insert the following sections —

“Electromagnetic spectrum and the Regulator’s duties

53A. Responsibility for the electromagnetic spectrum

- (1) The ownership of the electromagnetic spectrum in the Falkland Islands is, by virtue of this Ordinance, vested exclusively in the Government.
- (2) The Regulator is responsible for the management and control of the electromagnetic spectrum.

53B. Duties of the Regulator when carrying out spectrum functions

- (1) The Regulator must have regard to the following matters when carrying out functions under this Part —
 - (a) the electronic communications objectives and the regulatory principles;
 - (b) the extent to which the electromagnetic spectrum is available for use, or further use, for radiocommunications;
 - (c) the demand for use of the electromagnetic spectrum for radiocommunications; and
 - (d) the demand that is likely to arise in future for use of the electromagnetic spectrum for radiocommunications.
- (2) The Regulator must also have regard to the desirability of promoting —
 - (a) the efficient management and use of the part of the electromagnetic spectrum available for radiocommunications;
 - (b) the economic and other benefits that may arise from use of radiocommunications;
 - (c) the development of innovative services; and
 - (d) subject to the provisions of the exclusive licence, competition in the provision of electronic communications services.

(3) Where it appears to the Regulator that any of the Regulator’s duties under this section conflicts with another in a particular case, the Regulator must resolve the conflict in the way they think best in the public interest.

53C. Conflict between the Regulator’s duties under Part 6 and under Parts 4 and 7

Where it appears to the Regulator that any of the Regulator’s duties under this Part conflict with any of the Regulator’s duties under Parts 4 or 7 of this Ordinance, the Regulator must give priority to their duties under Parts 4 and 7.”

19. Section 54 repealed and replaced - Spectrum Plan

Section 54 is repealed and replaced with —

“54. Falkland Islands Frequency Allocation Table

(1) The Regulator must publish a table (“The Falkland Islands Frequency Allocation Table”).

(2) The Table must set out —

(a) in relation to the Falkland Islands, the frequencies that —

(i) have been allocated for particular radiocommunications purposes; and

(ii) are available for allocation;

(b) the purposes for which the different frequencies have been allocated; and

(c) identify any frequency bands that are premium spectrum bands.

(3) The Regulator must —

(a) review the Falkland Islands Frequency Allocation Table from time to time and at least after every ITU World Radio Conference;

(b) make any revision to the Table that the Regulator considers appropriate as a result of the review; and

(c) publish the revised Table.”

20. New sections 54A and 54B inserted

After section 54, insert the following sections —

“54A. Allocation and assignment of frequencies

(1) The Regulator may allocate bands of frequencies for such purposes as the Regulator considers appropriate.

(2) The Regulator must ensure that frequencies for electronic communications services are allocated and assigned under procedures which —

(a) are objective, non-discriminatory, transparent and proportionate;

- (b) respect relevant international agreements, including ITU Radio Regulations, applicable to the Falkland Islands; and
- (c) do not prevent the Regulator from taking public policy considerations into account.

54B. Regulator’s ability to impose restrictions relating to electronic communications services

(1) Subject to subsections (2) to (5), the Regulator must ensure that, in the radio frequency bands declared available for electronic communications services in the Falkland Islands Frequency Allocation Table —

- (a) all types of technology used for electronic communications services may be used; and
- (b) all types of electronic communications services may be provided.

(2) The Regulator may provide for proportionate and non-discriminatory restrictions to the types of radio network or wireless access technology used for electronic communications services where this is necessary to —

- (a) avoid harmful interference;
- (b) protect public health against electromagnetic fields;
- (c) ensure technical quality of service;
- (d) ensure maximisation of radio frequency sharing;
- (e) safeguard efficient use of the electromagnetic spectrum; or
- (f) ensure the fulfilment of a general interest objective in accordance with subsections (3) to (5).

(3) The Regulator may provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided, including, where necessary, to fulfil a requirement under the ITU Radio Regulations.

(4) The Regulator may only impose measures that require an electronic communications service to be provided in a specific band available for electronic communications services if these are justified in order to fulfil a general interest objective such as, but not limited to —

- (a) safety of life;
- (b) the promotion of social, regional or territorial cohesion;
- (c) the avoidance of inefficient use of radio frequencies; or
- (d) the promotion of cultural and linguistic diversity and media pluralism, for example by the provision of radio and television broadcasting services.

(5) The Regulator may only impose a measure that prohibits the provision of any other electronic communications service in a specified band where this is justified by the need to protect safety of life services.

(6) The Regulator must regularly review the necessity of any restrictions imposed under this section and must make the results of the Regulator’s reviews public.”

21. New crossheading inserted before section 55 - Radio spectrum licence

Insert the following crossheading before section 55 —

“General prohibition and licensing”.

22. Section 55 repealed and replaced - Radio spectrum licence

Section 55 is repealed and replaced with —

“55. General prohibition on radiocommunications activities

No person in the Falkland Islands may, without a licence —

- (a) use the electromagnetic spectrum;
- (b) establish or use any station for radiocommunications; or
- (c) keep, install, or use any apparatus for radiocommunications.”

23. New sections 55A to 55F inserted

After section 55, insert the following sections —

“55A. Radiocommunications licence

(1) A licence to do any of the things mentioned in section 55 may be granted by the Regulator.

(2) The Regulator may issue a licence subject to any terms, conditions, provisions or limitations that the Regulator considers appropriate.

(3) Licence terms, conditions, provisions, or limitations may include, but are not limited to—

- (a) in the case of a licence to establish a radiocommunications station, limitations as to the position and nature of the station, the purposes for which, the circumstances in which and the persons by whom the station may be used, and the apparatus that may be installed;
- (b) in the case of any other licence, limitations as to the radiocommunications apparatus which may be kept, installed or used, and the places where, the purposes for which, the circumstances in which and the persons by whom the apparatus may be kept or used;
- (c) the strength or type of signal, times of use and sharing of frequencies;

- (d) prohibitions on transmission or broadcasting of particular matters by the holder of the licence; and
 - (e) requirements on the holder of the licence to transmit or broadcast particular matters.
- (4) A licence under this section may be granted either —
- (a) in relation to a particular radiocommunications station or particular radiocommunications apparatus; or
 - (b) in relation to any radiocommunications station or radiocommunications apparatus falling within a description specified in the licence.

55B. Power to delegate issuing of radiocommunications licences

- (1) The Regulator may, with the approval of the Governor, delegate the issuing of any category of radiocommunications licence.
- (2) The Governor may not approve a delegation under subsection (1) unless satisfied that —
- (a) the person to whom authority is to be delegated has the appropriate qualifications, experience and competence; and
 - (b) all necessary safeguards and mechanisms for transparency and accountability are in place.
- (3) A delegation under subsection (1) —
- (a) may be for any period not exceeding 5 years; and
 - (b) is renewable.
- (4) A person to whom authority is delegated under subsection (1) must —
- (a) comply with the provisions of this Ordinance, any regulations made under this Ordinance and the terms of the delegation; and
 - (b) comply with any directions given to them by the Regulator.
- (5) A licence issued by a person with delegated authority to issue a licence is issued on behalf of the Regulator and any appeal under Part 14 in relation to the grant or refusal of a licence is to be made against the Regulator.

55C. Conditions to be included in all radiocommunications licences

- (1) A radiocommunications licence must include the following conditions —
- (a) a requirement that the licensee must comply with directions given by the Regulator in relation to use of the frequency;
 - (b) a requirement that the licensee must permit any person authorised by the Regulator to enter any premises occupied or controlled by the licensee to inspect any apparatus used by the licensee in the carrying on of activities in reliance on the licence; and

- (c) a requirement that the licensee must take reasonable steps to avoid their actions or apparatus causing harmful interference and must comply with any direction from the Regulator requiring the licensee to take steps to prevent interference as soon as reasonably practicable.

(2) The Governor may by regulations specify further conditions to be included in all radiocommunications licences.

(3) Regulations made by the Governor under this section may provide for the new conditions to be included in existing licences as well as new licences.

55D. Application for, grant and refusal of a radiocommunications licence

(1) An application for a radiocommunications licence must be made to the Regulator.

(2) The Governor may by regulations provide for the procedures to be followed in connection with licences and applications for licences.

(3) The Regulator may refuse to grant an application for a licence if —

- (a) the Regulator considers that the applicant does not meet the threshold conditions for the category of licence applied for;
- (b) the Regulator considers that the applicant is unable to comply with the terms, provisions, limitations or conditions of the licence;
- (c) the applicant fails to provide any information which the Regulator reasonably requires as part of the application process in order to satisfy the Regulator that the applicant is able to comply; or
- (d) the Regulator considers that granting the licence applied for would be contrary to any of the electronic communications objectives.

(4) A refusal to grant a licence is subject to an appeal under Part 14.

55E. Variation and revocation of a radiocommunications licence

(1) The Regulator may vary any of the terms, conditions, provisions or limitations in a radiocommunications licence, or revoke the licence either —

- (a) on the Regulator's own initiative; or
- (b) on the application of the licensee.

(2) The Regulator may exercise its power to vary or revoke the licence in any of the following circumstances —

- (a) the licensee has failed to comply with the terms and conditions of the licence;
- (b) a change in Falkland Islands or international law necessitates the variation or revocation; or
- (c) it is necessary or desirable for the purposes of pursuing the electronic communications objectives in accordance with the regulatory principles.

(3) Where the Regulator proposes to exercise its power to vary or revoke a licence, it must give the licensee written notice stating —

- (a) the details of the proposed variation or revocation;
- (b) the regulator’s reasons for the variation or revocation;
- (c) the licensee’s right to make representations to the Regulator and the deadline for doing so, which must not be less than 7 days; and
- (d) the proposed date on which the variation or revocation will take effect.

(4) The Regulator must consider any representations made by the licensee and after doing so must give the licensee a notice stating either —

- (a) that the Regulator is varying or revoking the license as proposed;
- (b) that the Regulator intends to vary the license in a different way, or revoke the licence if this had not been proposed; or
- (c) that the Regulator does not intend to vary or revoke the license in the way proposed.

(5) The Regulator’s notice under subsection (4)(a) must include details of the licensee’s right to appeal under Part 14.

(6) If the Regulator issues a notice under subsection (4)(b), this must include the matters set out in subsection (3) and the Regulator may not vary or revoke the license until the licensee has had a further opportunity to make representations.

55F. Register of radiocommunications licences

The Regulator must maintain a register of all radiocommunications licences granted under this Part.”

24. Section 56 repealed - Licensee’s installations

Section 56 is repealed.

25. Section 57 repealed and replaced - Exemptions

Section 57 is repealed and replaced with —

“57. Exemptions

(1) The following are exempt from the requirement for a radiocommunications licence —

- (a) receive-only radiocommunications; and
- (b) the use of any radiocommunications station or the keeping, installation or use of any radiocommunications apparatus on board any vessel or aircraft which is registered outside the Falkland Islands.

(2) The Regulator may, by notice, exempt the keeping, establishment, installation or use of stations for radiocommunications or radiocommunications apparatus if the Regulator is satisfied that —

- (a) the use of the station or apparatus is not likely to involve any harmful interference; and
- (b) the risk of harm or inconvenience to other users is outweighed by the benefits to the public of permitting usage on an unlicensed basis.

(3) A notice of exemption under subsection (2) extends only to the classes of radiocommunications stations or radiocommunications apparatus or descriptions of radiocommunications stations or radiocommunications apparatus specified in the notice.”

26. New section 57A inserted

After section 57, insert the following —

“57A. Transfer or lease of rights to the electromagnetic spectrum

(1) A licensee is prohibited from transferring or leasing any of the licensee’s rights to use frequencies.

(2) Any purported attempt to transfer or lease rights to use frequencies whether in whole or in part is void and the Regulator may —

- (a) take action under section 13 against either or both of the licensee or the person to whom the rights were purportedly transferred or leased;
- (b) in addition to, or instead of, any action under sub-paragraph (a), vary or revoke the licensee’s licence under section 55E.

(3) This section is subject to any regulations made under section 59.”

27. Section 58 amended - Vacation of radio spectrum

In section 58, subsection (2), after “the Regulator must have regard to”, insert “the Regulator’s duties under section 53B and”.

28. Section 59 amended – Spectrum trading

In section 59, omit subsection (3).

29. Section 61 repealed and replaced - Penalties for non-compliance with licence

Section 61 is repealed and replaced with —

“61. Carrying on radiocommunications activities without a licence

(1) It is an offence to carry on an activity which requires a licence in accordance with section 55 otherwise than in accordance with a licence.

(2) It is an offence to make a radiocommunications station or radiocommunications apparatus available to a person where the person making it available knows, or has

reasonable cause to believe that the other person intends to use it in contravention of section 55.

(3) A person who is guilty of an offence under either subsection (1) or subsection (2) is liable on conviction to a fine not exceeding level 10 on the standard scale.”

30. New sections 61A to 61C inserted

After section 61, insert the following sections —

“61A. Causing damage or obstruction

(1) It is an offence to unlawfully —

- (a) damage, remove or destroy any radiocommunications apparatus or installation for radiocommunications or any part of any such apparatus or installation; or
- (b) obstruct or prevent in any way the sending, conveyance, delivery or receipt of any message or signal by radiocommunications.

(2) A person who is guilty of an offence under subsection (1) is liable on conviction to imprisonment for 10 years, or a fine, or both.

Regulations and equipment standards

61B. Regulations under Part 6

(1) In addition to any specific powers conferred on the Governor under this Part, the Governor may make regulations on any of the following matters —

- (a) prescribing things which are to be done or are not to be done in connection with the use of any radiocommunications stations or radiocommunications apparatus, and in particular requiring the use of any such station or apparatus to cease by demand of the Regulator or a person prescribed by the Regulator;
- (b) imposing on any person holding a licence under this Part obligations as to —
 - (i) permitting and facilitating the inspection of stations and apparatus;
 - (ii) the condition in which the station and apparatus are to be kept; and
 - (iii) production of the licence or other evidence of the licensing of the station or apparatus;
- (c) the conditions under which radiocommunications apparatus may be worked in the Falkland Islands and on ships and aircraft;
- (d) the periods during which radiocommunications apparatus may or may not be worked;
- (e) the control of electrical interference by or in relation to the working of radiocommunications apparatus;
- (f) the forms of radiocommunications licences;

- (g) the register of radiocommunications licences to be kept by the Regulator;
- (h) exemptions from the requirement to hold a radiocommunications licence;
- (i) the duties of the Regulator under this Part.

(2) It is an offence to contravene any regulations made under paragraphs (a), (c), (d) or (e) of this section.

(3) A person who is guilty of an offence under subsection (2) is liable on conviction to a fine not exceeding level 8 on the standard scale.

61C. Regulations as to radiation of electromagnetic energy

(1) The Governor may make regulations specifying —

- (a) the standards for apparatus used for accessing the electromagnetic spectrum;
- (b) conditions to be satisfied in using apparatus to access the electromagnetic spectrum;
- (c) conditions or standards for the manufacture or import of apparatus designed to be used to access the electromagnetic spectrum.

(2) The standards and conditions to be specified in the regulations are any that are considered necessary or desirable for the purposes of —

- (a) preventing or limiting damage to electronic communications networks or electronic communications services provided in accordance with this Ordinance;
- (b) protecting public health and safety;
- (c) protecting the environment; or
- (d) ensuring that the use of apparatus does not cause harmful interference with radiocommunications.

(3) The standards and conditions specified may include in particular —

- (a) requirements as to the maximum intensity of electromagnetic energy of any specified frequencies which may be radiated in any direction from the apparatus whilst it is being used; and
- (b) in the case of an apparatus, the power for which is supplied from electric lines, requirements as to the maximum electromagnetic energy of any specified frequencies which may be injected into those lines by the apparatus.”

31. Section 70 amended – Failure to provide information

In section 70 omit subsection (5).

PART 4 – AMENDMENT OF PARTS 9, 10 AND 11 COMMUNICATIONS ORDINANCE

Amendment of Part 9 Communications Ordinance

32. Section 83 repealed - Equipment standards

Section 83 is repealed.

Amendment of Part 10 Communications Ordinance

33. Section 88 amended - War and emergencies

(1) This section amends section 88.

(2) In subsection (1) —

(a) in paragraph (a), omit “network or services” and replace it with “electronic communications network or electronic communications services”;

(b) after paragraph (a), insert —

“(aa) take any steps the Governor considers appropriate with respect to the possession, sale, purchase, construction and use of radiocommunications apparatus in the Falklands, or on board any vessel or aircraft in the territorial waters or airspace;”

(c) omit paragraph (b) and replace it with —

“(b) issue directions —

(i) to a licensee or any other person who controls an electronic communications network or electronic communications services; and

(ii) to any person in respect of any matter falling within paragraph (aa);” and

(d) in paragraph (c), omit “paragraph (a)” and replace it with “paragraphs (a) and (aa)”.

(3) After subsection (2), add —

“(3) This section does not apply to radiocommunications apparatus —

(a) for use in the service of Her Majesty; and

(b) on board foreign warships or service aircraft.”

Amendment of Part 11 Communications Ordinance

34. Section 92 amended - Misleading messages

In section 92(1) —

- (a) replace “electronic communications” with “radiocommunications or electronic communications services”;
- (b) after “to send or attempt to send a message which”, insert “the person knows or is reckless as to whether it”; and
- (c) after “false or misleading and”, insert “knows or is reckless as to whether it”.

35. Section 93 amended - Improperly obtaining and disclosing information and interfering with communications

(1) This section amends section 93.

(2) In subsection (1)(a), after “operator of a”, insert “electronic communications”.

(3) After subsection (1), insert —

“(1A) It is an offence to —

- (a) use any radiocommunications apparatus with intent to obtain information as to the contents, sender or addressee of any message (whether sent by means of radiocommunications or not); or
- (b) disclose any information obtained.

(1B) A person does not commit an offence under subsections (1) or (1A) if —

- (a) the person, or any person on whose behalf they were acting, was authorised to receive the message; or
- (b) the person had lawful authority.”

(4) Omit subsection (2) and replace it with —

“(2) It is an offence for the operator of a public electronic communications network to —

- (a) intentionally or negligently omit, delay or prevent the transmission or delivery of any message; or
- (b) without lawful authority disclose the existence, nature or content (including sender or addressee) of any message.”

(5) In subsection (3) —

(a) in the first line, omit “Subsections (1) and (2) do” and replace it with “Subsection (2) does”; and

(b) omit paragraph (a) and replace it with —

“(a) as a necessary part of maintaining a public electronic communications network, or ensuring the security of a public electronic communications network.”

(6) After subsection (5), add —

“(6) For the purposes of this section, “operator of a public electronic communications network” includes any person who, at the time the offence was committed, was employed by the operator, or was acting or holding themselves out as being an agent for the operator.”

36. Section 94 amended - Deliberate interference

- (1) This section amends section 94.
- (2) In subsection (1), replace “electronic communications” with “electronic communications networks, electronic communications services or radiocommunications”.
- (3) In subsection (2) —
 - (a) replace “Subsection (2)” with “Subsection (1)”; and
 - (b) omit subsection (2)(a).

37. New section 97A inserted

After section 97 insert —

“97A. Forfeiture of radiocommunications apparatus

- (1) This section applies where a person has —
 - (a) been convicted of any offence under this Ordinance; and either
 - (b) the person used radiocommunications apparatus when committing the offence; or
 - (c) the offence was committed in relation to radiocommunications.
- (2) In addition to any penalty imposed by a court for committing the offence, the court may make an order for forfeiture of any of the following that the court considers appropriate —
 - (a) any vehicle, vessel, aircraft or other structure or object which was used in connection with the commission of the offence;
 - (b) any radiocommunications apparatus or other apparatus in relation to which the offence was committed, or which was used in connection with the commission of the offence; and
 - (c) any radiocommunications apparatus or other apparatus not falling within paragraph (b), which was, at the time of commission of the offence, in the possession, or under the control of the person convicted of the offence and was intended to be used (whether or not by that person) in the commission of the offence.
- (3) References in subsection (2)(b) and (c) to apparatus other than radiocommunications apparatus include references to —
 - (a) recordings;
 - (b) equipment designed or adapted for use —

- (i) in making recordings; or
 - (ii) in reproducing from recordings any sounds or visual images; and
- (c) equipment not falling within paragraphs (a) or (b) but connected, directly or indirectly, to radiocommunications apparatus.
- (4) The court may order radiocommunications apparatus to be forfeited whether or not it is the property of the person convicted of the offence.
- (5) Where the court orders any apparatus to be forfeited under this section, the court may also include an order that —
- (a) forfeiture is to take place within 48 hours of the Regulator giving the person who committed the offence notice requiring them to deliver the apparatus; and
 - (b) the person who committed the offence is not to take any steps to destroy or otherwise dispose of the apparatus except in compliance with the order under paragraph (a).
- (6) It is an offence to contravene an order made under subsection (5), or to fail to deliver up apparatus to the Regulator as required.
- (7) A person who is guilty of an offence under subsection (6) is liable on conviction to —
- (a) imprisonment for 3 months; or
 - (b) a fine not exceeding level 8 on the standard scale; or
 - (c) both.”

PART 5 - REPEAL AND REPLACE PART 14 COMMUNICATIONS ORDINANCE

38. Part 14 repealed and replaced

Replace Part 14 (sections 109 to 112) with the following —

“PART 14 - APPEALS

109. Appeals against decisions of the Regulator

- (1) In this Part, “**decision**” means any of the following actions of the Regulator under this Ordinance —
- (a) issuing a direction or decision under section 11(2)(b);
 - (b) issuing an enforcement order under section 13(2);
 - (c) requiring the payment of a penalty or awarding compensation under section 13(3);
 - (d) granting, varying, revoking or renewing an electronic communications licence under Part 4 (or refusing to grant, vary, revoke or renew such a licence);

- (e) granting, varying, revoking or renewing a radiocommunications licence under Part 6 (or refusing to grant, vary revoke or renew such a licence);
- (f) issuing a determination under section 14;
- (g) requiring the exclusive licensee to pay a penalty under section 70(2);
- (h) issuing a notice to the exclusive licensee to take steps to prevent interference under section 71(3).

(2) Any person affected by a decision may appeal to the Magistrate's Court sitting in its civil jurisdiction.

110. Time limit for making an appeal

An appeal must be brought no later than 21 days after —

- (a) the date on which the person received notice of the decision they are appealing if the decision is in response to an application or is otherwise addressed to a particular person; or
- (b) in all other cases, the date on which the decision is published by the Regulator.

111. Disposal of appeals against determinations and licensing decisions

(1) This section applies to an appeal against a decision referred to in section 109(1)(d), (e) or (f).

(2) The Magistrate's Court must decide the appeal, by reference to the grounds of appeal set out in the notice of appeal, by applying the same principles as would be applied by a court on an application for judicial review.

(3) The Magistrate's Court may —

- (a) dismiss the appeal;
- (b) set aside the whole or part of the decision to which it relates; or
- (c) remit the matter to the Regulator to dispose of in accordance with the directions of the Court.

(4) The Regulator must comply with any directions issued under subsection (3)(c).

112. Disposal of all other appeals

(1) This section applies to appeals against a decision referred to in section 109(1)(a), (b), (c), (g) or (h).

(2) The Magistrate's Court must decide the appeal on the merits and by reference to the grounds of appeal set out in the notice of appeal.

(3) The Magistrate's Court may —

- (a) substitute its own view for that of the Regulator;
- (b) make any order, direction, or decision that the Regulator has the power to make;

- (c) make a compensation or penalty award, or increase or decrease the amount of any compensation or penalty award, provided that any penalty awarded does not exceed the statutory limits in section 13, or in the case of an appeal against a section 70 penalty, the limit in section 70(2)(a);
- (d) remit the matter to the Regulator to dispose of in accordance with the directions of the Court; and
- (e) issue any other directions the Court considers appropriate for giving effect to its decision.”.

39. New sections 112A and 112B inserted in Part 14

After section 112 insert the following sections —

“112A. Costs

The Magistrate’s Court may make any order for costs that it considers appropriate.

112B. Effect of notice of appeal

(1) The filing of a notice of appeal against any of the decisions listed in subsection (2) automatically suspends the effects of the decision being appealed against.

(2) The decisions referred to in subsection (1) are —

- (a) a decision to issue an enforcement order under section 13(2);
- (b) a decision to require payment of a penalty or award compensation;
- (c) a decision to revoke or refuse to renew a licence granted under Part 4 or Part 6.

(3) The filing of a notice of appeal against any other decision does not automatically suspend the effects of the decision being appealed against.

(4) The Magistrate’s Court may, either on its own motion, or on application from the appellant, suspend the effects of any decision that is not automatically suspended under subsection (1).”

PART 6 - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

40. Repeal of Wireless Telegraphy Ordinance 1994

The Wireless Telegraphy Ordinance 1994 is repealed.

41. Saving of Wireless Telegraphy licences issued by the Superintendent of Posts and Telecommunications

(1) A licence issued under section 4 of the Wireless Telegraphy Ordinance 1994 in any of the categories listed in subsection (2) continues to exist on the same terms and conditions as provided in the Wireless Telegraphy Ordinance until the date of expiry of the licence.

(2) The categories referred to in subsection (1) are —

- (a) Ship station licence; and
- (b) Aircraft station licence.

42. Validation of fees charged for licences under the Wireless Telegraphy Ordinance 1994

Any fees collected for licences issued under the Wireless Telegraphy Ordinance 1994 are hereby validated as if the fees had been prescribed under section 5 of that Ordinance.

43. Transitional provisions applying to other Wireless Telegraphy licences

(1) This section applies to any licence issued under section 4 of the Wireless Telegraphy Ordinance 1994 that does not fall within section 37.

(2) The Regulator must create a database of all licences falling within this section.

(3) The holder of a licence falling within this section must revalidate their licence on the Regulator's database —

- (a) in the manner and form prescribed by the Regulator; and
- (b) by the date prescribed by the Regulator, which must be not less than 30 days from the date that the Regulator announces the revalidation process starts.

(4) Where the holder of a licence falling within this section revalidates the licence within the time period set by the Regulator —

- (a) the licence will continue to exist on the same terms and conditions as provided by the Wireless Telegraphy Ordinance 1994;
- (b) the licence will be treated, as from the date of revalidation, as having been issued under Part 6 of the Communications Ordinance 2017; and
- (c) the provisions of the Communications Ordinance 2017 and the Regulator's powers under that Ordinance apply to the licensee and the licence as they do to a new licence issued under that Ordinance.

