



# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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*Vol. CXII*

*31st January 2003*

*No. 1*

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### Appointments

Jennifer Webster, Staff Nurse, King Edward VII Memorial Hospital, Health Services Department, 28.12.02.

Alison Davies, Primary Teacher, Infant Junior School, Education Department, 1.1.03.

Siobhan Fahy, Primary Teacher, Infant Junior School, Education Department, 1.1.03.

Dominic Stephen Giles, History Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Anne Holt, Travelling Teacher, Camp Education, Education Department, 1.1.03.

Tracey Helen Irish, English Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Elizabeth Merrion-Lancaster, Spanish Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Nigel Wright, Geography Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Charlotte Ellen Vaile, Travelling Teacher, Camp Education, Education Department, 1.1.03.

Gabriel Ceballos, Plant Operator/Handyman, Property and Municipal Section, Public Works Department, 2.1.03.

Oswaldo D'Avino, Plant Operator/Handyman, Property and Municipal Section, Public Works Department, 2.1.03.

Edgar Ewen Morrison, Plant Operator/Handyman, Property and Municipal Section, Public Works Department, 2.1.03.

Kevin Renton MacFarlane, Fisheries Protection Officer, Fisheries Department, 13.1.03.

Helen Mary O'Sullivan, Staff Nurse, King Edward VII Memorial Hospital, Health Services Department, 18.1.03.

Frances Wilson, Learning Support Assistant, Falkland Islands Community School, Education Department, 24.1.03.

John Knox Burns, Assistant Power Station Manager, Public Works Department, 27.1.03.

Samuel George Clarke, Fisheries Observer, Fisheries Department, 27.1.03.

Maria Teresa Ganho Pereira Athayde, Fisheries Observer, Fisheries Department, 31.1.03.

Luke Stephen Kenny, Fisheries Observer, Fisheries Department, 31.1.03.

#### Promotions

Andrew Nigel Miller, from Aerodrome Fire Officer, Fire and Rescue Department, to Station Commander, Fire and Rescue Department, 1.1.03.

Angeline Clarke, from Clerk, Public Works Department, to Assistant Taxation Officer, Taxation Department, 6.1.03.

#### Completion of Contracts

Steven Tyldsley, Medical Engineering Manager, Health Services Department, 11.1.03.

Oliver Yates, Fisheries Observer, Fisheries Department, 31.1.03.

#### Re-appointments

Shirley Adams-Leach, Music Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Andrew Barnes, History Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Mark Bridges, Teacher, Infant Junior School, Education Department, 1.1.03.

Kristine Cant, Travelling Teacher, Camp Education, Education Department, 1.1.03.

David Clarke, Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Alison Early, Primary Teacher, Infant Junior School, Education Department, 1.1.03.

Helen Forbes, Home Economics Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Alison Liddle, Teacher, Infant Junior School, Education Department, 1.1.03.

Anne Taylor, Science Teacher, Falkland Islands Community School, Education Department, 1.1.03.

Steven Tyldsley, Medical Engineering Manager, Health Services Department, 12.1.03.

#### Resignation

Zachary Stephenson, Sub Officer, Fire and Rescue Department, 31.1.03.

#### Retirement

Jane Aileen Marie France, Senior Nurse, Health Services Department, 4.11.02.

#### NOTICES

No. 1 14th January 2003

#### HERMANOS GANDON FISHING COMPANY LIMITED

Company Number: 10242

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to

the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 14th day of January 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 2

14th January 2003

#### IBERIA FISHING COMPANY LIMITED

Company Number: 10245

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 14th day of January 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 3

14th January 2003

#### LEICESTER FISHING COMPANY LIMITED

Company Number: 10244

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 14th day of January 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No.4

17th January 2003

#### SUPREME COURT OF THE FALKLAND ISLANDS

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

**TAKE NOTICE THAT** Frederick James Biggs, deceased of Stanley, Falkland Islands died on the 9th day of January 2003 intestate.

**WHEREAS** Thomas Claude Alexander Biggs has applied for Letters of Administration to administer the estate of the said deceased in the Colony.

**NOTICE IS HEREBY GIVEN** pursuant to Section 4 of the Administration of Estates Ordinance to all persons resident

in the Colony who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within 21 days of the publication hereof.

C. J. MITCHELL,  
*Registrar, Supreme Court.*

Stanley  
Falkland Islands  
17th January 2003  
Ref. PRO/1/03

No. 5 27th January 2003

**LIFESTYLES (WDC) LIMITED**

**Company Number: 10416**

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 27th day of January 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No.6 27th January 2003

**HARD DISC CAFE LIMITED**

**Company Number: 11233**

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 27th day of January 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 7 28th January 2003

**THE FALKLAND ISLANDS CONSTITUTION  
ORDER 1985**

**SCHEDULE 1 (SECTION 80(1))**

**EXTENSION OF APPOINTMENT OF  
NICHOLAS PAUL MARTIN SANDERS  
AS ACTING JUDGE**

**WHEREAS NICHOLAS PAUL MARTIN SANDERS** was by Instrument of Appointment under the Public Seal dated 29th June 2001 appointed to sit as an Acting Judge of the Supreme Court during such time or times as the Chief

Justice is absent from the Falkland Islands or the post of Chief Justice is vacant, but in relation only to such causes matters proceedings or things as were specified in such Appointment.

**AND WHEREAS** it appears to me that the state of business in the Supreme Court during such time or times as the Chief Justice is absent from the Falkland Islands or the post of Chief Justice is vacant so requires;

**IN EXERCISE** of my powers under section 80 (1) of Schedule 1 to the Falkland Islands Constitution Order 1985, **I HOWARD JOHN STREDDER PEARCE** Commander of the Royal Victorian Order, Governor of the Falkland Islands **DO HEREBY** amend the said Instrument of Appointment of 29th June 2001 by the insertion therein immediately following sub-paragraph (h) of the fifth paragraph of the said Instrument of Appointment of the following new sub-paragraph (i) -

"(i) to sit as an Acting Judge of the Supreme Court for the purpose of hearing and determining the following cases:

Her Majesty's Attorney General for the Falkland Islands v Gordon Forbes Construction (Falklands) Limited - SC/ CIV/21/02

Her Majesty's Attorney General for the Falkland Islands v Gordon Forbes Construction (Falklands) Limited - SC/ CIV/23/02

Given under my hand and the Public Seal this 28th day of January 2003.

H. J. S. PEARCE,  
*Governor.*

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

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

**I hereby appoint:**

**CPL N. PRITCHARD - A8247254**

to be a temporary Customs Officer from 11th December 2002 to 11th April 2003.

R. J. KING,  
*Collector of Customs*

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

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

**I hereby appoint:**

**SGT A. OGDEN - E8282746**

to be a temporary Customs Officer from 1st December 2002 to 1st April 2003.

R. J. KING,  
*Collector of Customs*







# THE FALKLAND ISLANDS GAZETTE

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*Vol. CXII*

*28th February 2003*

*No. 2*

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## Appointments

Tracy Freeman, Receptionist, Leisure Centre, Education Department, 19.1.03

Michael George Betts, Sports Attendant, Leisure Centre, Education Department, 17.2.03.

David Rex Reynolds, Handyman, Property & Municipal Section, Public Works Department, 17.2.03.

Lesley Cherriman, Speech & Language Therapist, Health Services Department, 22.2.03.

Anya Harris, Clerk, Taxation Department, 24.2.03.

## Completion of Contracts

Ivan Sinclair Porritt, Highways Engineer/Technician, Highways Section, Public Works Department, 14.2.03.

Sally Owen, Dental Officer, Health Services Department, 14.2.03.

Margaret Scarlett, Social Worker, Health Services Department, 24.2.03.

Margaret Fawcett, Ward Sister/Midwife, Health Services Department, 26.2.03.

Jacqueline Esther Allen, Laboratory Technician, Health Services Department, 28.2.03.

**Re-appointment**

Sally Owen, Dental Officer, Health Services Department, 15.2.03.

**Completion of Apprenticeship**

Stevie Coppel Bonner, Painter/Decorator, Property & Municipal Section, Public Works Department, 28.2.03.

**Resignations**

Grace Cecile Rowlands, Receptionist/Librarian, Falkland Islands Broadcasting Station, 12.9.02.

Martin Barnes, Sports Attendant, Leisure Centre, Education Department, 24.2.03.

Ian James McLeod, Firefighter, Fire & Rescue Department, 28.2.03.

Paul Smith, Plant Operator/Handyman, Highways Section, Public Works Department, 28.2.03.

**NOTICES**

No. 8 3rd February 2003

**INDEX OF RETAIL PRICES**

The calculation of the Index for the quarter ended 31 December 2002 has now been completed.

A summary of the Index for the last four quarters is shown below:-

Date	Index	Annual % Increase	Quarter % Increase
31.03.02	106.27	(0.235)	(0.784)
30.06.02	108.01	1.323	1.637
30.09.02	108.41	1.270	0.370
31.12.02	107.26	0.140	(1.061)

J.C. ROWLAND,  
*Registrar of Companies.*

No. 9 5th February 2003

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

**TAKE NOTICE THAT** Grace Elizabeth Goss, deceased of Stanley, Falkland Islands died on the 24th day of May 2001 intestate.

**WHEREAS** Greta Winnora Miller Skene has applied for Letters of Administration to administer the estate of the said deceased in the Colony.

**NOTICE IS HEREBY GIVEN** pursuant to Section 4 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat

be entered in the Supreme Court within 21 days of the publication hereof.

C. J. MITCHELL,  
*Registrar, Supreme Court.*

Stanley  
Falkland Islands  
5th February 2003  
Ref: PRO/2/03

No. 10 19th February 2003

**BLUE BEACH LODGE HOLDING COMPANY LIMITED**  
Company Number: 11512

**NOTICE IS HEREBY GIVEN** that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 19th day of February 2003

Dated this 19th day of February 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 11 21st February 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Kevin Peter Duncan has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to him by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st March 2003.

D. HOY,  
*Immigration Officer.*

No. 12 24th February 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Andrew Grant McKenzie Irvine has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to him by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st March 2003.

D. HOY,  
*Immigration Officer.*

No. 13 27th February 2003

**NOTICE of First Annual and Final Meeting of Creditors**

In the matter of LMW(BM) Limited, in voluntary liquidation, creditors' winding up, and in the matter of the Companies Act, 1948.

TAKE NOTICE that in pursuance of sections 299 and 300 of the above Act a meeting of the creditors of the above-named company will be held at 44, John Street, Stanley on the first day of April 2003 at 10.00 in the forenoon for the purposes of laying before the meeting an account and my acts and dealings and of the conduct of the winding up during the year from my appointment to 15th January 2003 and of the winding up of the above named company and of giving any explanation thereof.

RESOLUTIONS will be put to the meeting to:

- (i) Approve the liquidator's final report and statement of receipts and payments.
- (ii) Approve the liquidator's final fee and expenses.
- (iii) Give permission for the destruction of the company's and liquidator's records on dissolution of the company.

Note:- A member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of him, and that proxy need not also be a member of the company.

P. R. COPP  
*Liquidator*

Dated 27th February 2003.

No. 14

27th February 2003

**NOTICE of First Annual Meeting in the  
Winding Up and Final Meeting of Company**

In the matter of LMW(BM) Limited, in voluntary liquidation, Creditors' winding up, and in the matter of the Companies Act, 1948.

TAKE NOTICE that in pursuance of sections 299 and 300 of the above Act the First Annual Meeting in the Winding Up and Final General Meeting of the above-named company will be held at 44, John Street, Stanley on the first day of April 2003 at 11.00 in the forenoon for the purposes of laying before such meeting an account of my acts and dealings and of the conduct of the winding up of the above-named company during the year of my appointment to 15th January 2003, and of the winding up of the company and of giving any explanation thereof.

Note:- A member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of him, and that proxy need not also be a member of the company.

P. R. COPP  
*Liquidator*

Dated 27th February 2003.





# THE FALKLAND ISLANDS GAZETTE

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*Vol. CXII*

*31st March 2003*

*No. 3*

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## **Appointments**

Christopher John Simpkins, Chief Executive, Secretariat, 1.3.03.

Beryl Wheeler, Senior Staff Nurse, Health Services Department, 1.3.03.

Anya Vladimirovna Harris, Data Clerk, Taxation Department, 3.3.03.

Julia Bertrand Fiddes, Check In Clerk, Falkland Islands Government Air Service, 17.3.03.

Karen Elizabeth Chenery, Community Psychiatric Nurse, Health Services Department, 24.3.03.

Gordon Jerome Whiting, Social Worker, Health Services Department, 24.3.03.

## **Promotions**

Roy Summers, from Fishery Protection Officer, Fisheries Department, to Senior Fishery Protection Officer, Fisheries Department, 28.10.02.

Bryn Thomas Rozee, from Firefighter, Fire & Rescue Service, to Station Commander, Fire & Rescue Service, 4.3.03.

## **Completion of Contracts**

Gary David Fuller, Maintenance Manager, Municipal Section, Public Work Department, 28.2.03.

Iris Claridge, Senior Staff Nurse, Health Services Department, 23.3.03.

#### Re-appointment

Gary David Fuller, Maintenance Manager, Municipal Section, Public Work Department, 1.3.03.

#### Resignations

Crystal Rose Ross, Labourer, Municipal Section, Public Works Department, 28.2.03.

Shirley Richards, Cleaner, Education Department, 14.3.03.

Melissa Maude Coulter, Constable, Royal Falkland Islands Police, 31.3.03.

Kevin Michael Patrick Joseph Ormond, Steward/Chauffeur, Government House, 31.3.03.

#### NOTICES

No.15 27th February 2003

#### FALKLAND ISLANDS FAMILY HISTORY LIMITED Company Number: 11302

NOTICE IS HEREBY GIVEN that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 27th day of February 2003.

Dated this 27th day of February 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 16 13th March 2003

#### DEPARTMENT OF AGRICULTURE FEES FOR 2003 Approved by EXCO 21st November 2002 (258/02 DoA)

#### Laboratory Services

(Fees negotiable for 11 or more samples)

Procedure	Fee
Soil analysis per sample (N,P,K and pH)	4.00
Soil analysis per sample (per additional element)	0.50
Plant analysis per sample (Proximate analysis – dry matter, protein, fibre, Ca, P, Mg)	15.00
Wool analysis per sample (Yield, fibre diameter)	1.50
Microbiological preparation of fresh meat and fish per sample	5.00
Heavy metal analysis in fresh meat and fish per sample	25.00

#### Permits, Certificates and Inspections

Permit / Certificate	Fee
Plant import permit (commercial operators)	12.00
Plant import permit (private individuals)	3.00
Animal import permit (commercial operators)	30.00

Animal import permit (private individuals)	25.00
Animal products import permit (commercial operators)	12.00
Animal products import permit (private individuals)	3.00
Wool export health certificates	25.00
Extraordinary veterinary health certificate (£100 base charge plus hourly rate)	35.00/hr

#### Grazing Fees, Licences and Publications

Item	Fee
Dog Licence (Stanley)	15.00
Grazing Fee per horse Stanley Common – Summer	20.00
Grazing Fee per horse Stanley Common – Winter	75.00
Base lease fee for camp grazing per hectare (see below)	0.17
Quarantine Fee (commercial operators)	100.00
Quarantine Fee (private individuals)	50.00
Wool Press Subscription per year	12.00
Wool Press per issue	1.00
Farm Management Account Books (Each)	2.00

#### Base lease fee for camp grazing

Calculated as follows:

· 7% annual return on unimproved grazing land valued at £2.47 per hectare (assuming unimproved land is valued at £1.00 per acre) gives £0.17 per hectare.

· The base fee is adjusted to account for grazing quality based on the average stocking rate over the last 5 years (derived from the annual stock returns) of 5 farms neighbouring the land to be leased relative to the average stocking rate over the last 5 years for all farms in the Islands (0.77 DSE/ha).

· e.g. on poorer ground if the 5 year average stocking rate of 5 farms neighbouring the land to be leased was 0.47 DSE/ha the annual lease fee per hectare would be calculated as:

$$0.47 * 0.17 = 0.104 \text{ or rounded down } 10p / \text{ha} / \text{annum } 0.77$$

· e.g. on better ground if the 5 year average stocking rate of 5 farms neighbouring the land to be leased was 0.88 DSE/ha the annual lease fee per hectare would be calculated as:

$$0.88 * 0.17 = 0.194 \text{ or rounded down } 19p / \text{ha} / \text{annum } 0.77$$

#### Veterinary Fees

- OAP to receive a 15% discount on fee.
- Farmers to receive a 15% discount on fee for sheep, cattle, working dogs and working horses.

Procedure	Fee
<b>Anaesthesia</b>	
· General – cat, injection / gas.	7.50 / 8.50
· General – dog, injection / gas.	8.50 / 12.50

- General – horses, injection / triple drip 20.00 / 30.00
- Sedation – all species / horses 3.50 / 10.00

#### Consultations

- Consultation – surgery and farm animals 6.00
- Consultation – home visit (pets) 11.50
- Consultation – revisit 3.50

#### Surgical procedures

- Abscess drainage – cat 12.50
- Abscess drainage – dog 17.50
- Caesarean – cat 25.00
- Caesarean – dog 35.00
- Caesarean – sheep 19.00
- Caesarean – cow 40.00
- Calving 25.00
- Castration – cat 11.00
- Castration – dog 25.00
- Castration – cattle, per head,  
if calf or bull 5.00 – 10.00
- Castration – horse 72.50
- Castration – rig horse 104.00
- Exploratory laparotomy – cat 22.50
- Exploratory laparotomy – dog 35.00
- Hernia repair – dog 30.00
- Hernia repair & spey – dog 45.00
- Orthopaedic/Complicated Soft Tissue 50.00/hr
- Spey – cat 20.00
- Spey – dog 35.00
- Third eyelid flap – cat 12.50
- Third eyelid flap – dog 17.50
- Tumour removal – cat 17.50 – 30.00
- Tumour removal – dog 25.00 – 40.00

#### Miscellaneous

- Dental – cat / dog 15.00 / 22.50
- Dew claws removal, 2 or 4 legs,  
pup or adult 12.50 – 22.50
- Groom (full) – cat 12.50
- IV fluid administration,  
[catheter, giving set and 1 bag] 10.00
- Lambing 7.50
- Farm work, PD's, weighing, routine work  
(discretionary) 35.00/hr
- X-rays, add cost of sedative if given. 8.50
- Hospitalisation – cat/dog per night 1.50 / 2.50

#### Pathology

- Take samples [cover cost of tubes] 2.50
- Bloods & microbiology 3.00
- X-ray second opinion, [London] 25.00
- Histopathology (Auckland AHL)  
1 or 2 tissues 20.00
- Histopathology (Auckland AHL)  
3 or more tissues 25.00

#### Rabies Vaccination

- Cat or dog 10.00

#### Total Pet Export to UK

- Cat or dog vaccine, blood collection & testing,  
deworming, defleaing, microchip & reading 65.00

#### Vaccination

- Cat 5.00
- Dog 12.50

No. 17 18th March 2003

#### **CHRISTOPHER AND LINDSEY MAY LIMITED** Company Number: 11232

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 18th day of March 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 18 31st March 2003

#### **FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Elsie Mary Chapman has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to her by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 23rd April 2003.

D. HOY,  
*Immigration Officer.*

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

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

**I hereby appoint:**

**CPL A. McNeill Lawson - D8411671**

to be a temporary Customs Officer from 23rd February 2003 to 23rd June 2003.

R. J.KING,  
*Collector of Customs.*

#### **Erratum**

The Explanatory Memorandum to the Criminal Procedure and Investigation Bill 2003 appearing in Falkland Islands Gazette Supplement No. 6 of Volume 14 dated 17th March 2003 should be read with the insertion of the words "in itself" between the words "not" and "render" in the last line of paragraph 38.







**THE  
FALKLAND ISLANDS GAZETTE  
Extraordinary**

**PUBLISHED BY AUTHORITY**

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*Vol. CXII*

*15th April 2003*

*No. 4*

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The following is published in this Gazette-

**Register of Electors - Preliminary List 2003.**

## REGISTER OF ELECTORS - PRELIMINARY LIST

The Registration Officer has prepared the preliminary list of all persons who, on the qualifying date appear to be entitled to be registered as electors for the purposes of the Electoral Ordinance 1988. In accordance with Section 12 of the Ordinance, the Registration Officer has caused the preliminary list to be published in this edition of the Gazette.

Any person who claims that the name of a person entitled to be registered as a voter in the Falkland Islands, has been omitted from the preliminary list, should notify the Registration Officer (Registry, Town Hall, Stanley) of such claim in writing within 28 days of publication. Additionally, any person who wishes to object to the inclusion of a person whose name appears in the preliminary list should notify the Registration Officer within 28 days of publication. The Registration Officer shall, upon receipt of any such claim or objection, subsequently determine the same in accordance with the provisions of the Electoral Ordinance 1988.

The preliminary list has been prepared from last years Electoral Register. The following is a summary of the deletions from and additions and alterations to last years list: -

### Deceased Electors - Camp

Jaffray Brian

### Deceased Electors - Stanley

Biggs Frederick James  
 Biggs Irene Mary  
 Clifton Doreen  
 Goss William Henry  
 Henricksen Winifred Mary Elizabeth  
 Richards Walter George  
 Robson Gladys Mary

### Electors who have changed Constituency - Camp to Stanley

Cheeseman Kaye Melanie  
 Cheeseman Stanley John  
 Doherty Ian  
 Llamosa Theresa Kathleen

Electors who have changed Constituency - Stanley to Camp

Alazia Keith  
Bonner Donald William  
Evans Donna Newell  
Evans Michael David  
Newman Glynnis Karen  
Short Isobel Rose  
Short Patrick Warburton  
Steen Gail  
Steen Vernon Robert

Electors who are no longer resident - Camp

Edwards Rebecca

Electors who are no longer resident - Stanley

Betts Amelia  
Lee Angela  
Lee Anthony  
Georgina Rose McKay  
Morrison Basil  
Morrison Catherine

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

Eagle Sonia Ellen

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

Clark Douglas James  
Drysdale Karen Margaret  
Ellis Sally Jean  
Eriksen Fiona Alison  
Joshua Josephine Mary  
Lee Joanne Hazel Rose  
Legg Priscilla  
Llmosa Teresa Kathleen  
McGill Cara Jane  
Spicer Susan  
Wallace Helen Jean  
Williams Gillian Carol

Electors entitled to vote for the first time - Camp

Eagle Alan William  
 Goss Michael Peter  
 Peck Farrah Louise  
 Pole-Evans Louise Suzan  
 Poole Juliet Hazel

Electors entitled to vote for the first time - Stanley

Anderson Falkland John  
 Anderson Tony James  
 Bonner Richard James  
 Browning Henry Stanbury  
 Cant Phillip Martin  
 Cockwell Samuel George  
 Ellis Paul  
 Ford Cara Michelle  
 Jaffray Tracy  
 Jones Evan Glynn  
 Joshua Larry Arthur  
 Legg Robert Keith  
 Livermore Isla Karen  
 McCallum Tanya  
 Morrison Joleen Coleen  
 Poncet Lars Nigel  
 Rozee Karen Michella  
 Short Alison  
 Spicer Mark Anthony  
 Steen Kimberley Joanna

Electors and potential electors are advised that providing a person satisfies the residential requirements of the Electoral Ordinance 1988 he or she is entitled to appear on the Electoral Register if they are a Commonwealth Citizen who has attained the age of 18 years and either: -

- (a) enjoys Falkland Islands Status; or
- (b) his/her name appeared on the register of electors for a constituency in force on 1st September 1997

A resident is defined within section 3 of the Electoral Ordinance 1988 and resident for the qualifying period is defined in section 4 (1) of the Electoral Ordinance 1988.

The Registrar General is available to give guidance of the effect of these provisions of the law.

1	Adams	John Harvey	21 Ross Road East
2	Adams	Marjorie Rose	21 Ross Road East
3	Adeoye	Anneliese Rose	Flat 8 6 Jersey Road
4	Alazia	Andrew	66 Davis Street
5	Alazia	Anita Jayne	Government House
6	Alazia	Colleen	11 Fitzroy Road East
7	Alazia	Freda	22 Fitzroy Road
8	Alazia	Freda Evelyn	17 Jersey Road
9	Alazia	Hazel	17 Jersey Road
10	Alazia	James Andrew	22 Fitzroy Road
11	Alazia	Jason Neville	Lookout Lodge
12	Alazia	Maggie Ann	6 John Street
13	Alazia	Sandra Marie	66 Davis Street
14	Alazia	Stuart John	31 Fitzroy Road
15	Alazia	Yvonne	Flat4 1A Woody Sreet
16	Aldridge	Caroline Mary	2 H Jones Road
17	Aldridge	Kenneth John	2 H Jones Road
18	Aldridge	Stephen John	2 H Jones Road
19	Allan	John	39 Ross Road
20	Allan	Joyce Bna	39 Ross Road
21	Allan	Michael Charles	3 Philomel Place
22	Allan	Sarah Louise	3 Philomel Place
23	Almonacid	Orlando	1 Villiers Sreet
24	Anderson	Carol Anne	22 Endurance Avenue
25	Anderson	Claudette	1 Goss Road
26	Anderson	Eddie	22 Endurance Avenue
27	Anderson	Blizabeth Nellie	42 Davis Street
28	Anderson	Falkland John	Y.M.C.A
29	Anderson	Helen	88 Davis Street
30	Anderson	Jamie Falkland	18 Murray Heights
31	Anderson	Margaret Kathleen	21 John Street
32	Anderson	Mildred Nessie	8 St Marys Walk
33	Anderson	Paul James	9 Fieldhouse Close
34	Anderson	Reginald Stanford	18 Murray Heights
35	Anderson	Richard Louis	88 Davis Street
36	Anderson	Tony James	Y.M.C.A
37	Anthony	Bnid Elizabeth	6 Dairy Paddock Road
38	Anthony	Geraldine Sylvia	FIGO
39	Anthony	Malcolm James	9 Biggs Road
40	Barnes	Marlene Bstela	2 Watson Way
41	Barnes	Paul	2 Watson Way
42	Barton	Alison Mary	6 Villiers Street
43	Barton	Arthur John	6 Villiers Street
44	Bates	Barbara	8 Watson Way
45	Battersby	Jon Alan	16 Fieldhouse Close
46	Battersby	Margaret Mary	16 Fieldhouse Close
47	Beckett	Vivien Delia	Jersey Road Flats
48	Bedford	Arlette Louise	68 Davis Street
49	Berntsen	Cecilia Del Rosario	14 St Marys Walk
50	Berntsen	Christian Olaf Alexander	15a James Street
51	Berntsen	Falkland	10 Fitzroy Road
52	Berntsen	Gene Stanley	Flat6 6 Jersey Road
53	Berntsen	Iain Kenneth	2 Dean Street
54	Berntsen	John Alexander	Felton Stream
55	Berntsen	Kathleen Gladys	1 St Marys Walk

56	Berntsen	Kenneth Frederick	20 Ross Road West
57	Berntsen	Matthew John	Lookout Lodge
58	Berntsen	Olaf Christian Alexander	35 Bliza Crescent
59	Berntsen	Rachel Bna	15a James Street
60	Berntsen	Valdamar Lars	14 St. Marys Walk
61	Berntsen	Valorie Marcela	30 Endurance Avenue
62	Bertrand	Catherine Gladys	11 Ross Road East
63	Besley-Clark	Barbara June	53 Callaghan Road
64	Besley-Clark	Craig Norman Leigh	53 Callaghan Road
65	Besley-Clark	Norman	53 Callaghan Road
66	Betts	Arlette	Lafone House Ross Road East
67	Betts	Donald William	7 Jeremy Moore Avenue
68	Betts	Ellen Alma	21 Fitzroy Road
69	Betts	George Winston Charles	35 Ross Road West
70	Betts	Ian	1 Villiers Street
71	Betts	Lucia Elizabeth	35 Ross Road West
72	Betts	Owen	14 Fieldhouse Close
73	Betts	Peter James	Racecourse Road Flats
74	Betts	Priscilla Violet Morrison	14 Fieldhouse Close
75	Betts	Severine	1 Watson Way
76	Betts	Shirley Rose	7 Jeremy Moore Avenue
77	Betts	Simon Keith	Reflections Flat Dean Street
78	Betts	Stephen	7 Jeremy Moore Avenue
79	Biggs	Allie Christine	16 Endurance Avenue
80	Biggs	Alastair Gordon	Trehayle 50 John Street
81	Biggs	Althea Maria	3 Dairy Paddock Road
82	Biggs	Betty Josephine	9 Moody Street
83	Biggs	Christopher David	5 James Street
84	Biggs	Daniel Craig	16 Endurance Avenue
85	Biggs	Edith Joan	Trehayle 50 John Street
86	Biggs	Frances	16 Endurance Avenue
87	Biggs	Leslie Frederick	3 Dairy Paddock Road
88	Biggs	Marian June	16 Jersey Road
89	Biggs	Michael Elfed	21 Fitzroy Road
90	Biggs	Peter Julian Basil	16 Endurance Avenue
91	Biggs	Richard John	16 Jersey Road
92	Binnie	Juliet Ann	33 Bliza Crescent
93	Binnie	Linda Rose	6 Fieldhouse Close
94	Binnie	Ronald Bric	6 Fieldhouse Close
95	Binnie	Susan	3 Brandon Road
96	Birmingham	John	4 Drury Street
97	Blackley	Candy Joy	4 Barrack Street
98	Blackley	Hilda	11 Thatcher Drive
99	Blackley	Maurice	The Lodge Market Garden
100	Blackley	Shane David	4 Barrack Street
101	Blake	Alexander Charles	1 Ross Road
102	Blake	Lionel Geoffrey	1 Ross Road
103	Blake	Sally Gwynfa	1 Ross Road
104	Blake	Thomas Patrick	90 Davis Street
105	Blizard	Malvina Mary	51 Fitzroy Road
106	Blyth	Agnes Ruth	2 Brandon Road
107	Blyth	Paz Neri	5 St Marys Walk
108	Bolt	Dennis John	4 Watson Way
109	Bonner	Alan Paul	Lookout Lodge
110	Bonner	Angela Jane	5a Ross Road East

111	Bonner	Avril Margaret Rose	14 Jersey Road
112	Bonner	Cheryl Anne	4a Ross Road West
113	Bonner	Hayley Trina	41 Ross Road West
114	Bonner	Keith James	14 Jersey Road
115	Bonner	Linda Jane	4A Ross Road West
116	Bonner	Lindsay Jane	12 Scoresby Close
117	Bonner	Nicholas	4A Ross Road West
118	Bonner	Odette Ellen May	Madecosie 15 Jersey Estate
119	Bonner	Paul Roderick	5 John Street
120	Bonner	Richard James	14 Jersey Road
121	Bonner	Stevie Coppell	Dolphin Cottage
122	Bonner	Terence Leslie	Madecosie 15 Jersey Estate
123	Bonner	Timothy	41 Ross Road West
124	Bonner	Vera Ann	5 John Street
125	Bonner	Vera Joan	Chaffeurs Cottage
126	Bonner	Violet	40 Ross Road
127	Booth	Jessie	Racecourse Cottage
128	Booth	Joseph Bories	7 Philomel Street
129	Booth	Myriam Margaret Lucia	7 Philomel Street
130	Booth	Stuart Alfred	Racecourse Cottage
131	Bound	Joan	Barrack Street
132	Bowles	Norma Evangeline	1A Villiers Street
133	Bowles	William Edward	1A Villiers Street
134	Bowles	William George Troyd	9 Drury Street
135	Bragger	Edward Laurence	14 Jeremy Moore Avenue
136	Bragger	Stacey John	14 Jeremy Moore Avenue
137	Brock	Juanita Lois	Flat5 1 Jeremy Moore Ave East
138	Brooks	Cheryl Rose	25 Callaghan Road
139	Brooks	Peter William	25 Callaghan Road
140	Browning	Amanda Marie	3 Dairy Paddock Road
141	Browning	Colin George	1 Moody Street
142	Browning	Edwina	Davis Street
143	Browning	Henry Stanbury	Brandon Road
144	Browning	Joan Lucy Ann	Rose Hotel Drury Street
145	Browning	Nathan David	3 Dairy Paddock Road
146	Browning	Rex	35 Davis Street
147	Browning	Richard William	33 Davis Street
148	Browning	Trevor Osneth	Rose Hotel Drury Street
149	Brownlee	Andrew Samuel	19 Ross Road East
150	Brownlee	Lynn Frances	19 Ross Road East
151	Buckett	Ronald Peter	49 Fitzroy Road
152	Buckett	Roy Peter	Jersey Road
153	Buckett	Susan Vera	49 Fitzroy Road
154	Buckland	Colin Michael	Lookout Lodge
155	Buckland	Darlene Joanna	5 James Street
156	Buckland	Peter John	9 Callaghan Road
157	Buckley-Whitney	Helena Jane	2 Pioneer Row
158	Budd	Dennis Raymond	5 Ian Campbell Drive
159	Budd	Pamela Joan	5 Ian Campbell Drive
160	Bundes	Robert John Christian	17 Fitzroy Road
161	Burns	Mary Anne	34 Davis Street
162	Burston	Catherine	91 Davis Street
163	Burston	Stephen Leslie	91 Davis Street
164	Bury	Ian Thomas	63 Davis Street
165	Butcher	Michael George	3A Dairy Paddock Road

166	Butcher	Trudi	3A Dairy Paddock Road
167	Butler	Elsie Maud	10 Thatcher Drive
168	Butler	Frederick Lowther Edward	10 Thatcher Drive
169	Butler	George Joseph	1A Moody Street
170	Butler	Jonathan Jeffers	3 Jeremy Moore Avenue
171	Butler	Laurence Jonathan	2 Davis Street East
172	Butler	Margaret Orlanda	5 Short Street
173	Butler	Orlanda Betty	2 Davis Street East
174	Buxton	Nicole Gabrielle	Campbell Drive
175	Cameron	Jane Diana Mary Keith	Old Bakery Fitzroy Road
176	Cant	Carol Rosine	24 Goss Road
177	Cant	Martin Ronald	24 Goss Road
178	Cantlie	Derek William	27 Callaghan Road
179	Carey	Anthony Michael	19 Ross Road West
180	Carey	Gladys	19 Ross Road West
181	Carey	Martin Rex	21 Eliza Cove Crescent
182	Carey	Mary Ann Margaret	18 Ross Road West
183	Carey	Terence James	18 Ross Road West
184	Cartwright	Stephen	39 Ross Road West
185	Castle	David Peter	26 John Street
186	Castle	Isobel	26 John Street
187	Ceballos	Bulogio Gabriel	28 Endurance Avenue
188	Chaloner	Sheila Catherine	2 Racecourse Road
189	Chandler	Ann Beatrice	6 Biggs Road
190	Chandler	Edward	6 Biggs Road
191	Chapman	Helen	6 Fitzroy Road East
192	Chapman	Paul	6 Fitzroy Road East
193	Chater	Thomas Frederick	33 Fitzroy Road
194	Chater	William John	7 Biggs Road
195	Cheek	Gerald Winston	10 Ross Road
196	Cheek	Janet Lynda	25 Ross Road West
197	Cheek	Marie	10 Ross Road
198	Cheek	Rosalind Catriona	22 Murray Heights
199	Cheeseman	Kaye Melanie	Stanley
200	Cheeseman	Stanley John	2 Allardyce Street
201	Clapp	Kevin Christopher	1 Murray Heights
202	Clark	Douglas James	53 Callaghan Road
203	Clark	Hector	27 Eliza Crescent
204	Clark	Jonathan Andrew	Flat 10 Jersey Road
205	Clark	Joyce Kathleen	27 Eliza Crescent
206	Clarke	Angela Sindy	1 Jeremy Moore Avenue Flats
207	Clarke	Angeline Gloria	17 Scoresby Close
208	Clarke	Camilla Marie	8 Drury Street
209	Clarke	Christopher	5 Discovery Close
210	Clarke	David James	17 Ross Road West
211	Clarke	Derek Simon	23 Jeremy Moore Avenue
212	Clarke	Doreen	17 Ross Road West
213	Clarke	Eva Lynn	19 Jersey Road
214	Clarke	Felicity Marie	7 Fitzroy Road
215	Clarke	Gwynne Edwina	17 Jeremy Moore Avenue
216	Clarke	Ian	Lookout Lodge Stanley
217	Clarke	Isabel Joan	12 Fieldhouse Close
218	Clarke	James Martin	3 McKay Close
219	Clarke	Jeremy Ian Thomas	7 Fitzroy Road
220	Clarke	Joan Patricia Marion	50 Davis Street



221	Clarke	Jonathan Terence	17 Jeremy Moore Avenue
222	Clarke	Joseph Gwyn	Lookout Lodge
223	Clarke	Julie Ann	Globe Tavern
224	Clarke	Luke Anthony	Lookout Lodge
225	Clarke	Margaret Ann	3 H Jones Road
226	Clarke	Marvin Thomas	7 Fitzroy Road
227	Clarke	Ronald John	17 Ross Road West
228	Clarke	Rudy Thomas	8 Drury Street
229	Clarke	Terence John	17 Jeremy Moore Avenue
230	Clarke	Tracey Clare	23 Jeremy Moore Avenue
231	Clarke	Trudi Ann	7 Fitzroy Road
232	Clasen	Wayne Ian Summers James	17 Davis Street
233	Clausen	Andrea Patricia	3 St Marys Walk
234	Clausen	Denzil George Gustavius	3 St Marys Walk
235	Clausen	Melanie	24 Murray Heights
236	Clausen	Sophie Marina	37 Davis Street
237	Claxton	Margaret	28 Ross Road East
238	Clayton	Brian	Dorada
239	Clement	Gary	9 Snake Street
240	Clement	Jane	9 Snake Street
241	Clement	Lee	9 Snake Street
242	Clement	Sara Jane	10 Snake Street
243	Clement	Wayne	10 Snake Street
244	Cletheroe	Kenneth Stanley	45 Fitzroy Road
245	Clifton	Charles	3 Ross Road West
246	Clifton	Darwin Lewis	53 Davis Street
247	Clifton	Marie	6 Discovery Close
248	Clifton	Melvyn	12 Callaghan Road
249	Clifton	Neil	20 Davis Street
250	Clifton	Stephen Peter	61 Fitzroy Road
251	Clifton	Terence Charles	3 Ross Road West
252	Clifton	Teresa Ann	12 Callaghan Road
253	Clifton	Valerie Ann	61 Fitzroy Road
254	Cockwell	Jennifer Marie	90 Davis Street
255	Cockwell	John Richard	14 Ross Road West
256	Cockwell	Maurice Adam	90 Davis Street
257	Cockwell	Samuel George	14 Ross Road West
258	Cofre	Anya Evelyn	1 Brandon Road West
259	Cofre	Elvio Miguel	1 Brandon Road West
260	Collins	Shiralee	Flat 9 6 Jersey Road
261	Connolly	Kevin Barry	1 King Street
262	Coombe	Robert Dean	12 Ross Road West.
263	Cotter	Caroline Jane	9 Jeremy Moore Avenue
264	Cotter	Mary Jane	9 Jeremy Moore Avenue
265	Cotter	Timothy Stewart	9 Jeremy Moore Avenue
266	Courtney	Anthony Clive	30 Goss Road
267	Courtney	Julie	30 Goss Road
268	Coutts	Charles	12 Endurance Avenue
269	Coutts	Charles Lindsay	33 Ross Road
270	Coutts	Elspeth Alice	12 Endurance Avenue
271	Coutts	John	36 Ross Road West
272	Coutts	Olga	33 Ross Road
273	Coutts	Peter	13 Campbell Drive
274	Crabb	Elizabeth Ann	34a Davis Street
275	Crowie	Alan John	72 Davis Street