(5) Where the holder of a licence falling within this section does not revalidate the licence within the time period set by the Regulator, the licence will expire at the end of the time period for revalidation and the licence holder must apply under Part 6 of the Communications Ordinance 2017 for a new licence.

(6) The Regulator must publish details of where the database is available in such manner as the Regulator considers appropriate for bringing it to the attention of licence holders under the Wireless Telegraphy Ordinance 1994.

44. Transitional provisions applying to other use of spectrum

(1) This section applies to any person who is, when this provision is commenced —

- (a) using the electromagnetic spectrum; and

(b) does not hold a licence covering the use the person is making of the electromagnetic spectrum granted under either —

(i) the Wireless Telegraphy Ordinance 1994, or

(ii) the Telecommunications Ordinance 1988 and saved under section 114 of the Communications Ordinance 2017.

(2) A person falling within subsection (1) has a temporary licence to use the electromagnetic spectrum subject to subsections (3) to (6).

(3) A temporary licence issued under this section is to be treated as issued on the date of commencement of this section.

(4) A temporary licence issued under this section lasts until the earlier of —

(a) the holder of the temporary licence applying for and being issued a full licence under section 55A;

(b) the holder of the temporary licence notifying the Regulator that they are no longer using the electromagnetic spectrum and confirming that they will not do so in the future without applying for a licence; or

(c) three months.

(5) A temporary licence may only be extended if the holder of the temporary licence has applied for a full licence and the Regulator requires additional time to determine the application.

(6) The following licence conditions apply to any temporary licence granted under this section—

(a) the licensee must comply with any directions issued by the Regulator in relation to use of frequency;

(b) the licensee must permit any person authorised by the Regulator to enter any premises occupied or controlled by the licensee to inspect any apparatus used by the licensee in using the electromagnetic spectrum; and

(c) the licensee must comply with any direction from the Regulator requiring the licensee to take steps to prevent interference as soon as reasonably practicable.

45. Amendment of Civil Cases (Fees) Rules 1992

The Civil Cases (Fees) Rules 1992 are amended in the table in Schedule 2 (Fees payable in the Magistrate’s Court and the Summary Court), after item 7, insert —

“8. Upon the lodging of an appeal in the Magistrate’s Court under the Communications Ordinance 2017”.	£200
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OBJECTS AND REASONS

This Bill rationalises the regulation of communications in the Falkland Islands by repealing the Wireless Telegraphy Ordinance 1994 and amending the Communications Ordinance 2017 to ensure that there is a single Ordinance and single Regulator for matters relating to wireless telegraphy. The Bill also repeals and replaces Part 14 of the Ordinance to abolish the Telecommunications Appeals Tribunal replacing it with a route of appeal to the Magistrate's Court of the Falkland Islands.

Part 1 This Part sets out preliminary matters.

Clauses 1-3 – these clauses set out the title and commencement of the Bill and that the Bill amends the Communications Ordinance 2017.

Part 2 This Part sets out amendments to parts 1, 3, 4 and 5 of the Communications Ordinance.

Clause 4 – this clause amends section 3 (interpretation) of the Communications Ordinance. It incorporates some definitions needed to ensure the Wireless Telegraphy Ordinance provisions can be incorporated into the Communications Ordinance. It also amends and omits some other definitions to ensure that the spectrum provisions in the Communications Ordinance operate without conflicting with other provisions and that the Communications Ordinance reflects current internationally accepted definitions and approach to regulation of communications matters.

Clauses 5-15 – these clauses make consequential amendments to a number of sections in parts 3, 4 and 5 of the Communications Ordinance as a result of the changes in the definitions, to reflect the repeal of the Wireless Telegraphy Ordinance 1994 and to strengthen the enforcement provisions consequent on wireless telegraphy issues being incorporated into the Communications Ordinance.

Part 3 This Part amends Part 6 of the Communications Ordinance.

Clause 16 renames Part 6 as Electromagnetic spectrum and radiocommunications licences.

Clause 17 repeals section 53 (Management of the Radio spectrum).

Clause 18 inserts new sections 53A-53C setting out that ownership of the spectrum vests in the Government, that the Regulator is responsible for managing and controlling the electromagnetic spectrum and what the duties of the Regulator are in carrying out spectrum functions. Clause 53C provides that in the case of any conflict with parts 4 and 7, the Regulator's duties under parts 4 and 7 take precedence. These changes update Part 6 to reflect modern technological developments and ensure compliance with international obligations under the International Telecommunications Union.

Clause 19 repeals and replaces section 54 (Spectrum plan). The replacement section 54 reflects the international norm of a frequency allocation table.

Clause 20 inserts sections 54A and 54B which set out the Regulator's power to allocate and assign frequencies and to impose restrictions to ensure that there are adequate frequency bands for electronic communications services.

Clauses 21-23 repeal and replace section 55 (radio spectrum licence) and insert new sections 55A-55E. These sections set out the general prohibition on carrying on radiocommunications activities without a licence, which is a requirement in international law, and set out the power of the regulator to grant a licence, conditions to be included in licences and the process for application, variation and revocation of a licence. Powers are conferred on the Governor to make regulations specifying additional conditions to be included in licences and for the procedures to be following in connection with licences. An adverse decision by the Regulator may be appealed under Part 14 of the Communications Ordinance.

Clause 24 repeals section 56 (Licensee's installations).

Clause 25 repeals and replaces section 57 (exemptions) to provide for specific exemptions from the requirement of a radiocommunications licence and to give the Regulator power to exempt specific installations if the specified conditions are met. The new section 57 exempts non-transmitting apparatus and apparatus on board foreign vessels and aircraft from the radiocommunications licence requirement.

Clause 26 inserts section 57A to clarify that transfer or lease of rights to spectrum is not permitted in the Falkland Islands and that any attempt to transfer or lease rights is void and may lead to enforcement action by the Regulator or the varying or revocation of a radiocommunications licence.

Clause 27 makes a consequential amendment to section 58 (vacation of radio spectrum).

Clause 28 makes a consequential amendment to section 59 (spectrum trading) as a result of insertion of section 57A.

Clause 29 repeals and replaces section 61 (penalties for non-compliance with licence).

Clause 30 inserts sections 61A to 61C. Section 61A provides for specific offences in relation to radiocommunications activities. Sections 61B to 61C give the Governor power to make regulations in specific areas, including exemptions from the licence requirement and regulations specifying equipment standards to be met by equipment accessing the electromagnetic spectrum.

Clause 31 makes a consequential amendment to the Ordinance as a consequence of including appeals against section 70(2) requirements in section 109.

Part 4 This part amends Parts 9, 10 and 11 of the Communications Ordinance.

Clause 32 – this clause repeals section 83 (Equipment standards) of the Communications Ordinance as a consequence of the equipment standards provisions being moved into Part 6 of the Communications Ordinance.

Clause 33 – this clause amends section 88 (War and emergencies) of the Communications Ordinance to include radiocommunications within the scope of matters that the Governor may

assume control over if necessary to do so in the interests of defence, public safety or public order.

Clauses 34-36 – these clauses make consequential amendments to sections 92 to 94 of the Communications Ordinance to reflect the changes to defined terms and the incorporation of the Wireless Telegraphy Ordinance into the Communications Ordinance.

Clause 37 – this clause inserts a new section 97A into the Communications Ordinance to provide a power for the Court to order forfeiture of apparatus and connected items used when an offence is committed using, or in relation to radiocommunications.

Part 5- this part replaces Part 14 of the Communications Ordinance and adds sections to that Part.

Clauses 38 and 39 amend Part 14 of the Communications Ordinance 2017 by replacing sections 109-112 and inserting new sections 112A and 112B. The amendments establish that for the listed types of decision by the Regulator, the route of appeal is to the Magistrate's Court. New section 110 provides that the time limit for appeal is 21 days, in line with the time limit for appeals generally. New section 111 provides that for certain categories of decision relating to licensing and Regulator's determinations, the Magistrate's Court must decide the appeal by applying judicial review principles. The Court will review the material available to the Regulator and may determine the appeal in favour of the appellant if the Court considers that the Regulator's decision was irrational, illegal or was carried out in a procedurally unfair way. New section 112 provides that for all other appeals, the Magistrate's Court must decide the appeal on the merits. Section 112B provides that in the case of appeals against enforcement orders, penalty or compensation awards, or refusal/revocation of a licence, the notice of appeal has suspensory effect.

Part 6 This part provides for repeal, savings and transitional provisions

Clause 40 – this clause repeals the Wireless Telegraphy Ordinance 1994.

Clause 41 – this clause provides for a limited saving of wireless telegraphy licences issued for ship radio or aviation purposes. Licenses issued for these purposes will remain valid for the duration of the licence only.

Clause 42 – this clause validates fees charged for wireless telegraphy licences ahead of these licences falling within the scope of Part 6 of the Communications Ordinance and fees regulations made under the Communications Ordinance.

Clause 43 – this clause provides a transitional regime for wireless telegraphy licences other than ship radio or aviation licences. Examples of such licences are amateur radio or 2m licences. These licences will continue on their existing terms as Communications Ordinance licences provided that the licence holder revalidates the licence through a database to be established by the Regulator. If the licence holder does not revalidate, the licence will expire and the licence holder must apply for a new licence under Part 6.

Clause 44 – this clause provides a transitional regime for other use of the electromagnetic spectrum that did not require a licence under the Wireless Telegraphy Ordinance. Any person

falling within this section will have a temporary licence to continue their activities for no longer than 3 months from commencement. Within the three month period they must either apply for a licence under Part 6 or notify the Regulator that they are no longer carrying on activities that require a licence.

Clause 45 amends the Civil Cases (Fees) Rules 1992 to provide that the fee for lodging an appeal under the Communications Ordinance is £200.

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FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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31 October 2019

No. 14

Appointment

Joanne Marie Priston, Staff Nurse, Health and Social Services Department, 01.10.19.

Martin Charles Anstee, Senior Police Constable, Royal Falkland Islands Police, Emergency Services Department, 04.10.19.

Lesley Anne Hadden, Community Psychiatric Nurse, Health and Social Services Department, 04.10.19.

Amy Charlotte Guest, Scientific Fisheries Observer, Fisheries, Natural Resources Department, 08.10.19.

Kevin McCarthy, Head of Communications, Policy and Economic Development Department, 08.10.19.

Helen Taylor, Safeguarding Police Officer, Royal Falkland Islands Police, Emergency Services Department, 08.10.19.

Tobias Alexander Büring, PhD Intern (Loligo), Fisheries, Natural Resources Department, 14.10.19.

Marie Abigail Cornetes, Finance Clerk, Health and Social Services Department, 14.10.19.

Philippa Tean Dixon, Staff Nurse, Health and Social Services Department, 14.10.19.

James Antony Coles, Learning Support Assistant, Falkland Islands Community School, Education Department, 21.10.19.

Charmain Sarah Duncan, Skilled Handyperson, Property and Municipal Section, Public Works Department, 21.10.19.

Megan Harris, Business Administration Apprentice, Training Centre, Education Department, 21.10.19.

Nicola Kydd Robinson, Probation Officer, Health and Social Services Department, 23.10.19.

Laura Sofia Jimenez Ferrari, General Assistant, Health and Social Services Department, 28.10.19.

Annette Marie Murphy, Clinical Psychologist, Health and Social Services Department, 28.10.19.

Completion of contract

Maciej Slawomir Stronczak, Medical Officer, Health and Social Services Department, 01.10.19.

Mallory Deborah Barnes, Primary Settlement Teacher, Infant and Junior School and Camp Education, Education Department, 31.10.19.

Renewal of contract

Maciej Slawomir Stronczak, Medical Officer, Health and Social Services Department, 02.10.19.

Resignation

Joshua Andres Sanchez, Apprentice Plumber, Training Centre, Education Department, 30.09.19.

Irene-Ann Greentree, General Assistant, Health and Social Services Department, 09.10.19.

Samuel George Cockwell, Offshore Safety Adviser, Mineral Resources Department, 31.10.19.

Rachel Mary Williamson, Community Support Manager, Health and Social Services Department, 31.10.19.

Retirement

Kevin Michael Patrick Joseph Ormond, Driver/Handyperson, Health and Social Services Department, 18.10.19.

NOTICES

No. 79 3 October 2019

Currency Ordinance 1987 *section 5*

Appointment of Commissioner 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 office of **Head of Finance** to be a commissioner of currency with effect from 1 November 2019.
3. This appointment has effect as indicated above and continues in effect until further appointment by the Governor.

Dated 3 October 2019

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

No. 80 3 October 2019

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 duly qualified officers of the Department of Natural Resources to be inspectors:-

Graeme Thomas McIntosh - Senior Agricultural Advisor;
Daniel Severino Pereira Machin - Agricultural Advisor;
Matthew McNee - Agricultural Advisor;
Lucy Ellis - Assistant Agricultural Advisor;
Stephen William Pointing - Senior Veterinary Officer;
Zoe Fowler - Veterinary Officer; and
Ross Danely Ralph Milner - Veterinary Officer.

3. These appointments have effect from 23 September 2019 until 30 September 2020 (inclusive), unless terminated sooner.

Dated 3 October 2019

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

No. 81 9 October 2019

Falkland Islands Constitution Order 2008 *section 81*

Appointment of Chairperson to the Public Accounts Committee

1. Section 81(1)(a) of the Falkland Islands Constitution Order 2008 provides for the Governor to appoint a chairperson to the

Public Accounts Committee, after consultation with the elected members of the Legislative Assembly.

2. In exercise of my powers under section 81(1)(a), following consultation with the elected members of the Legislative Assembly, I appoint **Nadia Knight** as chairperson to the Public Accounts Committee.

3. This appointment has immediate effect expiring on 9 October 2021, unless terminated sooner.

Dated 9 October 2019

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

No. 82 17 October 2019

Falkland Islands Tourist Board Ordinance 2014 *section 8*

Appointment of Chairperson

1. Section 8 of the Falkland Islands Tourist Board Ordinance (No 10 of 2014) provides that the Chairperson of the Falkland Islands Tourist Board Governing Body is appointed by the Governor.

2. Having consulted Executive Council, I hereby appoint **Sally Jean Ellis** to be Chairperson of the Falkland Islands Tourist Board Governing Body for a period of 24 months.

3. This appointment has effect from 25 October 2019 and will continue in effect as indicated above, unless terminated sooner.

Dated 17 October 2019

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

No. 83 17 October 2019

Taxes Ordinance 1997 *section 180*

Appointment of Members of the Tax Appeal Tribunal

1. Section 180 of the Taxes Ordinance 1997 provides that the Governor shall appoint members to the Tax Appeal Tribunal.
2. In exercise of my powers under section 180 I appoint the following persons to be members of the Tax Appeal Tribunal:-

Andrew Samuel Brownlee JP;
Keith Robert Biles JP;
Stephen Paul James Freer JP; and
Ana Bonita Crowie.

3. These appointments are deemed to have effect from 16 October 2019 and continue in effect for two years, unless terminated sooner.

Dated 17 October 2019

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

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 **Richard James Alexander Hyslop** for the purposes of any judge of the Court of Appeal to make and subscribe the judicial oath and the oath of allegiance before him.

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

Dated 22 October 2019

R. A. J. MITHAM,
Acting Governor.

No. 85 22 October 2019

Museum and National Trust Ordinance 1991
section 4

Appointment of Members to 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:-

Kurt Ian Whitney; and
Emma Jane Brook

to be members of the Museum and National Trust from 1 November 2019 to 1 November 2022.

3. 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 22 October 2019

R. A. J. MITHAM,
Acting Governor.

No. 86 30 October 2019

Index of Retail Prices

The Index for the quarter ended 30 September 2019 has now been completed.

The Index has increased during the quarter, to 106.054; this equates to a 0.2% 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>
30.09.2018	104.682	3.0%	0.3%
31.12.2018	104.820	2.9%	0.1%
31.03.2019	105.328	2.2%	0.5%
30.06.2019	105.843	1.4%	0.5%
30.09.2019	106.054	1.3%	0.2%

Inflation in the “Transport” category is the major contributor to total increase for the year (0.6 out of 1.3 percentage points), followed by inflation in the “Fuel and Power” category (0.5 percentage points). All other categories bring a less significant contribution of up to 0.2 percentage points in absolute terms.

Dated 30 October 2019

D. RANGHETTI,
for Director of Policy and Economic Development.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

11 November 2019

No. 17

The following are published in this Supplement —

Fishery Products (Designations) (Amendment) (No 2) Order 2019 (SR&O No 24 of 2019);

Fishing, Transhipment and Export (Licence Fees etc) Regulations 2019 (SR&O No 25 of 2019);

Supplementary Appropriation (2019-2020) (No 2) Ordinance 2019 (No 16 of 2019); and

Taxes (Amendment) (No 2) Ordinance 2019 (No 17 of 2019).

SUBSIDIARY LEGISLATION

Fishery Products (Designations)(Amendment)(No 2) Order 2019

S.R. & O. No.: 24 of 2019

Made: 17 October 2019

Published: 11 November 2019

Coming into force: on publication

I make this Order under section 35 of the Fishery Products Ordinance 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) (No 2) Order 2019.

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 omitting the vessel names and approval numbers —

“Golden Touza	1009”;
“Paradanta Primero	1026”;
“Kalatxori	1028”;
“Tronio	1037”.

Made 17 October 2019

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

EXPLANATORY NOTE
(not forming part of the order)

This Order removes the fishing vessels “Golden Touza”, “Paradanta Primero” and “Kalatxori” from the Fishery Products (Designations) Order 2014, which has the effect of removing designation of the vessels under the Fishery Products Ordinance 2006.

SUBSIDIARY LEGISLATION

Fishing, Transshipment and Export (Licence Fees etc) Regulations 2019

S. R. & O. No.: 25 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Interpretation
4. *Illex* fishing licences - applications and fees
5. *Illex* fishing licences - payment and discounts
6. *Illex* fishing licences - refund of fees
7. *Illex* fishing- scientific permits
8. Transshipment and export licences
9. Transshipment and export licence fees

Schedule 1 - *Illex* Fishery fees

Part A - Fee formula

Part B - Payment periods and proportion of fee payable

Part C – Discounts

Schedule 2 - 2020 *Illex* Fishing Licence Refund Policy

SUBSIDIARY LEGISLATION

Fishing, Transhipment and Export (Licence Fees etc) Regulations 2019

S. R. & No.: 25 of 2019

Made: 7 November 2019

Published: 11 November 2019

Coming into force: 1 January 2020

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 2019.

2. Commencement

These regulations come into force on 1 January 2020 and cease to have effect on 31 December 2020.

3. Interpretation

In these regulations —

“**adjusted catch**” has the meaning given in paragraph 2 of Schedule 2;

“**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 6;

“**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) Applications for fishing licences in respect of the *Illex* fishery are made to the Director and must reach the Director before 7 November 2019 or such earlier date as may be set by the Director.
- (2) The Director is not bound to consider an application received after the date specified in subregulation (1).
- (3) The fee payable for an *Illex* fishing licence is determined by using the formula set out in Part A of Schedule 1.
- (4) 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.
- (5) When issuing fishing licences to which these regulations apply, the Director must be guided by the Licence Allocation Policy.

5. *Illex* fishing licences - payment and discounts

- (1) Subject to this regulation, the fee for an *Illex* fishing licence must be paid no later than 30 June 2020.
- (2) If the fee for an *illex* fishing licence is not received by 31 January 2020, it must be guaranteed by a letter of credit (or equivalent arrangement approved by the Director).
- (3) A letter of credit under subregulation (1) must have an expiry date of 31 August 2020.
- (4) Payments for *Illex* fishing licences are eligible for a discount set out in Part C of Schedule 1 provided that the payment is made by the relevant date. (for example in order to receive a 6% early payment discount on the full fee (100%) the entire fee must be received by Falkland Islands Government by 31 January 2020).
- (5) A vessel history discount may be claimed in accordance with Part C of Schedule 1.

6. *Illex* fishing licences - refund of fees

- (1) The Director, in consultation with the Financial Secretary, may pay a refund in respect of *Illex* fishing licences in accordance with the refund policy set out in Schedule 2.
- (2) In any assessment for a refund the Director must 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.

(3) If the average catch is 1000 tonnes or more, no refund is paid as shown in column A of the table in Schedule 2.

(4) If the average catch is less than 1000 tonnes, and if after taking into account the catch value this results in an adjusted catch of less than 1500 tonnes, a refund will be paid as indicated in column B of the table set out in Schedule 2.

7. *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.

8. 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.

9. 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 £1,750 in respect of a licence issued under section 46 of the Ordinance.

SCHEDULE 1 - *ILLEX* FISHERY FEES

(regulations 4 and 5)

PART A - Fee Formula

Jigging Vessels:

$$\text{Fee (£)} = \text{£}0.442 * (\text{GT} * (\text{S} + 1.5\text{D})) + 118240$$

GT = Gross Tonnage

S = Number of Single Jigging Machines

D = Number of Double Jigging Machines

Trawling Vessels:

$$\text{Fee (£)} = (4.480 * \text{GT}) + 128595$$

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%

Payment periods apply only if —

- (a) A minimum time period of 90% is purchased; and
- (b) A 10% deposit is paid before **25 January 2020**.

PART C - Discounts

1. Discounts are as follows:

6% for payment by 31 January 2020

5% for payment by 31 May 2020 *

4% for payment by 30 June 2020 *

*Payments not made by these dates must be guaranteed by a letter of credit or equivalent arrangement approved by the Director.

2. Vessel History Discount is as follows:

A discount of 1% per year is available to a vessel for any season fished by that vessel in the last 10 years and the maximum discount is 10%.

SCHEDULE 2 - 2020 *ILLEX* FISHING LICENCE REFUND POLICY

(regulation 6)

1. General principles

A refund —

- (a) is paid in the event of a poor season (a poor season is a season where the actual catch is less than 1000 tonnes or where the ‘adjusted catch’ is less than 1500 tonnes);
- (b) is assessed by taking into account the average catch;
- (c) will be based on catch using volume and value; and
- (d) is paid in accordance with the following table.

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%

2. Catch Value

A refund is to be linked to catch and catch value. The base price used to calculate the figures in the table in paragraph 1 is \$936 per tonne (whole *Illex*). If the 2020 *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 2020 *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.

3. Full Season equivalent catch

The catch total used for a refund 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.

4. High Seas Catches

The calculation of catch rates and totals in relation to a refund will take account of high seas catches taken by licensed vessels during 15 February – 15 June. Owners/operators of licensed vessels wishing to access a refund 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 who elect not to report high seas catches as required under this paragraph 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 in these regulations (to be determined by the Director according to the relevant circumstances).

5. Monitoring of Catch Levels

The Director will be the ultimate arbiter of catch levels and reserves the right to weight the assessment in favour of verified information. To give effect to this paragraph, vessels may need to undergo additional inspections.

Determination of any refund will be calculated on the basis of average vessel catch and not on an individual vessel basis.

A refund will only apply to vessels which comply with the requirements of catch monitoring which are covered by mandatory requirements in the Ordinance such as:

Full and reliable catch reporting

Other fishery monitoring reports (Fishcom/end Transhipment logs)

Embarkation of an observer if required

Sufficient notice of intention to leave fishing zones to allow for inspection.

6. Eligibility to claim a refund

Subject to this paragraph, a refund may only be paid in respect of fishing vessels which report high seas catches during the fishing season (15 February – 15 June) and conduct transshipment operations in Falkland Islands ports and harbours.

Vessels which do not satisfy the criteria set out in this paragraph will not ordinarily be eligible for a refund.

In exceptional circumstances, if it is determined that a vessel which has not complied should receive a refund, that refund will be at a reduced rate (to be determined by the Director according to the relevant circumstances).

Made 7 November 2019

R. A. J. MITHAM,
Acting Governor.

EXPLANATORY NOTE
(not forming part of these regulations)

The regulations give effect to approval by the Executive Council to increase Illex fishing licences by 5% and transshipment and export licences by 3% (paper 143/19). These regulations also update and rearrange provisions in the current Fishing, Transshipment and Export (Licence Fees etc) 2018. A new regulation 5 is inserted to provide for payment and discounts in the substantive provisions of the regulations and not in a schedule.

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Supplementary Appropriation (2019-2020) (No. 2) Ordinance 2019

(No: 16 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation
4. Replacement of amount withdrawn by authority of Contingencies Warrant

Schedule

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

SUPPLEMENTARY APPROPRIATION (2019-2020) (No. 2) ORDINANCE 2019

(No: 16 of 2019)

(assented to: 7 November 2019)
(commencement: on publication)
(published: 11 November 2019)

AN ORDINANCE

To authorise the appropriation from the Consolidated Fund of the additional amount of £3,470,260 for the financial year ending 30 June 2020.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2019-2020) (No. 2) Ordinance 2019.

2. Commencement

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

3. Appropriation

(1) The additional amount of £3,470,260 is appropriated from the Consolidated Fund for the financial year ending 30 June 2020.

(2) The issue of the additional amount from the Consolidated Fund in the amounts necessary to replace an amount in accordance with section 4 and to supply the vote set out in the Schedule is authorised.

4. Replacement of amount withdrawn by authority of Contingencies Warrant

If an amount has been withdrawn from the Contingencies Fund by the authority of Contingencies Warrant No. 2 of 2019-2020, the amount withdrawn must be replaced from the amount appropriated under section 3.

SCHEDULE

section 3

Number	Head of Service of Government	Amount
		£
	Operating Budget	
0110	Development & Commercial Services	855,990
0200	Health & Social Services	386,104
0250	Education	124,200
0350	Public Works	508,300
0410	Natural Resources	484,660
0450	Law & Regulation	245,275
0550	Emergency Service	559,522
0600	Executive Management	11,000
0615	Policy & Economic Development	66,890
0620	Mineral Resources	31,095
0700	The Treasury	41,435
0999	Island Plan Development	94,000
	Total Operating Budget	3,408,471
0999	Fund Transfer and Transfer Payments	61,789
	Total Schedule	3,470,260

Passed by the Legislature of the Falkland Islands on 31 October 2019.

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.