276	Crowie	Ana Bonita	72 Davis Street
277	Crowie	Clare Frances	35 Callaghan Road
278	Crowie	David Martin	Lookout Lodge
279	Crowie	David Sean	51 Callaghan Road
280	Crowie	Michelle	1 Discovery Close
281	Crowie	Nicola Jane	35 Callaghan Road
282	Crowie	Peter James	35 Callaghan Road
283	Crowie	Robert John	35 Callaghan Road
284	Crowie	Roxanne	72 Davis Street
285	Curtis	Alfred William Hamilton	6 Brandon Road West
286	Curtis	Barbara Joan	6 Brandon Road West
287	Curtis	Bonnie Elizabeth Hamilton	6 Brandon Road West
288	Curtis	James William Hamilton	6 Ross Road
289	Davies	Anthony Warren	7 Callaghan Road
290	Davies	Christine Susan	8 Fitzroy Road East
291	Davies	Colin George	15 Ross Road West
292	Davies	Bileen Wynne	15 Ross Road West
293	Davies	Jacqueline Nancy	7 Callaghan Road
294	Davies	Sian Karen	7 Callaghan Road
295	Davies	William	8 Fitzroy Road East
296	Davis	Doreen Susan	Stanley
297	Davis	Ellen Rose	39 Davis Street
298	Davis	Maurice	39 Davis Street
299	Davis	Nicholas	15 James Street
300	Davis	Roy George Victor	6 Narrows View
301	Davis	Sharon Sandra Evelyn	6 Narrows View
302	Davis	Yona	37 Davis Street
303	Davy	Patrick Alex Field	Flat3 3 Jeremy Moore Ave East
304	Dent	Janice Vanessa	16 Scoresby Close
305	Dent	Stephen John	16 Scoresby Close
306	Desborough	Gladys Malvina	14 Allardyce Street
307	Dickson	Caroline Christine Bird	108 Davis Street
308	Dickson	Michael Keith	Davis Street
309	Dickson	Steven Charles	14 Endurance Avenue
310	Didlick	Christopher Graham	13 Jeremy Moore Avenue
311	Didlick	Fiona Margaret	13 Jeremy Moore Avenue
312	Didlick	Graham John	13 Jeremy Moore Avenue
313	Didlick	Imogen Fiona	13 Jeremy Moore Avenue
314	Didlick-Smith	Rhiannon Blinore	13 Jeremy Moore Avenue
315	Diggle	Jean Katherine	12 Jersey Road
316	Diggle	Roger John	12 Jersey Road
317	Dobbys	Kathleen Gay	60 Davis Street
318	Dodd	Alison	1 Pioneer Row
319	Dodd	Nigel Keith	1 Pioneer Row
320	Doherty	Ian	2 Brisbane Road
321	Donnelly	Derek	38 Ross Road East
322	Drysdale	Karen Margaret	1 Watson Way
323	Duncan	Delsha Vanessa Jane	Flat 3 30 Jersey Road
324	Duncan	Doreen	Tenacres
325	Duncan	Peter Ree Howard	K.B.M.H
326	Duvall	Kenneth William	51 Callaghan Road
327	Earnshaw	Jacqueline Elizabeth	37 Ross Road West
328	East	Justin Clive Richard	1 Fieldhouse Close
329	East	Michelle Jane	1 Fieldhouse Close
330	Eccles	Bernard Leslie	18 Jeremy Moore Avenue

331	Eccles	Moira Cameron	18 Jeremy Moore Avenue
332	Edwards	Emma Jane	41 Ross Road East.
333	Elliot	Elizabeth Rose	15 Callaghan Road
334	Elliot	Henry James	15 Callaghan Road
335	Ellis	Cyril	24 Ross Road East
336	Ellis	Lucy	11 James Street
337	Ellis	Paul	43 John Street
338	Ellis	Sally Jean	43 John Street
339	Ellis	Valerie	24 Ross Road East
340	Elsby	Barry	Moody Brook House
341	Eriksen	Fiona Alison	5 Racecourse Road
342	Evans	Gladys Alberta	6 Barrack Street
343	Evans	Michelle Paula	Murray Heights
344	Evans	Russell	45 Ross Road East
345	Evans	Susan Maureen	45 Ross Road East
346	Ewing	Gordon	4 Jeremy Moore Avenue
347	Ewing	Irene	4 Jeremy Moore Avenue
348	Eynon	Carol	8 Villiers Street
349	Eynon	David John	8 Villiers Street
350	Faria	Mary Ann	6A Jeremy Moore Avenue
351	Faria	Paul	14 Brandon Road
352	Faria	Susanna Caroline Berntsen	14 Brandon Road
353	Felton	Violet Regina Margaret	German Camp Callaghan Road
354	Ferguson	Ellen Rose	51 Callaghan Road
355	Ferguson	Finlay James	51 Callaghan Road
356	Ferguson	John William	47 Ross Road East
357	Ferguson	Marie Anne	2 Davis Street
358	Ferguson	Robert John	4 Capricorn Road
359	Ferguson	Rose	Flat7 1 Jeremy Moore Ave East
360	Ferguson	Sian	47 Ross Road East
361	Ferguson	Stephanie Janet	47 Ross Road East
362	Ferguson	Thelma	4 Capricorn Road
363	Fiddes	Douglas Graham	Moody Brook
364	Fiddes	Gardner Walker	3 Watson Way
365	Fiddes	Julia Bertrand	Moody Brook
366	Fiddes	Mary McKinnon Livingstone	4 Moody Street
367	Fiddes	Melody Christine	3 Watson Way
368	Fiddes	Robert	4 Moody Street
369	Finlayson	Barry Donald	3 Capricorn Road
370	Finlayson	Iris Dwenda Margaret	29 Goss Road
371	Finlayson	Iris Heather	3 Capricorn Road
372	Finlayson	Marc Ian	Y.M.C.A
373	Finlayson	Peter	6 Brandon Road
374	Finlayson	Phyllis	6 Brandon Road
375	Finn	Natalie Anne	9 Eliza Crescent
376	Fisher-Smith	Julie Anne	8 Fieldhouse Close
377	Floyd	Amanda Susan	Globe Hotel
378	Floyd	Michael	7 Pitaluga Place
379	Floyd	Michael Anthony	7 Pitaluga Place
380	Floyd	Steven Paul	7 Pitaluga Place
381	Fogerty	Richard Edwin John	Stone Cottage
382	Ford	Alison Jane Marie	5 Jersey Road
383	Ford	Arthur Henry	6 Drury Street
384	Ford	Cara Michelle	5 Philomel Place
385	Ford	Christopher James	12 Davis Street

386	Ford	Colin Stewart	15 Kent Road
387	Ford	Colleen Mary	Lady Hunt House John Street
388	Ford	Darrel	1 James Street
389	Ford	David	1 Davis Street
390	Ford	Frederick James	Lady Hunt House John Street
391	Ford	Gerard Allan	Flat 1 3 Jeremy Moore Avenue
392	Ford	Jonathan	3 Pitaluga Place.
393	Ford	Julie Ann	3 Pitaluga Place.
394	Ford	Leann Caroline	15 Kent Road
395	Ford	Leonard	5 Jersey Road
396	Ford	Marilyn Christine	24 James Street
397	Ford	Marvyn Neil	Lookout Lodge
398	Ford	Michael	82 Davis Street
399	Ford	Paul Edward	2 Philomel Place
400	Ford	Robert	1 Davis Street
401	Ford	Simon	1 James Street
402	Ford	Tanya Louise	24 James Street
403	Forrest	Jennifer Carol	16 Kent Road
404	Forrest	Michael John	16 Kent Road
405	Forster	Amanda	9 Fieldhouse Close
406	Forster	Lynne	5 Discovery Close
407	Forster	Sarah	9 Drury Street
408	Powler	Daniel Martin	2 Glasgow Road
409	Powler	John Andrew Thomas	2 Glasgow Road
410	Powler	Veronica May	2 Glasgow Road
411	France	Graham Brian	7 Snake Street
412	France	Ian Peter	7 Snake Street
413	France	Jane Aileen Marie	7 Snake Street
414	Freeman	Carl Francis	10 James Street
415	Freeman	Dianne May	10 James Street
416	Freeman	Rachael	10 James Street
417	Freeman	Tracy	10 James Street
418	Freer	Pamela Jane	56 John Street
419	Freer	Stephen Paul James	56 John Street
420	Fullerton	Mary Ellen	Government House
421	Gilbert	Christopher Paul	11 Campbell Drive
422	Gilbert	Judith Elizabeth	22 Jeremy Moore Avenue
423	Gilbert	Mark Ian	22 Jeremy Moore Avenue
424	Gilbert	Neil Robert	22 Jeremy Moore Avenue
425	Gilbert	Robert Ernest	22 Jeremy Moore Avenue
426	Gilson-Clarke	Dustin James	5 Villiers Street
427	Gisby	Annie	33 Fitzroy Road
428	Gleadell	Ian Keith	Stanley
429	Goodwin	Angela Jane	11 Jersey Road
430	Goodwin	Bonita Colleen	Flat 1 30 Jersey Road
431	Goodwin	Christopher Sturdee	Lookout Lodge
432	Goodwin	Colin Valentine	86 Davis Street
433	Goodwin	Derek Samuel	Flat 1 30 Jersey Road
434	Goodwin	Emily Rose	7 Brisbane Road
435	Goodwin	Gareth Kevin	86 Davis Street
436	Goodwin	Hazel Rose	3 Police Cottages 7 Ross Road
437	Goodwin	June Elizabeth	86 Davis Street
438	Goodwin	Kathleen Edith Marguerite	6 Thatcher Drive
439	Goodwin	Mandy Hazel	45 Callaghan Road
440	Goodwin	Robin	45 Callaghan Road

441	Goodwin	Robin Christopher	27 Callaghan Road
442	Goodwin	Simon James	Lookout Lodge
443	Goodwin	Una	27 Callaghan Road
444	Goodwin	William John Maurice	7 Brisbane Road
445	Goss	Annagret	16 Jeremy Moore Avenue
446	Goss	Corina Rose	20 Murray Heights
447	Goss	Dorothy Ellen	4 Discovery Close
448	Goss	Eric Miller	2 Fitzroy Road East
449	Goss	Ian Ernest Barle	98 Davis Street
450	Goss	Morgan Edmund	16 Jeremy Moore Avenue
451	Goss	Roy Shepherd	4 Discovery Close
452	Goss	Sandra Kathleen	11 Kent Road
453	Goss	Shirley Ann	2 Fitzroy Road East
454	Goss	Simon Peter Miller	11 Kent Road
455	Goss	Susan Diann	98 Davis Street
456	Goss	William Henry (jnr)	7 Brandon Road
457	Gough	Ivan	John Street
458	Gough	Phyllis Candy	John Street
459	Gould	Arthur William	Moody Street
460	Grant	Milly	3 Moody Street
461	Gray	David Edward	22 Ross Road West
462	Gray	Patricia May	22 Ross Road West
463	Green	David William	Lois Cottage John Street
464	Greenland	James Andrew William	9 Beaver Road
465	Greenough	Geoffrey	50 Davis Street
466	Greenough	Wanda Rose	50 Davis Street
467	Grimmer	Edward	15 Pioneer Row
468	Grimmer	Keith	15 Pioneer Row
469	Grimmer	Marilyn	15 Pioneer Row
470	Hadden	Alexander Burnett	27 Fitzroy Road
471	Hadden	Sheila Peggy	27 Fitzroy Road
472	Halford	Rodney John	Tenacres
473	Halford	Sara Jayne	Tenacres
474	Halford	Sharon	Tenacres
475	Halliday	Cathy Anne	5 Drury Street
476	Halliday	Gerald	Flat 1 6 Racecourse Road
477	Halliday	Jeffrey James	8 Murray Heights
478	Halliday	Raynor	9 Brisbane Road
479	Hancox	Rachel Mary	9 Ross Road West
480	Hancox	Robert James	Callaghan Road
481	Hansen	Douglas John	6 Fitzroy Road
482	Hansen	Keva Elizabeth	1 Dairy Paddock Road
483	Hansen	Terence Joseph	1 Dairy Paddock Road
484	Hardcastle	Kim Elizabeth	5 Pioneer Row
485	Hardcastle	Simon Brook	5 Pioneer Row
486	Harris	Christopher James	8 Pioneer Row
487	Harris	Heather	3 Ross Road East
488	Harris	Jill Yolanda Miller	19 Fitzroy Road
489	Harris	Karl Henry	5a Ross Road East
490	Harris	Leeann Watson	10 Dairy Paddock Road
491	Harris	Leslie Sidney	19 Fitzroy Road
492	Harris	Michael Ronald	3 Ross Road East
493	Harris	Ralph Aaron	10 Dairy Paddock Road
494	Harvey	Muriel Elizabeth Elsie	2 King Street
495	Harvey	Sheila	6 Ross Road

496	Harvey	William	21 Fitzroy Road
497	Hawksworth	Mary Catherine	5A Brisbane Road
498	Hawksworth	Pauline May	29 Fitzroy Road
499	Hawksworth	Terence	5A Brisbane Road
500	Hayward	Marjorie	30 Eliza Cove Road
501	Hayward	Neville	4 Rowlands Rise
502	Hayward	Peter Dennis	30 Eliza Cove Road
503	Hazell	Lee Felton	3 Drury Street
504	Heathman	Malcolm Keith	15 Eliza Cove Road
505	Heathman	Mandy Gail	15 Eliza Cove Road
506	Heathman	Nyree	12 Scoresby Close
507	Heathman	Tara	9 Snake Hill
508	Henry	Alan Richard	8 Beaver Road
509	Henry	Patricia Denise	8 Beaver Road
510	Hernandez Mantero	Miguel Angel	3 Murray Heights
511	Hernandez Trevelli	Maria Elena	3 Murray Heights
512	Hewitt	Brian David	Stanley
513	Hewitt	Clare Ann	1c Capricorn Road
514	Hewitt	Frances Agnes	Flat 3 1 Moody Street
515	Hewitt	Gary George	3 Hebe Place
516	Hewitt	Margaret Ann	3 Hebe Place
517	Hewitt	Neil George	1C Capricorn Road
518	Hewitt	Rachel Catherine Orissa	4 St. Marys Walk
519	Hewitt	Robert John David	3 Thatcher Drive
520	Hewitt	Sara Marie	102 Davis Street
521	Hills	Heather Margaret	5 Davis Street
522	Hills	Richard William	5 Davis Street
523	Hirtle	Christine	5 Capricorn Road
524	Hirtle	Debbie Ann	2b Capricorn Road
525	Hirtle	Leonard John	2 Ian Campbell Drive
526	Hirtle	Leonard Lloyd	2 Ian Campbell Drive
527	Hirtle	Michael Barry	2 Ian Campbell Drive
528	Hirtle	Rose Ann Shirley	4 Villiers Street
529	Hirtle	Shirley	2 Ian Campbell Drive
530	Hirtle	Zane Eric	Eliza Cove Road
531	Hobman	Anilda Marilu	34 Ross Road West
532	Hobman	Luis Alfonso	34 Ross Road West
533	Hoggarth	Agnes Christina	2 James Street
534	Howatt	Derek Frank	4 Racecourse Road
535	Howatt	Suzanna Margaret	4 Racecourse Road
536	Howe	Alison Delia	36 Davis Street
537	Howe	Paul Anthony	36 Davis Street
538	Howells	Anne Stephanie	112 Davis Street
539	Howells	Roger	112 Davis Street
540	Hoy	Dawn	2 Dean Street
541	Humphreys	Hannah Elaine	7 Dean Street
542	Humphreys	Margaret Anne	Endurance Avenue
543	Hutton	Elizabeth Isabella	3 John Street
544	Hutton	Philip	3 John Street
545	Igao	Alejandro Neri	13 Scoresby Close
546	Igao	Noel Neri	10 Goss Road
547	Igao	Pauline Lynx	10 Goss Road
548	Inglis	Alison Anne MacKenzie	9 Short Street
549	Jackson	Kathleen	23 Fitzroy Road
550	Jackson	Malcolm	23 Fitzroy Road

551	Jackson	Mark Malcolm	5 Drury Street
552	Jacobsen	Alistair	1A Philomel Street
553	Jacobsen	Catherine Joan	1A Philomel Street
554	Jacobsen	Tanzi	1a Philomel Street
555	Jaffray	Blaine Michele	8 Discovery Close
556	Jaffray	Estelle Anita	Snake Street
557	Jaffray	Frank Alexander	8 Discovery Close
558	Jaffray	Gerard Alan	19 Jersey Road
559	Jaffray	Helen Rose	84 Davis Street
560	Jaffray	Jacqueline Ann	17 Watson Way
561	Jaffray	Janet	3 Fitzroy Road East
562	Jaffray	John	40 Eliza Crescent
563	Jaffray	John Summers	84A Davis Street
564	Jaffray	John Willie	21 Watson Way
565	Jaffray	June Elizabeth	17 Ross Road East
566	Jaffray	Kenneth Ian	5 Hebe Street
567	Jaffray	Lisa Jane	3 Biggs Road
568	Jaffray	Phyllis	21 Watson Way
569	Jaffray	Stephen James	11 James Street
570	Jaffray	Tanya Fiona	5 Hebe Street
571	Jaffray	Terence Roy	2 Rowlands Rise
572	Jaffray	Terri-Ann	24 Endurance Avenue
573	Jaffray	Tony	84 Davis Street
574	Jaffray	Tracy	3 Fitzroy Road East
575	Jennings	Neil	8 Moody Street
576	Jennings	Stephen	5 Fitzroy Road
577	Johnson	Lily Ann	5 Hebe Street
578	Jones	Alan Smith	26 Ross Road West
579	Jones	David Richard	6 Allardyce Street
580	Jones	Dionne Michelle	35 Ross Road East
581	Jones	Doreen Evelyn Margaret	6 Allardyce Street
582	Jones	Evan Glynn	35 Ross Road East
583	Jones	Jennifer	26 Ross Road West
584	Jones	John Hugh	35 Ross Road East
585	Jones	Kevin Richard	2 Discovery Close
586	Jones	Michelle	35 Ross Road East
587	Jones	Yvonne Malvina	3 Discovery Close
588	Jonson	Amy Elizabeth	Rose Hotel Brisbane Road
589	Jordan	Cara Jane	12 Goss Road
590	Jordan	Ian	12 Goss Road
591	Joshua	Josephine Mary	Brandon Road
592	Joshua	Larry Arthur	14a Brandon Road
593	Keane	Alva Rose Marie	18 Davis Street
594	Keane	Olaf James	18 Davis Street
595	Keane	Thomas James	18 Davis Street
596	Keenleyside	Charles Desmond	3 Pioneer Row
597	Keenleyside	Dorothy Maud	3 Pioneer Row
598	Keenleyside	Manfred Michael Ian	2 Snake Street
599	Keenleyside	Nanette Barbara	2 Snake Street
600	Kenny	Brling	20 James Street
601	Kidd	John Nathan	1 Hebe Street
602	Kidd	Lillian Rose Orissa	1 Hebe Street
603	Kiddle	Robert Karl	Flat 3 6 Racecourse Road
604	King	Anna Constance Eve	Villiers Street
605	King	Desmond George Buckley	38 Davis Street

606	King	Glynis Margaret	13 Ross Road East
607	King	Michelle Beverley	4 Biggs Road
608	King	Peter Thomas	10 Jeremy Moore Avenue
609	King	Robert John	22/24 Davis Street
610	King	Rosemarie	10 Jeremy Moore Avenue
611	King	Vernon Thomas	39 Fitzroy Road
612	Kirkham	Campbell Joseph	5 Capricorn Road
613	Kultschar	John William	4 Davis Street East
614	Kultschar	Yvonne Rosina	4 Davis Street East
615	Laffi	Atilio Segundo	3 Brisbane Road
616	Laffi	Kathleen Mary	3 Brisbane Road
617	Lang	David Geoffrey	28 Goss Road
618	Lang	James Patrick	Flat 2 3 Jeremy Moore Ave East
619	Lang	Marie-Bernard Therese	28 Goss Road
620	Lang	Patrick Andrew	8a Moody Street
621	Lang	Phillippa Josephine	28 Goss Road
622	Lang	Sandra Shirleen	2 Allardyce Street
623	Lang	Tamara Colette	4 Barrack Street
624	Lang	Theresa Margaret	28 Goss Road
625	Lang	Velma Emily	8a Moody Street
626	Lang	William Frank	3 James Street
627	Larsen	Ellen	74 Davis Street
628	Lato	Javier Waldemar Sanchez	80 Davis Street
629	Lato	Joanna Rose	80 Davis Street
630	Lee	Alfred Leslie	11 Drury Street
631	Lee	Beverley Christina	5 Villiers Street
632	Lee	Derek William	2 Davis Street
633	Lee	Gladys	11 Drury Street
634	Lee	Joanne Hazel Rose	Pioneer Row
635	Lee	Leslie James	10 Allardyce Street
636	Lee	Mandy John	15 James Street
637	Lee	Mervyn Richard	10 Allardyce Street
638	Lee	Myles	Stanley
639	Lee	Nicola	3 Davis Street East
640	Lee	Owen Henry	4 Pioneer Row
641	Lee	Tanya	15 Campbell Drive
642	Lee	Trudi Dale	10 Allardyce Street
643	Lee	Victoria Jane	Y.M.C.A
644	Legg	Priscilla Alison	12a Brandon Road
645	Legg	Robert Keith	12a Brandon Road
646	Lennie	Gordon Carnie	9 Narrows View
647	Lewis	David James	3 Campbell Drive
648	Lewis	James	2 St. Marys Walk
649	Lewis	Jason	9 Short Street
650	Lewis	Jean	2 St. Marys Walk
651	Lewis	Pamela Irene	3 Campbell Drive
652	Lewis	Sharon	11 Campbell Drive
653	Leyland	Frank	10 Brandon Road
654	Leyland	Vera	10 Brandon Road
655	Livermore	Anton	33 Callaghan Road
656	Livermore	Darren	5 Philomel Place
657	Livermore	Isla Karen	33 Callaghan Road
658	Llamosa	Theresa Kathleen	25 Shackleton Drive
659	Loveridge	Daniel Nolan	1 Ross Road West
660	Loveridge	Marie Pearl	1 Ross Road West



661	Lowe	Anthony Trevor	54 Davis Street
662	Luxton	Anna	1A Pioneer Row
663	Luxton	Michael	1A Pioneer Row
664	Luxton	Nicola	1A Pioneer Row
665	Luxton	Robin	1 Jersey Road
666	Luxton	Stephen Charles	7 Narrows View
667	Luxton	Sybil Grace	38 John Street
668	Luxton	Wendy Jennifer	1 Jersey Road
669	Luxton	Winifred Ellen	15 Fitzroy Road
670	Lyse	Bthel Malvina	65 Fitzroy Road
671	Lyse	George Walter	8 Moody Street
672	Lyse	Linda Margaret	65 Fitzroy Road
673	Macaskill	Angus Lindsay	8 Jeremy Moore Avenue
674	Macaskill	Jeanette May	8 Jeremy Moore Avenue
675	Macaskill	John	34 Ross Road West
676	MacBeth	Phyllis Elizabeth Grace	17 Brandon Road
677	MacDonald	Colin George	26 Endurance Avenue
678	MacDonald	Derek George	26 Endurance Avenue
679	MacDonald	Irene	26 Endurance Avenue
680	Maciello	Susan Ovedia Franz De	12 Watson Way
681	Maddocks	Robert Charles	11 Murray Heights
682	Malcolm	Velma	7 Allardyce Street
683	Marsh	Arlette Sharon	1 McKay Close
684	Marsh	James Justin	6 Murray Heights Stanley
685	May	Brian Roy	21 Jeremy Moore Avenue
686	May	Bruce Raymond	Wardens House KBMH
687	May	Christopher Raymond	9 Callaghan Road
688	May	Connie	Wardens House KBMH
689	May	Donna Monica	YMCA
690	May	Heather	1 Glasgow Road
691	May	Jonathan Roy	12 Jeremy Moore Avenue
692	May	Lindsey Olga	9 Callaghan Road
693	May	Lucinda Vikki	12 Jeremy Moore Avenue
694	May	Monica	21 Jeremy Moore Avenue
695	May	Roger	11 Jersey Road
696	May	William Albert	1 Glasgow Road
697	McCallum	Bettina Kay	14 Drury Street
698	McCallum	Christopher John	8A Jeremy Moore Avenue
699	McCallum	Tanya	14a Drury Street
700	McCallum	Timothy Andrew	14A Drury Street
701	McCormick	Dale Ronald	29 Callaghan Road
702	McCormick	Pauline Margaret Ruth	29 Callaghan Road
703	McCormick	Wayne Stanley James	2 Hebe Place
704	McGill	Cara Jane	21 John Street
705	McGill	Coral Elizabeth	Flat 6 Jersey Estate
706	McGill	Darrel Ian	20 Jeremy Moore Avenue
707	McGill	David William	17 James Street
708	McGill	Derek Gary	12 Scoresby Close
709	McGill	Diane Beverley	2 James Street
710	McGill	Doris Mary	32 Davis Street
711	McGill	Gary	15 Brandon Road
712	McGill	Glenda	1c Capricorn Road
713	McGill	Ian Peter	1c Capricorn Road
714	McGill	Len Stanford	2 James Street
715	McGill	Lorraine Iris	10 Ross Road East

716	McGill	Teresa Rose	26 Ross Road East
717	McGinness	Janice	10 Beaver Road
718	McKay	Clara Mary	20 Ross Road West
719	McKay	Heather Valerie	16 Eliza Crescent
720	McKay	Jeannie Paullina	64 Davis Street
721	McKay	Jennifer Coral	29 Callaghan Road
722	McKay	Kevin Derek Charles	51 Callaghan Road
723	McKay	Mandy Rose	51 Callaghan Road
724	McKay	Melvyn Andrew	5 James Street
725	McKay	Michael John	64 Davis Street
726	McKay	Neil	62 Davis Street
727	McKay	Paul Anthony	3 Nutt Cartmel Drive
728	McKay	Peter John	21 Ross Road West
729	McKay	Rex	16 Eliza Crescent
730	McKay	Shelley Jane	7 Villiers Street
731	McKay	William Robert	20 Ross Road West
732	McKenzie	Alice Maude	Moody Brook Homestead
733	McKenzie	Charles Alexander Albert John	Moody Brook Homestead
734	McLaren	Caroline Mary	12 Allardyce Street
735	McLaren	Tony Eugene Terence	12 Allardyce Street
736	McLeod	David	49 Callaghan Road
737	McLeod	Henry Donald Alexander	36 Eliza Crescent
738	McLeod	Ian	9 Fitzroy Road
739	McLeod	Ian James	30 Endurance Avenue
740	McLeod	Jane Elizabeth Diana	36 Eliza Crescent
741	McLeod	Janet Wensley	75 Davis Street
742	McLeod	Janice	2 Ross Road West
743	McLeod	Joan May	Stanley
744	McLeod	John (1)	1 Campbell Drive
745	McLeod	John (2)	23 Murray Heights
746	McLeod	Louise	1 Campbell Drive
747	McLeod	Madeline Jean	1 Campbell Drive
748	McLeod	Mally	9 Fitzroy Road
749	McLeod	Margaret Ann	Fitzroy Road East
750	McLeod	Michael William	5 Short Street
751	McLeod	Pearl Mary Ann	3 Brisbane Road
752	McLeod	Robert	75 Davis Street
753	McLeod	Robert John	2 Ross Road West
754	McMullen	June	8 Brandon Road
755	McMullen	Lucille Anne	6a John Street
756	McMullen	Mathew John	8 Brandon Road
757	McMullen	Tony	8 Brandon Road
758	McNally	Patricia Jayne	18 Ross Road East
759	McPhee	Denise	4 Brandon Road West
760	McPhee	Iris Blanche	31 Ross Road East
761	McPhee	Justin Owen	4 Brandon Road West
762	McPhee	Marjorie May	14 John Street
763	McPhee	Owen Horace	14 John Street
764	McPhee	Patrick	31 Ross Road East
765	McPhee	Sara	1 Hebe Place
766	McRae	David Michael	2 H Jones Road
767	McRae	Elvis Richard	Shackleton Drive
768	McRae	Gloria Linda	2 H Jones Road
769	McRae	Mandy	James Street
770	McRae	Michael	8 Goss Road

771	McRae	Richard Winston	Plat2 6 Racecourse Road
772	Middleton	Brian	13 McKay Close
773	Middleton	Caroline Ann	7 James Street
774	Middleton	Dennis Michael	Dolphin Cottage
775	Middleton	Graham Cyril	50 Davis Street
776	Middleton	Joan Eliza	8 James Street
777	Middleton	Kerry Ann	Dolphin Cottage
778	Middleton	Leonard	67 Fitzroy Road
779	Middleton	Phillip John	5 St Marys Walk
780	Middleton	Sharon Elizabeth	Dolphin Cottage
781	Middleton	Stephanie Anne	13 McKay Close
782	Middleton	Yvonne Allison	50 Davis Street
783	Miller	Andrew Nigel	10 James Street
784	Miller	Betty Lois	6 St Marys Walk
785	Miller	Bruce Graham	10 Pioneer Row
786	Miller	Carol	Moody Brook
787	Miller	Florence Roberta	5 Moody Street
788	Miller	Gail Marie	2 Police Cottages 8 Ross Road
789	Miller	Janet Mary	Market Garden Airport Road
790	Miller	Jayne Elizabeth	27 Davis Street
791	Miller	Jeanette	10 Pioneer Row
792	Miller	Simon Roy	Moody Brook
793	Miller	Steven Geoffrey	Lookout Lodge
794	Miller	Timothy John Durose	Market Garden Airport Road
795	Mills	Terence Kenneth	43 Callaghan Road
796	Minnell	Michelle Rose	41 Eliza Crescent
797	Minto	Alistair Daen	Lookout Lodge
798	Minto	Dilys Rose	18 Endurance Avenue
799	Minto	Graham Stewart	12 Brisbane Road
800	Minto	Isabel	12 Brisbane Road
801	Minto	May Doreen	3 Goss Road
802	Minto	Patrick Andrew	3b Jersey Road
803	Minto	Timothy Ian	18 Enurance Avenue
804	Miranda	Augusto	31 Davis Street
805	Miranda	Carmen	20 Davis Street
806	Miranda	Ramon	3 Drury Street
807	Miranda	Winifred Dorothy	3 Drury Street
808	Mitchell	Cherilyn Julie	32 Ross Road East
809	Mitchell	Lee Robertson	32 Ross Road East
810	Mitchell	Leon John	6 Discovery Close
811	Moffatt	Angela	20 Ross Road East
812	Moffatt	James	20 Ross Road East
813	Moffatt	Jay	20 Ross Road East
814	Moffatt	Kelly	20 Ross Road East
815	Molkenbuhr	Jill Edith	19 Sullivan Street
816	Molkenbuhr	Lee Charles	19 Sullivan Street
817	Morris	Alana Marie	4 Callaghan Road
818	Morris	David	4 Callaghan Road
819	Morris	Jason Paul	59 Fitzroy Road
820	Morris	Michelle Jane	6 McKay Close
821	Morris	Trevor Alan	6 McKay Close
822	Morrison	Doreen	82 Davis Street
823	Morrison	Edgar Bwen	13 Jersey Road
824	Morrison	Eric George	5 Fieldhouse Close
825	Morrison	Fayan	54 John Street

826	Morrison	Graham Stewart	34a Davis Street
827	Morrison	Jacqueline Denise Anita	13 Ian Campbell Drive
828	Morrison	Joan Margaret	Flat 6 1 Jeremy Moore Avenue
829	Morrison	Joanne Elizabeth	3 Racecourse Road East
830	Morrison	Joleen Coleen	Flat 6 1 Jeremy Moore Avenue
831	Morrison	Kenneth	13 Ian Campbell Drive
832	Morrison	Lewis Ronald	12 Callaghan Road
833	Morrison	Marcus Lewis	82 Davis Street
834	Morrison	Michael John	10 Fitzroy Road East
835	Morrison	Muriel Eliza Ivy	40 Eliza Crescent
836	Morrison	Nanette Rose	46 Davis Street
837	Morrison	Nigel Peter	7 James Street
838	Morrison	Patrick	1 Brandon Road West
839	Morrison	Paul Roderick	3 Racecourse Road East
840	Morrison	Ronald Terence	5 Racecourse Road
841	Morrison	Russell John Allan	6A Jeremy Moore Avenue
842	Morrison	Stewart	46 Davis Street
843	Morrison	Susan Margaret	10 Fitzroy Road East
844	Morrison	Tamara	13 Ian Campbell Drive
845	Morrison	Timothy	YMCA
846	Morrison	Valerie Anne	39 Ross Road
847	Morrison	Violet Sarah	5 Racecourse Road
848	Morrison	William Roderick Halliday	54 John Street
849	Munro	Grant Mackintosh	69 Fitzroy Road
850	Murphy	Ann Susan	2 King Street
851	Murphy	Bessie	68 Davis Street
852	Neilson	Barry Marwood	23 Ross Road
853	Neilson	Harold Ian	66 Davis Street
854	Neilson	Margaret	23 Ross Road
855	Newell	Joseph Orr	3 Villiers Street
856	Newell	Paula Michelle	11 Brandon Road
857	Newell	Trudi Malvina	3 Villiers Street
858	Newman	Andrew Raymond	4 Biggs Road
859	Newman	Marlene	11 Jeremy Moore Avenue
860	Newman	Raymond Winston	11 Jeremy Moore Avenue
861	Newman	Tansy Fiona	5 Jersey Road
862	Newman	Terence	24 Endurance Avenue
863	Nutter	Arthur Albert	9 Brandon Road
864	Nutter	Josephine Lesley	9 Brandon Road
865	O'Dean	Barry Charles	1 Goss Road
866	Olmedo	Alex	6 Watson Way
867	Ormond	Christina Helen	6 Goss Road
868	Ormond	Kevin Michael Patrick Joseph	6 Goss Road
869	Parrin	Norman George	108 Davis Street
870	Patterson-Smith	Ian Colin	15 Watson Way
871	Pauloni	Hilary Maud	63 Fitzroy Road
872	Pauloni	Romolo Vittorio	63 Fitzroy Road
873	Paver	Bernadette Marguerite	Moody Brook House
874	Payne	Dilys Agnes	2 Racecourse Road East
875	Payne	Joanne Francis	2 Racecourse Road East
876	Payne	Samantha Jane	2 Racecourse Road East
877	Payne	St. John Peter	2 Racecourse Road East
878	Peake	Arthur	19 James Street
879	Peck	Burnerd Brian	22 James Street
880	Peck	Carol Margaret	2 Discovery Close

881	Peck	Christine	21 Jersey Road
882	Peck	Eleanor Margaret	10 Davis Street
883	Peck	Gordon Pedro James	34 Eliza Crescent
884	Peck	Harwood John Charles	26 Eliza Crescent
885	Peck	James	2 Barrack Street
886	Peck	Maureen Heather	78 Davis Street
887	Peck	Patrick William	78 Davis Street
888	Peck	Shirley	2 Barrack Street
889	Peck	Terence John	10 Davis Street
890	PEB		6 Beaver Road
891	Perkins	Vivienne Esther Mary	33 John Street
892	Perry	Hilda Blanche	6 St Marys Walk
893	Perry	Thora Virginia	17 Fitzroy Road
894	Pettersson	Derek Richard	21 Eliza Crescent
895	Pettersson	Tony	30 Davis Street
896	Pettersson	Trudi Ann	21 Eliza Crescent
897	Phillips	Albert James	16 Brandon Road
898	Phillips	David Dawson	35 Fitzroy Road
899	Phillips	Linda	16 Brandon Road
900	Phillips	Paul David	11 Fieldhouse Close
901	Phillips	Shula Louise	11 Fieldhouse Close
902	Platt	Claire	Rose Hotel Drury Street
903	Pole-Evans	Amy Rose	4 Harbour View
904	Pole-Evans	Ian	Dorada
905	Pole-Evans	John	16 Ross Road East
906	Pole-Evans	Lisa	66 Davis Street
907	Pole-Evans	Martin	YMCA
908	Pole-Evans	Michael Anthony	4 Harbour View
909	Pole-Evans	Paula	5 Biggs Road
910	Pollard	Andrew Keith	4 Hebe Place
911	Pollard	Elizabeth Eve	23 Ross Road East
912	Pollard	John	23 Ross Road East
913	Pollard	Mark John	23 Ross Road East
914	Pompert	Joost Herman Willem	11 Ross Road West
915	Poncet	Lars Nigel	2 Brandon Road West
916	Poncet	Sally Elizabeth	2 Brandon Road
917	Poole	Andrea Joan	52 John Street
918	Poole	Christopher William	John Street
919	Poole	Evelyn May	31 Fitzroy Road
920	Poole	Nancy Margaret	52 John Street
921	Poole	Raymond John	52 John Street
922	Poole	Ross William	52 John Street
923	Poole	William John	31 Fitzroy Road
924	Porter	Charles	11 Fitzroy Road
925	Porter	Elizabeth	5 Thatcher Drive
926	Porter	Jean Lavinia	11 Fitzroy Road
927	Porter	Tracy	5 Jeremy Moore Avenue
928	Prindle-Middleton	Stella Margaret	5 St Mary's Walk
929	Pring	Bernadette June Spencer	5a Ross Road West
930	Pring	Geoffrey Alan	5a Ross Road West
931	Purvis	Alan	3 Narrows View
932	Purvis	Marion Louise	3 Narrows View
933	Reddick	Keith John	By-Pass Road
934	Reeves	Carolyn Wendy	2 Moody Street
935	Reeves	Michael	2 Moody Street