Taxes (Amendment) (No. 2) Ordinance 2019

(No: 17 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Amendment of Taxes Ordinance 1997
4. Section 34A revoked and replaced (Deduction of tax)
5. Section 114 amended (Demolition and abandonment costs)
6. Section 124A revoked and replaced (Restriction of writing down allowance by reference to asset value in accounts)
7. Section 152 amended (Payments of interest)
8. Heading to Part VI, Chapter IV revoked and replaced (Miscellaneous costs and expenses)
9. Section 155 amended (Finance costs: deductibility)
10. New sections 155A to 155G
 - 155A. Finance charges restriction: interpretation
 - 155B. Commissioner has power to publish guidance and give directions
 - 155C. Finance charges restriction
 - 155D. Finance charges restriction: de minimis allowance
 - 155E. Finance charges restriction: administration
 - 155F. Finance charges restriction: anti-avoidance
 - 155G. Capitalised borrowing costs
11. Schedule A1 revoked and replaced

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

TAXES (AMENDMENT) (NO. 2) ORDINANCE 2019

(No: 17 of 2019)

(assented to: 7 November 2019)
(commencement: in accordance with section 2)
(published: 11 November 2019)

AN ORDINANCE

To amend the Taxes Ordinance 1997.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Taxes (Amendment) (No. 2) Ordinance 2019.

2. Commencement

This Ordinance is deemed to have come into force on 1 January 2019.

3. Amendment of Taxes Ordinance 1997

This Ordinance amends the Taxes Ordinance 1997.

4. Section 34A revoked and replaced (Deduction of tax)

Revoke section 34A and replace it with —

“34A. Deduction of tax

(1) In this section —

“company resident in a territory” means a company which —

(a) by reason of the law of the territory relating to domicile, residence or place of management, is within the charge to tax in the territory; or

(b) if the territory does not have a law referred to in paragraph (a) or the territory has such a law but the law does not apply to the company, is incorporated in the territory;

“overseas payee company” means a company —

(a) to which interest is paid or credited; and

(b) which, in a corporation tax year, is not resident in the Falkland Islands and is not carrying on business through a branch or agency in the Falkland Islands to which the interest income is attributable.

“payer company” means a company which —

(a) pays or credits interest to an overseas payee company; and

(b) is resident in the Falkland Islands or is carrying on a business through a branch or agency in the Falkland Islands to which the interest is attributable;

“payment of interest” means a payment of interest paid or credited to an overseas payee company by a payer company to which this section applies.

(2) This section applies if, in a corporation tax year, a payer company pays interest or credits interest to an overseas payee company.

(3) This section does not apply if —

(a) the overseas payee company —

(i) is resident in a territory specified in Schedule A1 and the interest income is not attributable to a branch or agency in another territory through which the company is carrying on a business; or

(ii) is carrying on a business through a branch or agency in a territory specified in Schedule A1 and the interest income is attributable to that branch or agency; and

(b) the overseas payee company or branch or agency of the overseas payee company is —

(i) the beneficial owner of the interest;

(ii) subject to tax on the interest income in the territory specified in Schedule A1; and

(iii) not involved in any arrangement the main purpose, or one of the main purposes, of which is to obtain an advantage in relation to Falkland Islands tax for the overseas payee company, the branch or agency or any other person.

(4) Subject to subsection (5), a payment of interest is charged to tax under this section at the rate of 10% of the amount of the payment.

(5) Subsection (4) does not apply in relation to a payment of interest if the Commissioner gives notice to the payer company that tax will not be charged on that payment.

(6) Tax charged on a payment of interest must be —

(a) deducted from the gross amount of the payment by the payer company;

(b) credited by and recoverable from the payer company; and

(c) due and payable to the Commissioner by the payer company within 30 days after the end of the month in which the payer company makes the payment of interest.

(7) The payer company must —

(a) submit, together with the amount of tax deducted under subsection (6), a return to the Commissioner that specifies the following —

(i) the gross amount of the payment of interest;

(ii) the date when the payment of interest was paid or credited;

(iii) the identity of the overseas payee company, by specifying at least the name and registered address of the overseas payee company;

(iv) if the interest was paid to the overseas payee company, the account into which the interest was paid;

(v) the amount of the tax deducted;

(b) certify on the return that the return is correct; and

(c) send a copy of the return to the overseas payee company within one month of the date referred to in paragraph (a)(ii).

(8) Part IX applies to and in relation to a payer company who makes a payment of interest with the following modifications —

(a) an assessment to tax may be made on the payer company under sections 172, 173 and 174;

(b) the payer company may object under section 175 to the assessment;

(c) a notice may be served on the payer company under section 176(1);

(d) the payer company may appeal against the assessment to the Tax Appeal Tribunal under section 181;

(e) references in the Part to a return on income include references to a return made under subsection (7); and

(f) any other necessary modifications.

(9) The overseas payee company (or any other person who is the beneficial owner of the interest) is not entitled to recover any tax paid under this section from any person.”.

5. Section 114 amended (Demolition and abandonment costs)

(1) In section 114(8) —

(a) insert in paragraph (b) “or within the further period that the Commissioner allows,” after “that trade,”; and

(b) omit “the 3 year period referred to in paragraph (b) above” and replace it with “the period referred to in paragraph (b)”.

(2) In section 114(10), omit “the 3 immediately” and replace it with “the 10 immediately”.

6. Section 124A revoked and replaced (Restriction of writing down allowance by reference to asset value in accounts)

Revoke section 124A and replace it with —

“124A. Restriction of writing down allowance by reference to asset value in accounts

(1) In this section —

“**person’s accounts**” means the accounts of a person or a connected person of the person;

“**connected person**” means a person who is connected with another person for the purpose of the other person’s business;

“**temporary period**” means the period, not exceeding 2 years, for which a person uses plant or machinery in the Falkland Islands in connection with the person’s business;

“**Falkland Islands**” includes controlled waters;

“**ordinary reduction**” means a reduction, made in accordance with an accounting depreciation policy that accords with generally accepted accounting principles, as it would operate without extraordinary upward revaluations in contemplation of the use of plant and machinery in the Falkland Islands or extraordinary downward revaluations referable to a period of use in the Falkland Islands;

“**person**” means a person who is —

(a) carrying on a business in the Falkland Islands; or

(b) resident in the Falkland Islands.

(2) This section applies if a person claims a writing down allowance under this Chapter in respect of plant or machinery that is —

- (a) brought into the Falkland Islands in connection with the person’s business;
- (b) in the Falkland Islands for a temporary period; and
- (c) used by the person in circumstances in which it is reasonable to expect that the person or a connected person of the person will use the plant or machinery outside the Falkland Islands after the temporary period ends.

(3) A writing down allowance for a chargeable period must not exceed the ordinary reduction in the value of the plant or machinery that is specified in the person’s accounts attributable to the chargeable period and to the period of use of the plant or machinery in connection with the person’s business in the Falkland Islands during the chargeable period.

(4) The Commissioner may direct that this section applies in relation to the plant and machinery specified in the person’s accounts with the modifications specified by the Commissioner in the direction (if any) if the Commissioner is not satisfied that —

- (a) the treatment of the plant or machinery in the person’s accounts is in accordance with accounting policies generally operated by the person and, if applicable, the connected person;
- (b) those accounting policies reflect generally accepted accounting practice; and
- (c) the treatment of the plant or machinery in the accounts reflects ordinary reductions.

(5) The person or the connected person must comply with the Commissioner’s direction made under subsection (4).

(6) If more than one chargeable period occurs in the person’s accounting period, the reduction in value of plant or machinery used by the person in the Falkland Islands during the accounting period is to be apportioned on a just and reasonable basis between those chargeable periods.”.

7. Section 152 amended (Payments of interest)

In section 152, revoke subsection (6) and replace it with —

“(6) In the case of a contractor within the meaning of section 150(11), interest is allowable as a deduction in accordance with this section only in so far as attributable (through just and reasonable apportionment if necessary) to assets used in the Falkland Islands.”.

8. Heading to Part VI, Chapter IV revoked and replaced (Miscellaneous costs and expenses)

The heading to Part VI, Chapter IV is revoked and replaced with—

“CHAPTER IV MISCELLANEOUS COSTS AND EXPENSES”.

9. Section 155 amended (Finance costs: deductibility)

(1) In section 155(2), omit paragraph (b) and replace it with —

“(b) one of the following applies —

(i) C has a special relationship with one or more of the parties to the transaction (“SR”);

(ii) it appears to the Commissioner that the financial transaction has a main purpose of securing a tax advantage.”.

(2) Revoke section 155(2B).

(3) Revoke section 155(2C) and replace it with —

“(2C) If this section applies to a person who is referred to in section 150(11) as a contractor for a person who carries on a ring-fence trade, finance charges are deductible in accordance with this section only in so far as attributable (through just and reasonable apportionment if necessary) to assets used in the Falkland Islands.”.

(4) In section 155(3) —

(a) omit “Where” and replace it with “To the extent”;

(b) omit “above” (in each place it occurs); and

(c) omit “section 104 or section 152(3)” (in each place it occurs) and replace it with “section 104, 152(3) or 152C”.

(5) Revoke section 155(4) and replace it with —

“(4) If C enters into a financial transaction under which the finance charges may exceed £50,000 in an accounting period, and to which subsection (2A) applies or may apply, C must, in writing, notify the Commissioner that C has entered into the financial transaction no later than 20 business days after doing so.”.

(6) Revoke section 155(6) and replace it with —

“(6) This section applies to a company carrying on a ring-fence trade.”.

(7) Revoke section 155(7) and replace it with —

“(7) In this section —

“**finance charge**” has the same meaning as in the definition of “finance charge” in section 155A but without the exclusion of the matters referred to in paragraph (c) of that definition;

“**financial transaction**” means a transaction under which a finance charge is to be or may be incurred;

“**securities**” includes securities not creating or evidencing a charge on assets, and interest paid by a company on money advanced without the issue of a security for the advance, or other consideration given by a company for the use of money so advanced, shall be treated as if paid or given in respect of a security issued for the advance by the company;

“**special relationship**” means a relationship as a result of which C and SR are not dealing, or may not be dealing, at arm’s length.

(7A) A direction given by the Commissioner under subsection (2A) may be —

- (a) specific;
- (b) general;
- (c) conditional; or
- (d) absolute.

(7B) The Commissioner may publish guidance on the criteria that the Commissioner must consider in determining whether or not to give a direction under subsection (2A) .”.

10. New sections 155A to 155G

After section 155, insert —

“155A. Finance charges restriction: interpretation

In this section and sections 155B to 155F —

“**de minimis allowance**” has the meaning it has in section 155D;

“**finance charges**” —

(a) means any of the following —

- (i) interest expenses on debt;
- (ii) costs economically equivalent to interest;
- (iii) expenses and losses incurred in connection with raising finance;

(b) includes the following —

- (i) payments under profit participating loans;
- (ii) imputed interest on instruments such as convertible bonds and zero coupon bonds;
- (iii) alternative finance returns payable under alternative financing arrangements, such as Islamic finance;

(iv) the finance cost element of finance lease payments or other arrangements accounted for as a financial liability;

(v) capitalised interest;

(vi) amounts measured by reference to a funding return under transfer pricing rules where applicable;

(vii) notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings;

(viii) guarantee fees for financing arrangements, arrangement fees and similar costs related to the borrowing of funds;

(ix) fees for letters of credit or other financial guarantees in respect of decommissioning liabilities;

(x) gains and losses from derivatives which hedge risks associated with the company's finance; and

(c) does not include the following —

(i) foreign exchange gains and losses;

(ii) impairment losses and their reversal;

(iii) gains and losses from derivatives which hedge risks arising in the ordinary course of a trade where the contract was entered into wholly for reasons unrelated to the capital structure of the company or its group;

“finance charges restriction” means the rules on restriction and reactivation of finance charges specified in sections 155C to 155F;

“finance charges restriction return” has the meaning it has in section 155E;

“net finance charges” means, in relation a company's accounting period, the higher of the following amounts —

(a) the amount of the company's finance charges that would be deductible before application of the finance charges restriction less the amount of the company's taxable income earned from finance charges;

(b) zero;

“net finance charges allowance” has the meaning it has in section 155C(2);

“tax-EBITDA” means, in relation to a company's accounting period, the chargeable income (if any) of the company for the accounting period after excluding —

- (a) capital gains and allowable losses under Part VI, Chapter II;
- (b) deductions for finance charges and any taxable income from finance charges;
- (c) depreciation allowances or charges under Part V, Chapter II;
- (d) loss relief under Part V, Chapter III; and
- (e) group relief under Part V, Chapter IV.

155B. Commissioner has power to publish guidance and give directions

- (1) The Commissioner may publish guidance, or give directions, for the purpose of ensuring that the finance charges restriction operates on a just and reasonable basis.
- (2) Notwithstanding the definitions of “finance charges” and “tax-EBITDA” in section 155A, the Commissioner may exercise the power under subsection (1) to publish guidance or give directions about whether particular classes of amounts are, or are not, finance charges or tax-EBITDA.

155C. Finance charges restriction

- (1) This section —
 - (a) applies to a company carrying on a ring-fence trade; and
 - (b) provides for —
 - (i) disallowing certain amounts that a company would, apart from this section, be entitled to bring into account for the purposes of corporation tax in respect of finance charges; and
 - (ii) allowing certain amounts disallowed under this section in previous accounting periods to be brought into account in later accounting periods.
- (2) The net finance charges allowance, in respect of a company’s accounting period, is the higher of the following —
 - (a) 30% of the company’s tax-EBITDA;
 - (b) the company’s de minimis allowance.
- (3) A company is subject to a disallowance under this section if, in an accounting period, the company’s net finance charges before application of the finance charges restriction exceed the company’s net finance charges allowance.
- (4) The disallowance applies to a company’s finance charges that would be deductible before application of the finance charges restriction in an amount equal to the excess referred to in subsection (3).

(5) An amount previously disallowed under subsections (3) and (4) may be subsequently reactivated and brought into account by a company as a deduction in an accounting period that ends within 5 years after the end of the accounting period referred to in subsection (3), if and to the extent that —

(a) in the subsequent accounting period the company's net finance charges are less than 30% of the company's tax-EBITDA; and

(b) the amount previously disallowed has not previously been reactivated.

155D. Finance charges restriction: de minimis allowance

(1) There is a de minimis allowance.

(2) The maximum value of a de minimis allowance that may be allocated for a company's accounting period is —

(a) £500,000; or

(b) if a company's accounting period is less than 12 months, £500,000 reduced pro rata.

(3) To the extent that the de minimis allowance is allocated for a company's accounting period, the de minimis allowance of the company is not available for any other company that is, at any time in an accounting period, connected to the first company.

(4) For connected companies, the following applies —

(a) the companies must agree how the maximum de minimis allowance of £500,000 is to be allocated between them and each company must specify how the allowance is allocated between the companies in its finance charges restriction return;

(b) if the accounting periods of the connected companies begin or end on different days, each company must adjust its allocation of the allowance agreed to under paragraph (a) as is just and reasonable.

(5) The Commissioner may, by notice, direct what the value of the de minimis allowance is for a company (which may be nil) if —

(a) the company has been allocated a de minimis allowance that exceeds the maximum value specified in subsection (2);

(b) the allocation of the de minimis allowance for the company or companies connected to the company is not clearly indicated on the company's finance charges restriction return;

(c) the company and companies connected to the company appear not to have been able to agree how to allocate the de minimis allowance between them; or

(d) the accounting periods of the company and companies connected to the company begin or end on different days and the company or a company connected to the company

has not adjusted its allocation of the de minimus allowance agreed between the connected companies as is just and reasonable.

155E. Finance charges restriction: administration

(1) This section does not apply to a company that —

(a) does not have net finance charges greater than £500,000 in an accounting period relevant to the corporation tax year; and

(b) is not connected with another company within the charge to corporation tax in an accounting period relevant to a corporation tax year.

(2) A company that is within the charge to corporation tax must deliver to the Commissioner a finance charges restriction return for each corporation tax year.

(3) The finance charges restriction return —

(a) must be in the form prescribed by the Commissioner;

(b) forms part of the company's return the company delivers to the Commissioner under section 30 for the corporation tax year the finance charges restriction form relates to; and

(c) must contain the following information —

(i) whether and to what extent an amount of de minimis allowance has been allocated to the company for an accounting period;

(ii) details of any companies connected with the company that are within the charge to corporation tax, and the extent to which those companies have been allocated an amount of de minimis allowance;

(iii) for each of the company's accounting periods that is relevant to the corporation tax year, calculation of the following for the company —

(A) tax-EBITDA;

(B) finance charges that would be deductible before application of the finance charges restriction;

(C) company's taxable income from finance charges;

(D) net finance charges;

(E) net finance charges allowance;

(F) finance charges disallowed or reactivated under section 155C; and

(G) amounts disallowed under section 155C for previous accounting periods and not yet reactivated.

(4) The Commissioner may, by notice, request a company to provide to the Commissioner information or copies of documents for assessing the compliance of the company and companies connected with the company with the finance charges restriction. The company must comply with the request as soon as practicable after receiving the request.

(5) The information or documents the Commissioner may request under subsection (4) include details of —

(a) the company’s financing and hedging arrangements;

(b) counterparties to the financing and hedging arrangements; and

(c) the commercial and tax purposes for entering into the financing or hedging arrangements.

(6) The Commissioner may amend a company’s return delivered under section 30 to the extent the Commissioner considers necessary if —

(a) the company’s finance charges restriction return omits information or contains incomplete or incorrect information or a miscalculation relating to the finance charges restriction; or

(b) the company fails to provide information or documents requested by the Commissioner under subsection (4).

(7) If the Commissioner amends a company’s return under subsection (6), the Commissioner must give written notice to the company of the amendment.

(8) If a company fails to deliver a finance charges restriction return to the Commissioner, section 33 applies as if the reference in that section to a company’s accounts for an accounting period were a reference to the company’s finance charges restriction return.

155F. Finance charges restriction: anti-avoidance

(1) In this section —

“**tax advantage**” includes —

(a) additional finance charges being brought into account;

(b) a reduction in amounts disallowed under section 155C,

(c) additional amounts being reactivated under section 155C;

(d) a company or a connected company obtaining a greater de minimis allowance; and

(e) amounts that are taken into account for the purposes of corporation tax in respect of finance charges earlier or later than they would otherwise be taken into account.

(2) If the Commissioner is satisfied on reasonable grounds that arrangements exist that have as their main purpose, or one of their main purposes, to obtain a tax advantage for or in relation to a company or connected companies, the Commissioner may make the adjustments, as are just and reasonable, to reduce or negate the effect of those arrangements.

155G. Capitalised borrowing costs

(1) This section applies —

(a) subject to the provisions of this Ordinance that impose tax on or provide relief from taxation for an expense or income referred to in this section; and

(b) if the following apply —

(i) a company carries on a ring-fence trade;

(ii) generally accepted accounting practice allows a credit or debit in connection with the company’s borrowing for an accounting period to be treated in the company’s accounts as an amount brought into account for determining the value of a fixed capital asset or project.

(2) Despite the accounting practice referred to in subsection (1)(b)(ii), the credit or debit must be brought into account as an expense or income for the accounting period in which it is given in the same way as if it were a credit or debit which is brought into account in determining the company’s profit or loss for that period in accordance with generally accepted accounting practice.

(3) If a debit is brought into account under subsection (2) —

(a) no expense may be brought into account in respect of the writing down of so much of the value of the asset or project as is attributable to that debit; and

(b) no expense may be brought into account in respect of so much of an amortisation or depreciation that represents a writing off of the interest component of the asset or project.”.

11. Schedule A1 revoked and replaced

Schedule A1 is revoked and replaced with —

“SCHEDULE AI

section 34A(3)

TERRITORIES

A

Afghanistan

Algeria

Angola

Argentina

Armenia

Aruba

Australia

Austria

Azerbaijan

B

Bangladesh

Belgium

Bolivia

Brunei

Barbados

Belize

Botswana

Burundi

Belarus

Benin

Brazil

C

Cameroon

Colombia

Czech Republic

Canada

Croatia

China

Cuba

DDemocratic Republic of the
Congo

Denmark

Dominican Republic

E

Ecuador

Egypt

El Salvador

F

Faroe Islands

Fiji

Finland

France

G

Gabon

Ghana

Gambia

Greece

Germany

Guyana

H

Honduras

I

Iceland

Iran

Ivory Coast

India

Israel

Indonesia

Italy

J

Jamaica

Japan

K

Kenya

L

Lesotho

Libya

Luxembourg

M

Malawi

Malaysia

Malta

Mexico

Monaco

Morocco

N

Namibia

Netherlands

New Zealand

Nigeria

Norway

P

Pakistan

Panama

Papua New Guinea

Peru

Philippines

Poland

Portugal

Puerto Rico

R

Republic of Korea

Russia

S

Saudi Arabia

Senegal

Sierra Leone

Slovakia

Slovenia

Solomon Islands

South Africa

Spain

Sri Lanka

Swaziland

Sweden

T

Tanzania

Thailand

Trinidad and Tobago

Tunisia

Turkey

U

Uganda

Ukraine

United Kingdom

United States of America

Uruguay

V

Venezuela

Vietnam

Z

Zambia

Zimbabwe".

Passed by the Legislature of the Falkland Islands on 31 October 2019.

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.

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Supplement

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The following are published in this Supplement —

Communications (Amendment) Ordinance 2019 (No 18 of 2019);

Communications (Radiocommunications Licensing Procedures) Regulations 2019 (SR&O No 26 of 2019);

Communications (Radiocommunications Exemption) Regulations 2019 (SR&O No 27 of 2019); and

Communications (Fees) Regulations 2019 (SR&O No 28 of 2019).

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Communications (Amendment) Ordinance 2019

(No. 18 OF 2019)

ARRANGEMENT OF PROVISIONS

Section

PART 1 - INTRODUCTION

1. Title
2. Commencement
3. Amendment of Communications Ordinance 2017

PART 2 - AMENDMENT OF PARTS 1, 3, 4 AND 5 COMMUNICATIONS ORDINANCE

Amendment of Part 1 Communications Ordinance

4. Section 3 amended - Interpretation

Amendment of Part 3 Communications Ordinance

5. Section 13 amended - Enforcement orders, penalties and compensation awards
6. Section 17 amended - Confidentiality and personal data security

Amendment of Part 4 Communications Ordinance

7. Section 25 amended - Private facilities
8. Section 26 amended - Transmission stations
9. Section 27 amended - Foreign transport
10. Section 28 amended - Emergency services
11. Section 29 amended - Radio spectrum use
12. Section 31 amended - Broadcasting licensees
13. New section 44A inserted

Amendment of Part 5 Communications Ordinance

14. Section 45 amended - Requirement for licence

15. Section 46 amended - Grant of licence

PART 3 - AMENDMENT OF PART 6 COMMUNICATIONS ORDINANCE

16. Heading to Part 6 replaced - Radio spectrum management
17. Section 53 repealed - Management of the radio spectrum
18. New sections 53A to 53C inserted
19. Section 54 repealed and replaced - Spectrum Plan
20. New sections 54A and 54B inserted
21. New crossheading inserted before section 55 - Radio spectrum licence
22. Section 55 repealed and replaced - Radio spectrum licence
23. New sections 55A to 55F inserted
24. Section 56 repealed - Licensee's installations
25. Section 57 repealed and replaced - Exemptions
26. New section 57A inserted
27. Section 58 amended - Vacation of radio spectrum,
28. Section 59 amended - Spectrum trading
29. Section 61 repealed and replaced - Penalties for non-compliance with licence
30. New sections 61A to 61C inserted
31. Section 70 amended - Failure to provide information

PART 4 - AMENDMENT OF PARTS 9, 10 AND 11 COMMUNICATIONS ORDINANCE

Amendment of Part 9 Communications Ordinance

32. Section 83 repealed - Equipment standards

Amendment of Part 10 Communications Ordinance

33. Section 88 amended - War and emergencies

Amendment of Part 11 Communications Ordinance

34. Section 92 amended - Misleading messages
35. Section 93 amended - Improperly obtaining and disclosing information and interfering with communications
36. Section 94 amended - Deliberate interference
37. New section 97A inserted

PART 5 - REPEAL AND REPLACE PART 14 COMMUNICATIONS ORDINANCE

38. Part 14 repealed and replaced
39. New sections 112A and 112B inserted in Part 14

PART 6 - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

40. Repeal of Wireless Telegraphy Ordinance 1994
41. Saving of Wireless Telegraphy licences issued by the Superintendent of Posts and Telecommunications
42. Validation of fees charged for licences under the Wireless Telegraphy Ordinance 1994
43. Transitional provisions applying to other Wireless Telegraphy licences
44. Transitional provisions applying to other use of spectrum
45. Amendment of Civil Cases (Fees) Rules 1992

ELIZABETH II



FALKLAND ISLANDS

RICHARD ALEXANDER JOHN MITHAM,
Acting Governor.

Communications (Amendment) Ordinance 2019

(No. 18 OF 2019)

(assented to: 7 November 2019)
(commencement: in accordance with section 2)
(published: 11 November 2019)

AN ORDINANCE

To amend the Communications Ordinance 2017.

ENACTED by the Legislature of the Falkland Islands —

PART 1 - INTRODUCTION

1. Title

This Ordinance is the Communications (Amendment) Ordinance 2019.

2. Commencement

(1) This Ordinance comes into force on a day specified by the Governor by notice published in the *Gazette*.

(2) Different dates may be specified for different provisions.

3. Amendment of Communications Ordinance 2017

This Ordinance amends the Communications Ordinance 2017.

PART 2 - AMENDMENT OF PARTS 1, 3, 4 AND 5 COMMUNICATIONS ORDINANCE

Amendment of Part 1 Communications Ordinance

4. Section 3 amended - Interpretation

(1) This section amends section 3.