936	Reid	Ann	Lois Cottage John Street
937	Reid	Beverley Rose	9 Fitzroy Road East
938	Reid	Colleen Rose	9 Fitzroy Road East
939	Reid	Emily Margaret	14 Endurance Avenue
940	Reid	John Alexander	41 Fitzroy Road
941	Reid	Reynold Gus	9 Fitzroy Road East
942	Reid De Davino	Pamela Ruth	7 John Street
943	Reive	Roma Endora Mary	St Marys Walk
944	Rendell	Michael	8 Ross Road West
945	Rendell	Nicholas Simon Oliver	8 Ross Road West
946	Rendell	Phyllis Mary	8 Ross Road West
947	Richards	Shirley	8 James Street
948	Riddell	Lisa Marie	9 Discovery Close
949	Roberts	Cheryl Ann Spencer	49 Ross Road East
950	Roberts	David Anthony	7 Jersey Road
951	Roberts	Jill Christine	Narrows Bar
952	Roberts	Laura May	7 Kent Road
953	Roberts	Peter James	49 Ross Road East
954	Roberts	Simon Theodore Nathaniel	Narrows Bar
955	Robertson	Kim Rita Anne	Stanley House
956	Robertson Pompert	Janet	11 Ross Road West
957	Robson	Alison Emily	15 Villiers Street
958	Robson	Cherry Rose	1 James Street
959	Robson	Debbi Louisa	6 Brisbane Road
960	Robson	Gerard Michael	1 Philomel Place
961	Robson	Miranda Gay	6 Brisbane Road
962	Robson	Phyllis Ann	1 Philomel Place
963	Robson	Raymond Nigel	6 Brisbane Road
964	Robson	William Charles	18 Ross Road East
965	Rodriguez Reid	Elizabeth Jayne	33 Ross Road West
966	Ross	Andrea Joanna Ampuero	4 Rowlands Rise
967	Ross	Crystal Rose	Flat 1 30 Jersey Road
968	Ross	Glenn Stephen	23 Watson's Way
969	Ross	Janet	23 Watson's Way
970	Ross	Kevin John	21 John Street
971	Ross	Lachlan Neil	7 Discovery Close
972	Ross	Marie	3 Drury Street
973	Ross	Roy	47 Callaghan Road
974	Ross	Sheena Margaret	Crozier Place
975	Rowland	Charlene Rose	19 Jeremy Moore Avenue
976	Rowland	John Christopher	19 Jeremy Moore Avenue
977	Rowland	Sarah Anne	19 Jeremy Moore Avenue
978	Rowlands	Catherine Annie	3 Hebe Street
979	Rowlands	Daisy Malvina	39 John Street
980	Rowlands	Dorinda Roberta	3a Hebe Street
981	Rowlands	Harold Theodore	8 Ross Road East
982	Rowlands	Neil	3A Hebe Street
983	Rowlands	Robert John	13 Callaghan Road
984	Rozee	Betty Ellen	16 Davis Street
985	Rozee	Bryn	Davis Street
986	Rozee	Derek Robert Thomas	16 Davis Street
987	Rozee	Karen Michella	16 Davis Steet
988	Rozee	Shona Mary	5 Pitaluga Place
989	Sackett	Albert John	25 Ross Road East
990	Sackett	Michael John Carlos	30 Bliza Cove Road

991	Sackett	Pauline	25 Ross Road East
992	Sawle	Judith Margaret	Seaview Cottage Ross Road
993	Sawle	Richard	Seaview Cottage Ross Road
994	Seron	Jose Segundo	M/V Tamar C/o Byron Marine
995	Shepherd	Ramsey	Discovery Close
996	Short	Alison	9 Pioneer Row
997	Short	Brenda	Barrack Street
998	Short	Celia Soledad	1 Racecourse Road
999	Short	Christina Ethel	12 Brandon Road
1000	Short	Derek Patrick	Ross Road West
1001	Short	Dilys Margaret Ann	6A Pioneer Row
1002	Short	Emily Christina	1 Fitzroy Road East
1003	Short	Gavin Phillip	Rose Hotel
1004	Short	Marc Peter	1 Racecourse Road
1005	Short	Marlene Cindy	9 Pitaluga Place
1006	Short	Matias Ricardo	4 Dairy Paddock Road
1007	Short	Montana Tyrone	4 Dairy Paddock Road
1008	Short	Nabil George	4 Dairy Paddock Road
1009	Short	Peter Robert	1 Fitzroy Road East
1010	Short	Richard Edward	9 Pitaluga Place
1011	Short	Riley Ethroe	Barrack Street
1012	Short	Robert Charles	12A Brandon Road
1013	Short	Vilma Alicia	4 Dairy Paddock Road
1014	Simpson	Bertha Veronica	43 Callaghan Road
1015	Simpson	James Alexander Bruce	7 Racecourse Road
1016	Simpson	James Garry	7 Racecourse Road
1017	Simpson	John Frederick	43 Callaghan Road
1018	Simpson	Mirabel Hermione	7 Racecourse Road
1019	Sinclair	Serena Samantha	14 Allardyce Street
1020	Sinclair	Veronica Joyce	21 Ross Road West
1021	Skene	Greta Winnora Miller	22 Ross Road East
1022	Smallwood	Akira Ali	105 Davis Street
1023	Smallwood	Margo Ameer	105 Davis Street
1024	Smallwood	Michael Anthony	105 Davis Street
1025	Smith	Anthony David	10 Fieldhouse Close
1026	Smith	Caroline	5 Brandon Road
1027	Smith	Colin David	6 James Street
1028	Smith	Derek	8 Bliza Crescent
1029	Smith	Elenore Olive	3 Brisbane Road
1030	Smith	Eric	Flat 1 1 Moody Street
1031	Smith	George Patterson	15 Watson Way
1032	Smith	Gerard Alexander	8 Barrack Street
1033	Smith	Gina Ruth Mary	28 Jersey Road
1034	Smith	Heather	19 Watson Way
1035	Smith	Ian Lars	5 Brandon Road
1036	Smith	Ileen Rose	28 Ross Road West
1037	Smith	James Terence	3 Fitzroy Road West
1038	Smith	Jennifer Ethel	6 Watson Way
1039	Smith	Jenny Lorraine	15 Watson Way
1040	Smith	John	28 Ross Road West
1041	Smith	Julia Trinidad	8 Bliza Crescent
1042	Smith	Lisa Margaret	Flat 8 2 Bliza Place
1043	Smith	Martyn James	6A Ross Road West
1044	Smith	Michael Edmund	15 Watson Way Stanley
1045	Smith	Natalie Marianne	6 James Street

1046	Smith	Nora Kathleen	5 Fitzroy Road East
1047	Smith	Osmund Raymond	3 Brisbane Road
1048	Smith	Paul	2 Ross Road West
1049	Smith	Paulette Rose	KEMH
1050	Smith	Rhona	8 Fitzroy Road
1051	Smith	Robin Charles	19 Watson Way
1052	Smith	Roy Alan	37 Ross Road East
1053	Smith	Russell James	8 Fieldhouse Close
1054	Smith	Tyssen John Richard	28 Jersey Road
1055	Sollis	Sarah Emma Maude	20 Drury Street
1056	Spicer	Mark Anthony	16 St Mary's Walk
1057	Spicer	Susan	16 St. Marys Walk
1058	Spink	Roger Kenneth	43 Ross Road East
1059	Spinks	Malvina Ellen	Flat6 7 Jeremy Moore Ave East
1060	Spruce	Helena Joan	29 Ross Road West
1061	Spruce	Mark Felton	29 Ross Road West
1062	Spruce	Terence George	29 Ross Road West
1063	Steen	Barbara Ingrid	39 Ross Road West
1064	Steen	Karen Lucetta	32 Fitzroy Road
1065	Steen MacDonald	Vanda Joan	38 Ross Road
1066	Stenning	Anna Russalka	5B Ross Road West
1067	Stenning	Timothy Charles	5B Ross Road West
1068	Stephenson	James	Moody Valley
1069	Stephenson	Joan Margaret	Moody Valley
1070	Stephenson	Katrina	4 Davis Street
1071	Stephenson	Zachary	4 Davis Street
1072	Stevens	Paul Theodore	6 Dairy Paddock Road
1073	Stevens	Valerie Ann	6 Dairy Paddock Road
1074	Stewart	Aarron Stephen	6 Pioneer Row
1075	Stewart	Celia Joyce	12 St Marys Walk
1076	Stewart	David William	55 Davis Street
1077	Stewart	Hulda Fraser	24 Ross Road West
1078	Stewart	Ian Bremner	34 Ross Road East
1079	Stewart	Irene Anne	Racecourse Road
1080	Stewart	Kenneth Barry	3 Discovery Close
1081	Stewart	Pam Ellen	18 Endurance Avenue
1082	Stewart	Robert	12 St Marys Walk
1083	Stewart	Robert William	Flats Racecourse Road
1084	Stewart	Sheila Olga	34 Ross Road East
1085	Stewart	Sylvia Rose	7 Ross Road West
1086	Stewart-Reid	Carol Ellen Eva	41 Fitzroy Road
1087	Strange	Georgina	The Dolphins Snake Street
1088	Strange	Maria Marta	The Dolphins Snake Street
1089	Strange	Shona Marguerite	6b Ross Road West
1090	Summers	Alastair Peter	1 Ross Road East
1091	Summers	Brian	1 Ross Road East
1092	Summers	Deborah	14 Pioneer Row
1093	Summers	Dennis David	18 Endurance Avenue
1094	Summers	Donna	8 Racecourse Road
1095	Summers	Dorothy Constance	42 Bliza Crescent
1096	Summers	Edith Catherine	5 Dean Street
1097	Summers	Irvin Gerard	Sir Rex Hunt House
1098	Summers	Jacqueline	11 Pioneer Row
1099	Summers	Jonathan Derek	5 Allardyce Street
1100	Summers	Judith Orissa	1 Ross Road East



1101	Summers	Lynn Jane	20 Jeremy Moore Avenue
1102	Summers	Michael Kenneth	6A Brisbane Road
1103	Summers	Michael Victor	11 Pioneer Row
1104	Summers	Naomi Christine	9 Bliza Crescent
1105	Summers	Nichola Jane	13 Jersey Road
1106	Summers	Owen William	5 Brandon Road
1107	Summers	Rowena Elsie	5 Allardyce Street
1108	Summers	Roy	9 Murray Heights
1109	Summers	Sheila	Sir Rex Hunt House
1110	Summers	Sybella Catherine Ann	1 Ross Road West
1111	Summers	Sylvia Jean	8 Racecourse Road
1112	Summers	Terence	1 Ross Road West
1113	Summers	Tony	8 Racecourse Road
1114	Summers	Veronica	5 Brandon Road
1115	Sutherland	Elizabeth Margaret	13/14 Bliza Cove Road
1116	Sutherland	John Gall	3B Jersey Bstate
1117	Sutherland	William John Munro	13/14 Bliza Cove Road
1118	Teale	Colin Edwin	8 Brisbane Road
1119	Teale	Jeannette	8 Brisbane Road
1120	Tellez	Jose Hector	2 Hodson Villa West
1121	Thain	John	8 Davis Street
1122	Thain	Stephanie Ann	8 Davis Street
1123	Thom	David Anderson	47 Fitzroy Road
1124	Thom	Dorothy Irene	47 Fitzroy Road
1125	Thom	John Currie	25 Ross Road East
1126	Thom	Norma Ann	92 Davis Street
1127	Thompson	William John	Flat2 1 Moody Street
1128	Tomlinson	Anita Helen	6 Police Cottages
1129	Triggs	David William	3 Fieldhouse Close
1130	Triggs	Diane	3 Fieldhouse Close
1131	Triggs	Michael David	3 Fieldhouse Close
1132	Tuckwood	John Rodney	1 Drury Street
1133	Tuckwood	Phyllis Majorie	1 Drury Street
1134	Turner	Diana Jane	Murray Heights
1135	Turner	Melvyn George	36 John Street
1136	Turner	Ronald	KBMH
1137	Tyrrell	Garry Bernard	1 Beaver Road
1138	Tyrrell	Gina Michelle	1 Beaver Road
1139	Valler	Glyndwr Huw	Flat4 8 Jersey Road
1140	Valler	Robert Hugh	9 Philomel Street
1141	Vidal	Bileen Nora	12 Jeremy Moore Avenue
1142	Vidal Roberts	Leona Lucila	7 Jersey Road
1143	Villalon	Elizabeth Alice	7 McKay Close
1144	Villalon	Hector Ricardo	7 McKay Close
1145	Villegas	Caroline	7 Fieldhouse Close
1146	Vincent	Janette Mary	10 Endurance Avenue
1147	Vincent	Stephen Lawrence	10 Endurance Avenue
1148	Wade	Donald Harold	17 Murray Heights
1149	Wade	June Rose Elizabeth	17 Murray Heights
1150	Wallace	Fiona Alice	38 Ross Road West
1151	Wallace	Fraser Barrett	10 John Street
1152	Wallace	Helen Jean	10 John Street
1153	Wallace	James Barrett	38 Ross Road West
1154	Wallace	Maria Lilian	38 Ross Road West
1155	Wallace	Michael Ian	23 Callaghan Road

1156	Wallace	Stuart Barrett	38 Ross Road West
1157	Wallace	Una	23 Callaghan Road
1158	Ward	Alison Denise	19 Scoresby Close
1159	Ward	Dennis James	19 Scoresby Close
1160	Watson	Ben	7 Moody Street
1161	Watson	Paul	20 Endurance Avenue
1162	Watson	Ruth Jane	20 Endurance Avenue
1163	Watt	Stephen Robert	11 Narrows View
1164	Watt	Sylvia Ann	11 Narrows View
1165	Watts	Amara Theresa	25 Fitzroy Road
1166	Watts	Patrick James	13 Brisbane Road
1167	Webb	Gary Colin	58 Davis Street
1168	Webb	Loretta Isobel	58 Davis Street
1169	White	Judy Marie	11 Callaghan Road
1170	White	Kathleen Elizabeth	9 Thatcher Drive
1171	Whitney	Frederick William	1 Police Cottages 9 Ross Road
1172	Whitney	Henry Leslie	3 St Marys Walk
1173	Whitney	Jason	15 Ross Road East
1174	Whitney	Kurt Ian	2 Pioneer Row
1175	Whitney	Lana Rose	22 Bliza Crescent
1176	Whitney	Susan Joan	1 Police Cottages 9 Ross Road
1177	Wilkinson	Alistair Graham	6 Murray Heights
1178	Wilkinson	Johan	6 Murray Heights
1179	Wilkinson	Robert John	2a Brisbane Road
1180	Williams	Gene	23 Ross Road West
1181	Williams	Gillian Carol	Flat4 1 Jeremy Moore Avenue
1182	Williams	Glen	33 Ross Road East
1183	Williams	Margaret Elizabeth	33 Ross Road East
1184	Williams	Marlene Rose	23 Ross Road West
1185	Winter	Teresa Irene	4A Jeremy Moore Avenue East
1186	Wylie	Julian Richard	1 McKay Close
1187	Zuvic-Bulic	Kuzma Mario	Holdfast Road
1188	Zuvic-Bulic	Sharon Marie	Holdfast Road

1	Alazia	George Robert	Hope Cottage, East Falkland
2	Alazia	Keith	Goose Green, East Falkland
3	Alazia	Mandy Gwyneth	Port Edgar Farm, West Falkland
4	Alazia	Michael Robert	Port Edgar Farm, West Falkland
5	Alazia	Thora Lilian	North Arm, East Falkland
6	Aldridge	Brian George	Goose Green East Falkland
7	Aldridge	Diana Mary	Goose Green East Falkland
8	Aldridge	Olive Elizabeth	Hill Cove, West Falkland
9	Aldridge	Terence William	Hill Cove, West Falkland
10	Anderson	Jenny	Smylies Farm, East Falkland
11	Anderson	Lynda June	New House, East Falkland
12	Anderson	Tony James	Smylies Farm, East Falkland
13	Anderson	William John Stanley	New House, East Falkland
14	Armstrong Ford	Karen Jane	North Arm, East Falkland
15	Ashworth	Glennis	Riverside East Falkland
16	Ashworth	Iain	Riverside East Falkland
17	Ashworth	Malcolm	Riverside East Falkland
18	Bagley	Darren Clive	Riverview Farm, East Falkland
19	Bagley	Jacqueline Elizabeth	Riverview Farm, East Falkland
20	Barnes	Dierdre	Dunbar Farm, West Falkland
21	Barnes	Marshall	Dunbar Farm, West Falkland
22	Barrientos	Jose Sixto Ruiz	Walker Creek, East Falkland
23	Beattie	Ian Robert Ewen	North Arm, East Falkland
24	Berntsen	Arina Janis	Pebble Island, West Falkland
25	Berntsen	Benjamin John	Elephant Beach, East Falkland
26	Berntsen	Leon	Albermarle Stn, West Falkland
27	Berntsen	Pamela Margaret	Albermarle Stn, West Falkland
28	Berntsen	Patrick	The Pod Race Point East FI
29	Betts	Bernard Keith	Boundary Farm, West Falkland
30	Betts	Diane Joan	Boundary Farm, West Falkland
31	Betts	Irene Marion	Boundary Farm, West Falkland
32	Binnie	Horace James	Fox Bay Village, West Falkland
33	Blake	Anthony Thomas	Little Chartres, West Falkland
34	Blake	Lyndsay Rae	Little Chartres, West Falkland
35	Bober	John	Turners, MPA, East Falkland
36	Bonner	Donald William	Sound House, North Arm
37	Bonner	Simon	Port Howard, West Falkland
38	Bonner	Susan Anne	Port Howard, West Falkland
39	Browning	Gavin	Fitzroy Farm East Falkland
40	Butler	James Donald	Goose Green, East Falkland
41	Chater	Anthony Richard	New Island, West Falkland
42	Clark	Frederick Thomas	Hawkbit, Fitzroy East Falkland
43	Clarke	Alan Neil	Port Howard, West Falkland
44	Clarke	Anika Doreen	Goose Green East Falkland
45	Clarke	Jan Michael	Kings Ridge Farm, East Falkland
46	Clarke	Jeanette	Kings Ridge, East Falkland
47	Clarke	Michael Jan	Kings Ridge Farm, East Falkland
48	Clarke	Shane Adrian	Douglas East Falkland
49	Clarke	Violet Rose	Elephant Beach, East Falkland
50	Clausen	Denzil	Johnson's East Falkland
51	Clausen	Henry Edward	Port Louis, East Falkland
52	Clifton	Leonard	Walker Creek, East Falkland
53	Clifton	Thora Janeene	Walker Creek, East Falkland
54	Cockwell	Benjamin William	Fox Bay Village, West Falkland
55	Cockwell	Clare Marie	Fox Bay Village, West Falkland

56	Cockwell	Grizelda Susan	Fox Bay Village, West Falkland
57	Collins	Bernard	Turners, MPA, East Falkland
58	Davis	Aase	Evelyn Station, East Falkland
59	Davis	Ian John	Evelyn Station, East Falkland
60	Davis	Reginald John	Evelyn Station, East Falkland
61	Davis	William James	Goose Green, East Falkland
62	Decroliere	Carrie Madeline Helen	Fox Bay Village, West Falkland
63	Decroliere	Eric Ernest Albert	Fox Bay Village, West Falkland
64	Dickson	Charles George	Brookfield, East Falkland
65	Dickson	Doreen	Wreck Point, East Falkland
66	Dickson	Gerald William	Wreck Point, East Falkland
67	Dickson	Iris	Bleaker Island, East Falkland
68	Dickson	Ronald Edward	Bleaker Island, East Falkland
69	Donnelly	Daniel	Crooked Inlet, West Falkland
70	Donnelly	Joyce Elizabeth	Crooked Inlet, West Falkland
71	Dunford	David Philip	The Saddle, West Falkland
72	Eagle	Alan William	Fitzroy Farm East Falkland
73	Eagle	Sonia Ellen	Fitzroy Farm, East Falkland
74	Edwards	Norma	Lake Sullivan, West Falkland
75	Edwards	Roger Anthony	Lake Sullivan, West Falkland
76	Evans	Donna Newell	South Harbour, West Falkland
77	Evans	Michael David	South Harbour, West Falkland
78	Evans	Raymond	Pebble Island, West Falkland
79	Evans	Richard Gregory	Coach House, MPA Road
80	Fairley	John	Port Stephens, West Falkland
81	Faria	Basil Harry	North Arm East Falkland
82	Faria	Maria Anne	North Arm East Falkland
83	Felton	Walter Arthur	North Arm, East Falkland
84	Findlay	Andrew John	East Bay, West Falkland
85	Finlayson	Neil Roderick	North Arm, East Falkland
86	Ford	Karen Jane	North Arm East Falkland
87	Ford	Neil Fraser	Fox Bay West, West Falkland
88	Ford	Paul Edward	North Arm East Falkland
89	Forster	Gwyneth May	Bold Cove, West Falkland
90	Forster	James	Bold Cove, West Falkland
91	Gilding	Melanie Carol	Port Louis, East Falkland
92	Gilding	Peter Bernard	Port Louis, East Falkland
93	Gill	Alicia Michelle	Fitzroy Farm, East Falkland
94	Gleadell	Ian Keith	East Bay, West Falkland
95	Gleadell	Marklin John	North Arm, East Falkland
96	Goodwin	Margo Jane	Goose Green, East Falkland
97	Goodwin	Neil Alexander William	Goose Green, East Falkland
98	Goss	Margaret Rose	Horseshoe Bay, East Falkland
99	Goss	Michael Peter	Horseshoe Bay East Falkland
100	Goss	Peter	Horseshoe Bay, East Falkland
101	Greenland	Bonita Doreen	Darwin House, East Falkland
102	Greenland	Kenneth David	Darwin House, East Falkland
103	Halliday	Joyce Isabella Patience	Fox Bay Village, West Falkland
104	Halliday	Kenneth William	Fox Bay Village, West Falkland
105	Hansen	Ian	Main Point, West Falkland
106	Hansen	Lionel Raymond	Hill Cove, West Falkland
107	Hansen	Rose Idina	Hill Cove, West Falkland
108	Hansen	Susan Ann	Main Point, West Falkland
109	Hardcastle	Brook	Darwin, East Falkland
110	Hardcastle	Rileen Beryl	Darwin, East Falkland

111	Harvey	Jen	Hill Cove, West Falkland
112	Harvey	Valerie Ann	Hill Cove, West Falkland
113	Hawksworth	David	Plot 8 MPA Road East Falkland
114	Heathman	Ailsa	Estancia, East Falkland
115	Heathman	Ewart Tony	Estancia, East Falkland
116	Hill	Jennifer Eileen	Stoney Ridge, West Falkland
117	Hirtle	Anthony	Peaks Farm, West Falkland
118	Hirtle	Doris Linda	Port Howard, West Falkland
119	Hirtle	Odetta Susan	Port Howard, West Falkland
120	Hirtle	Samantha	Peaks Farm, West Falkland
121	Hirtle	Susan Mary	Peaks Farm, West Falkland
122	Hobman	David Gonsalo	Chartres, West Falkland
123	Hobman	John Malcolm	Saladero, East Falkland
124	Hobman	Juan Jose Eleuterio	Chartres, West Falkland
125	Hobman	Vivien	Saladero, East Falkland
126	Hooper	Peter Bernard	Mount Alice, West Falkland
127	Jaffray	Alexander	Lively Island, East Falkland
128	Jaffray	Derek Charles	Goose Green East Falkland
129	Jaffray	Eileen	North Arm, East Falkland
130	Jaffray	Elliott Jessie	Lively Island, East Falkland
131	Jaffray	Ian	North Arm, East Falkland
132	Jennings	Jacqueline	Port Howard West Falkland
133	Jones	Mark Henry	Head Of Bay, East Falkland
134	Jones	Michael David	Head Of Bay, East Falkland
135	Jones	Sheila Janice	Head Of Bay, East Falkland
136	Jonson	Carl	Bombilla, East Falkland
137	Jonson	Rita Elizabeth	Bombilla, East Falkland
138	Keeley	John Gabriel	Turners, MPA, East Falkland
139	Kilmartin	Dinah May	Bluff Cove, East Falkland
140	Kilmartin	Kevin Seaton	Bluff Cove, East Falkland
141	Knight	Justin Robert Campbell	Coast Ridge, West Falkland
142	Knight	Keith Andrew	Coast Ridge, West Falkland
143	Knight	Nigel Arthur	Coast Ridge, West Falkland
144	Knight	Shirley Louvain Patricia	Coast Ridge, West Falkland
145	Lakin	Bernard	Turners, MPA, East Falkland
146	Larsen	Ronald Ivan	Speedwell Island, East Falkland
147	Larsen	Yvonne	Speedwell Island, East Falkland
148	Lee	Carole	Port Howard, West Falkland
149	Lee	Christopher	Hill Cove, West Falkland
150	Lee	Elizabeth	Goose Green, East Falkland
151	Lee	John Alfred	Goose Green, East Falkland
152	Lee	Rodney William	Port Howard, West Falkland
153	Leo	Brenda May	NAAFI, MPA, East Falkland
154	Lowe	Adrian Stewart	Murrel Farm, East Falkland
155	Lowe	Lisa Helen	Murrel Farm, East Falkland
156	Luxton	Jennifer Mary	Sealion Island
157	Luxton	William Robert	Chartres, West Falkland
158	MacBeth	Martyn Raymond	Narrows Farm, East Falkland
159	MacBeth	Raymond John	Narrows Farm, West Falkland
160	Marsh	Alastair Roy	Shallow Harbour, West Falkland
161	Marsh	Anna Dierdre	Fox Bay Village, West Falkland
162	Marsh	Gavin Nicholas	Fox Bay Village, West Falkland
163	Marsh	Jodie Kim	Port North, West Falkland
164	Marsh	June Helen	Rincon Ridge, West Falkland
165	Marsh	Karen Diana	Port Howard, West Falkland

166	Marsh	Kevin Roy	Shallow Harbour, West Falkland
167	Marsh	Leon Peter	Rincon Ridge, West Falkland
168	Marsh	Marlane Rose	Shallow Harbour, West Falkland
169	Marsh	Patricia Ann	Lakelands, West Falkland
170	Marsh	Robin Frank	Lakelands, West Falkland
171	Marsh	Samantha Ann	Rincon Ridge Farm West FI
172	Marsh	Tanya Blaine	Shallow Harbour Farm, West FI
173	McBain	Arthur	Douglas Station, East Falkland
174	McBain	Rhoda Margaret	Douglas Station, East Falkland
175	McGhie	James	Stoney Ridge, West Falkland
176	McGhie	Roy	Port North, West Falkland
177	McGhie	Thomas Forsyth	Saunders Island, West Falkland
178	McGill	Robin Perry	Carcass Island, West Falkland
179	McKay	Christine	Fox Bay West, West Falkland
180	McKay	Frazer Roderick	Teal River, West Falkland
181	McKay	Isabella Alice	Westley, West Falkland
182	McKay	Josephine Ann	Sheffield Farm, West Falkland
183	McKay	Kenneth Andrew	Sheffield Farm, West Falkland
184	McKay	Penelope Rose	Goring Station, West Falkland
185	McLeod	Albert John	Goose Green, East Falkland
186	McLeod	Dawn	50 Acre Plot M.P.A. Road
187	McLeod	Isabella Frances Diana	Fitzroy, East Falkland
188	McLeod	Kenneth Benjamin John	50 Acre Plot M.P.A. Road
189	McLeod	Sarah Rose	Goose Green, East Falkland
190	McPhee	June Iris	Brookfield, East Falkland
191	McPhee	Kenneth John	Brookfield, East Falkland
192	McPhee	Sheila Margaret	Kingsford Valley, East Falkland
193	McPhee	Terence Owen	Kingsford Valley, East Falkland
194	McPhee	Trudi Lynette	Brookfield, East Falkland
195	Miller	Betty	Walker Creek, East Falkland
196	Miller	Catherine McLeod	Fox Bay Village, West Falkland
197	Miller	James Albert	Fox Bay Village, West Falkland
198	Miller	Phillip Charles	Cape Dolphin, East Falkland
199	Miller	Sheena Melanie	Cape Dolphin, East Falkland
200	Minnell	Benjamin James	Blue Beach, East Falkland
201	Minnell	Donna Marie	Moss Side, East Falkland
202	Minnell	Hazel Eileen	Blue Beach, East Falkland
203	Minnell	Michael Robert	Moss Side, East Falkland
204	Morrison	Gerald	Goose Green, East Falkland
205	Morrison	John	Port Howard, West Falkland
206	Morrison	Kathleen Iris	Goose Green, East Falkland
207	Morrison	Lena	Port Howard, West Falkland
208	Morrison	Leslie Theodore Norman	Port Howard, West Falkland
209	Murphy	Roy David	Port Howard, West Falkland
210	Napier	Lily	West Point, West Falkland
211	Napier	Roderick Bertrand	West Point, West Falkland
212	Newman	Glynnis Karen	Goose Green East Falkland
213	Nightingale	Charlene	West Lagoons, West Falkland
214	Nightingale	Peter Richard	West Lagoons, West Falkland
215	Parkinson	Allen	Turners, MPA, East Falkland
216	Peck	Davina Margaret	Shallow Bay, West Falkland
217	Peck	Paul	Shallow Bay, West Falkland
218	Phillips	Carol Joan	Hope Cottage, East Falkland
219	Phillips	Terence	Hope Cottage, East Falkland
220	Pitaluga	Antoinette Margaretha Mary B.	Salvador, East Falkland

221	Pitaluga	Jene Ellen	Salvador, East Falkland
222	Pitaluga	Nicholas Alexander R.	Salvador, East Falkland
223	Pitaluga	Robin Andreas McIntosh	Salvador, East Falkland
224	Pitt	Myra May	Goose Green, East Falkland
225	Pole-Evans	Anthony Reginald	Saunders Island, West Falkland
226	Pole-Evans	David Llewellyn	Saunders Island, West Falkland
227	Pole-Evans	Shirley Helen	Manybranch, West Falkland
228	Pole-Evans	Suzan	Saunders Island, West Falkland
229	Pole-Evans	William Reginald	Manybranch, West Falkland
230	Poncet	Dion Michael	Beaver Island, West Falkland
231	Poncet	Jerome Pierre	Beaver Island, West Falkland
232	Poncet	Leiv	Beaver Island, West Falkland
233	Poole	Ella Josephine	Race Point, East Falkland
234	Poole	Steven Charles	Race Point, East Falkland
235	Porter	Joan	Shallow Harbour, West Falkland
236	Porter	William Kenneth	Fox Bay Village, West Falkland
237	Pratlett	Patricia Carol Ann	The Pod Race Point East FI
238	Reeves	Ronald James	Port Howard, West Falkland
239	Robertson	Ann	Port Stephens, West Falkland
240	Robertson	Paul Jonathan	Port Stephens, West Falkland
241	Robertson	Peter Charles	Port Stephens, West Falkland
242	Ross	William Henry	Fitzroy, East Falkland
243	Rozee	Fiona	Spring Point, West Falkland
244	Rozee	Ronald David	Spring Point, West Falkland
245	Saunders	Felicity Joan Carlie	Hawkbit, Fitzroy East Falkland
246	Short	Andrez Peter	Swan Inlet East Falkland
247	Short	George Godfrey Ivan	Great Britain Hotel E.F.I
248	Short	Isobel Rose	Mullet Creek East Falkland
249	Short	Lindsay Marie	Wineglass Stn, East Falkland
250	Short	Patrick Warburton	Mullet Creek East Falkland
251	Short	Robert George	Wineglass Stn, East Falkland
252	Sinclair	Simon Keith	Goose Green, East Falkland
253	Smith	Andrew John	Port San Carlos, East Falkland
254	Smith	Georgina Carol Anderson	Port San Carlos, East Falkland
255	Smith	Robert William	Goose Green, East Falkland
256	Smith	Susan	Blue Beach, East Falkland
257	Smith	Terence George	North Arm, East Falkland
258	Steen	Gail	Paragon House Lafone East FI
259	Steen	Vernon Robert	Paragon House Lafone East FI
260	Stevens	Richard James	Port Sussex, East Falkland
261	Stevens	Toni Donna	Port Sussex, East Falkland
262	Strange	Ian John	New Island South West Falkland
263	Taylor	Christopher John	Goose Green East Falkland
264	Tellez	Arturo	North Arm, East Falkland
265	Tellez	Charlotte Melize	North Arm, East Falkland
266	Tellez	Rodolfo	Walker Creek, East Falkland
267	Thorsen	Carol Margaret	Teal Inlet, East Falkland
268	Thorsen	David Moller	Teal Inlet, East Falkland
269	Thorsen	Gloria Penelope	Teal Inlet, East Falkland
270	Towersey	Diane	Port Stephens, West Falkland
271	Turner	Arthur Leonard Pitaluga	Rincon Grande, East Falkland
272	Turner	Blaine Ellen	Rincon Grande, East Falkland
273	Tuson	Olwyn Carol	Saunders Island, West Falkland
274	Velasquez	Arleen	North Arm, East Falkland
275	Velasquez	Oscar Hernan	North Arm, East Falkland

276	Watson	Glenda Joyce	Long Island, East Falkland
277	Watson	Neil	Long Island, East Falkland
278	Whitney	Daneila Grace	Mount Kent, East Falkland
279	Whitney	Dennis	Fitzroy, East Falkland
280	Whitney	Keith	Home Farm, East Falkland
281	Whitney	Leona Ann	Home Farm, East Falkland
282	Whitney	Patrick George	Mount Kent, East Falkland
283	Whitney	Tyrone	Home Farm, East Falkland
284	Wilkinson	David Clive Walter	Dunnose Head, West Falkland
285	Wilkinson	Rosemary	Dunnose Head, West Falkland
286	Yon	Gillian Rose	KIS, MPA, East Falkland





# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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*30th April 2003*

*No. 45*

## **Appointments**

Denise Schopaus, Staff Nurse, Health Services Department, 28.3.03.

Jeremy Peter Cairns-Wicks, Police Constable, Royal Falkland Islands Police, 31.3.03.

Ailie Christine Biggs, Record Librarian, Part Time Receptionist, Falkland Islands Broadcasting Station, 2.4.03.

Sandra Lydia Cordes, Fisheries Observer, Fisheries Department, 2.4.03.

Jill Christine Roberts, Police Constable, Royal Falkland Islands Police, 2.4.03.

Jan Jenner, Theatre Sister, Health Services Department, 12.4.03.

## **Promotions**

Marie Pearl Loveridge, from Clerk, Public Service to Cashier, Treasury, 1.4.03.

## **Completion of Contracts**

Ronald William Scanes, Works Manager, Municipal Section, Public Works Department, 1.4.03.

Matthew Pearce, Fisheries Observer, Fisheries Department, 2.4.03.

Neil Williams, Theatre Charge Nurse, Health Services Department, 11.4.03.

Emma Jones, Fisheries Protection Officer, Fisheries Department, 18.4.03.

Ross James, Scientific Fisheries Observer, Fisheries Department, 25.4.03.

Sandra Picone, Primary School Teacher, Education Department, 27.4.03.

Paul Brickle, Fisheries Biologist, Fisheries Department, 30.4.03.

## **Re-appointment**

Ronald William Scanes, Works Manager, Municipal Section, Public Works Department, 2.4.03.

Emma Jones, Fisheries Protection Officer, Fisheries Department, 19.4.03.

Matthew Pearce, Fisheries Observer, Fisheries Department, 24.4.03.

Sandra Picone, Primary School Teacher, Education Department, 28.4.03.

Paul Brickle, Fisheries Biologist, Fisheries Department, 1.5.03.

## **Resignations**

Caroline Smith, Clerk, Public Service, 31.3.03.

Amanda Marie Browning, Machine Operator, Printing Office, 4.4.03.

Amara Theresa Watts, Receptionist/Record Librarian, Falkland Islands Broadcasting Studio, 4.4.03.

Pamela Anthony, Caretaker/Head Cleaner, Education Department, 28.4.03.

Margaret Ann Hewitt, Cook, Education Department, 28.4.03.

John Aiden Kerr, Senior Scientist/Agronomist, Department of Agriculture, 30.4.03.

**Transfer**

Jeremy Ian Thomas Clarke, from Plant Operator/ Handyman, Highways Section, Public Works Department, to Firefighter, Fire and Rescue Service, 1.4.03.

Alejandro Neri Igao, from Plant Operator/Handyman, Highways Section, Public Works Department, to Plant Operator/Handyman, Property and Municipal Section, Public Works Department, 1.4.03.

Janet Jaffray, from Houseparent, Education Department to Clerk, Public Service, 1.4.03.

Michelle Jane Morris, from Constable, Royal Falkland Islands Police, to Houseparent, Education Department, 1.4.03.

**Retirement**

Connie May, Warden Sheltered Accomodation Complex, Health Services Department, 21.4.03.

**NOTICES**

No.18

**NOTICES OF APPOINTMENT**

I RUSSELL THOMAS JARVIS Acting Governor of the Falkland Islands in exercise of my powers under Article 136(1) of the Air Navigation (Overseas Territories) Order 2001 and all other powers enabling me hereby designate the office of Director of Civil Aviations to carry out all functions of the Governor under that Order other than the functions stipulated in Article 136(4) of the Order

And I direct that this designation shall be deemed to have had effect from 1st April 2003.