(2) Insert the following definitions in the appropriate alphabetical order —

“**electronic communications apparatus**” means —

- (a) any apparatus which is designed or adapted for use in connection with the provision of an electronic communications network;
- (b) any apparatus that is designed or adapted for a use which consists of or includes the sending or receiving of communications or other signals that are transmitted by means of an electronic communications network;
- (c) any line;
- (d) any conduit, structure, pole or other thing in, on, by or from which any electronic communications apparatus is or may be installed, supported carried or suspended; and references to the installation of electronic communications apparatus are to be construed accordingly;

“**harmful interference**” means interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with international or Falkland Island regulations;

“**ITU**” means the International Telecommunications Union;

“**line**” means any wire, cable, tube, pipe or similar thing (including its casing or coating) which is designed or adapted for use in connection with the provision of any electronic communications network or electronic communications service;

“**radiocommunication**” means the emitting or receiving over paths which are not provided by any material substance constructed or arranged for that purpose, of electromagnetic energy which either —

- (a) serves for the conveying of messages, sound or visual images (whether the messages, sound or images are actually received by any person or not) or for the actuation or control of machinery or apparatus; or
- (b) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence, position or motion of any object or of any objects of any class;

and references to stations for radiocommunications and apparatus for radiocommunications or radiocommunications apparatus shall be construed as references to stations and apparatus for the emitting or receiving of such electromagnetic energy:

Provided that where —

- (i) a station or apparatus for radiocommunications cannot lawfully be used without a radiocommunications licence but for regulations under Part 6 of this Ordinance;
- (ii) any such electromagnetic energy which is received by that station or apparatus serves for the conveying of messages, sound or visual images; and
- (iii) any apparatus is coupled by wire, radio, optical or any electromagnetic means with that station or apparatus for the purpose of enabling any person to receive any such messages, sound or visual images;

the apparatus so coupled shall be deemed for the purposes of Part 6 of this Ordinance to be apparatus for radiocommunications;

“**radiocommunications licence**” means a licence granted under section 55A.”.

(3) Omit the following definitions —

“electronic communications”;

“electronic communications equipment”;

“network”;

“radio”;

“radio spectrum licence”;

“spectrum plan”;

“wireless telegraphy”.

(4) Omit the following definitions and replace them as follows —

“**content service**” means so much of any service as consists of one or both of the following—

- (a) the provision of material with a view to it being comprised in signals conveyed by means of an electronic communications network;
- (b) the exercise of editorial control over the contents of signals conveyed by means of such a network;

“**electronic communications network**” means —

- (a) a transmission system for the conveyance, by the use of electrical, magnetic or electromagnetic energy, of signals of any description; and

- (b) such of the following as are used, by the person providing the system and in association with it, for the conveyance of signals —
 - (i) apparatus comprised in the system;
 - (ii) apparatus used for the switching or routing of the signals including network elements which are not active; and
 - (iii) software and stored data;

“**electronic communications service**” means a service consisting in, or having as its principal feature, the conveyance by means of an electronic communications network of signals, except insofar as it is a content service;

“**with lawful authority**” means —

- (a) in accordance with a provision of this Ordinance or any other enactment, in accordance with a provision of a licence issued under this Ordinance, in connection with or in the course of activities licensed under this Ordinance, in accordance with a warrant, notice or requirement issued under this Ordinance, or in accordance with an order of a court; or
- (b) where the issue concerns disclosure of information or documents, with the consent of the sender and recipient of the information or documents.”

(5) In the definition of “**carriage service**”, after ““carriage service”” insert “for the purposes of the exclusive licence,”.

(6) Add the following subsections and the existing section becomes subsection (1) —

“(2) The reference in the definition of “**electronic communications network**” to a transmission system includes a reference to a transmission system consisting of no more than a transmitter used for the conveyance of signals.

(3) In this section, references to the conveyance of signals include references to the transmission or routing of signals or parts of signals and to the broadcasting of signals for general reception.

(4) Any reference in this Ordinance to the emission of electromagnetic energy, or to emission (as opposed to reception) is to be construed as including a reference to the deliberate reflection of electromagnetic energy by means of any apparatus designed or specially adapted for the purpose, whether the reflection is continuous or intermittent.

(5) References in this Ordinance to apparatus on board a ship or vessel include references to apparatus on a kite, balloon or any other device flown from a ship or vessel.”.

Amendment of Part 3 Communications Ordinance

5. Section 13 amended - Enforcement orders, penalties and compensation awards

In section 13, after subsection (9) insert —

“(9A) A person who is guilty of an offence under subsection (9) is liable on conviction —

- (a) to imprisonment for a term not exceeding 3 months;
- (b) to a fine not exceeding level 3 on the standard scale; or
- (c) to both.

(9B) In addition to any penalty imposed under subsection (9A), the court may also order the person to comply with the enforcement order.”

6. Section 17 amended – Confidentiality and personal data security

In section 17(2), delete the full stop at the end and insert —

“except —

- (a) in accordance with an order of court; or
- (b) with the consent of the licensee and the person to whom the data relates.”

Amendment of Part 4 Communications Ordinance

7. Section 25 amended - Private facilities

In section 25, omit subsection (1) and replace it with —

“(1) The licence requirement does not apply to private electronic communications facilities.”

8. Section 26 amended - Transmission stations

In section 26 —

- (a) replace “Networks” with “Electronic communication networks”; and
- (b) replace “wireless telegraphy” with “radiocommunications”.

9. Section 27 amended - Foreign transport

In section 27(1), replace “Networks and carriage services” with “Electronic communications networks and electronic communications services”.

10. Section 28 amended - Emergency services

In section 28(1), replace “network facilities” with “electronic communications networks”.

11. Section 29 amended - Radio spectrum use

(1) This section amends section 29.

(2) In subsection (1) —

- (a) omit paragraph (a); and
- (b) in paragraph (b), omit “that Part.” and replace it with “Part 6”.

(3) After subsection (1), insert —

“(1A) The Regulator may, by notice, provide that anything exempt from a licence under this Part because of subsection (1), is not exempt.”

(4) Omit subsection (2).

12. Section 31 amended - Broadcasting licensees

(1) This section amends section 31.

(2) Omit the heading and replace with “Broadcasting licences”.

(3) In paragraph (a) —

(a) omit “under the Wireless Telegraphy Ordinance 1994 or”; and

(b) after “the Broadcasting Ordinance 2004”, insert “a person holding a licence granted under Part 5 of this Ordinance”.

13. New section 44A inserted

After section 44, insert —

“Miscellaneous

44A. Electronic communications apparatus

(1) The Regulator may prohibit the connection of electronic communications apparatus to an electronic communications network if the Regulator considers the apparatus may cause harm to the network.

(2) The Governor may by regulations provide for an approvals regime for electronic communications apparatus.”

Amendment of Part 5 Communications Ordinance

14. Section 45 amended - Requirement for licence

In section 45, omit paragraph (b).

15. Section 46 amended - Grant of licence

(1) This section amends section 46.

(2) In section 46, omit subsection (3) and replace it with —

“(3) A licence granted under this Part does not exempt a person from the requirement to hold a licence under Part 6 of this Ordinance for any activities falling within Part 6.”

(3) After subsection (3), add —

“(4) Section 55E applies to broadcasting station licences as it does to radiocommunications licences, save that in respect of a broadcasting station licence, the powers set out in that section are exercisable by the Governor and not the Regulator.”

PART 3 - AMENDMENT OF PART 6 COMMUNICATIONS ORDINANCE

16. Heading to Part 6 replaced - Radio Spectrum Management

Omit the heading to Part 6 and replace with —

“ELECTROMAGNETIC SPECTRUM AND RADIOCOMMUNICATIONS LICENCES”.

17. Section 53 repealed - Management of the radio spectrum

Section 53 is repealed.

18. New sections 53A to 53C inserted

Before section 54 insert the following sections —

“Electromagnetic spectrum and the Regulator’s duties

53A. Responsibility for the electromagnetic spectrum

- (1) The ownership of the electromagnetic spectrum in the Falkland Islands is, by virtue of this Ordinance, vested exclusively in the Government.
- (2) The Regulator is responsible for the management and control of the electromagnetic spectrum.

53B. Duties of the Regulator when carrying out spectrum functions

- (1) The Regulator must have regard to the following matters when carrying out functions under this Part —
 - (a) the electronic communications objectives and the regulatory principles;
 - (b) the extent to which the electromagnetic spectrum is available for use, or further use, for radiocommunications;
 - (c) the demand for use of the electromagnetic spectrum for radiocommunications; and
 - (d) the demand that is likely to arise in future for use of the electromagnetic spectrum for radiocommunications.
- (2) The Regulator must also have regard to the desirability of promoting —
 - (a) the efficient management and use of the part of the electromagnetic spectrum available for radiocommunications;

- (b) the economic and other benefits that may arise from use of radiocommunications;
- (c) the development of innovative services; and
- (d) subject to the provisions of the exclusive licence, competition in the provision of electronic communications services.

(3) Where it appears to the Regulator that any of the Regulator’s duties under this section conflicts with another in a particular case, the Regulator must resolve the conflict in the way they think best in the public interest.

53C. Conflict between the Regulator’s duties under Part 6 and under Parts 4 and 7

Where it appears to the Regulator that any of the Regulator’s duties under this Part conflict with any of the Regulator’s duties under Parts 4 or 7 of this Ordinance, the Regulator must give priority to their duties under Parts 4 and 7.”

19. Section 54 repealed and replaced - Spectrum Plan

Section 54 is repealed and replaced with —

“54. Falkland Islands Frequency Allocation Table

(1) The Regulator must publish a table (“The Falkland Islands Frequency Allocation Table”).

(2) The Table must set out —

- (a) in relation to the Falkland Islands, the frequencies that —
 - (i) have been allocated for particular radiocommunications purposes; and
 - (ii) are available for allocation;
- (b) the purposes for which the different frequencies have been allocated; and
- (c) identify any frequency bands that are premium spectrum bands.

(3) The Regulator must —

- (a) review the Falkland Islands Frequency Allocation Table from time to time and at least after every ITU World Radio Conference;
- (b) make any revision to the Table that the Regulator considers appropriate as a result of the review; and
- (c) publish the revised Table.”

20. New sections 54A and 54B inserted

After section 54, insert the following sections —

“54A. Allocation and assignment of frequencies

(1) The Regulator may allocate bands of frequencies for such purposes as the Regulator considers appropriate.

(2) The Regulator must ensure that frequencies for electronic communications services are allocated and assigned under procedures which —

- (a) are objective, non-discriminatory, transparent and proportionate;
- (b) respect relevant international agreements, including ITU Radio Regulations, applicable to the Falkland Islands; and
- (c) do not prevent the Regulator from taking public policy considerations into account.

54B. Regulator’s ability to impose restrictions relating to electronic communications services

(1) Subject to subsections (2) to (5), the Regulator must ensure that, in the radio frequency bands declared available for electronic communications services in the Falkland Islands Frequency Allocation Table —

- (a) all types of technology used for electronic communications services may be used; and
- (b) all types of electronic communications services may be provided.

(2) The Regulator may provide for proportionate and non-discriminatory restrictions to the types of radio network or wireless access technology used for electronic communications services where this is necessary to —

- (a) avoid harmful interference;
- (b) protect public health against electromagnetic fields;
- (c) ensure technical quality of service;
- (d) ensure maximisation of radio frequency sharing;
- (e) safeguard efficient use of the electromagnetic spectrum; or
- (f) ensure the fulfilment of a general interest objective in accordance with subsections (3) to (5).

(3) The Regulator may provide for proportionate and non-discriminatory restrictions to the types of electronic communications services to be provided, including, where necessary, to fulfil a requirement under the ITU Radio Regulations.

(4) The Regulator may only impose measures that require an electronic communications service to be provided in a specific band available for electronic communications services if these are justified in order to fulfil a general interest objective such as, but not limited to —

- (a) safety of life;

- (b) the promotion of social, regional or territorial cohesion;
- (c) the avoidance of inefficient use of radio frequencies; or
- (d) the promotion of cultural and linguistic diversity and media pluralism, for example by the provision of radio and television broadcasting services.

(5) The Regulator may only impose a measure that prohibits the provision of any other electronic communications service in a specified band where this is justified by the need to protect safety of life services.

(6) The Regulator must regularly review the necessity of any restrictions imposed under this section and must make the results of the Regulator’s reviews public.”

21. New crossheading inserted before section 55 - Radio spectrum licence

Insert the following crossheading before section 55 —

“General prohibition and licensing”.

22. Section 55 repealed and replaced - Radio spectrum licence

Section 55 is repealed and replaced with —

“55. General prohibition on radiocommunications activities

No person in the Falkland Islands may, without a licence —

- (a) use the electromagnetic spectrum;
- (b) establish or use any station for radiocommunications; or
- (c) keep, install, or use any apparatus for radiocommunications.”

23. New sections 55A to 55F inserted

After section 55, insert the following sections —

“55A. Radiocommunications licence

(1) A licence to do any of the things mentioned in section 55 may be granted by the Regulator.

(2) The Regulator may issue a licence subject to any terms, conditions, provisions or limitations that the Regulator considers appropriate.

(3) Licence terms, conditions, provisions, or limitations may include, but are not limited to—

- (a) in the case of a licence to establish a radiocommunications station, limitations as to the position and nature of the station, the purposes for which, the circumstances in which and the persons by whom the station may be used, and the apparatus that may be installed;

- (b) in the case of any other licence, limitations as to the radiocommunications apparatus which may be kept, installed or used, and the places where, the purposes for which, the circumstances in which and the persons by whom the apparatus may be kept or used;
 - (c) the strength or type of signal, times of use and sharing of frequencies;
 - (d) prohibitions on transmission or broadcasting of particular matters by the holder of the licence; and
 - (e) requirements on the holder of the licence to transmit or broadcast particular matters.
- (4) A licence under this section may be granted either —
- (a) in relation to a particular radiocommunications station or particular radiocommunications apparatus; or
 - (b) in relation to any radiocommunications station or radiocommunications apparatus falling within a description specified in the licence.

55B. Power to delegate issuing of radiocommunications licences

- (1) The Regulator may, with the approval of the Governor, delegate the issuing of any category of radiocommunications licence.
- (2) The Governor may not approve a delegation under subsection (1) unless satisfied that —
- (a) the person to whom authority is to be delegated has the appropriate qualifications, experience and competence; and
 - (b) all necessary safeguards and mechanisms for transparency and accountability are in place.
- (3) A delegation under subsection (1) —
- (a) may be for any period not exceeding 5 years; and
 - (b) is renewable.
- (4) A person to whom authority is delegated under subsection (1) must —
- (a) comply with the provisions of this Ordinance, any regulations made under this Ordinance and the terms of the delegation; and
 - (b) comply with any directions given to them by the Regulator.
- (5) A licence issued by a person with delegated authority to issue a licence is issued on behalf of the Regulator and any appeal under Part 14 in relation to the grant or refusal of a licence is to be made against the Regulator.

55C. Conditions to be included in all radiocommunications licences

- (1) A radiocommunications licence must include the following conditions —

- (a) a requirement that the licensee must comply with directions given by the Regulator in relation to use of the frequency;
- (b) a requirement that the licensee must permit any person authorised by the Regulator to enter any premises occupied or controlled by the licensee to inspect any apparatus used by the licensee in the carrying on of activities in reliance on the licence; and
- (c) a requirement that the licensee must take reasonable steps to avoid their actions or apparatus causing harmful interference and must comply with any direction from the Regulator requiring the licensee to take steps to prevent interference as soon as reasonably practicable.

(2) The Governor may by regulations specify further conditions to be included in all radiocommunications licences.

(3) Regulations made by the Governor under this section may provide for the new conditions to be included in existing licences as well as new licences.

55D. Application for, grant and refusal of a radiocommunications licence

(1) An application for a radiocommunications licence must be made to the Regulator.

(2) The Governor may by regulations provide for the procedures to be followed in connection with licences and applications for licences.

(3) The Regulator may refuse to grant an application for a licence if —

- (a) the Regulator considers that the applicant does not meet the threshold conditions for the category of licence applied for;
- (b) the Regulator considers that the applicant is unable to comply with the terms, provisions, limitations or conditions of the licence;
- (c) the applicant fails to provide any information which the Regulator reasonably requires as part of the application process in order to satisfy the Regulator that the applicant is able to comply; or
- (d) the Regulator considers that granting the licence applied for would be contrary to any of the electronic communications objectives.

(4) A refusal to grant a licence is subject to an appeal under Part 14.

55E. Variation and revocation of a radiocommunications licence

(1) The Regulator may vary any of the terms, conditions, provisions or limitations in a radiocommunications licence, or revoke the licence either —

- (a) on the Regulator's own initiative; or
- (b) on the application of the licensee.

(2) The Regulator may exercise its power to vary or revoke the licence in any of the following circumstances —

- (a) the licensee has failed to comply with the terms and conditions of the licence;
 - (b) a change in Falkland Islands or international law necessitates the variation or revocation; or
 - (c) it is necessary or desirable for the purposes of pursuing the electronic communications objectives in accordance with the regulatory principles.
- (3) Where the Regulator proposes to exercise its power to vary or revoke a licence, it must give the licensee written notice stating —
- (a) the details of the proposed variation or revocation;
 - (b) the regulator’s reasons for the variation or revocation;
 - (c) the licensee’s right to make representations to the Regulator and the deadline for doing so, which must not be less than 7 days; and
 - (d) the proposed date on which the variation or revocation will take effect.
- (4) The Regulator must consider any representations made by the licensee and after doing so must give the licensee a notice stating either —
- (a) that the Regulator is varying or revoking the license as proposed;
 - (b) that the Regulator intends to vary the license in a different way, or revoke the licence if this had not been proposed; or
 - (c) that the Regulator does not intend to vary or revoke the license in the way proposed.
- (5) The Regulator’s notice under subsection (4)(a) must include details of the licensee’s right to appeal under Part 14.
- (6) If the Regulator issues a notice under subsection (4)(b), this must include the matters set out in subsection (3) and the Regulator may not vary or revoke the license until the licensee has had a further opportunity to make representations.

55F. Register of radiocommunications licences

The Regulator must maintain a register of all radiocommunications licences granted under this Part.”

24. Section 56 repealed - Licensee’s installations

Section 56 is repealed.

25. Section 57 repealed and replaced - Exemptions

Section 57 is repealed and replaced with —

“57. Exemptions

- (1) The following are exempt from the requirement for a radiocommunications licence—

- (a) receive-only radiocommunications; and
- (b) the use of any radiocommunications station or the keeping, installation or use of any radiocommunications apparatus on board any vessel or aircraft which is registered outside the Falkland Islands.

(2) The Regulator may, by notice, exempt the keeping, establishment, installation or use of stations for radiocommunications or radiocommunications apparatus if the Regulator is satisfied that —

- (a) the use of the station or apparatus is not likely to involve any harmful interference; and
- (b) the risk of harm or inconvenience to other users is outweighed by the benefits to the public of permitting usage on an unlicensed basis.

(3) A notice of exemption under subsection (2) extends only to the classes of radiocommunications stations or radiocommunications apparatus or descriptions of radiocommunications stations or radiocommunications apparatus specified in the notice.”

26. New section 57A inserted

After section 57, insert the following —

“57A. Transfer or lease of rights to the electromagnetic spectrum

(1) A licensee is prohibited from transferring or leasing any of the licensee’s rights to use frequencies.

(2) Any purported attempt to transfer or lease rights to use frequencies whether in whole or in part is void and the Regulator may —

- (a) take action under section 13 against either or both of the licensee or the person to whom the rights were purportedly transferred or leased;
- (b) in addition to, or instead of, any action under sub-paragraph (a), vary or revoke the licensee’s licence under section 55E.

(3) This section is subject to any regulations made under section 59.”

27. Section 58 amended - Vacation of radio spectrum

In section 58, subsection (2), after “the Regulator must have regard to”, insert “the Regulator’s duties under section 53B and”.

28. Section 59 amended – Spectrum trading

In section 59, omit subsection (3).

29. Section 61 repealed and replaced - Penalties for non-compliance with licence

Section 61 is repealed and replaced with —

“61. Carrying on radiocommunications activities without a licence

(1) It is an offence to carry on an activity which requires a licence in accordance with section 55 otherwise than in accordance with a licence.

(2) It is an offence to make a radiocommunications station or radiocommunications apparatus available to a person where the person making it available knows, or has reasonable cause to believe that the other person intends to use it in contravention of section 55.

(3) A person who is guilty of an offence under either subsection (1) or subsection (2) is liable on conviction to a fine not exceeding level 10 on the standard scale.”

30. New sections 61A to 61C inserted

After section 61, insert the following sections —

“61A. Causing damage or obstruction

(1) It is an offence to unlawfully —

- (a) damage, remove or destroy any radiocommunications apparatus or installation for radiocommunications or any part of any such apparatus or installation; or
- (b) obstruct or prevent in any way the sending, conveyance, delivery or receipt of any message or signal by radiocommunications.

(2) A person who is guilty of an offence under subsection (1) is liable on conviction to imprisonment for 10 years, or a fine, or both.

Regulations and equipment standards

61B. Regulations under Part 6

(1) In addition to any specific powers conferred on the Governor under this Part, the Governor may make regulations on any of the following matters —

- (a) prescribing things which are to be done or are not to be done in connection with the use of any radiocommunications stations or radiocommunications apparatus, and in particular requiring the use of any such station or apparatus to cease by demand of the Regulator or a person prescribed by the Regulator;
- (b) imposing on any person holding a licence under this Part obligations as to —
 - (i) permitting and facilitating the inspection of stations and apparatus;
 - (ii) the condition in which the station and apparatus are to be kept; and
 - (iii) production of the licence or other evidence of the licensing of the station or apparatus;
- (c) the conditions under which radiocommunications apparatus may be worked in the Falkland Islands and on ships and aircraft;

- (d) the periods during which radiocommunications apparatus may or may not be worked;
- (e) the control of electrical interference by or in relation to the working of radiocommunications apparatus;
- (f) the forms of radiocommunications licences;
- (g) the register of radiocommunications licences to be kept by the Regulator;
- (h) exemptions from the requirement to hold a radiocommunications licence;
- (i) the duties of the Regulator under this Part.

(2) It is an offence to contravene any regulations made under paragraphs (a), (c), (d) or (e) of this section.

(3) A person who is guilty of an offence under subsection (2) is liable on conviction to a fine not exceeding level 8 on the standard scale.

61C. Regulations as to radiation of electromagnetic energy

(1) The Governor may make regulations specifying —

- (a) the standards for apparatus used for accessing the electromagnetic spectrum;
- (b) conditions to be satisfied in using apparatus to access the electromagnetic spectrum;
- (c) conditions or standards for the manufacture or import of apparatus designed to be used to access the electromagnetic spectrum.

(2) The standards and conditions to be specified in the regulations are any that are considered necessary or desirable for the purposes of —

- (a) preventing or limiting damage to electronic communications networks or electronic communications services provided in accordance with this Ordinance;
- (b) protecting public health and safety;
- (c) protecting the environment; or
- (d) ensuring that the use of apparatus does not cause harmful interference with radiocommunications.

(3) The standards and conditions specified may include in particular —

- (a) requirements as to the maximum intensity of electromagnetic energy of any specified frequencies which may be radiated in any direction from the apparatus whilst it is being used; and
- (b) in the case of an apparatus, the power for which is supplied from electric lines, requirements as to the maximum electromagnetic energy of any specified frequencies which may be injected into those lines by the apparatus.”

31. Section 70 amended – Failure to provide information

In section 70 omit subsection (5).

PART 4 – AMENDMENT OF PARTS 9, 10 AND 11 COMMUNICATIONS ORDINANCE

Amendment of Part 9 Communications Ordinance

32. Section 83 repealed - Equipment standards

Section 83 is repealed.

Amendment of Part 10 Communications Ordinance

33. Section 88 amended - War and emergencies

(1) This section amends section 88.

(2) In subsection (1) —

(a) in paragraph (a), omit “network or services” and replace it with “electronic communications network or electronic communications services”;

(b) after paragraph (a), insert —

“(aa) take any steps the Governor considers appropriate with respect to the possession, sale, purchase, construction and use of radiocommunications apparatus in the Falklands, or on board any vessel or aircraft in the territorial waters or airspace;”

(c) omit paragraph (b) and replace it with —

“(b) issue directions —

(i) to a licensee or any other person who controls an electronic communications network or electronic communications services; and

(ii) to any person in respect of any matter falling within paragraph (aa);” and

(d) in paragraph (c), omit “paragraph (a)” and replace it with “paragraphs (a) and (aa)”.

(3) After subsection (2), add —

“(3) This section does not apply to radiocommunications apparatus —

(a) for use in the service of Her Majesty; and

(b) on board foreign warships or service aircraft.”

Amendment of Part 11 Communications Ordinance

34. Section 92 amended - Misleading messages

In section 92(1) —

- (a) replace “electronic communications” with “radiocommunications or electronic communications services”;
- (b) after “to send or attempt to send a message which”, insert “the person knows or is reckless as to whether it”; and
- (c) after “false or misleading and”, insert “knows or is reckless as to whether it”.

35. Section 93 amended - Improperly obtaining and disclosing information and interfering with communications

(1) This section amends section 93.

(2) In subsection (1)(a), after “operator of a”, insert “electronic communications”.

(3) After subsection (1), insert —

“(1A) It is an offence to —

- (a) use any radiocommunications apparatus with intent to obtain information as to the contents, sender or addressee of any message (whether sent by means of radiocommunications or not); or
- (b) disclose any information obtained.

(1B) A person does not commit an offence under subsections (1) or (1A) if —

- (a) the person, or any person on whose behalf they were acting, was authorised to receive the message; or
- (b) the person had lawful authority.”

(4) Omit subsection (2) and replace it with —

“(2) It is an offence for the operator of a public electronic communications network to —

- (a) intentionally or negligently omit, delay or prevent the transmission or delivery of any message; or
- (b) without lawful authority disclose the existence, nature or content (including sender or addressee) of any message.”

(5) In subsection (3) —

- (a) in the first line, omit “Subsections (1) and (2) do” and replace it with “Subsection (2) does”; and

(b) omit paragraph (a) and replace it with —

“(a) as a necessary part of maintaining a public electronic communications network, or ensuring the security of a public electronic communications network.”

(6) After subsection (5), add —

“(6) For the purposes of this section, “operator of a public electronic communications network” includes any person who, at the time the offence was committed, was employed by the operator, or was acting or holding themselves out as being an agent for the operator.”

36. Section 94 amended - Deliberate interference

(1) This section amends section 94.

(2) In subsection (1), replace “electronic communications” with “electronic communications networks, electronic communications services or radiocommunications”.

(3) In subsection (2) —

(a) replace “Subsection (2)” with “Subsection (1)”; and

(b) omit subsection (2)(a).

37. New section 97A inserted

After section 97 insert —

“97A. Forfeiture of radiocommunications apparatus

(1) This section applies where a person has —

(a) been convicted of any offence under this Ordinance; and either

(b) the person used radiocommunications apparatus when committing the offence; or

(c) the offence was committed in relation to radiocommunications.