Dated this 7th day of April 2003.

RUSSELL THOMAS JARVIS  
*Acting Governor*

No.19 14th April 2003

**HERMANOS GANDON FISHING COMPANY LIMITED**  
**Company Number: 10242**

**NOTICE IS HEREBY GIVEN** that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 14th day of April 2003.

Dated this 14th day of April 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No.20

14th April 2003

**IBERIA FISHING COMPANY LIMITED**  
**Company Number: 10245**

**NOTICE IS HEREBY GIVEN** that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 14th day of April 2003.

Dated this 14th day of April 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 21

14th April 2003

**LEICESTER FISHING COMPANY LIMITED**  
**Company Number: 10244**

**NOTICE IS HEREBY GIVEN** that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 14th day of April 2003.

Dated this 14th day of April 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 22

28th April 2003

**HARDDISC CAFE LIMITED**  
**Company Number: 11233**

**NOTICE IS HEREBY GIVEN** that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 27th day of April 2003.

Dated this 28th day of April 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 23

28th April 2003

**LIFESTYLES (WDC) LIMITED**  
**Company Number: 10416**

**NOTICE IS HEREBY GIVEN** that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 28th day of April 2003.

Dated this 28th day of April 2003.

J.C. ROWLAND,  
*Registrar of Companies.*



**THE  
FALKLAND ISLANDS GAZETTE  
Extraordinary**

**PUBLISHED BY AUTHORITY**

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*Vol. CXII*

*5th May 2003*

*No. 6*

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The following is published in this Gazette-

**Register of Members' Interests.**

## **REGISTER OF MEMBERS' INTERESTS**

The information contained in this Register is provided by every member of the Legislative Council and the Attorney General in accordance with Rule 18 and 18A of the Falkland Islands Legislative Council Standing Rules and Orders.

The information is current to 30 April 2003.

### **INFORMATION TO BE PROVIDED**

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

1. Remunerated directorships and whether or not in companies incorporated in the Falkland Islands, including directorships which are unremunerated, but where remuneration is paid through another company in the same group.
2. Remunerated employment, office or profession
3. Clients in respect of whom the member holds a general retainer or in respect of whom he has in the last 12 months, or expects in the next 12 months, to provide services for payment where a member of the public might reasonably think that the Member's conduct in or in relation to the business of the Legislative Council might have been or might be influenced by the client's interests
4. Sponsorships. Any form of sponsorship or financial or material support of a Member which involves any payment, benefit or advantage whether to the Member or any other person with whom the Member is closely connected
5. Gifts, benefits and hospitality
6. Overseas visits relating to or arising out of membership of the Legislative Council where the cost of any such visit has not been borne wholly by the Member or out of the Falkland Islands public funds
7. Any gifts or material benefits or advantages received by the Member or the Member's spouse from or on behalf of overseas Governments, organisations or persons
8. Land or property of a substantial value or from which a substantial income is gained
9. The names of companies or other bodies in which the Member has, to his knowledge either with or on behalf of his spouse and children under the age of 18 years, a beneficial interest in shareholding of a nominal value greater than one percent of the issued share capital or less than one percent or more than £25000.00

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

### **NOTIFICATION OF REGISTRABLE INTERESTS**

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

#### **John Birmingham**

1. Nil
2. Self-employed Contractor, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. Nil

#### **Janet Lynda Cheek**

1. Fortuna Ltd - Director and Co-Owner  
Consolidated Fisheries Ltd – Director  
Jason Fishing Co, Ltd – Unremunerated  
Beagle Fishing Co. Ltd – Unremunerated  
Capricorn Ltd – Unremunerated  
Fortuna Holdings Ltd – Unremunerated  
Petrel Fishing Co. Ltd – Unremunerated  
Petrel Trawling Ltd – Unremunerated  
Venturer Fishing Co Ltd – Unremunerated  
**All above companies are registered in the Falkland Islands**
2. Legislative Councillor's allowance
3. Nil
4. Nil

5. Nil
6. Nil
7. Nil
8. 25 Ross Road West House and Land (Home)  
Through Fortuna Ltd and interest in:  
Waverley House and associated land and buildings  
Globe Tavern  
Globe Offices  
Building leased to Falklands Brasserie Ltd  
56 John Street Land and Buildings
9. In addition to any financial interest in the Fortuna Group:  
Kelper Stores Ltd (shares purchased within the last year)  
Falkland Islands Holdings (shares held by Fortuna Ltd)
10. Hebe Ltd – Director/Co-Owner  
Falkland Brasserie – Director (Unremunerated)  
Falkland Conservation – Director (Unremunerated)  
Kelper Stores Ltd - (Unremunerated)  
Fortuna Ltd – Shares in Consolidated Fisheries Ltd  
Fortuna Holdings - Shares in Consolidated Fisheries Ltd  
Hebe Ltd - Shares in Consolidated Fisheries Ltd  
Jason Fishing Co Ltd - Shares in Consolidated Fisheries Ltd  
I hold a small share of Petrel Fishing Co Ltd in addition to my half of Fortuna's share of that company.

**John Richard Cockwell**

1. Warrah Design – Director  
Falklands LandHoldings – Chairman  
Falklands Mill - Director
2. Sale of Paintings, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. Nil

**Norma Edwards**

1. Nil
2. Lake Sullivan Farm – Co-Owner, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Lake Sullivan Farm – Co-Owner
9. Nil
10. Meredith Fishing Co and its Joint Ventures  
Consolidated Fisheries  
  
(Husband Director of Bate Companies and Shareholder in Bate Companies)

**Roger Anthony Edwards**

1. Meredith Fishing Co. Ltd – Director  
Pardelhas Fishing Co Ltd – Director  
Murtosa Fishing Co Ltd – Director  
Sao Rafeal fishing Co Ltd – Director  
Consolidated Fisheries Ltd - Director
2. Lake Sullivan Farm, Fox Bay West – Owner, Legislative Councillor's allowance
3. Fugro Geos (Global Environmental & Ocean Sciencest Ltd) – Agent
4. Nil
5. Nil
6. Nil
7. Nil
8. Lake Sullivan Farm, Fox Bay West – Owner
9. As per 1 above
10. Nil

**Stephen Charles Luxton**

1. Chartres Sheep Farming Co Ltd  
Chartres River Properties Ltd
2. Automotive Manager, Falkland Islands Co. Ltd, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. House including plot of land at & Narrows View, Stanley, Falkland Islands
9. Chartres Sheep Farming Co Ltd – Sheep Farming (Over 1%)  
Chartres River Properties Ltd – Sheep Farming (Over 1%)
10. Falkland Islands Holdings PLC – Minor Shareholdings  
Consolidated Fisheries Ltd – Shareholding held by Chartres  
River Properties Ltd

**Philip Charles Miller**

1. Nil
2. Cape Dolphin Farm – Co-Owner, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Cape Dolphin Farm – Co-Owned By Philip Miller and Sheena Miller  
A.G. Contracting Business Incorporating Grassland Work (Subsidised by FIG  
pasture Improvement Scheme)
9. Nil
10. Nil



**Michael Victor Summers**

1. Quark Fishing Ltd  
Prion Ltd  
Pioneer Seafoods Ltd  
Port Howard Farm Ltd (Non-Remunerated)  
Stanley Services Ltd – (FIG Nominee – Non Remunerated)
2. Quark/Prion/Pioneer, Freiwin Ltd, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Occasional UK Visit for and on behalf of Stanley Services Ltd, paid for by the Company in my role as FIG nominated Chairman.
7. Nil
8. 11 Pioneer Row, Stanley House at Port Howard
9. Quark Fishing Ltd  
Prion Ltd  
Pioneer Seafoods Ltd  
Freiwin Ltd
10. Falkland Islands YMCA – Trustee  
Stanley Golf Club – Member  
Falkland Islands Chamber of Commerce – Member  
Falkland Club – Member  
Falkland Islands Vessel Owners Association – Member

**Christopher John Simpkins**

- 1 Nil
- 2 Chief Executive, FIG
- 3 Nil
- 4 Nil
- 5 Nil
- 6 Nil
- 7 Nil
- 8 Nil
- 9 Nil

10 Nil

**Derek Frank Howatt**

1 Nil

2 Financial Secretary, FIG

3 Nil

4 Nil

5 Nil

6 Nil

7 Nil

8 4 Racecourse Road, Stanley

9 Nil

10 Nil

**David Geoffrey Lang**

1 Nil

2 Attorney General, FIG

3 Nil

4 Nil

5 Nil

6 Nil

7 Nil

8 28 Goss Road, Stanley

9 Nil

10 Nil



# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

*Vol. CXII*

*30th May 2003*

*No.7*

## Appointments

Elaine Elizabeth Barnes, Warden for Sheltered Accommodation, Health Services Department, 21.4.03.

Andrew Francis Gowen Douse, Conservation Strategy Officer, Environmental Planning Office, 30.4.03.

Nigel Eric Coleman, Handyman, Property and Municipal Section, Public Works Department, 1.5.03.

Stedson Ralph Peters, Labourer, Property and Municipal Section, Public Works Department, 1.5.03.

Elizabeth Jayne Rodriguez Reid, Police Constable, Royal Falkland Islands Police, 1.5.03.

Karen Margaret Drysdale, Senior Assistant Taxation Officer, Taxation Office, 5.5.03.

Gina Smith, Clerk, Public Service, 5.5.03.

Bronwen Vaughan Douse, Staff Nurse, Health Services Department, 12.5.03.

Susan Ovedia Franz Maciello, Cleaner, Infant Junior School, Education Department, 12.5.03.

Trudi Ann McKay, Cook, Stanley Hostel, Education Department, 12.5.03.

Annagret Goss, Junior Clerk Receptionist, Health Services Department, 15.5.03.

Helen Otley, Fisheries Observer, Fisheries Department, 17.5.03.

Paul William Dunford, Fisheries Observer, Fisheries Department, 19.5.03.

Barbara June Besley Clark, Steward/Chauffeur, Government House, 26.5.03.

## Promotion

David Roberts, from Leading Constable, Royal Falkland Islands Police, to Sergeant, Royal Falkland Islands Police, 1.5.03.

## Completion of Contracts

David Alexander John Middleton, Stock Assessment Scientist, Fisheries Department, 22.5.03.

Roxana Janet Tapia, Cleaner, Education Department, 31.5.03.

## Re-appointment

David Alexander John Middleton, Stock Assessment Scientist, Fisheries Department, 23.5.03.

## Resignations

Alan William Joshua, Plant Operator/Handyman, Public Works Department, 20.5.03.

Ellen Rose Davis, Cook, Education Department, 31.5.03.

## Transfer

Shirley Rose Betts, from Auxiliary Nurse to Warden for Sheltered Accommodation, Health Services Department, 21.4.03.

## Retirement

Nanette Rose Morrison, Clerk, Public Service, 13.5.03.

## Determination of Appointment

Dustin James Gilson Clarke, Customs/Immigration Officer, Customs and Immigration Department, 2.5.03.

**NOTICES**

No. 25 28th April 2003

**INDEX OF RETAIL PRICES**

The calculation of the Index for the quarter ended 31 March 2003 has now been completed. A summary of the Index for the last four quarters is shown below:-

Date	Index	Annual % Increase	Quarter % Increase
30.06.02	108.01	1.323	1.637
30.09.02	108.41	1.270	0.370
31.12.02	107.26	0.140	(1.061)
31.03.03	108.43	2.033	1.091

J.C. ROWLAND,  
*Registrar of Companies.*

No. 26 29th April 2003

**THE BANKING ORDINANCE (TITLE 10.1)  
THE BANKING (AMENDMENT) ORDINANCE 1996**

NOTICE IS HERBY GIVEN pursuant to Section 19(1) of the Banking Ordinance (Title 10.1), as amended, that the audited accounts of Standard Chartered Bank for the year ended 31st December 2002 are available for inspection at the bank branch office, Ross Road, Stanley, or a copy will be supplied on application to the Manager.

N. P. Hutton  
Manager,  
Standard Chartered Bank,  
P.O. Box 597,  
Stanley, Falkland Islands.

No. 27 6th May 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Shirley Yvona Peters has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to her by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st of June 2003.

D. HOY,  
*Immigration Officer.*

No. 28 6th May 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Kerry Jane Thomas has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to her by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st of June 2003.

D. HOY,  
*Immigration Officer.*

No. 29

7th May 2003

**APPLICATION FOR PERMANENT RESIDENCE**

Notice is hereby given that Marion Elizabeth Bagley has applied through the Principal Immigration Officer to be named as a Dependant on a Permanent Residence Permit to be granted by the Governor.

Any person who knows of any reason why this permit should not be granted, should send a written and signed statement of the facts, giving grounds to their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st June 2003.

D. HOY,  
*Immigration Officer*

No. 30

16th May 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Alison Margaret Baker has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to her by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st of June 2003.

D. HOY,  
*Immigration Officer.*

No. 31

16th May 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Joanne Marie Ellick has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to her by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st of June 2003.

D. HOY,  
*Immigration Officer.*

No. 32

16th May 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Nicholas Charles Ellick has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to him by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st of June 2003.

D. HOY,  
*Immigration Officer.*

No. 33

16th May 2003

**APPLICATION FOR NATURALISATION**

Notice is hereby given that Elane Maria Lennie is applying to his Excellency the Governor for naturalisation.

Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs & Immigration Department, Stanley within 21 days of the date of publication of this notice.

D. HOY,  
*Immigration Officer.*

No. 34

21st May 2003

**APPLICATION FOR NATURALISATION**

Notice is hereby given that Jorge Diego Maciello is applying to his Excellency the Governor for naturalisation.

Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs & Immigration Department, Stanley within 21 days of the date of publication of this notice.

D. HOY,  
*Immigration Officer.*

No. 35

22nd May 2003

**APPLICATION FOR NATURALISATION**

Notice is hereby given that Dilys Rose Minto is applying to his Excellency the Governor for naturalisation.

Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs & Immigration Department, Stanley within 21 days of the date of publication of this notice.

D. HOY,  
*Immigration Officer.*

No. 36

23rd May 2003

**APPLICATION FOR PERMANENT RESIDENCE**

Notice is hereby given that Allan John Ross has applied to the Principal Immigration Officer to be granted a Permanent Residence Permit by the Governor.

Any person who knows of any reason why this permit should not be granted, should send a written and signed statement of the facts, giving grounds to their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st June 2003.

D. HOY,  
*Immigration Officer.*

No. 37

23rd May 2003

**APPLICATION FOR PERMANENT RESIDENCE**

Notice is hereby given that Brian Frederick Harris has applied through the Principal Immigration Officer to be granted a Permanent Residence Permit by the Governor.

Any person who knows of any reason why this permit should not be granted, should send a written and signed statement of the facts, giving grounds to their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st June 2003.

D. HOY,  
*Immigration Officer.*

**Errata****Falkland Islands Gazette - Volume CXII**

Gazette No 4 published on 30th April 2003 was wrongly so numbered and is now renumbered No 5 and in the Notices section of that Gazette the Notices appearing were numbered 18 to 23 in error and are now renumbered 19 to 24. Extraordinary Gazette No 5 published on the 5th May 2003 was wrongly so numbered and is now renumbered No 6.

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

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

**I hereby appoint:**

**CPL R G Jones-Ralph - G8411738**

to be a temporary Customs Officer from 10th March 2003 to 10th July 2003.

R J King  
*Collector of Customs.*

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

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

**I hereby appoint:**

**SGT M B Chapman - H8290636**

to be a temporary Customs Officer from 30th March 2003 to 30th July 2003.

R J King  
*Collector of Customs.*

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

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

**I hereby appoint:**

**CPL D H Mann - H8417394**

to be a temporary Customs Officer from 7th April 2003 to 7th August 2003.

R J King  
*Collector of Customs.*

## **REGISTER OF MEMBERS' INTERESTS**

The information contained in this Register is provided by every member of the Legislative Council and the Attorney General in accordance with Rule 18 and 18A of the Falkland Islands Legislative Council Standing Rules and Orders.

The information is current to 30 April 2003.

### **INFORMATION TO BE PROVIDED**

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

1. Remunerated directorships and whether or not in companies incorporated in the Falkland Islands, including directorships which are unremunerated, but where remuneration is paid through another company in the same group.
2. Remunerated employment, office or profession
3. Clients in respect of whom the member holds a general retainer or in respect of whom he has in the last 12 months, or expects in the next 12 months, to provide services for payment where a member of the public might reasonably think that the Member's conduct in or in relation to the business of the Legislative Council might have been or might be influenced by the client's interests
4. Sponsorships. Any form of sponsorship or financial or material support of a Member which involves any payment, benefit or advantage whether to the Member or any other person with whom the Member is closely connected
5. Gifts, benefits and hospitality
6. Overseas visits relating to or arising out of membership of the Legislative Council where the cost of any such visit has not been borne wholly by the Member or out of the Falkland Islands public funds
7. Any gifts or material benefits or advantages received by the Member or the Member's spouse from or on behalf of overseas Governments, organisations or persons
8. Land or property of a substantial value or from which a substantial income is gained
9. The names of companies or other bodies in which the Member has, to his knowledge either with or on behalf of his spouse and children under the age of 18 years, a beneficial interest in shareholding of a nominal value greater than one percent of the issued share capital or less than one percent or more than £25000.00

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

### **NOTIFICATION OF REGISTRABLE INTERESTS**

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

#### **John Birmingham**

1. Nil
2. Self-employed Contractor, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. Nil

#### **Janet Lynda Cheek**

1. Fortuna Ltd - Director and Co-Owner  
Consolidated Fisheries Ltd – Director  
Jason Fishing Co, Ltd – Unremunerated  
Beagle Fishing Co. Ltd – Unremunerated  
Capricorn Ltd – Unremunerated  
Fortuna Holdings Ltd – Unremunerated  
Petrel Fishing Co. Ltd – Unremunerated  
Petrel Trawling Ltd – Unremunerated  
Venturer Fishing Co Ltd – Unremunerated  
**All above companies are registered in the Falkland Islands**
2. Legislative Councillor's allowance
3. Nil
4. Nil

5. Nil
6. Nil
7. Nil
8. 25 Ross Road West House and Land (Home)  
Through Fortuna Ltd and interest in:  
Waverley House and associated land and buildings  
Globe Tavern  
Globe Offices  
Building leased to Falklands Brasserie Ltd  
56 John Street Land and Buildings
9. In addition to any financial interest in the Fortuna Group:  
Kelper Stores Ltd (shares purchased within the last year)  
Falkland Islands Holdings (shares held by Fortuna Ltd)
10. Hebe Ltd – Director/Co-Owner  
Falkland Brasserie – Director (Unremunerated)  
Falkland Conservation – Director (Unremunerated)  
Kelper Stores Ltd - (Unremunerated)  
Fortuna Ltd – Shares in Consolidated Fisheries Ltd  
Fortuna Holdings - Shares in Consolidated Fisheries Ltd  
Hebe Ltd - Shares in Consolidated Fisheries Ltd  
Jason Fishing Co Ltd - Shares in Consolidated Fisheries Ltd  
I hold a small share of Petrel Fishing Co Ltd in addition to my half of Fortuna's share of that company.