(2) In addition to any penalty imposed by a court for committing the offence, the court may make an order for forfeiture of any of the following that the court considers appropriate —

(a) any vehicle, vessel, aircraft or other structure or object which was used in connection with the commission of the offence;

(b) any radiocommunications apparatus or other apparatus in relation to which the offence was committed, or which was used in connection with the commission of the offence; and

(c) any radiocommunications apparatus or other apparatus not falling within paragraph (b), which was, at the time of commission of the offence, in the possession, or under the control of the person convicted of the offence and was intended to be used (whether or not by that person) in the commission of the offence.

(3) References in subsection (2)(b) and (c) to apparatus other than radiocommunications apparatus include references to —

- (a) recordings;
- (b) equipment designed or adapted for use —
 - (i) in making recordings; or
 - (ii) in reproducing from recordings any sounds or visual images; and
- (c) equipment not falling within paragraphs (a) or (b) but connected, directly or indirectly, to radiocommunications apparatus.

(4) The court may order radiocommunications apparatus to be forfeited whether or not it is the property of the person convicted of the offence.

(5) Where the court orders any apparatus to be forfeited under this section, the court may also include an order that —

- (a) forfeiture is to take place within 48 hours of the Regulator giving the person who committed the offence notice requiring them to deliver the apparatus; and
- (b) the person who committed the offence is not to take any steps to destroy or otherwise dispose of the apparatus except in compliance with the order under paragraph (a).

(6) It is an offence to contravene an order made under subsection (5), or to fail to deliver up apparatus to the Regulator as required.

(7) A person who is guilty of an offence under subsection (6) is liable on conviction to—

- (a) imprisonment for 3 months; or
- (b) a fine not exceeding level 8 on the standard scale; or
- (c) both.”

PART 5 - REPEAL AND REPLACE PART 14 COMMUNICATIONS ORDINANCE

38. Part 14 repealed and replaced

Replace Part 14 (sections 109 to 112) with the following —

“PART 14 - APPEALS

109. Appeals against decisions of the Regulator

(1) In this Part, “**decision**” means any of the following actions of the Regulator under this Ordinance —

- (a) issuing a direction or decision under section 11(2)(b);

- (b) issuing an enforcement order under section 13(2);
- (c) requiring the payment of a penalty or awarding compensation under section 13(3);
- (d) granting, varying, revoking or renewing an electronic communications licence under Part 4 (or refusing to grant, vary, revoke or renew such a licence);
- (e) granting, varying, revoking or renewing a radiocommunications licence under Part 6 (or refusing to grant, vary revoke or renew such a licence);
- (f) issuing a determination under section 14;
- (g) requiring the exclusive licensee to pay a penalty under section 70(2);
- (h) issuing a notice to the exclusive licensee to take steps to prevent interference under section 71(3).

(2) Any person affected by a decision may appeal to the Magistrate's Court sitting in its civil jurisdiction.

110. Time limit for making an appeal

An appeal must be brought no later than 21 days after —

- (a) the date on which the person received notice of the decision they are appealing if the decision is in response to an application or is otherwise addressed to a particular person; or
- (b) in all other cases, the date on which the decision is published by the Regulator.

111. Disposal of appeals against determinations and licensing decisions

(1) This section applies to an appeal against a decision referred to in section 109(1)(d), (e) or (f).

(2) The Magistrate's Court must decide the appeal, by reference to the grounds of appeal set out in the notice of appeal, by applying the same principles as would be applied by a court on an application for judicial review.

(3) The Magistrate's Court may —

- (a) dismiss the appeal;
- (b) set aside the whole or part of the decision to which it relates; or
- (c) remit the matter to the Regulator to dispose of in accordance with the directions of the Court.

(4) The Regulator must comply with any directions issued under subsection (3)(c).

112. Disposal of all other appeals

(1) This section applies to appeals against a decision referred to in section 109(1)(a), (b), (c), (g) or (h).

(2) The Magistrate’s Court must decide the appeal on the merits and by reference to the grounds of appeal set out in the notice of appeal.

(3) The Magistrate’s Court may —

- (a) substitute its own view for that of the Regulator;
- (b) make any order, direction, or decision that the Regulator has the power to make;
- (c) make a compensation or penalty award, or increase or decrease the amount of any compensation or penalty award, provided that any penalty awarded does not exceed the statutory limits in section 13, or in the case of an appeal against a section 70 penalty, the limit in section 70(2)(a);
- (d) remit the matter to the Regulator to dispose of in accordance with the directions of the Court; and
- (e) issue any other directions the Court considers appropriate for giving effect to its decision.”.

39. New sections 112A and 112B inserted in Part 14

After section 112 insert the following sections —

“112A. Costs

The Magistrate’s Court may make any order for costs that it considers appropriate.

112B. Effect of notice of appeal

(1) The filing of a notice of appeal against any of the decisions listed in subsection (2) automatically suspends the effects of the decision being appealed against.

(2) The decisions referred to in subsection (1) are —

- (a) a decision to issue an enforcement order under section 13(2);
- (b) a decision to require payment of a penalty or award compensation;
- (c) a decision to revoke or refuse to renew a licence granted under Part 4 or Part 6.

(3) The filing of a notice of appeal against any other decision does not automatically suspend the effects of the decision being appealed against.

(4) The Magistrate’s Court may, either on its own motion, or on application from the appellant, suspend the effects of any decision that is not automatically suspended under subsection (1).”

PART 6 - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

40. Repeal of Wireless Telegraphy Ordinance 1994

The Wireless Telegraphy Ordinance 1994 is repealed.

41. Saving of Wireless Telegraphy licences issued by the Superintendent of Posts and Telecommunications

(1) A licence issued under section 4 of the Wireless Telegraphy Ordinance 1994 in any of the categories listed in subsection (2) continues to exist on the same terms and conditions as provided in the Wireless Telegraphy Ordinance until the date of expiry of the licence.

(2) The categories referred to in subsection (1) are —

- (a) Ship station licence; and
- (b) Aircraft station licence.

42. Validation of fees charged for licences under the Wireless Telegraphy Ordinance 1994

Any fees collected for licences issued under the Wireless Telegraphy Ordinance 1994 are hereby validated as if the fees had been prescribed under section 5 of that Ordinance.

43. Transitional provisions applying to other Wireless Telegraphy licences

(1) This section applies to any licence issued under section 4 of the Wireless Telegraphy Ordinance 1994 that does not fall within section 37.

(2) The Regulator must create a database of all licences falling within this section.

(3) The holder of a licence falling within this section must revalidate their licence on the Regulator's database —

- (a) in the manner and form prescribed by the Regulator; and
- (b) by the date prescribed by the Regulator, which must be not less than 30 days from the date that the Regulator announces the revalidation process starts.

(4) Where the holder of a licence falling within this section revalidates the licence within the time period set by the Regulator —

- (a) the licence will continue to exist on the same terms and conditions as provided by the Wireless Telegraphy Ordinance 1994;
- (b) the licence will be treated, as from the date of revalidation, as having been issued under Part 6 of the Communications Ordinance 2017; and
- (c) the provisions of the Communications Ordinance 2017 and the Regulator's powers under that Ordinance apply to the licensee and the licence as they do to a new licence issued under that Ordinance.

(5) Where the holder of a licence falling within this section does not revalidate the licence within the time period set by the Regulator, the licence will expire at the end of the time period for revalidation and the licence holder must apply under Part 6 of the Communications Ordinance 2017 for a new licence.

(6) The Regulator must publish details of where the database is available in such manner as the Regulator considers appropriate for bringing it to the attention of licence holders under the Wireless Telegraphy Ordinance 1994.

44. Transitional provisions applying to other use of spectrum

(1) This section applies to any person who is, when this provision is commenced —

- (a) using the electromagnetic spectrum; and
- (b) does not hold a licence covering the use the person is making of the electromagnetic spectrum granted under either —
 - (i) the Wireless Telegraphy Ordinance 1994, or
 - (ii) the Telecommunications Ordinance 1988 and saved under section 114 of the Communications Ordinance 2017.

(2) A person falling within subsection (1) has a temporary licence to use the electromagnetic spectrum subject to subsections (3) to (6).

(3) A temporary licence issued under this section is to be treated as issued on the date of commencement of this section.

(4) A temporary licence issued under this section lasts until the earlier of —

- (a) the holder of the temporary licence applying for and being issued a full licence under section 55A;
- (b) the holder of the temporary licence notifying the Regulator that they are no longer using the electromagnetic spectrum and confirming that they will not do so in the future without applying for a licence; or
- (c) three months.

(5) A temporary licence may only be extended if the holder of the temporary licence has applied for a full licence and the Regulator requires additional time to determine the application.

(6) The following licence conditions apply to any temporary licence granted under this section—

- (a) the licensee must comply with any directions issued by the Regulator in relation to use of frequency;
- (b) the licensee must permit any person authorised by the Regulator to enter any premises occupied or controlled by the licensee to inspect any apparatus used by the licensee in using the electromagnetic spectrum; and
- (c) the licensee must comply with any direction from the Regulator requiring the licensee to take steps to prevent interference as soon as reasonably practicable.

45. Amendment of Civil Cases (Fees) Rules 1992

The Civil Cases (Fees) Rules 1992 are amended in the table in Schedule 2 (Fees payable in the Magistrate’s Court and the Summary Court), after item 7, insert —

“8. Upon the lodging of an appeal in the Magistrate’s Court under the Communications Ordinance 2017”.	£200
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Passed by the Legislature of the Falkland Islands on 31 October 2019.

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

Communications (Radiocommunications Licensing Procedures) Regulations 2019

(No. 26 OF 2019)

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Interpretation
4. Requirements that must be met for grant of a licence
5. Time limits for dealing with grant of licences
6. Temporary licences
7. Requirement to apply for a new licence
8. Procedures for refusal of licence
9. Renewal of licences
10. Revalidation of indeterminate duration licences

SUBSIDIARY LEGISLATION

Communications (Radiocommunications Licensing Procedures) Regulations 2019

(No. 26 OF 2019)

(Made: 7 November 2019)
(Published: 11 November 2019)
(Coming into force: in accordance with regulation 2)

I make these Regulations under section 55D(2) of the Communications Ordinance 2017 on the advice of Executive Council.

1. Title

These Regulations are the Communications (Radiocommunications Licensing Procedures) Regulations 2019.

2. Commencement

These Regulations come into force on a day specified by the Governor by notice published in the *Gazette*.

3. Interpretation

In these Regulations —

“**amateur**” means a duly authorised person interested in radio technique solely with a personal aim and without pecuniary interest,

“**amateur radio licence**” means a licence to establish or use a station for radiocommunications and to keep, install or use radiocommunications apparatus that is issued to an amateur for the purpose of carrying out self-training, intercommunication, or technical investigations.

“**licence**” means a radiocommunications licence granted under section 55A of the Ordinance,

“**Falkland Islands Frequency Allocation Table**” means the table of frequencies published by the Regulator under section 54 of the Ordinance.

4. Requirements that must be met for grant of a licence

(1) An applicant for a licence to do any of the activities specified in section 55 of the Ordinance must —

- (a) satisfy any threshold conditions specified by the Regulator for grant of a licence;

- (b) complete the application form prescribed by the Regulator for the class of licence being applied for;
- (c) supply any information reasonably required by the Regulator as evidence that subparagraph (a) is met.

(2) An application for a licence must be made within such time limits as the Regulator may specify and in any event —

- (a) in the case of an application to use the electro-magnetic spectrum, at least 4 weeks before the applicant needs to use the spectrum applied for;
- (b) in the case of an application to renew a radiocommunication station licence for aviation or maritime purposes, at least 10 working days before expiry of the current licence; and
- (c) in the case of an application for an amateur radio licence, at least 6 working days before a call sign is required.

5. Time limits for dealing with grant of licences

(1) The Regulator must make a decision on an application for a licence, notify the applicant and, where the conditions in section 16 of the Ordinance are met, publish the decision —

- (a) in the case of any licence relating to radio frequencies allocated for particular radiocommunications for use in the Falkland Islands Frequency Allocation Table, not more than 6 weeks after the day of receipt of the application; and
- (b) in any other case, as soon as possible after the day of the receipt of the application.

(2) The Regulator may request an applicant to provide additional information before an application for a licence can be determined.

(3) Where the Regulator requests additional information from an applicant —

- (a) the Regulator must make the request in writing, specifying what information is required;
- (b) the applicant has 1 month from receipt of the Regulator's request to supply the requested information; and
- (c) if the applicant does not supply the additional information before the end of 1 month, the application will be treated as having lapsed and the applicant must re-apply for a licence.

(4) If the Regulator requests additional information in relation to an application falling within sub-regulation (1)(a), the 6 week period for determining the application is suspended from the date the Regulator requests information until either —

- (a) the date the information is supplied; or
- (b) the application lapses under sub-regulation (3)(c).

6. Temporary licences

- (1) The Regulator may specify that certain categories of licence may be granted on a temporary basis.
- (2) For each category of licence that may be granted on a temporary basis, the Regulator must specify —
 - (a) the maximum duration of temporary licence that may be granted;
 - (b) whether the temporary licence is capable of being renewed and if so, on what grounds;
 - (c) any threshold conditions that must be met for the grant of a temporary licence;
 - (d) the form of any application for the temporary licence; and
 - (e) the time frame within which an application must be made.
- (3) A temporary licence is not convertible into a full licence.

7. Requirement to apply for a new licence

- (1) Unless Regulation 9 applies, a radiocommunications licence is not renewable and a person who wishes to continue doing any of the activities specified in section 55 of the Ordinance must apply for a new radiocommunications licence before expiry of their existing licence.
- (2) An application for a new licence on expiry of an existing licence must comply with all the requirements of these Regulations.

8. Procedures for refusal of licence

- (1) Where the Regulator considers that any of the grounds specified in section 55D(3) for refusal of a licence (including a temporary licence) are met, the Regulator may refuse the application for a licence.
- (2) Before refusing an application for a licence, the Regulator must —
 - (a) send the applicant a notice stating the Regulator's intention to refuse the application for a licence and the Regulator's reasons for refusal; and
 - (b) give the applicant a reasonable period of not less than 7 days to make representations to the Regulator.
- (3) The Regulator must consider any representations made by the applicant and after doing so must give the applicant a notice stating either —
 - (a) that the Regulator intends to refuse the application for a licence and stating the Regulator's reasons for doing so, which may include additional reasons arising from the applicant's representations;

- (b) that the Regulator requires further information to determine the application and (if the information is to be obtained from the applicant) specifying a date by which the information must be provided; or
- (c) that the Regulator is satisfied that all relevant conditions for granting the category of licence applied for are met and that the application will be granted.

(4) An applicant for a licence whose application is refused by the Regulator has a right of appeal under Part 14 of the Ordinance.

9. Renewal of licences

(1) A licence (except for a temporary licence) may be renewed at the end of its term if —

- (a) no amendment to the allocation of spectrum is required; and
- (b) the licensee's continuing use of the allocated spectrum is —
 - (i) in accordance with the Falkland Islands Frequency Allocation Table; and
 - (ii) meets the electronic communications objectives.

(2) A licence may also be renewed if the terms and conditions of the licence provide that the licence may be renewed.

(3) The Regulator may prescribe —

- (a) the form in which a request for renewal of licence must be made; and
- (b) the time frame within which a request for renewal must be made.

(4) This regulation does not prevent a licensee applying for a new licence to replace an existing licence.

10. Revalidation of indeterminate duration licences

(1) This regulation applies where a licence is granted on terms that —

- (a) do not specify an end date or duration of the licence and/or;
- (b) specify that the licence may be terminated on notice by the Regulator.

(2) The Regulator may direct that any licence or category of licences falling within sub-regulation (1) must be re-validated if licence-holders wish to continue to carry on the activities permitted by their licence.

(3) Any direction given by the Regulator under sub-regulation (2) must —

- (a) be both sent to all affected licence holders and published in whatever way the Regulator considers most likely to bring it to affected licence holders' attention;
- (b) specify the process licence holders must follow to re-validate their licences; and

(c) allow a reasonable period, which must not be shorter than 1 month, for licence holders to re-validate their licences.

(4) Any licence that is not re-validated in accordance with a direction from the Regulator under sub-regulation (2) is deemed to be terminated with effect from the day after the last day the revalidation period was open and —

(a) the former licence holder must not carry on any of the activities that were permitted under the terminated licence; and

(b) must apply for a new licence if they wish to carry on those activities.

Made 7 November 2019

R. A. J. MITHAM,
Acting Governor.

EXPLANATORY NOTE

(not forming part of these Regulations)

Section 55D(2) of the Communications Ordinance 2017 empowers the Governor in council to make regulations under that Ordinance.

These Regulations are made in accordance with section 55D(2) of the Communications Ordinance 2017 and provide for the following:

Regulations 1 to 3 set out preliminary matters of title, commencement and interpretation.

Regulation 4 sets out the requirements that must be met by an applicant for a radiocommunications licence under Part 6 of the Communications Ordinance 2017 and provides for the Regulator to specify such matters as the application form, threshold conditions and time limits for making an application.

Regulation 5 sets out the time limits applicable to the Regulator in considering a licence application and the Regulator's ability to request further information from a licence applicant.

Regulation 6 enables the Regulator to grant temporary licences and to specify the relevant conditions and procedures applicable to temporary licences.

Regulation 7 sets out that radiocommunications licences are not renewable unless regulation 9 applies.

Regulation 8 sets out the procedures the Regulator must follow when proposing to refuse an application for a licence, including a temporary licence.

Regulation 9 sets out the circumstances in which a radiocommunications licence may be renewed and provides for the Regulator to specify the appropriate procedures for renewal.

Regulation 10 provides for the Regulator to direct that indeterminate duration licences may be subject to a revalidation process.

SUBSIDIARY LEGISLATION

Communications (Radiocommunications Exemption) Regulations 2019

(No. 27 OF 2019)

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Interpretation
4. Exemption
5. Terms, provisions and limitations
6. Technical requirements

Schedule 1 – General frequency band exemption

Schedule 2 – Mobile user equipment

Schedule 3 – Mobile communication services on board ships

Schedule 4 – Broadcast receivers

Schedule 5 – Cordless telephones

Schedule 6 – Short range devices

SUBSIDIARY LEGISLATION

Communications (Radiocommunications Exemption) Regulations 2019

(No. 27 OF 2019)

(Made: 7 November 2019)
(Published: 11 November 2019)
(Coming into force: in accordance with regulation 2)

I make these Regulations under sections 61B and 61C of the Communications Ordinance 2017 on the advice of Executive Council.

1. Title

These Regulations are the Communications (Radiocommunications Exemption) Regulations 2019.

2. Commencement

These Regulations come into force on a day specified by the Governor by notice published in the *Gazette*.

3. Interpretation

In these Regulations —

“**apparatus**” means radiocommunications apparatus or apparatus designed or adapted for use in connection with radiocommunications apparatus;

“**CE marking**” means the mark  confirming that the apparatus complies with all EU legislation applicable to the apparatus;

“**dBm**” means decibels of power referenced to one milliWatt;

“**ETSI**” means the European Telecommunications Standards Institute;

“**FCC mark**” means the mark  certifying that the electromagnetic interference from the apparatus is under limits approved by the Federal Communications Commission;

“**kHz**” means kilohertz;

“**MHz**” means megahertz; and

“**relevant apparatus**” means the prescribed apparatus as defined in Schedules 1 to 6.

4. Exemption

(1) Subject to regulation 5, the keeping, establishment, installation and use of the relevant apparatus is exempt from the provisions of section 55 of the Ordinance.

(2) The exemption in sub-regulation (1) does not apply to relevant apparatus which is established, installed or used to provide or to be capable of providing a link between —

- (a) radiocommunications apparatus;
- (b) electronic communications networks; or
- (c) between radiocommunications apparatus and electronic communications networks,

by means of which an electronic communications service is provided by way of business to another person.

5. Terms, provisions and limitations

(1) The exemption provided in regulation 4(1) is subject to the terms, provisions and limitations that —

- (a) the relevant apparatus does not cause or contribute to any harmful interference to any radiocommunications; and
- (b) unless otherwise stated in the applicable Schedule, the use of the relevant apparatus is terrestrial use only.

(2) The exemption is also subject to any additional terms, provisions and limitations specified in the Schedules in respect of the relevant apparatus.

6. Technical requirements

(1) The Regulator may specify additional technical requirements to be met by any type or category of apparatus seeking to use an exemption from the licensing requirement.

(2) Any technical requirements specified by the Regulator must be met in addition to the requirements set out in the relevant Schedules.

SCHEDULE 1 - GENERAL FREQUENCY BAND EXEMPTION

1. This Schedule provides a general exemption for apparatus operating within the frequencies prescribed in paragraph 3.
2. Where relevant apparatus is within the scope of this Schedule and any other Schedule to these Regulations, the establishment, installation or use of that apparatus is only exempt if the requirements of all other applicable Schedules are met.
3. The frequencies prescribed for the purposes of paragraph 1 are —

Frequency	Typical Use	Power	Spectrum access and mitigation requirements	Modulation / minimum occupied bandwidth	Reference ETSI standards
13.56 MHz	Radio frequency identification; biometric passports and contactless smart cards	60 dB μ A/m @ 10 metres			EN 300 330
27.60125-27.99125 MHz	CB radio	4 W	Simplex	10 kHz channelling	EN 300 135
433.05-434.79 MHz	Low power device band / model control	1 mW / 10 mW		25 kHz channelling	EN 300 220
865-868 MHz	Radio frequency identification	2W e.r.p.		Max. B/W \leq 200 kHz	EN 302 208
863-868 MHz	Low power wide area networks	25 mW e.i.r.p.	\leq 10% duty cycle for network access \leq 20% otherwise polite spectrum access	B/W > 600 kHz \leq 1 MHz	EN 304 220
2400-2483.5 MHz	Wi-Fi, wideband data transmissions systems, RLANs, Bluetooth	100 mW e.i.r.p. Max. e.i.r.p. density 10 mW/MHz for wideband modulation	Sharing mechanism (e.g. LBT and DAA) must be implemented		EN 300 328
5150-5250MHz 5250-5350 MHz	Wireless access systems and radio local area networks (includes HiperLAN)	25 mW peak 0.1 mW average			EN 302 372

5470-5725 MHz	Indoor only Wireless access systems and Radio Local Area Networks (includes HiperLAN)	Max mean e.i.r.p. of 200 mW Max men e.i.r.p. density of 10 mW/MHz in any 1 MHz band	Sharing mechanisms DFS and TPC must be implemented		EN 301 893
5725-5850 MHz	ISM band	Indoor up to 200 mW Outdoor up to 25 W			EN 301 893
57-71 GHz	WiGig	40 dBm e.i.r.p. 23 dBm/MHz e.i.r.p. density Max tx power 27 dBm For fixed outdoor installations: 55 dBm e.i.r.p. 38 dBm/MHz e.i.r.p. density Tx antenna gain ≥ 30 dBi	Sharing mechanism must be implemented		EN 302 217 ECC Recommendation (09)01

4. Apparatus must carry either the CE marking or the FCC mark.

5. Apparatus manufactured either —

- (a) before the application of the FCC mark to the type of apparatus; or
- (b) before the application of the CE marking to the type of apparatus

may be operated without a license in the frequency bands specified in paragraph 3 of this Schedule provided that the apparatus does not cause any harmful interference.

6. If there is evidence that apparatus established, installed or used in reliance on paragraph 5 has caused or is causing harmful interference, the Regulator may (in addition to any enforcement action under section 13 of the Ordinance), direct that the establishment, installation or use of the apparatus is no longer to be treated as licence exempt.

SCHEDULE 2 - MOBILE USER EQUIPMENT

PART 1 – INTRODUCTORY

1. In this Schedule —

“**prescribed apparatus**” means user equipment as defined below and as described in the standards referred to in Part 3 of this Schedule;

“**relevant network**” means an electronic communications network consisting exclusively of stations established and used under and in accordance with a licence, which has been granted under section 55A of the Ordinance; and

“**user equipment**” means a mobile station for radiocommunications designed or adapted —

- (a) to be connected by radiocommunications to one or more relevant networks; and
- (b) to be used solely for the purpose of sending and receiving messages conveyed by a relevant network by means of radiocommunications.

2. The prescribed apparatus is subject to and must comply with the standards specified in Part 3 of this Schedule.

PART 2 - PRESCRIBED APPARATUS

3. Mobile user equipment is exempt from the licence requirement in section 55A of the Ordinance provided that the condition in paragraph 4 is met.

4. The condition referred to in paragraph 3 is that the mobile user equipment is operating under the control of terrestrial networks, capable of providing electronic communications services in the frequency bands, or parts of the frequency bands, listed below and licensed under section 55A of the Ordinance:

Downlink frequencies	Uplink frequencies
791 – 821 MHz	832 – 862 MHz
925 – 960 MHz	880 – 915 MHz
1830 – 1880 MHz	1735 – 1785 MHz

PART 3 - STANDARDS FOR PRESCRIBED APPARATUS

4. Prescribed apparatus must comply with the following standards published by ETSI —

- (a) EN 301 511 for GSM,

(b) EN 301 908 for IMT.

SCHEDULE 3 - MOBILE COMMUNICATION SERVICES ON BOARD SHIPS

1. In this Schedule —

“**baseline**” has the meaning given in paragraph 3(2)(b);

“**dB*i***” means decibels of power referenced to the gain of an isotrope antenna;

“**GSM system**” means an electronic communications network that complies with the GSM standard EN 301 511 published by ETSI;

“**mobile communication services on board ships**” means electronic communications services provided to enable persons on board a ship to communicate via public communication networks using a GSM system without establishing direct connections with land-based mobile networks;

“**ship base transceiver station**” means a mobile pico-cell located on a ship supporting GSM services in the 900 MHz band or in the 1800 MHz band;

“**the 900 MHz band**” means the 880-915 MHz frequency band (for the uplink from the apparatus to the ship base transceiver station) and the 925-960 MHz frequency band (for the downlink from the ship base transceiver station to the apparatus); and

“**the 1800 MHz band**” means the 1710-1785 MHz frequency band (for the uplink from the apparatus to the ship base transceiver station) and the 1805-1880 MHz frequency band (for the downlink from the ship base transceiver station to the apparatus).

2. Subject to the terms, provisions and limitations in paragraph 3 being met, the, keeping, installation or use of any apparatus on board a ship which is —

(a) registered in the Falkland Islands, and

(b) within the limits of the Falkland Islands and its territorial waters, or for the time being, beyond the Falkland Islands and its territorial waters;

is exempt from the provisions of section 55 of the Ordinance.

3.(1) The apparatus must operate in the 900 MHz band and the 1800 MHz band.

(2) The apparatus must only be used —

(a) for mobile communication services on board ships; and

(b) when the ship is two nautical miles or more from the baseline for measuring the breadth of the territorial waters under the United Nations Convention on the Law of the Sea (“**baseline**”).

(3) When controlled by a ship base transceiver station, the apparatus must operate with a maximum radiated output power which is no greater than —

- (a) 5 dBm in the 900 MHz band; and
 - (b) 0 dBm in the 1800 MHz band.
- (4) The apparatus must connect directly to a ship base transceiver station which —
- (a) only used indoor antennas between two and twelve nautical miles from the baseline; and
 - (b) operates such that there is a maximum power density in external areas of the ship of -80 dBm per 200 kHz with reference to a 0 dBi measurement antenna gain.
- (5) The apparatus must form part of a GSM system which mitigates interference using the techniques in paragraph (6) or other techniques which provide at least an equivalent mitigation of interference.
- (6) The techniques referred to in paragraph (5) are —
- (a) the receiver sensitivity and disconnection threshold (as described in the GSM standards TS 144 008 and TS 144 018 published by ETSI) of the apparatus when used on board a ship is —
 - (i) between two and three nautical miles from the baseline equal to or higher than -70 dBm per 200 kHz; and
 - (ii) between three and twelve nautical miles from the baseline equal to or higher than -75 dBm per 200 kHz;
 - (b) discontinuous transmission (as described in the GSM standard TS 144 018 published by ETSI) is activated in the uplink from the apparatus to the ship base transceiver station; and
 - (c) the timing advance (as described in the GSM standard TS 144 018 published by ETSI) is set to the minimum.
- (7) The apparatus must not cause or contribute to undue interference to any radiocommunications.

SCHEDULE 4 - BROADCAST RECEIVERS

1. In this Schedule —

“**authorised decoder**” means a decoder supplied by a person providing a satellite broadcast reception service licensed under the Broadcasting Ordinance 2004;

“**decoder**” means any apparatus which is designed or adapted to enable an encrypted transmission to be decoded; and

“**satellite broadcast reception service**” means the provision within the Falkland Islands for payment of apparatus (including decoders) enabling the person to whom the apparatus is provided to receive in an intelligible form programmes transmitted or relayed via satellite in an encrypted form.

2. Subject to paragraph 3, the keeping, installation or use of an authorised decoder is exempt from the provisions of section 55 of the Ordinance;

3. The keeping, installation or use of a decoder is not exempt if the decoder is used for receiving broadcasts from any broadcasting station which has not been licensed to transmit those broadcasts by the government of any country or territory.

4. A decoder must not be used to improperly divulge the purport of any message communication, or signal sent or proposed to be sent by radiocommunications.

SCHEDULE 5 - CORDLESS TELEPHONES

1. In this Schedule, “**MPT 1322**” means the United Kingdom Department of Trade and Industry Performance Specification MPT 1322.
2. The following are exempt from the provisions of section 55 of the Ordinance —
 - (a) analogue cordless telephones that are private and self-provided and meet the criteria set out in paragraph 2 of this Schedule; and
 - (b) digital cordless telephones that are private and self-provided and meet the criteria set out in paragraph 3 of this Schedule.
3. The criteria for analogue cordless telephones are —
 - (a) the apparatus consists of a fixed part that operates in the frequency band 31.025 – 31.325 MHz;
 - (b) the apparatus consists of one or more portable parts that operate in the frequency band 39.925 – 40.225 MHz; and
 - (c) the apparatus complies with MPT 1322
4. The criteria for digital cordless telephones are:
 - (a) the apparatus consists of a fixed part and one or more portable parts; and
 - (b) the apparatus is of either —
 - (i) the DECT type, being digital cordless radio communications equipment that operates in the frequency band 1880 – 1900 MHz, with a maximum transmitter power of 250 mW and complies with EN 301 406 published by ETSI; or
 - (ii) the CT2-CAI type, being digital cordless radiocommunications equipment that operates in the frequency band 864.1 – 868.1 MHz with a maximum transmitter power of 10 mW and complies with ETS 300 131 published by ETSI.

SCHEDULE 6 - SHORT RANGE DEVICES

PART 1 - MEDICAL IMPLANTS AND PERIPHERALS (Taken from ERC 70-03, ANNEX 12)

1. In this Part —

“**LBT**” means Listen Before Talk; and

“**AFA**” means Adaptive Frequency Agility.

2. Devices operating within the parameters of the table below and which comply with the standards set out in paragraph 3 are exempt from the provisions of section 55 of the Ordinance.

Frequency	Application	Power / Magnetic Field	Spectrum access and mitigation requirements	Modulation / minimum occupied bandwidth
9 – 315 kHz	Ultra low power active medical implants using inductive loops for telemetry	30 dB μ A/m at 10m	\leq 10% duty cycle	-
30 – 37.5 MHz	Ultra low power medical membrane for blood pressure measurement	1 mW e.r.p.	\leq 10% duty cycle	-
2483.5 – 2500 MHz	Low power active medical implants and associated peripherals	10 dBm e.i.r.p.	LBT + AFA and \leq 10% duty cycle	1 MHz

3. The standards that devices must comply with for the purposes of this Part are ETSI standards—

- (a) EN 302 195 for devices operating in the 9-315 kHz frequency;
- (b) EN 302 510 for devices operating in the 30-37.5 MHz frequency; and
- (c) EN 301 559 for devices operating in the 2483.5-2500 MHz frequency.

PART 2 - MEDICAL DATA ACQUISITION (Taken from ERC 70-03, ANNEX 13)

Scope of this Part

4. “**Medical data acquisition applications**” cover transmission of non-voice data to and from non-implantable medical devices for the purpose of monitoring, diagnosing and treating patients in healthcare facilities or patient’s home, as prescribed by duly authorised healthcare professionals, including:

- (a) Ultra-Low Power Wireless Medical Capsule Endoscopy (ULP-WMCE) application designed for use in medical doctor-patient scenarios with the aim of acquiring images of human digestive tract; and
- (b) Medical Body Area Network System (MBANS) for low-power wireless networking of a plurality of body-worn sensors and/or actuators as well as of a hub device placed on/around the human body.

5. Devices operating within the parameters of the table below and which comply with the standards set out in paragraph 3 are exempt from the provisions of section 55 of the Ordinance.

Frequency	Application	Power / Magnetic Field	Spectrum access and mitigation requirements	Modulation / minimum occupied bandwidth
430 – 440 MHz	ULP-WMCE	-50 dBm/100 kHz max e.r.p. density but not exceeding a total power of -40 dBm /10 MHz	None	≤10 MHz
2483.5 – 2500 MHz	MBANs indoor within healthcare facilities	1 mW e.i.r.p.	Spectrum sharing mechanisms and ≤10 % duty cycle	≤3 MHz
2483.5 – 2500 MHz	MBANs indoor within healthcare facilities	10 mW e.i.r.p.	Spectrum sharing mechanisms and ≤2 % duty cycle	≤3 MHz

6. The standards that devices must comply with for the purposes of this Part are ETSI standards—

- (a) EN 303 520 for devices operating in the 430-440 MHz frequency,
- (b) EN 303 203 for devices operating in the 2483.5-2500 MHz frequency.

7. MBANS equipment must implement a spectrum access mechanism as described in the applicable harmonised European standard EN 303 203 or an equivalent spectrum access mechanism.

8. The modulation bandwidth for MBANS must not exceed 3 MHz.

PART 3 - OTHER SHORT RANGE DEVICES

9. This Part applies to short range devices that do not fall within Parts 1 or 2 of this Schedule.

10. Short range devices falling within this Part are exempt from the provisions of section 55 of the Ordinance if —

- (a) they are of a type described in a Schedule to ERC Recommendation 70-03;
- (b) they meet the regulatory parameters and any harmonised standards specified for the type of device in the applicable Schedule to ERC Recommendation 70-03; and

- (c) they meet any additional technical parameters specified for the type of device in ERC Recommendation 70-03 or adopted by the Regulator.

11. Where a short range device is of a type that is not covered by ERC Recommendation 70-03—

- (a) the Regulator’s approval in advance is required before the device may be used; and
- (b) any approval given by the Regulator may be subject to conditions, including the duration of the approval.

Made 7 November 2019

R. A. J. MITHAM,
Acting Governor.

EXPLANATORY NOTE
(not forming part of these Regulations)

These Regulations are made in accordance with sections 61B and 61C of the Communications Ordinance 2017 and provide for the following:

Regulations 1 and 2 set out preliminary matters of title and commencement.

Regulation 3 sets out definitions that apply throughout the Regulations

Regulation 4 provides that the apparatus defined in the Schedules to these Regulations is exempt from the requirement for a radiocommunications licence under section 55 of the Ordinance, unless the apparatus is being used to provide an electronic communications service by way of business.

Regulation 5 provides that the exemption in *Regulation 4* is subject to the requirement that no harmful interference is caused, that the apparatus is terrestrial only, and that the requirements of the Schedules are met.

Regulation 6 gives the Regulation the power to specify any further interface requirements for apparatus and requires that apparatus must also meet any specified interface requirements to benefit from the exemption.

Schedule 1 provides a general exemption for apparatus operating in the specified frequencies subject to the apparatus being marked with either the CE or FCC mark.

Schedule 2 exempts mobile phones from needing a radiocommunications licence

Schedule 3 provides an exemption for mobile communication services on board ships

Schedule 4 exempts decoders used to receive satellite television services licensed under the Broadcasting Ordinance.

Schedule 5 exempts cordless telephones.

Schedule 6 provides an exemption for a variety of short range devices specified in the schedule, and also exempts devices covered in ERC Recommendation 70-03.

SUBSIDIARY LEGISLATION

Communications (Fees) Regulations 2019

(No. 28 OF 2019)

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Interpretation
4. General provisions
5. Fees for radiocommunications licences

Schedule - Fees for radiocommunications licences

SUBSIDIARY LEGISLATION

Communications (Fees) Regulations 2019

(No. 28 OF 2019)

(Made: 7 November 2019)
(Published: 11 November 2019)
(Coming into force: in accordance with regulation 2)

I make these Regulations under section 74 of the Communications Ordinance 2017 on the advice of Executive Council.

1. Title

These Regulations are the Communications (Fees) Regulations 2019.

2. Commencement

These Regulations come into force on a day specified by the Governor by notice published in the *Gazette*.

3. Interpretation

In these Regulations —

“**2 metre licence**” means a licence to keep, install or use a 2 metre radio transceiver in the 144-148 MHz band;

“**amateur**” means a duly authorised person interested in radio technique solely with a personal aim and without pecuniary interest;

“**amateur radio licence**” means a licence to establish or use a station for radiocommunications and to keep, install or use radiocommunications apparatus that is issued to an amateur for the purpose of carrying out self-training, intercommunication, or technical investigations;

“**exclusive licensee**” means the person who holds an exclusive licence granted under section 62 of the Ordinance;

“**non-pleasure vessel**” means a vessel registered in the Falkland Islands and used wholly or partly for trading purposes or for profit or for which the owner or user receives some payment in cash or in kind other than as a contribution to direct expenses;

“**pleasure vessel**” means a vessel registered in the Falkland Islands that is used solely for recreational purposes and not for trade or profit, and in respect of which the owner or user receives no payment in cash or in kind from any person other than as a contribution to the direct

expenses, such as fuel, mooring fees etc, involved in the operation of the vessel during a voyage or excursion;

“**self-provided**” means provision of apparatus and services other than from or through the exclusive licensee;

“**ship station licence**” means a licence to keep, install or use radiocommunications apparatus on board a pleasure vessel or a non-pleasure vessel;

“**temporary amateur radio licence**” means an amateur radio licence issued for a period of 6 months to a visitor;

“**VSAT**” means a very small aperture terminal;

“**VSAT licence**” means a licence granted under s55A to a person to use self-provided VSAT apparatus to establish and use their own radiocommunications station for conveying messages, sound or visual images; and

“**visitor**” means any person who —

- (a) does not have Falkland Islands status, or hold a permanent residence permit;
- (b) has leave to enter the Falklands Islands (whether under a visitor’s permit or a work permit) or a right to enter under section 9 of the Immigration Ordinance 1999 and;
- (c) the duration of either
 - (i) the leave to enter; or
 - (ii) in the case of a person entering under section 9 of the Immigration Ordinance 1999, the duration of the posting which the person and any dependents on that person are entering to fill,

is six months or less.

4. General Provisions

The Communications Regulator may —

- (a) require payment of the relevant fee on application for, or in advance of the issue of a licence;
- (b) if an application is withdrawn or refused, retain any fee required to cover the cost of the services undertaken before the application is withdrawn or refused, and return any balance of fee remaining; and
- (c) charge any additional costs incurred for services undertaken in connection with any application if the cost of the services exceed the fees paid in accordance with the Schedule to these Regulations.

5. Fees for radiocommunications licences

The fees for application, renewal or variation of a radiocommunications licence issued under section 55A of the Ordinance are those set out in the Schedule.

SCHEDULE - FEES FOR RADIOCOMMUNICATION LICENCES

regulation 5

The fee specified below for each activity in relation to each category of radiocommunications licence is payable to the Regulator:

2 metre licence	
<i>Issue</i>	<i>£20</i>
<i>Revalidation</i>	<i>Nil</i>
Full Amateur radio licence	
<i>Issue</i>	<i>£20</i>
<i>Revalidation</i>	<i>Nil</i>
Temporary Amateur radio licence	
<i>Issue</i>	<i>£20</i>
Ship station licence	
<i>Non-pleasure vessel (12 months)</i>	<i>£25</i>
<i>Pleasure vessel (12 months)</i>	<i>£25</i>
VSAT licence	
<i>Every 12 months from date of issue</i>	<i>£5,400</i>
Innovation and Research Spectrum Licence	
<i>Issue</i>	<i>£150</i>
<i>Renewal</i>	<i>£150</i>
Demonstration and Trial Spectrum Licence	
<i>Issue</i>	<i>£150</i>
<i>Renewal</i>	<i>£150</i>
Any other radiocommunications licence not separately specified in this Schedule	
<i>Issue</i>	<i>Nil</i>
<i>Renewal</i>	<i>Nil</i>

Made 7 November 2019

R. A. J. MITHAM,
Acting Governor.

EXPLANATORY NOTE
(not forming part of these Regulations)

These Regulations are made in accordance with section 74 of the Communications Ordinance 2017 and provide for the following:

Regulations 1 and 2 set out preliminary matters of title and commencement.

Regulation 3 sets out definitions that apply throughout the Regulations.

Regulation 4 specifies the general powers of the Regulator to require payment of fees on application, to retain a proportion of fees paid to cover costs where an application is withdrawn and to charge for the additional costs incurred if services provided exceed the amount of fees specified.

Regulation 5 states that the fees applicable for radiocommunications licences are those set out in the Schedule to the Regulations.

The *Schedule* specifies fees for named categories of radiocommunications licence and clarifies that no fee is payable for licences that do not fall within a named category.

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No. 15

NOTICES

No. 87

8 November 2019

Communications (Amendment) Ordinance 2019
section 2

**Communications (Radiocommunications Licensing
Procedures) Regulations 2019**
regulation 2

**Communications (Radiocommunications Exemption)
Regulations 2019**
regulation 2

Communications (Fees) Regulations 2019
regulation 2

Commencement Notice

1. Section 2(1) of the Communications (Amendment) Ordinance 2019 (“the Ordinance”) provides that the Ordinance comes into operation on a day appointed by the Governor by notice published in the *Gazette*.

2. Regulation 2 of the Communications (Radiocommunications Licensing Procedures) Regulations 2019 (“the Licensing Regulations”) provides that the Licensing Regulations come into force on a day appointed by the Governor by notice in the *Gazette*.

3. Regulation 2 of the Communications (Radiocommunications Exemption) Regulations 2019 (“the Exemption Regulations”) provides that the Exemption Regulations come into force on a day appointed by the Governor by notice in the *Gazette*.

4. Regulation 2 of the Communications (Fees) Regulations 2019 (“the Fees Regulations”) provides that the Fees Regulations come into force on a day appointed by the Governor by notice in the *Gazette*.

5. I give notice that the Ordinance; the Licensing Regulations; the Exemption Regulations and the Fees Regulations come into force on 15 November 2019.

Dated 8 November 2019

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

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FALKLAND ISLANDS GAZETTE

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Vol. 128

30 November 2019

No. 16

Appointment

Chesry Tracey Hartman, Residential Support Worker, Health and Social Services Department, 30.10.19.

Andrea Patricia Clausen, Director, Natural Resources Department, 01.11.19.

Andrew Paul Gaule, Director, Policy and Economic Development Department, 04.11.19.

Jason David Priston, Learning Support Assistant, Infant and Junior School and Camp Education, Education Department, 04.11.19.

Kayshai Shanece Reynolds, Assistant Taxation Officer, Taxation Office, Treasury, 04.11.19.

Geoffrey Arnold Stevens, Night Security/Driver, Health and Social Services Department, 04.11.19.

Chantel Heide Williams, Advanced Practitioner, Health and Social Services Department, 05.11.19.

Kapil Mukesh Jiwa, Financial Accountant (Controls, Processes and Systems), Treasury, 08.11.19.

Carolina Lopez, Residential Support Worker, Health and Social Services Department, 08.11.19.

Victor Manuel Salvador Guala Romero, Plant Operator/Handyperson, Highways Section, Public Works Department, 11.11.19.

Vaughan McGill, Apprentice Plumber, Training Centre, Education Department, 11.11.19.

Stephen Arthur Wyndham Cole, Project Manager – Construction, Administration Section, Public Works Department, 12.11.19.

Teryn Louise Joshua, Travel Co-ordinator, Falkland Islands Government Office, London, 12.11.19.

Elaine Ann Herne, General Assistant, Health and Social Services Department, 14.11.19.

Alvin Caran, Plant Operator/Handyperson, Highways Section, Public Works Department, 25.11.19.

Hazel Ann Jaen Dagodog, Learning Support Assistant, Infant and Junior School and Camp Education, Education Department, 25.11.19.

Sherwin Deloso, Plant Operator/Handyperson, Highways Section, Public Works Department, 25.11.19.

Resignation

Charlotte Bridgette Burry, Staff Nurse, Health and Social Services Department, 31.10.19.

Veronica Joyce Sinclair, Accounting Assistant, Treasury, 01.11.19.

Alena-Rose Douglas, Station Enquiry Officer, Royal Falkland Islands Police, Emergency Services Department, 08.11.19.

Wendy Myrtle Jansen Van Rensburg, Administration Assistant, Office of Executive Management, 13.11.19.

Paul Samuel Cottnam Burry, Detective Constable, Royal Falkland Islands Police, Emergency Services Department, 28.11.19.

Retirement

Susan Elizabeth Keith Cameron, Falkland Islands Government Representative, Falkland Islands Government Office, London, 31.10.19.

Arthur John Barton, Director, Natural Resources Department, 30.11.19.

Transfer

Richard James Alexander Hyslop, from Senior Public Policy Adviser, Policy and Economic Development Department, to Falkland Islands Government Representative, Falkland Islands Government Office, London, 09.09.19.

Wendy Myrtle Jansen Van Rensburg, from Part-time Station Enquiry Officer, to Station Enquiry Officer, Royal Falkland Islands Police, Emergency Services Department, 14.11.19.

NOTICES

No. 88

1 November 2019

Land Ordinance 1949

section 11A

Vesting Deed

Further to an application made by **Ailsa Heathman** of Estancia Farm, East Falkland, pursuant to section 11A of the Land Ordinance (notice of which application was published in the Gazette on 30 September 2019) 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 **Ailsa Heathman** of Estancia Farm, East Falklands, on behalf of **Ailsa Heathman**, **Derek Richard Pettersson** and **Toni Donna Stevens** (referred to as “the Claimants”), I am satisfied that the Claimants are entitled to be registered as the owners 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 Claimants **SUBJECT** only to such matters as are mentioned in Crown Grant 154 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 2.5 acres or thereabouts forming part of Crown Grant 154 bounded on the south and west by undeveloped land in the ownership of the Crown, bounded on the north by land in ownership of the Claimants forming part of Lot 19 and bounded by the east by land in the ownership of Colin Owen Summers forming part of Lot 20 which piece or parcel of land forms part of the larger area known as ‘Dettleffs Paddock.’”

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 November 2019

E. J. DENT,
Registrar General.

No. 89

7 November 2019

Public Accounts Committee Ordinance 2009

section 5

Falkland Islands Constitution Order 2008

section 81

Membership of Public Accounts Committee

1. Take notice that **MLA Mark John Pollard** has been elected to be a member of the Executive Council and vacated his seat on the Public Accounts Committee in accordance with section 5 of the Public Accounts Committee Ordinance 2009.

2. In accordance with section 81(1) of the Falkland Islands Constitution Order 2008 **MLA Lucila Leona Vidal-Roberts** has been elected to be a member of the Public Accounts Committee by a majority of the elected members of the Legislative Assembly with effect from 31 October 2019.

Dated 7 November 2019

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

No. 90

11 November 2019

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 **Kimberley Joanna Greenland** 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 11 November 2019

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

No. 91

18 November 2019

Harbours and Ports Ordinance 2017
section 5

Oil in Territorial Waters Ordinance 1960
section 2

Appointment of Acting Harbour Master

1. Section 5(1) of the Harbours and Ports Ordinance 2017 provides that the Governor may from time to time appoint a public officer to be the Harbour Master.
2. Section 2(1) of the Oil in Territorial Waters Ordinance 1960 provides that the Harbour Master means and includes any person appointed by the Governor for the purpose of enforcing the provisions of the Ordinance.
3. In exercise of my powers under section 5(1) of the Harbours and Ports Ordinance 2017 and section 2(1) of the Oil in Territorial Waters Ordinance 1960, I appoint **Malcolm William Jamieson** to be Acting Harbour Master for the purposes of those Ordinances and for all other connected purposes during the absence or unavailability of the substantive Harbour Master, Christopher Paul Locke, to carry out the duties of the Harbour Master.
4. This appointment is deemed to have effect from 8 November 2019, and continues in effect until terminated.

Dated 18 November 2019

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

No. 92

18 November 2019

Harbours and Ports Ordinance 2017
section 5

Oil in Territorial Waters Ordinance 1960
section 2

Appointment of Deputy Harbour Master

1. Section 5(3) of the Harbours and Ports Ordinance 2017 provides that 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 under the Ordinance.
2. Section 2(1) of the Oil in Territorial Waters Ordinance 1960 provides that the Harbour Master means and includes any person appointed by the Governor for the purpose of enforcing the provisions of the Ordinance.
3. In exercise of my powers under section 5(3) of the Harbours and Ports Ordinance 2017 and section 2(1) of the Oil in Territorial Waters Ordinance 1960, I appoint **Jonathan William Poynter** to be a deputy Harbour Master for the purposes of those Ordinances and for all other connected purposes.
4. This appointment is deemed to have effect from 1 September 2018, and continues in effect whilst the appointee

continues to hold public office as Deputy Marine Officer, unless terminated sooner.

Dated 18 November 2019

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

No. 93

25 November 2019

International Air Limited
Company Number: 11287

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 November 2019

E. J. DENT,
Registrar of Companies

No. 94

25 November 2019

The Wirebird Limited
Company Number: 14876

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 20 November 2019.

Dated 25 November 2019

E. J. DENT,
Registrar of Companies.

No. 95

26 November 2019

Application for Falkland Islands Status

Notice is hereby given that:

Boonruam Phisil Betts
Rochell Anthony Boybanting Regalado
Meghan Alexandra Law
Ross Brent James
Zoe Dorothy May James

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 23 December 2019.

Dated 26 November 2019

J. E. SMITH
Immigration Officer

Application for Naturalisation

Notice is hereby given that:

Pamela Andrea Quilodran Jelbes
Veronica Del Carmen Contreras Gutierrez
Adela Candelaria Guala Oyarzo

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 23 December 2019.

Dated 26 November 2019

J. E. SMITH,
Immigration Officer.

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 2019.

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
3. Nil
4. Nil
5. Several lunches and meals hosted by private sector businesses
6. Pre-Joint Ministerial Council – June 2019 – Cayman Islands Government
Commonwealth Parliamentary Association (CPA)
Parliamentary Procedures course including one weeks residency at McGill University, Montreal - October 2019 course and flights paid by CPA
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
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 meetings funded by OCT-EU
Pre-C24 - 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 Elsbey

1. Nil
2. Member of Legislative Assembly
Doctor (none-practising)
3. Nil
4. Nil
5. Nil
6. Commonwealth Parliamentary Association (CPA) Plenary - Uganda - flights paid by CPA
7. Nil
8. Moody Brook House, Stanley (jointly-owned with my wife)
9. My wife, Bernadette Paver, owns a medical company (Medica South) - I have no involvement with this company
10. My son works as a self-employed carpenter and within the tourism industry.

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. 500 shares in Seafish/Chandlery Ltd
10. Nil.

Mark John Pollard

1. Unremunerated Director of SAAS 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. Stanley Services Management Meeting Greece – paid for by Stanley Services
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 and hire of vehicles to Trant Engineering Ltd
4. Nil
5. Nil

6. Nil
7. Nil
8. 43 Whyke Marsh, Chichester, West Sussex PO19 8FA
25 Rex Hunt Road, Stanley, Falkland Islands
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
Executive Committee meetings, Canada, Uganda and UK
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 Andrew Wilson, Financial Secretary

1. Nil
2. Financial Secretary, FIG
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. House in Haddenham, Buckinghamshire, UK, owned with spouse
9. Nil
10. Nil.

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 2019

C. Y CLIFFORD,
Clerk of the Legislative Assembly.



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 30

20 December 2019

No. 19

The following are published in this Supplement —

Fisheries (Individual Transferable Quota Fees) Regulations 2019 (SR&O No 29 of 2019);

Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2019 (SR&O No 30 of 2019);

Livestock and Meat Products (Examination for Contaminants, Residues and Maximum Residue Levels) (Amendment) Regulations 2019 (SR&O No 31 of 2019);

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2019 (SR&O No 32 of 2019); and

Supplementary Appropriation (2019-2020) (No. 3) Ordinance 2019 (No 19 of 2019).

SUBSIDIARY LEGISLATION

Fisheries (Individual Transferable Quota Fees) Regulations 2019

S. R. & O. No: 29 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Interpretation
4. Fees and Payment Schedule

Schedule 1 - Fishery fees

Schedule 2 - Payment schedule

SUBSIDIARY LEGISLATION

Fisheries (Individual Transferable Quota Fees) Regulations 2019

S. R. & O. No. 29 of 2019

Made: 2 December 2019

Published: 20 December 2019

Coming into force: 1 January 2020

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 2019.

2. Commencement

These regulations come into force on 1 January 2020 and cease to have effect on 31 December 2020.

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 2020 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 2020 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 (Summer)	C	3,528,158
Skate	F	177,927
Squid and Restricted Finfish	G	761,300
Restricted Finfish – Pelagic	S	60,419
Restricted Finfish	W	1,089,318
Toothfish – Longline	L	1,449,788
Squid (Winter)	X	7,015,050

**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 2 December 2019

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE

These Regulations are made under sections 35 and 223 of the Fisheries (Conservation and Management) Ordinance 2005 which requires that sums (payable to the Crown) be prescribed for different companies in relation to the amount of ITQs held by those companies.

The fees for 2020 are set out in Schedule 1 and the payment schedule is in Schedule 2. The payment schedule indicates the dates when payments are due in respect of all the different fishery licences.

Regulation 2 provides for the period of validity of the regulations – which is from 1 January to 31 December 2020, as the fees are set annually.

Regulation 4 sets out how they are calculated as well as the dates or times when those fees are payable. These are specified under Schedules 1 and 2.

SUBSIDIARY LEGISLATION

Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2019

S. R. & O. No: 30 of 2019

ARRANGEMENT OF PROVISIONS

1. Title and commencement
2. Interpretation
3. Application
4. Purpose of the investigation of accidents and incidents
5. Duty to furnish information relating to accidents and serious incidents
6. Preliminary report on accident or incident to be published
7. Protection of evidence and removal of damaged aircraft
8. Air accident investigations
9. Powers and duties of Investigators
10. Form and conduct of investigations
11. Investigation report
12. Notice of investigation report and representations
13. Publication of reports
14. Safety recommendations
15. Reopening of investigation
16. Participation in an investigation – accredited representatives, advisers and experts
17. Contraventions and penalties
18. Non-disclosure of relevant records
19. Release of evidence to owner
20. Service of notices and other documents
21. Revocation

SUBSIDIARY LEGISLATION

Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2019

S. R. & O. No: 30 of 2019

Made: 2 December 2019

Published: 20 December 2019

Coming into force: on publication

I make these regulations in exercise of my powers under section 75(1) of the Civil Aviation Act 1982 as extended to the Falkland Islands by article 4 of the Civil Aviation Act 1982 (Overseas Territories) Order 2001 (SI 2001/1452) on the advice of Executive Council.

1. Title and commencement

These Regulations are the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2019 and come into force upon publication in the *Gazette*.

2. Interpretation

In these Regulations, unless the context otherwise requires —

“**AAIB**” means the Air Accidents Investigation Branch of the United Kingdom Department for Transport;

“**accident**” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft takes place between the time a person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which —

(a) a person is fatally or seriously injured as a result of—

(i) being in the aircraft; or

(ii) being in direct contact with any part of the aircraft including parts which have become detached from the aircraft; or

(iii) direct exposure to jet blast;

except when the injuries are from natural causes, self-inflicted or were inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

(b) the aircraft sustains damage or structural failure which —

(i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and

(ii) would normally require major repair or replacement of the affected component,

except for —

(aa) engine failure; or

(bb) engine damage, when damage is limited to a single engine (including its cowlings or accessories); or

(cc) damage to propellers, wing tips, antennas, probes, tyres, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes); or

(dd) minor damage to main rotor blades, tail rotor blades, landing gear; or

(ee) minor damage resulting from hail or bird strike (including holes in the radome);
or

(c) the aircraft is missing or is completely inaccessible;

“**accident investigation authority**” means the authority designated by a Contracting State as responsible for aircraft accident and incident investigation within the context of Annex 13;

“**accredited representative**” means a person designated by a Contracting State (which person would normally be from that State’s accident investigation authority) on the basis of the person’s qualifications, for the purpose of participating in an investigation conducted by another Contracting State;

“**adviser**” means a person appointed by a State, on the basis of the person’s qualifications, for the purpose of assisting its accredited representative in an investigation;

“**aircraft**” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“**Annex 13**” means Annex 13 (Aircraft Accident and Incident Investigation) to the Chicago Convention as that Annex has effect from time to time with any amendment made in accordance with the Convention;

“**authorised person**” means a person authorised by the Chief Inspector or the Investigator in Charge either generally or in relation to a particular investigation;

“**causes**” means actions, omissions, conditions, or a combination of those things, which led to the accident or incident;

“**Chicago Convention**” means the Convention on International Civil Aviation, which was extended to the Falkland Islands on 1 March 1947;

“**Chief Inspector**” means —

(a) the person appointed by the Secretary of State as Chief Inspector of Air Accidents under regulation 9(2) of the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018 (SI 2018/321); or

(b) where relevant, the person appointed as deputy under regulation 9(3) of the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018 and authorised by the Chief Inspector to carry out the Chief Inspector’s functions under these Regulations;

“**Contracting State**” means any State which is party to the Chicago Convention;

“**contributing factors**” means actions, omissions, events, conditions, or a combination of those things, which, if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident;

“**crew**” includes every person employed or engaged by the operator in an aircraft in flight in relation to the operation of the aircraft including, where the operator and the pilot in command are the same person, the pilot in command;

“**dangerous goods**” means articles or substances which are capable of posing a risk to health, safety, property or the environment when carried on board an aircraft;

“**Director of Civil Aviation**” means the Director of Civil Aviation of the Falkland Islands;

“**expert**” means a person appointed by a Contracting State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens;

“**fatal injury**” means an injury which is sustained by a person in an accident and which results in the person’s death within 30 days of the date of the accident;

“**flight recorder**” means any type of recorder installed in an aircraft for the purpose of complementing accident or incident investigation;

“**ICAO**” means the specialised agency of the United Nations known as the International Civil Aviation Organisation;

“**incident**” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

“**Inspector of Air Accidents**” means a person appointed by the Secretary of State under Regulation 9(1) of the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018 (SI 2018/321);

“**investigation**” means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions (including

the determination of causes and contributing factors) and, when appropriate, the making of safety recommendations;

“**Investigator**” means a person appointed under regulation 8(2);

“**Investigator in Charge**” means a person charged, on the basis of the person’s qualifications, with responsibility for the organisation, conduct and control of an investigation conducted pursuant to these Regulations;

“**maximum mass**” means certificated maximum take-off mass of an aircraft;

“**operator**” means a person, organisation or enterprise engaged in, or offering to engage in the operation of an aircraft, whether for valuable consideration or otherwise;

“**owner**” means, where an aircraft is registered, the registered owner;

“**person involved**” means —

(a) the operator, and any member of the crew, of the aircraft involved in an accident or serious incident;

(b) any person involved in the maintenance of that aircraft or in the training of the aircraft’s crew;

(c) any person involved in the provision of an air traffic control, flight information or aerodrome services who has provided services to the aircraft; or

(d) members of staff of the designated authority responsible for civil aviation;

“**pilot in command**” means the pilot designated by the operator as being in command of an aircraft and charged with the safe conduct of its flight or, if no such designation has been made, the person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;

“**preliminary report**” means the communication used for the prompt dissemination of data obtained during the early stages of an investigation;

“**safety recommendation**” means a proposal of the AAIB, based on information derived from an investigation, made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident;

“**serious incident**” means an incident involving circumstances indicating that there was a high probability of an accident and is associated with the operation of an aircraft which, in the case of a manned aircraft takes place between the time a person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down; and

“**serious injury**” means an injury which is sustained by a person in an accident and which —

- (a) requires hospitalisation for more than 48 hours, commencing within seven days from the date the injury was received;
- (b) results in a fracture of a bone, excluding simple fractures of fingers, toes or nose;
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
- (d) involves injury to an internal organ;
- (e) involves second or third-degree burns, or any burns affecting more than five per cent of the body surface; or
- (f) involves verified exposure to infectious substances or harmful radiation;

and references to “**seriously injured**” must be construed accordingly;

“**State of Design**” means the State having jurisdiction over the organisation responsible for the type design of an aircraft or aircraft engine;

“**State of Manufacture**” means the State having jurisdiction over the organisation responsible for the final assembly of an aircraft, aircraft engine, or major components of the aircraft;

“**State of the Operator**” means the State in which the operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence; and

“**State of Registry**” means the State on whose register an aircraft is entered.

3. Application

These Regulations apply only to accidents and incidents involving aircraft engaged in civil aviation in the circumstances detailed in regulation 8(3), (4) or (5).

4. Purpose of the investigation of accidents and incidents

The sole objective of an investigation of an accident or incident under these Regulations is the prevention of accidents and incidents; and it is not the purpose of this activity to apportion blame or liability.

5. Duty to furnish information relating to accidents and serious incidents

(1) Where an accident or a serious incident occurs in or over the Falkland Islands a person involved who has knowledge of the accident or incident must, by the quickest means of communication available —

- (a) give notice of the accident or incident to the Governor, the Chief Inspector, and the Director of Civil Aviation; and
- (b) notify the Chief Police Officer of the accident and of the place where it occurred.

(2) Where an accident or serious incident involving an aircraft which is registered in the Falkland Islands occurs outside the Falkland Islands, the operator and any member of the crew of the aircraft who has knowledge of the accident or incident, must, by the quickest means of communication available, give notice of the accident or incident to the Governor, the Chief Inspector, and the Director of Civil Aviation.

(3) The Chief Inspector must forward a notice (containing the information detailed in subregulation (4)) of an accident, a serious incident, with a minimum of delay and by the most suitable and quickest means available to —

(a) the State of Registry;

(b) the State of the Operator;

(c) the State of Design;

(d) the State of Manufacture; and

(e) ICAO, when the aircraft involved is of a maximum mass of over 2,250kg or is a turbo-jet powered aircraft.

(4) The notice referred to in subregulation (3) must contain, to the extent it is available —

(a) in the case of an accident, the identifying abbreviation “ACCID” or, in the case of a serious incident or incident, “INCID”;

(b) the manufacturer, model, nationality and registration marks, and serial number of the aircraft;

(c) the name of the owner, operator and hirer or lessee, if any, of the aircraft;

(d) the qualifications of the pilot in command, and the nationality of the crew and passengers;

(e) the date and time (local time or UTC) of the accident or serious incident;

(f) the last point of departure and the point of intended landing of the aircraft;

(g) the position of the aircraft with reference to some easily defined geographical point and latitude and longitude;

(h) the number of —

(i) crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of crew killed or seriously injured as a result of the accident;

(ii) passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of passengers killed or seriously injured as a result of the accident; and

(iii) in the case of an accident, other persons killed or seriously injured as a result of the accident;

(i) a description of the accident or serious incident and the extent of the damage to the aircraft as far as is known as well as an indication of access difficulties or special requirements to reach the site; and

(j) the presence and description of any dangerous goods or cargo on board the aircraft.

(5) As soon as it is possible to do so, the Chief Inspector must send any details omitted from the above notification as well as any other known relevant information.

(6) A person having knowledge of an accident or serious incident must, if so required by notice in writing given to the person by the Chief Inspector, send to the Chief Inspector such information as is in their possession or control, in such form and at such times as may be specified in the notice.

(7) On receipt of notification of an accident or a serious incident occurring outside the Falkland Islands involving an aircraft registered in the Falkland Islands or of which the Falkland Islands is the State of the Operator, the operator of the aircraft must, as soon as possible and by the most suitable and quickest means available, provide the authorities of the State conducting the investigation with any relevant information available regarding the aircraft and flight crew involved in the accident or serious incident, and provide a copy of the passenger manifest and details of any dangerous goods or cargo on board the aircraft.

(8) On receipt of notification of an accident or a serious incident occurring outside the Falkland Islands involving an aircraft registered in the Falkland Islands, or of which the Falkland Islands is the State Operator, the Chief Inspector must inform the authorities of the State conducting an investigation whether the AAIB intends to appoint an accredited representative.

6. Preliminary report on accident or incident to be published

(1) Subject to subregulation (2), the Chief Inspector may at any time publish, or cause to be published, a preliminary report or bulletin relating to an accident or serious incident.

(2) The preliminary report or bulletin must not compromise the objectives of the investigation being conducted in relation to the accident or serious incident, and in particular the Chief Inspector must have regard to regulations 11(2), 12 and 18 when determining what information should be included in the report or bulletin.

7. Protection of evidence and removal of damaged aircraft

(1) Subject to subregulations (2) and (3) and to regulation 9, where an accident or serious incident occurs in or over the Falkland Islands —

(a) no person other than an authorised person may have access to the aircraft involved in the accident or serious incident;

(b) neither the aircraft nor its contents may, except under the authority of the Investigator in Charge, be removed or otherwise interfered with;

(c) the Investigator in Charge, or authorised persons, and any person involved must take all reasonable measures to protect the evidence within their custody or control and to maintain safe custody of the aircraft, its contents and records, and all air traffic services communication recordings and documents associated with the flight, for such a period as may be necessary for the purposes of an investigation;

(d) the Investigator in Charge or authorised person must take all necessary steps to ensure that the aircraft, its contents, and any other evidence, remain undisturbed pending inspection by an accredited representative, pursuant to a request from the State of Registry, State of Design, State of Manufacture or State of the Operator, so far as this is reasonably practicable and compatible with the proper conduct of the investigation and provided that it does not result in undue delay in returning the aircraft to service where this is practicable.

(2) Notwithstanding subregulation (1) —

(a) the aircraft may be accessed, moved or interfered with to the extent necessary to —

(i) extricate persons, animals, mail and valuables;

(ii) prevent destruction by fire or other causes;

(iii) eliminate any danger or obstruction to air navigation, to other transport or to the public; or

(iv) remove other property from the aircraft under the supervision of an Investigator or with the agreement of an Investigator or a police officer; and

(b) where an aircraft is in water, the aircraft or any of its contents may be moved to the extent necessary to bring the aircraft or the contents to a place of safety.

(3) The Chief Inspector or the Investigator in Charge must facilitate access to, and (subject to regulation 19) release custody of, the aircraft, its contents or any parts of it, as soon as they are no longer required in the investigation, to —

(a) the owner of the aircraft;

(b) a person or persons nominated by the owner; or

(c) a person designated by the State of Registry or the State of the Operator, as applicable.

(4) In this regulation the expression “**authorised person**” means —

- (a) the Chief Inspector, the Investigator in Charge or a person authorised by either of them;
- (b) a police officer; or
- (c) an officer of the Customs and Immigration department of the Falkland Island Government.

8. Air accident investigations

(1) The AAIB is the accident investigation authority for the Falkland Islands for the purpose of carrying out investigations into accidents and incidents.

(2) The Chief Inspector must appoint Inspectors of Air Accidents to be Investigators, and must appoint an Investigator in Charge for each investigation to be carried out under these Regulations.

(3) Subject to subregulations (6) and (7), the Chief Inspector must carry out, or cause an investigation to be carried out into —

- (a) accidents and serious incidents which occur in or over the Falkland Islands; and

- (b) accidents and serious incidents which occur to aircraft registered in the Falkland Islands in or over a country or territory which is not a Contracting State or when the location of the accident or serious incident cannot definitely be established as being in the territory of any State.

(4) The Chief Inspector may, where the Chief Inspector expects to draw air safety lessons from it, carry out or cause an investigation to be carried out into an incident, other than a serious incident, which occurs —

- (a) in or over the Falkland Islands; or

- (b) otherwise than in or over the Falkland Islands to an aircraft registered in the Falkland Islands.

(5) The Chief Inspector may cause an investigation to be conducted in accordance with these regulations where —

- (a) an accident, a serious incident or any other incident occurs in or over the Falkland Islands or to an aircraft registered in the Falkland Islands;

- (b) that accident, serious incident or incident involves any aircraft engaged in military, customs, police or similar services; and

- (c) the Chief Inspector expects to draw safety lessons for civil aviation from the investigation.

(6) Save for any investigation to be undertaken under subregulation (5), the Chief Inspector may delegate the whole or any part of an investigation into an accident or incident to another State or a regional accident investigation organisation by mutual arrangement and consent.

(7) Where the Chief Inspector delegates the task of carrying out an investigation under subregulation (6), the Chief Inspector must, to the extent possible, facilitate inquiries by the Investigator in Charge appointed by the relevant State.

(8) The Chief Inspector must not appoint a person as the Investigator in Charge of an investigation where the investigation has been delegated under subregulation (6).

(9) Without prejudice to the power of an Investigator to seek such advice or assistance as the Investigator may deem necessary in undertaking an investigation, the Chief Inspector may invite the aviation authorities and suitably qualified persons from the Falkland Islands, the United Kingdom, or other Contracting States to assist an Investigator in a particular investigation, so far as this is compatible with the proper conduct of the investigation.

(10) Suitably qualified persons or organisations in the Falkland Islands must be nominated by the Governor to facilitate the securing and preservation of evidence in the Falkland Islands under instructions from the Investigator in Charge.

(11) If, in the course of an investigation, it becomes known or it is suspected that an act of unlawful interference was involved in the cause of the accident or serious incident the Investigator in Charge must immediately initiate action to ensure that the aviation security authorities of the Falkland Islands are informed.

(12) For the purposes of subregulation (11), “**an act of unlawful interference**” means any act which constitutes an offence under the Aviation Security and Piracy (Overseas Territories) Order 2000 (SI 2000/3059).

(13) The Governor must establish a comprehensive system for providing assistance to aircraft accident victims and their families.

9. Powers and duties of Investigators

(1) For the purpose of enabling an investigation to be carried out into an accident or incident in the most efficient way and within the shortest time, an Investigator is authorised to —

(a) have unrestricted and unhampered access to and control over the site of the accident or incident, the aircraft, its contents or its wreckage, and all relevant material or evidence including the protection of the aircraft, debris or components for examination or analysis purposes;

(b) gather, record and analyse all relevant information on that accident or incident;

(c) ensure an immediate listing of evidence and controlled removal of debris, or components, for examination or analysis purposes;

(d) recover and have immediate access to and use of the contents of the flight recorders and any other recordings and air traffic service records;

(e) arrange for the read out of the flight recorders without delay;

(f) require an expeditious autopsy or medical examination of the crew, passengers and other persons and have immediate access to the results of examination of the bodies of victims or of tests made on samples taken from the bodies of victims;

(g) have immediate access to the results of examinations of the people involved in the operation of the aircraft or of tests made on samples taken from such people;

(h) call and examine witnesses and to require them to produce information or evidence relevant to the investigation; and

(i) have free access to any relevant information or records held by the owner, the operator or the manufacturer of the aircraft, and by the authorities responsible for civil aviation, air navigation services or airport operations.

(2) For the purposes of subregulation (1), an Investigator has power —

(a) by written summons, to examine all persons as the Investigator thinks fit, require persons to answer questions or furnish information or produce books, papers, documents and articles which the Investigator may consider relevant, and to retain any such books, papers, documents and articles until the completion of the investigation;

(b) to take statements from all persons as the Investigator thinks fit and to require any person to make and sign a declaration of the truth of the statement made by the person;

(c) on production of the Investigator's credentials, where these are required, to enter and inspect any place, building or aircraft, the entry or inspection of which appears to the Investigator to be required for the purposes of the investigation;

(d) on production of the Investigator's credentials, where these are required, to remove, test, take measures for the preservation of, or otherwise deal with, any aircraft, other than an aircraft involved in the accident or incident, where it appears to the investigating Investigator required for the purposes of the investigation; and

(e) to take such measures for the preservation of evidence as the Investigator considers appropriate.

(3) A person summoned by an Investigator under subregulation (2)(a) must be allowed such expenses as the Chief Inspector may determine.

(4) The expenses under subregulation (3) are the responsibility of, and will be paid by, the AAIB.

10. Form and conduct of investigations

(1) The AAIB must have independence in the conduct of an investigation and have unrestricted authority over the extent and conduct of the investigation; and the procedure to be followed in carrying out investigations required or authorised under these Regulations.

(2) The conduct of an investigation under these Regulations must be —

(a) wholly independent of, and separate from, any judicial or administrative proceedings to apportion blame or liability;

(b) coordinated with any notified investigation conducted or to be conducted by the judicial authorities of the Falkland Islands (or other territory in which the investigation is being carried out) for the purpose of, and to the extent necessary for, ensuring the traceability and retention of custody of the flight recorders and other physical evidence and for the prompt examination and analysis of such evidence;

(c) determined by the Chief Inspector, taking account of the purpose described in regulation 4 and the lessons the Chief Inspector expects to draw from the accident or incident for the improvement of aviation safety.

11. Investigation report

(1) On completion of an investigation into an accident or incident, the Investigator in Charge must prepare a final report of the investigation, appropriate to the type and seriousness of the accident or incident.

(2) On completion of an investigation, the Investigator in Charge must send a copy of the draft final report to the following States, inviting their significant and substantiated comments on the report as soon as possible —

(a) the State of Registry;

(b) the State of the Operator;

(c) the State of Design;

(d) the State of Manufacture; and

(e) any other State that participated in the investigation,

and must take account of comments received within 28 days on technical aspects of the report and either amend the report to include the substance of the comments or, at the request of the State that provided the comments, append to the final report the comments upon which no agreement could be reached.

(3) The report of an investigation into an accident or incident must state the sole objective of the investigation as described in regulation 4 and, where appropriate, contain a list of findings, causes, causal factors, contributing factors and safety recommendations.

(4) The Chief Inspector must submit a copy of every report prepared under subregulation (1) to the Governor without delay.

12. Notice of investigation report and representations

(1) Where the Investigator in Charge considers an investigation report required by regulation 13 to be published is likely to adversely affect the reputation of any person, the final report must not be published until the Investigator in Charge has —

(a) where it appears practicable to do so, served a notice on the person or, where the person is deceased, on the person who appears to the Investigator in Charge to best represent the interests of the deceased; and

(b) made such changes to the report as the Investigator in Charge thinks fit following consideration of any representations made in accordance with subregulation (3) by or on behalf of the person served with the notice under paragraph (a).

(2) The notice referred to in subregulation (1)(a) must include particulars of any proposed analysis of facts and conclusions as to the circumstances and causes of the accident or incident which could affect the person concerned.

(3) Subject to subregulation (5), representations made under subregulation (1)(b) must be in writing and provided to the Investigator in Charge within 28 days of service of the notice or such longer period as the Chief Inspector may allow.

(4) A person must not disclose or permit to be disclosed any information contained in a notice served on the person under subregulation (1) to any other person without the prior consent in writing of the Chief Inspector.

13. Publication of reports

(1) The Chief Inspector must cause the final report of an investigation into an accident or incident to be made public —

(a) in the shortest time possible;

(b) where possible, within 12 months of the date of the accident or incident; and

(c) in such a manner as the Chief Inspector thinks fit.

(2) Notwithstanding the provisions of regulation 6, if the final report cannot be made publicly available within twelve months, the Chief Inspector must make an interim statement publicly available on each anniversary of the occurrence, detailing the progress of the investigation and any safety issues raised.

(3) The Chief Inspector must send a copy of the final report to —

(a) the parties listed in regulations 11(2) and 12; and

(b) any State that provided relevant information, significant facilities or experts; and

(c) ICAO, when the investigation involved an aircraft of a maximum mass of over 5,700 kg;
and

(d) the Governor.

14. Safety recommendations

(1) The Chief Inspector must cause the final report referred to in regulation 13, and the safety recommendations contained in it, to be communicated to ICAO and to all the relevant undertakings or aviation authorities concerned in the Falkland Islands and in the States referred to in regulation 11(2).

(2) A safety recommendation must not create a presumption of blame or liability for an accident or incident.

(3) Without prejudice to the investigation or publication of the final report, at any stage of an investigation of an accident or incident, the Chief Inspector may recommend in a dated communication to the appropriate authorities, including those in other States and where appropriate ICAO, any preventative action that the Chief Inspector considers necessary to be taken promptly to enhance aviation safety, and must record the responses.

(4) The addressee of a safety recommendation pursuant to subregulations (1) and (3) must —

(a) acknowledge receipt of the communication;

(b) consider the safety recommendation and, where it considers to be appropriate, act upon it;
and

(c) send to the Chief Inspector within 90 days of the communication one of the following —

(i) full details of the measures, if any, it has taken or proposes to take to implement the recommendation without delay and, where it proposes to implement measures, the timetable for securing that implementation; or

(ii) a full explanation as to why the recommendation is not to be the subject of measures to be taken to implement it; and

(d) give written notice to the Chief Inspector where at any time information provided to the Chief Inspector under subregulation (c)(i), concerning the measures it proposes to take or the timetable for securing their implementation, is rendered inaccurate by any change of circumstances.

15. Reopening of investigation

(1) If after an investigation has been closed new and significant evidence becomes available, or if the Chief Inspector considers it appropriate, the Chief Inspector may cause the investigation of an accident or incident to be reopened.

(2) An investigation that is reopened must be subject to and conducted in accordance with these Regulations.

16. Participation in an investigation - accredited representatives, advisers and experts

(1) When an investigation of an accident or serious incident is being carried out by an Investigator under regulation 8, accredited representatives may be appointed by —

- (a) the State of Registry;
- (b) the State of Design;
- (c) the State of Manufacture;
- (d) the State of the Operator; and
- (e) a Contracting State which has on request provided information, facilities or experts to the Chief Inspector in connection with the accident or serious incident.

(2) Where an investigation of an accident or serious incident is being carried out under regulation 8, an expert may be appointed by a Contracting State which has a special interest in the accident by virtue of fatalities or serious injuries to its citizens.

(3) When an investigation is being carried under regulation 8 the Chief Inspector must invite to participate in the investigation—

- (a) the air operator, when neither the State of Registry nor the State of the Operator appoints an accredited representative;
- (b) the organisations responsible for the type design and final assembly of the aircraft, when neither the State of Design nor the State of Manufacture appoints accredited representatives.

(4) Accredited representatives may participate in the investigation and —

- (a) visit the scene of the accident;
- (b) examine the wreckage;
- (c) obtain witness information and suggest areas of questioning;
- (d) receive copies of all pertinent documents;
- (e) have full access to all relevant evidence as soon as possible;
- (f) participate in read outs of recorded media;
- (g) participate in off-scene investigative activities such as component examinations, technical briefings, tests and simulations;
- (h) participate in investigation progress meetings, including deliberations related to analysis, findings, causes and safety recommendations;

- (i) make submissions in respect of the various elements of the investigation; and
 - (j) appoint advisers to assist the accredited representative.
- (5) Accredited representatives and their advisers —
- (a) must provide the Investigator in Charge conducting the investigation with all relevant information available to them; and
 - (b) must not divulge information on the progress and findings of the investigation without the express consent of the Investigator in Charge conducting the investigation.
- (6) An expert appointed under subregulation (2) may be permitted to —
- (a) visit the scene of the accident; and
 - (b) have access to the relevant factual information which is approved for public release and information on the progress of the investigation; and
 - (c) receive a copy of the final report; and
 - (d) assist in the identification of victims and in meetings with survivors from their State.

17. Contraventions and penalties

- (1) A person must not, without reasonable excuse, obstruct or impede an Investigator or any person acting under the authority of the Chief Inspector in the exercise of any powers or duties under these Regulations.
- (2) A person must not, without reasonable excuse, fail (after having had the expenses, if any, to which they are entitled under these Regulations tendered to them) to comply with any witness summons of an Investigator holding an investigation.
- (3) A person who receives information from an Investigator, must not cause or permit that information or any part of it to be disclosed, without the prior written consent of the Chief Inspector, to any other person, body or organisation before it is made publicly available by the Chief Inspector (on publication of the final investigation report or otherwise).
- (4) A person who knowingly provides false or misleading information to an Investigator in connection with an investigation contravenes these Regulations.
- (5) A person must not circulate, publish or give access to a draft report or any part thereof, or any documents obtained during an investigation of an accident or incident conducted by another State without the consent of that State, unless such reports or documents have been released by that State.
- (6) A person involved who —

(a) has knowledge of the occurrence of an accident or serious incident in or over the Falkland Islands; and

(b) fails, without reasonable excuse, to notify it in accordance with regulation 5(1) or 5(2);

contravenes these Regulations.

(7) A person who contravenes, or fails to comply with, any of the provisions of these Regulations commits an offence and is liable on conviction to a fine not exceeding level 3 on the standard scale, or to imprisonment for a term not exceeding 3 months.

18. Non-Disclosure of relevant records

(1) Subject to subregulations (3), (4), (5) and (6), a relevant record must not be made available by the AAIB or any member of its staff to any person for purposes other than an accident or incident investigation conducted under these Regulations.

(2) The records listed in subregulation (8) must be included in the final report or its appendices only when pertinent to the analysis of the accident or incident and parts of the records not relevant to the analysis must not be disclosed.

(3) The names of persons involved in an accident or incident must not be disclosed to the public by the AAIB.

(4) Nothing in subregulation (1) prevents the Chief Inspector from making a relevant record available to any other person where —

(a) in a case where the other person is a party to or otherwise entitled to appear at judicial proceedings, the relevant court has ordered that the relevant record must be made available to that person for the purpose of those proceedings; or

(b) in any other circumstances when the relevant court has ordered that the relevant record must be made available for any other purpose.

(5) Subject to subregulation (6), no order may be made under subregulation (4) unless the relevant court is satisfied that on balance the interests of justice outweigh the adverse domestic and international impact which disclosure may have on the investigation to which the record relates or on any future safety investigation.

(6) A relevant record or part thereof must not be treated as having been made available contrary to subregulation (1) in any case where that record or part is included in the final report or the appendices to the final report, or included in a notice served under regulation 12.

(7) The provisions of this regulation apply without prejudice to any rule of law which authorises or requires the withholding of any relevant record on the ground that the disclosure of it would not be in the public interest.

(8) In this regulation —

“**airborne image recording**” means any image recording on a device fitted to an aircraft for the purposes of accident and incident investigation;

“**judicial proceedings**” includes any proceedings before a court, tribunal or person having by law power to hear, receive and examine evidence on oath;

“**relevant court**” in the case of judicial proceedings or an application for disclosure means the Supreme Court; and

“**relevant record**” means cockpit voice recordings and airborne image recordings, and any transcripts from such recordings, and those other records in the possession, custody or power of the Chief Inspector being —

- (a) all statements taken from persons by an Investigator or supplied to an Investigator in the course of the investigation, together with any notes or recordings of interviews;
- (b) all communications between persons having been involved in the operation of the aircraft;
- (c) medical or private information regarding persons involved in the accident or incident;
- (d) recordings and transcriptions of recordings from air traffic control units;
- (e) analysis of and opinions expressed about information, including flight recorder information, made by the accident investigation authority and accredited representatives in the investigation in relation to the accident or incident; and
- (f) the draft final report, except as mentioned in regulation 11(2).

19. Release of evidence to owner

(1) This regulation applies where an aircraft, its contents or wreckage (“**property**”) is held by the AAIB in a hangar or other facility which is being used by the AAIB for the purposes of an investigation.

(2) Subject to subregulation (5), where any property is no longer required for the purposes of the investigation the Chief Inspector must inform the owner of the property, by notice in writing, that it will be released to the owner at the place and on the date specified in the notice and in accordance with any other arrangements specified in the notice.

(3) An owner on whom a notice has been served under subregulation (2), or the owner’s representatives, must collect the property in accordance with the arrangements specified in the notice (or in accordance with alternative arrangements that the owner has agreed in writing with the Chief Inspector), failing which —

- (a) the Chief Inspector may make arrangements for the destruction or disposal of the property; and
- (b) the reasonable costs of such destruction or disposal must be recoverable from the owner.

(4) A notice served under subregulation (2) —

(a) must not specify a date for collection of the property earlier than one month beginning with the date upon which the notice was served; and

(b) must include a warning that failure by the owner to collect the property by the date specified in the notice (or such other date that the owner agrees in writing with the Chief Inspector) will entitle the Chief Inspector to arrange for the destruction or disposal of the property and the reasonable costs of such destruction or disposal will be recoverable from the owner.

(5) Where any property referred to in subregulation (1) is no longer required for the purposes of an investigation and the Chief Inspector is satisfied that a person, body or authority (other than the owner) is entitled (under statutory or common law powers that apply in the Falkland Islands) to collect that property for the purposes of another investigation and has confirmed their intention to do so —

(a) subregulation (2) does not apply to that property; and

(b) the Chief Inspector must release it to that person, body or authority and inform the owner of the property, by notice in writing, that it has been so released.

(6) In this regulation “**owner**” means, in relation to an aircraft which is registered, the registered owner of the aircraft or, if the owner is deceased, the owner’s personal representatives.

20. Service of notices and other documents

(1) A notice or other document required or authorised by these Regulations to be served on a person may be served by —

(a) delivering it to that person in person;

(b) leaving it at that person’s proper address; or

(c) sending it by post or by electronic means to that person’s proper address.

(2) In the case of a body corporate, a notice or document may be served on a director of that body or on any other office or employee of that body (“**authorised person**”) who is authorised to accept service of such notices or documents on its behalf.

(3) For the purposes of this regulation, “**proper address**” means —

(a) in the case of a body corporate or its director or authorised person —

(i) the registered or principal office of that body; or

(ii) the email address of the secretary or clerk of that body, the director or the authorised person;

(b) in any other case a person's last known address, which includes an email address.

21. Revocation

(1) The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2016 are revoked.

(2) An investigation commenced under the Regulations revoked by subregulation (1), which has not been completed, must continue as if it had been commenced under these Regulations.

Made 2 December 2019

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE *(not part of the regulations)*

These Regulations are made under section 75(1) of the Civil Aviation Act 1982 as extended to the Falkland Islands by article 4 of the Civil Aviation Act 1982 (Overseas Territories) Order 2001 (SI 2001/1452). The Regulations will revoke and replace the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2016.

Many of the revisions made under these Regulations are intended to comply with changes introduced by Annex 13 (11th Edition, July 2016) of the Chicago Convention on International Civil Aviation and ICAO State Letter dated 1 April 2018 that proposes further amendments to take effect from November 2018. Since the last ICAO audit of the UK in 2009 a significant number of amendments have been made to Annex 13 and the revised 11th edition was published by ICAO in July 2016. This edition is to be further amended in November 2018 in accordance with the ICAO State Letter dated 1 April 2018, which detailed the proposed amendments and the reasons therefor.

Since the ICAO audit of 2009, there have been significant developments within the UK and its Overseas Territories (OT); it has now been formally recognised by the UK that the AAIB is the “accident investigation authority” for the OTs, as required by Standard 3.2 to Annex 13. This position is now reflected in these Regulations.

As the AAIB is now formally recognised as the accident investigation authority for the OTs, the revisions reflected in these Regulations also take account (so far as is considered necessary) of the UK Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018 (SI 2018 No. 321) – which, inter alia, adopt EU Regulation 996/2010; the provisions of which have not been taken into account.

The following revisions reflected in these Regulations should be noted in particular —

1. Regulation 8(4) provides for the AAIB to investigate an incident other than a serious incident where the AAIB expects to draw safety lessons from it in the interests of accident and incident prevention. This is to satisfy the proposed Amendment to Standard 4.1 to Annex 13.

2. In addition regulation 8(5) provides for the AAIB to investigate an accident occurring in the Falkland Islands to an aircraft involved in military, customs, police or similar activities. This corresponds with a similar provision in the UK regulations.
3. Regulation 8(1) provides for the designation of the AAIB as the accident investigation authority as required by Standard 3.2 to Annex 13.
4. Bearing in mind the remoteness of the AAIB from the site of any accident occurring in an OT, regulation 8(10) makes provision for the nomination in the Falkland Islands of some person or body to facilitate the securing the wreckage and other evidence pending the arrival on site of an AAIB Investigator.
5. Regulation 8(13) provides for the authorities in the Falkland Islands to render assistance to aircraft accident victims and families as required in answer to Protocol Question 6.383 and ICAO Manual on Assistance to Aircraft Accident Victims and their Families (Doc 9973). In practice, this obligation is placed primarily on the operator of a Commercial Air Transport aircraft.
6. Regulation 10 provides that the AAIB must have independence in, and unrestricted authority over, the conduct of an investigation as required by Standard 5.4 to Annex 13; but is required to coordinate any investigation, to the extent necessary, with any investigation conducted by the judicial authorities, as required by Standard 5.10 to Annex 13.
7. Regulation 13(2) relating to delay in publication of the final report of an accident is intended to satisfy Standard 6.6 to Annex 13.
8. Regulation 17 collects together offences and contraventions of the regulations; for which the penalty is a fine of up to £1,000 or imprisonment up to 3 months (as prescribed by section 75(5) of the Civil Aviation Act 1982 in its application to the Falkland Islands).
9. Regulation 19 makes provision for release, or disposal, of the aircraft, its wreckage and contents to the owner of the aircraft on completion of an investigation; and for recovery of the costs of such release or disposal from the owner.

SUBSIDIARY LEGISLATION

Livestock and Meat Products (Examination for Contaminants, Residues and Maximum Residue Levels) (Amendment) Regulations 2019

S. R. & O. No: 31 of 2019

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Schedule 5 amended

SUBSIDIARY LEGISLATION

Livestock and Meat Products (Examination for Contaminants, Residues and Maximum Residue Levels) (Amendment) Regulations 2019

S.R. & O. No: 31 of 2019

Made: 13 December 2019

Published: 20 December 2019

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 (Examination for Contaminants, Residues and Maximum Residue Levels) (Amendment) Regulations 2019.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Schedule 5 amended

(1) Schedule 5 of the Livestock and Meat Products (Examination for Contaminants, Residues and Maximum Residue Levels) Regulations 2015 is amended by omitting the table in Part D and replacing it with —

“

Food category	Micro-organisms	Sampling plan ⁱ		Limits		Analytical reference method ⁱⁱ	Stage where the criterion applies	Action in case of unsatisfactory results
		n	c	m	M			
Carcasses of cattle and sheep, with samples taken by the destructive method	Aerobic colony count			3,5 log cfu/cm ² daily mean log	5,0 log cfu/cm ² daily mean log	ISO 4833-2:2013	Carcasses after dressing but before chilling	Improvements in slaughter hygiene and review of process controls
	<i>Enterobacteriaceae</i>			1,5 log cfu/cm ² daily mean log	2,5 log cfu/cm ² daily mean log	ISO 21528-2:2017	Carcasses after dressing but before chilling	Improvements in slaughter hygiene and review of process controls
Carcasses of cattle and sheep with samples taken by the sponge or swab method	Aerobic colony count			2,8 log cfu/cm ² daily mean log	4,3 log cfu/cm ² daily mean log	ISO 4833-2:2013	Carcasses after dressing but before chilling	Improvements in slaughter hygiene and review of process controls
	<i>Enterobacteriaceae</i>			0,8 log cfu/cm ² daily mean log	1,8 log cfu/cm ² daily mean log	ISO 21528-2:2017	Carcasses after dressing but before chilling	Improvements in slaughter hygiene and review of process controls

Carcasses of cattle and sheep	<i>Salmonella</i>	50 ⁱⁱⁱ	2 ^{iv}	Absence in the area tested per carcass		ISO 6579-1:2017	Carcasses after dressing but before chilling	Improvements in slaughter hygiene and review of process controls
Minced meat	Aerobic colony count ^v	5	2	5 x 10 ⁵ cfu/g	5 x 10 ⁶ cfu/g	ISO 4833-2:2013	End of the manufacturing process	Improvements in production hygiene and improvements in selection and/or origin of raw materials
Minced meat	<i>E. coli</i> ^{vi}	5	2	50 cfu/g	500 cfu/g	ISO 16649-2:2001	End of the manufacturing process	Improvements in production hygiene and improvements in selection and/or origin of raw materials
Mechanically separated meat (MSM) ^{vii}	Aerobic colony count	5	2	5 x 10 ⁵ cfu/g	5 x 10 ⁶ cfu/g	ISO 4833-2:2013	End of the manufacturing process	Improvements in production hygiene and improvements in selection and/or origin of raw materials
Mechanically separated meat (MSM) ^{vii}	<i>E. coli</i> ^{viii}	5	2	50 cfu/g	500 cfu/g	ISO 16649-2:2001	End of the manufacturing process	Improvements in production hygiene and improvements in selection and/or origin of raw materials
Meat preparations	<i>E. coli</i> ^{ix}	5	2	500 cfu/g or cm ²	5000 cfu/g or cm ²	ISO 16649-2:2001	End of the manufacturing process	Improvements in production hygiene and improvements in selection and/or origin of raw materials
Minced meat and meat preparations made from species other than poultry intended to be eaten cooked	<i>Salmonella</i>	5	0	Not detected in 10g		ISO 6579-1:2017	Products to be placed on the market and during their shelf life	Prevention of being placed on the market or product recall. Investigation into contamination incident

ⁱ n = number of units comprising the sample; c = number of sample units giving values between m and M.

ⁱⁱ The most recent edition of the standard shall be used.

ⁱⁱⁱ The 50 samples shall be derived from 10 consecutive sampling sessions in accordance with the sampling rules and frequencies laid down in this Regulation.

^{iv} The number of samples where the presence of salmonella is detected. The c value is subject to review in order to take into account the progress made in reducing the salmonella prevalence. Member States or regions having low salmonella prevalence may use lower c values even before the review.

^v This criterion shall not apply to minced meat produced at retail level when the shelf-life of the product is less than 24 hours.

^{vi} *E. coli* is used here as an indicator of faecal contamination.

^{vii} These criteria apply to mechanically separated meat (MSM) produced with the techniques referred to in paragraph 3 of Chapter III of Section V of Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council.

^{viii} *E. coli* is used here as an indicator of faecal contamination.

^{ix} *E. coli* is used here as an indicator of faecal contamination.”

(2) For the avoidance of doubt, the part with the heading “Interpretation of test results” remains in Part D of the Schedule.

Made 13 December 2019

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

EXPLANATORY NOTE
(not part of the regulations)

These regulations amend Part D of Schedule 5 of the Livestock and Meat Products (Examination for Contaminants, Residues and Minimum Residue Levels) Regulations 2015 by replacing the table.

The new table now contains microbiological criteria for carcasses of cattle and sheep where samples are taken by the sponge or swab method and criteria for Salmonella in minced meat.

A formatting problem is also corrected.

SUBSIDIARY LEGISLATION

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2019

(No. 32 OF 2019)

ARRANGEMENT OF PROVISIONS

Article

1. Title
2. Commencement
3. Interpretation
4. Application
5. Duration
6. Condition: returns
7. Revocation

Schedule – Designated Employers

SUBSIDIARY LEGISLATION

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2019

(No. 32 of 2019)

Made: 13 December 2019

Published: 20 December 2019

Coming into force: 1 January 2020

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 2019.

2. Commencement

This Order comes into force on 1 January 2020.

3. Interpretation

In this Order —

“**designated employer**” means an employer listed in Part 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 payable by an employee 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; and
- (b) retirement pension contributions in respect of relevant employment.

(2) A qualifying employee of an employer listed in Part 1 of the Schedule is exempted in respect of liabilities arising on or after 1 January 2020.

(3) A qualifying employee of an employer listed in Part 2 of the Schedule is exempted in respect of liabilities arising on or after 1 January 2019.

5. Duration

Nothing in this Order confers an exemption after 31 December 2020 to pay —

- (a) income tax on relevant income; or
- (b) retirement pension contributions in respect of relevant employment.

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; and
- (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) Order 2018 (No 21 of 2018) 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
G3 Systems Limited

PART 2

Cape Engineering Services Limited
Ecolog International FZE
Thales UK Limited
Welbro Project Management Limited

Made 13 December 2019

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

EXPLANATORY NOTE
(not part of the order)

This order exempts certain employees working in defence related companies from Falkland Islands income tax. The current Taxes and Duties (Defence Contractors' Employees Exemption) Order expires on 31 December 2019. The exemption is extended to 31 December 2020. New companies are added to the list under Part 2 of the Schedule and their employees are exempted from liabilities arising on or after 1 January 2019.

The companies listed under Part 1 of the Schedule are currently exempt from 2019 liabilities under the 2018 Order (21 of 2018) which will be revoked by article 7 of this order.

ELIZABETH II



FALKLAND ISLANDS

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

Supplementary Appropriation (2019-2020) (No. 3) Ordinance 2019

(No: 19 of 2019)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation
4. Replacement of amount withdrawn by authority of Contingencies Warrant

Schedule

ELIZABETH II



FALKLAND ISLANDS

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

SUPPLEMENTARY APPROPRIATION (2019-2020) (NO. 3) ORDINANCE 2019

(No: 19 of 2019)

(assented to: . 19 December 2019)
(commencement: on publication)
(published: 20 December 2019)

AN ORDINANCE

To authorise the appropriation from the Consolidated Fund of the additional amount of £1,210,500 for the financial year ending 30 June 2020.

ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Supplementary Appropriation (2019-2020) (No. 3) Ordinance 2019.

2. Commencement

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

3. Appropriation

(1) The additional amount of £1,210,500 is appropriated from the Consolidated Fund for the financial year ending 30 June 2020.

(2) The issue of the additional amount from the Consolidated Fund in the amounts necessary to replace an amount in accordance with section 4 and to supply the vote set out in the Schedule is authorised.

4. Replacement of amount withdrawn by authority of Contingencies Warrant

If an amount has been withdrawn from the Contingencies Fund by the authority of Contingencies Warrant No. 3 of 2019-2020, the amount withdrawn must be replaced from the amount appropriated under section 3.

SCHEDULE

section 3

Number	Head of Service of Government	Amount £
	Operating Budget	
0110	Development & Commercial Services	521,000
0350	Public Works	36,500
	Total Operating Budget	557,500
0999	Fund Transfer and Transfer Payments	653,000
	Total Schedule	1,210,500

Passed by the Legislature of the Falkland Islands on 12 December 2019.

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
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FALKLAND ISLANDS GAZETTE

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No. 17

Appointment

Sarah Johnston, Residential Support Worker, Health and Social Services Department, 04.12.19.

Samuel Thomas Stainton-Bygrave, Pilot, Falkland Islands Government Air Service, Development and Commercial Services Department, 04.12.19.

Emmaleigh Grace Middleton, Receptionist/Clerk, Health and Social Services Department, 10.12.19.

Rebecca Pointek, Data Manager, Fisheries, Natural Resources Department, 10.12.19.

Johan Falk, Electrical Supervisor, Property and Municipal Section, Public Works Department, 20.12.19.

Resignation

Geraldine Amanda Roberts, Customs and Immigration Officer, Customs and Immigration, Emergency Services Department, 06.12.19.

Ashley Derek Porter Jaffray-Carr, Travel Co-ordinator, Falkland Islands Government Office, London, 11.12.19.

Rebecca Emily Morgan, Station Enquiry Officer, Royal Falkland Islands Police, Emergency Services Department, 20.12.19.

NOTICES

No. 98

29 November 2019

Falklands Landholdings Corporation Ordinance 2000 section 4

Appointment of Members to the Falklands Landholdings Corporation Board

1. Section 4(1)(e) and (f) of the Falklands Landholdings Corporation Ordinance 2000 provides for the Governor to

appoint as members of the Falklands Landholdings Corporation Board one person nominated by the Rural Business Association and two members of the public.

2. In exercise of my powers under section 4(1)(e), and as nominated by the Rural Business Association, I appoint **Keith Andrew Knight** to be a member of the Falklands Landholdings Corporation Board.

3. In exercise of my powers under section 4(1)(f) I appoint **Rodney William Lee** to be a member of the Falklands Landholdings Corporation Board.

4. These appointments have effect from the date of signature below, and continue in effect for two years, unless terminated sooner.

Dated 29 November 2019

R. A. J. MITHAM,
Acting Governor

No. 99

29 November 2019

Falkland Islands Pensions Scheme Ordinance 1997 section 5

Appointment of Members to Pensions Board

1. Section 5 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) and after consulting representatives of employees who are members of the Scheme I appoint **Morgan Edmund Goss** to be a member

of the Pensions Board to represent the interests of those employees.

3. In exercise of my powers under section 5(2)(d) and after consulting Executive Council, representatives of employers of persons who are or are eligible to be members of the Scheme (other than the Falkland Islands Government), representatives of employees who are or are eligible to be members of the Scheme and such other persons as appear to be appropriate, I appoint **Sharon Gilbert** to be a member of the Pensions Board.

4. These appointments have effect from 1 January 2020 and continue in effect for three years in accordance with the Falkland Islands Pensions Scheme Ordinance, unless terminated sooner.

Dated 29 November 2019

R. A. J. MITHAM,
Acting Governor

No. 100

11 December 2019

Marriage Ordinance 1996
section 25

Appointment of Registrar

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

2. In exercise of my powers under section 25(1) of the Marriage Ordinance I appoint **Daryl Hatton Edwards** to be a Registrar for the purposes of the marriage of Megan Shirley Rebecca Middleton and Nicholas Cyril Carter Edwards scheduled to take place at the Lighthouse, Cape Pembroke on 31 December 2019.

Dated 11 December 2019

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

No. 101

11 December 2019

Retirement Pensions Ordinance 1996
section 3

Appointment of Members
Retirement Pensions – Board of Management

1. Section 3(2) of the Retirement Pensions Ordinance 1996 provides that the Governor shall appoint three persons to be members of the Board of Management.

2. In exercise of my powers under section 3(2) I appoint:-

Deborah Davidson;
Stephen Paul James Freer; and
John Frederick Simpson

to be members of the Board of Management.

3. These appointments have effect from 1 January 2020, and continue in effect for three years expiring on 31 December 2023, unless terminated sooner.

Dated 11 December 2019

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

No. 102

13 December 2019

Interpretation and General Clauses Ordinance 1977
section 42

Harbours and Ports Ordinance 2017
section 5

Oil in Territorial Waters Ordinance 1960
section 2

Revocation of Appointment

1. In exercise of my powers under section 5 of the Harbours and Ports Ordinance 2017 and section 2 of the Oil in Territorial Waters Ordinance 1960, Malcolm William Jamieson was appointed Acting Harbour Master to continue in effect from 8 November 2019 until termination of the appointment.

2. Now, I, Nigel James Phillips C.B.E., Governor of the Falkland Islands in exercise of my powers under section 42 of the Interpretation and General Clauses Ordinance 1977 and in accordance with section 5 of the Harbours and Ports Ordinance 2017 and section 2 of the Oil in Territorial Waters Ordinance 1960, hereby revoke the appointment of **Malcolm William Jamieson** as Acting Harbour Master with effect from the date of signature below.

Dated 13 December 2019

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

No. 103

18 December 2019

Taxes Ordinance 1997
section 5

Appointment of Deputy Commissioner of Taxation

1. Section 5(4) of the Taxes Ordinance 1997 confers power on the Governor to appoint a Deputy Commissioner of Taxation.

2. In exercise of my powers under section 5(4) of the Taxes Ordinance, I appoint the substantive holder of the post of **Head of Taxation** to be Deputy Commissioner of Taxation.

3. This appointment has effect from 13 December 2019 and continues in effect until terminated.

Dated 18 December 2019

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

Immigration (Permanent Residence Permit) Regulations 2009
regulation 19

Applications for Permanent Residence Permits

Notice is hereby given that the following people have applied to the Principal Immigration Officer to be granted Permanent Residence Permits:

Manolito Diola Gonzalvo
Wilman Monsefu Malca
Paul Nathaniel Williams
Fiona Jane Williams
Maria Veronica Iriarte Denis
Carlos Fernando Aguilera Aguilera
Katherine Angelica Chavez Zamorano; and
Jazmin Magdalena Vargas Ladron De Guevara

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 within 21 days of the date of this publication.

Dated 20 December 2019

J. E. SMITH,
Immigration Officer.

Offshore Minerals Ordinance 1994
section 65A

Environmental Impact Statement
Premier Oil Exploration and Production Limited

An Environmental Impact Statement (EIS) has been submitted to the Falkland Islands Government by Premier Oil Exploration and Production Ltd. The document (Sea Lion Phase 1 Development Environmental Impact Statement Rev B04) 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 as well as associated oil spill strategies and the environmental monitoring and management plan are available from the Department of Mineral Resources, Ross Road, Stanley (telephone 27322 or email info@mineralresources.gov.fk) from Thursday 2 January 2020.

Electronic copies of the EIS can be found on the Premier Oil website (<http://www.premier-oil.com/operations/falkland-islands>). Premier Oil will, in the near future, publish details of public engagement plans during the consultation period in the local media.

Written representations in relation to the Environmental Impact Statement must be made by Wednesday 12 February 2020 to the Department of Mineral Resources, Ross Road, Stanley (or by email to info@mineralresources.gov.fk).

Dated 31 December 2019

S.C. LUXTON
Director of Mineral Resources.