**John Richard Cockwell**

1. Warrah Design – Director  
Falklands LandHoldings – Chairman  
Falklands Mill - Director
2. Sale of Paintings, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Nil
9. Nil
10. Nil



**Norma Edwards**

1. Nil
2. Lake Sullivan Farm – Co-Owner, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Lake Sullivan Farm – Co-Owner
9. Nil
10. Meredith Fishing Co and its Joint Ventures  
Consolidated Fisheries  
  
(Husband Director of Bate Companies and Shareholder in Bate Companies)

**Roger Anthony Edwards**

1. Meredith Fishing Co. Ltd – Director  
Pardelhas Fishing Co Ltd – Director  
Murtosa Fishing Co Ltd – Director  
Sao Rafeal fishing Co Ltd – Director  
Consolidated Fisheries Ltd - Director
2. Lake Sullivan Farm, Fox Bay West – Owner, Legislative Councillor's allowance
3. Fugro Geos (Global Environmental & Ocean Sciences Ltd) – Agent
4. Nil
5. Nil
6. Nil
7. Nil
8. Lake Sullivan Farm, Fox Bay West – Owner
9. As per 1 above
10. Nil

**Stephen Charles Luxton**

1. Chartres Sheep Farming Co Ltd  
Chartres River Properties Ltd
2. Automotive Manager, Falkland Islands Co. Ltd, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. House including plot of land at & Narrows View, Stanley, Falkland Islands
9. Chartres Sheep Farming Co Ltd – Sheep Farming (Over 1%)  
Chartres River Properties Ltd – Sheep Farming (Over 1%)
10. Falkland Islands Holdings PLC – Minor Shareholdings  
Consolidated Fisheries Ltd – Shareholding held by Chartres River Properties Ltd

**Philip Charles Miller**

1. Nil
2. Cape Dolphin Farm – Co-Owner, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Nil
7. Nil
8. Cape Dolphin Farm – Co-Owned By Philip Miller and Sheena Miller  
A.G. Contracting Business Incorporating Grassland Work (Subsidised by FIG pasture Improvement Scheme)
9. Nil
10. Nil

**Michael Victor Summers**

1. Quark Fishing Ltd  
Prion Ltd  
Pioneer Seafoods Ltd  
Port Howard Farm Ltd (Non-Remunerated)  
Stanley Services Ltd – (FIG Nominee – Non Remunerated)
2. Quark/Prion/Pioneer, Freiwin Ltd, Legislative Councillor's allowance
3. Nil
4. Nil
5. Nil
6. Occasional UK Visit for and on behalf of Stanley Services Ltd, paid for by the Company in my role as FIG nominated Chairman.
7. Nil
8. 11 Pioneer Row, Stanley  
House at Port Howard
9. Quark Fishing Ltd  
Prion Ltd  
Pioneer Seafoods Ltd  
Freiwin Ltd
10. Falkland Islands YMCA – Trustee  
Stanley Golf Club – Member  
Falkland Islands Chamber of Commerce – Member  
Falkland Club – Member  
Falkland Islands Vessel Owners Association – Member

**Christopher John Simpkins**

- 1 Nil
- 2 Chief Executive, FIG
- 3 Nil
- 4 Nil
- 5 Nil
- 6 Nil
- 7 Nil
- 8 Nil
- 9 Nil

10 Nil

**Derek Frank Howatt**

1 Nil

2 Financial Secretary, FIG

3 Nil

4 Nil

5 Nil

6 Nil

7 Nil

8 4 Racecourse Road, Stanley

9 Nil

10 Nil

**David Geoffrey Lang**

1 Nil

2 Attorney General, FIG

3 Nil

4 Nil

5 Nil

6 Nil

7 Nil

8 28 Goss Road, Stanley

9 Nil

10 Nil

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**THE  
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*Vol. CXII*

*15th June 2003*

*No. 8*

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The following is published in this Gazette-

**Register of Electors 15th June 2003.**

000001	Adams	John Harvey	21 Ross Road East
000002	Adams	Marjorie Rose	21 Ross Road East
000003	Adeoye	Anneliese Rose	25 Shackleton Drive
000004	Alazia	Andrew	66 Davis Street
000005	Alazia	Anita Jayne	Government House
000006	Alazia	Colleen	11 Fitzroy Road East
000007	Alazia	Freda	22 Fitzroy Road
000008	Alazia	Freda Evelyn	17 Jersey Road
000009	Alazia	Hazel	17 Jersey Road
000010	Alazia	James Andrew	22 Fitzroy Road
000011	Alazia	Jason Neville	Lookout Lodge
000012	Alazia	Maggie Ann	6 John Street
000013	Alazia	Sandra Marie	66 Davis Street
000014	Alazia	Stuart John	31 Fitzroy Road
000015	Alazia	Yvonne	Flat4 1A Moody Sreet
000016	Aldridge	Caroline Mary	2 H Jones Road
000017	Aldridge	Kenneth John	2 H Jones Road
000018	Aldridge	Stephen John	2 H Jones Road
000019	Allan	John	39 Ross Road
000020	Allan	Joyce Ena	39 Ross Road
000021	Allan	Michael Charles	3 Philomel Place
000022	Allan	Sarah Louise	3 Philomel Place
000023	Almonacid	Orlando	1 Villiers Sreet
000024	Anderson	Carol Anne	22 Endurance Avenue
000025	Anderson	Claudette	1 Goss Road
000026	Anderson	Eddie	22 Endurance Avenue
000027	Anderson	Elizabeth Nellie	42 Davis Street
000028	Anderson	Falkland John	Y.M.C.A
000029	Anderson	Helen	88 Davis Street
000030	Anderson	Jamie Falkland	18 Murray Heights
000031	Anderson	Margaret Kathleen	21 John Street
000032	Anderson	Mildred Nessie	8 St Marys Walk
000033	Anderson	Paul James	9 Fieldhouse Close
000034	Anderson	Reginald Stanford	18 Murray Heights
000035	Anderson	Richard Louis	88 Davis Street
000036	Anderson	Tony James	Y.M.C.A
000037	Anthony	Enid Elizabeth	6 Dairy Paddock Road
000038	Anthony	Geraldine Sylvia	FIGO
000039	Anthony	Malcolm James	9 Biggs Road
000040	Barnes	Marlene Estela	2 Watson Way
000041	Barnes	Paul	2 Watson Way
000042	Barton	Alison Mary	6 Villiers Street
000043	Barton	Arthur John	6 Villiers Street
000044	Bates	Barbara	8 Watson Way
000045	Battersby	Jon Alan	16 Fieldhouse Close
000046	Battersby	Margaret Mary	16 Fieldhouse Close
000047	Beckett	Vivien Delia	2 Discovery Close
000048	Bedford	Arlette Louise	68 Davis Street

000049	Berntsen	Cecilia Del Rosario	14 St Marys Walk
000050	Berntsen	Christian Olaf Alexander	15a James Street
000051	Berntsen	Falkland	10 Fitzroy Road
000052	Berntsen	Gene Stanley	Flat6 6 Jersey Road
000053	Berntsen	Iain Kenneth	2 Dean Street
000054	Berntsen	John Alexander	Felton Stream
000055	Berntsen	Kenneth Frederick	20 Ross Road West
000056	Berntsen	Matthew John	Lookout Lodge
000057	Berntsen	Olaf Christian Alexander	35 Eliza Crescent
000058	Berntsen	Patrick	10 A James Street
000059	Berntsen	Rachel Ena	15a James Street
000060	Berntsen	Valdamar Lars	14 St. Marys Walk
000061	Berntsen	Valorie Marcela	30 Endurance Avenue
000062	Bertrand	Catherine Gladys	11 Ross Road East
000063	Besley-Clark	Barbara June	53 Callaghan Road
000064	Besley-Clark	Craig Norman Leigh	53 Callaghan Road
000065	Besley-Clark	Norman	53 Callaghan Road
000066	Betts	Arlette	Lafone House Ross Road East
000067	Betts	Donald William	7 Jeremy Moore Avenue
000068	Betts	Ellen Alma	21 Fitzroy Road
000069	Betts	George Winston Charles	35 Ross Road West
000070	Betts	Ian	1 Villiers Street
000071	Betts	Lucia Elizabeth	35 Ross Road West
000072	Betts	Owen	14 Fieldhouse Close
000073	Betts	Peter James	Racecourse Road Flats
000074	Betts	Priscilla Violet Morrison	14 Fieldhouse Close
000075	Betts	Severine	1 Watson Way
000076	Betts	Shirley Rose	7 Jeremy Moore Avenue
000077	Betts	Simon Keith	Reflections Flat Dean Street
000078	Betts	Stephen	7 Jeremy Moore Avenue
000079	Biggs	Ailie Christine	16 Endurance Avenue
000080	Biggs	Alastair Gordon	Trehayle 50 John Street
000081	Biggs	Althea Maria	3 Dairy Paddock Road
000082	Biggs	Betty Josephine	9 Moody Street
000083	Biggs	Christopher David	5 James Street
000084	Biggs	Daniel Craig	16 Endurance Avenue
000085	Biggs	Edith Joan	Trehayle 50 John Street
000086	Biggs	Frances	16 Endurance Avenue
000087	Biggs	Leslie Frederick	3 Dairy Paddock Road
000088	Biggs	Marian June	16 Jersey Road
000089	Biggs	Michael Elfed	21 Fitzroy Road
000090	Biggs	Peter Julian Basil	16 Endurance Avenue
000091	Biggs	Richard John	16 Jersey Road
000092	Binnie	Juliet Ann	33 Eliza Crescent
000093	Binnie	Linda Rose	6 Fieldhouse Close
000094	Binnie	Ronald Eric	6 Fieldhouse Close
000095	Binnie	Susan	3 Brandon Road
000096	Birmingham	John	4 Drury Street



000097	Blackley	Candy Joy	4 Barrack Street
000098	Blackley	Maurice	The Lodge Market Garden
000099	Blackley	Shane David	4 Barrack Street
000100	Blake	Alexander Charles	1 Ross Road
000101	Blake	Lionel Geoffrey	1 Ross Road
000102	Blake	Sally Gwynfa	1 Ross Road
000103	Blake	Thomas Patrick	90 Davis Street
000104	Blizard	Malvina Mary	51 Fitzroy Road
000105	Blyth	Agnes Ruth	2 Brandon Road
000106	Blyth	Paz Neri	5 St Marys Walk
000107	Bolt	Dennis John	4 Watson Way
000108	Bonner	Alan Paul	Lookout Lodge
000109	Bonner	Angela Jane	5a Ross Road East
000110	Bonner	Avril Margaret Rose	14 Jersey Road
000111	Bonner	Cheryl Anne	4a Ross Road West
000112	Bonner	Hayley Trina	41 Ross Road West
000113	Bonner	Keith James	14 Jersey Road
000114	Bonner	Linda Jane	4A Ross Road West
000115	Bonner	Lindsay Jane	12 Scoresby Close
000116	Bonner	Nicholas	4A Ross Road West
000117	Bonner	Odette Ellen May	Madecosie 15 Jersey Estate
000118	Bonner	Paul Roderick	5 John Street
000119	Bonner	Richard James	14 Jersey Road
000120	Bonner	Stevie Coppel	Dolphin Cottage
000121	Bonner	Terence Leslie	Madecosie 15 Jersey Estate
000122	Bonner	Timothy	41 Ross Road West
000123	Bonner	Vera Ann	5 John Street
000124	Bonner	Vera Joan	Chaffeurs Cottage
000125	Bonner	Violet	40 Ross Road
000126	Booth	Jessie	Racecourse Cottage
000127	Booth	Myriam Margaret Lucia	7 Philomel Street
000128	Booth	Stuart Alfred	Racecourse Cottage
000129	Bound	Joan	Barrack Street
000130	Bowles	Norma Evangeline	1A Villiers Street
000131	Bowles	William Edward	1A Villiers Street
000132	Bowles	William George Troyd	9 Drury Street
000133	Bragger	Edward Laurence	14 Jeremy Moore Avenue
000134	Bragger	Stacey John	14 Jeremy Moore Avenue
000135	Brock	Juanita Lois	Flat5 1 Jeremy Moore Ave East
000136	Brooks	Cheryl Rose	25 Callaghan Road
000137	Brooks	Peter William	25 Callaghan Road
000138	Browning	Amanda Marie	3 Dairy Paddock Road
000139	Browning	Colin George	1 Moody Street
000140	Browning	Edwina	Davis Street
000141	Browning	Henry Stanbury	Brandon Road
000142	Browning	Joan Lucy Ann	Rose Hotel Drury Street
000143	Browning	Nathan David	3 Dairy Paddock Road
000144	Browning	Rex	35 Davis Street

000145	Browning	Richard William	33 Davis Street
000146	Browning	Trevor Osneht	Rose Hotel Drury Street
000147	Brownlee	Andrew Samuel	19 Ross Road East
000148	Brownlee	Lynn Frances	19 Ross Road East
000149	Buckett	Ronald Peter	49 Fitzroy Road
000150	Buckett	Roy Peter	Jersey Road
000151	Buckett	Susan Vera	49 Fitzroy Road
000152	Buckland	Colin Michael	Lookout Lodge
000153	Buckland	Darlene Joanna	5 James Street
000154	Buckland	Peter John	9 Callaghan Road
000155	Buckley-Whitney	Helena Jane	2 Pioneer Row
000156	Budd	Dennis Raymond	5 Ian Campbell Drive
000157	Budd	Pamela Joan	5 Ian Campbell Drive
000158	Bundes	Robert John Christian	17 Fitzroy Road
000159	Burns	Mary Anne	34 Davis Street
000160	Burston	Catherine	91 Davis Street
000161	Burston	Stephen Leslie	91 Davis Street
000162	Bury	Ian Thomas	63 Davis Street
000163	Butcher	Michael George	3A Dairy Paddock Road
000164	Butcher	Trudi	3A Dairy Paddock Road
000165	Butler	Elsie Maud	10 Thatcher Drive
000166	Butler	Frederick Lowther Edward	10 Thatcher Drive
000167	Butler	George Joseph	1A Moody Street
000168	Butler	Jonathan Jeffers	3 Jeremy Moore Avenue
000169	Butler	Laurence Jonathan	2 Davis Street East
000170	Butler	Margaret Orlanda	5 Short Street
000171	Butler	Orlanda Betty	2 Davis Street East
000172	Buxton	Nicole Gabrielle	9 Campbell Drive
000173	Cameron	Jane Diana Mary Keith	Old Bakery Fitzroy Road
000174	Cant	Carol Rosine	24 Goss Road
000175	Cant	Martin Ronald	24 Goss Road
000176	Cantlie	Derek William	27 Callaghan Road
000177	Carey	Anthony Michael	19 Ross Road West
000178	Carey	Gladys	19 Ross Road West
000179	Carey	Martin Rex	21 Eliza Cove Crescent
000180	Carey	Mary Ann Margaret	18 Ross Road West
000181	Carey	Terence James	18 Ross Road West
000182	Cartwright	Stephen	39 Ross Road West
000183	Castle	David Peter	26 John Street
000184	Castle	Isobel	26 John Street
000185	Ceballos	Eulogio Gabriel	28 Endurance Avenue
000186	Chaloner	Sheila Catherine	2 Racecourse Road
000187	Chandler	Ann Beatrice	6 Biggs Road
000188	Chandler	Edward	6 Biggs Road
000189	Chapman	Helen	6 Fitzroy Road East
000190	Chapman	Paul	29 Fitzroy Road
000191	Chater	Thomas Frederick	33 Fitzroy Road
000192	Chater	William John	7 Biggs Road

000193	Cheek	Gerald Winston	9 Biggs Road
000194	Cheek	Janet Lynda	25 Ross Road West
000195	Cheek	Marie	9 Biggs Road
000196	Cheek	Rosalind Catriona	32 Goss Road East
000197	Cheeseman	Kaye Melanie	1a Capricorn Drive
000198	Cheeseman	Stanley John	Lookout Lodge
000199	Clapp	Kevin Christopher	1 Murray Heights
000200	Clark	Douglas James	53 Callaghan Road
000201	Clark	Hector	27 Eliza Crescent
000202	Clark	Jonathan Andrew	Flat 10 Jersey Road
000203	Clark	Joyce Kathleen	27 Eliza Crescent
000204	Clarke	Angela Sindy	1 Jeremy Moore Avenue Flats
000205	Clarke	Angeline Gloria	17 Scoresby Close
000206	Clarke	Camilla Marie	8 Drury Street
000207	Clarke	Christopher	5 Discovery Close
000208	Clarke	David James	17 Ross Road West
000209	Clarke	Derek Simon	23 Jeremy Moore Avenue
000210	Clarke	Doreen	17 Ross Road West
000211	Clarke	Eva Lynn	19 Jersey Road
000212	Clarke	Felicity Marie	7 Fitzroy Road
000213	Clarke	Gwynne Edwina	17 Jeremy Moore Avenue
000214	Clarke	Ian	Lookout Lodge Stanley
000215	Clarke	Isabel Joan	12 Fieldhouse Close
000216	Clarke	James Martin	3 McKay Close
000217	Clarke	Jeremy Ian Thomas	7 Fitzroy Road
000218	Clarke	Joan Patricia Marion	50 Davis Street
000219	Clarke	Jonathan Terence	17 Jeremy Moore Avenue
000220	Clarke	Joseph Gwyn	Lookout Lodge
000221	Clarke	Julie Ann	Globe Tavern
000222	Clarke	Luke Anthony	Lookout Lodge
000223	Clarke	Margaret Ann	3 H Jones Road
000224	Clarke	Marvin Thomas	7 Fitzroy Road
000225	Clarke	Ronald John	17 Ross Road West
000226	Clarke	Rudy Thomas	8 Drury Street
000227	Clarke	Suzanna	11 Fitzroy Road East
000228	Clarke	Terence John	17 Jeremy Moore Avenue
000229	Clarke	Tracey Clare	23 Jeremy Moore Avenue
000230	Clarke	Trudi Ann	7 Fitzroy Road
000231	Clasen	Wayne Ian Summers James	17 Davis Street
000232	Clausen	Andrea Patricia	3 St Marys Walk
000233	Clausen	Denzil George Gustavius	3 St Marys Walk
000234	Clausen	Melanie	24 Murray Heights
000235	Clausen	Sophie Marina	37 Davis Street
000236	Claxton	Margaret	28 Ross Road East
000237	Clayton	Brian	Dorada
000238	Clement	Gary	9 Snake Street
000239	Clement	Jane	9 Snake Street
000240	Clement	Lee	9 Snake Street

000241	Clement	Sara Jane	10 Snake Street
000242	Clement	Wayne	10 Snake Street
000243	Cletheroe	Kenneth Stanley	45 Fitzroy Road
000244	Clifton	Darwin Lewis	53 Davis Street
000245	Clifton	Marie	6 Discovery Close
000246	Clifton	Melvyn	12 Callaghan Road
000247	Clifton	Neil	20 Davis Street
000248	Clifton	Stephen Peter	61 Fitzroy Road
000249	Clifton	Terence Charles	3 Ross Road West
000250	Clifton	Teresa Ann	12 Callaghan Road
000251	Clifton	Valerie Ann	61 Fitzroy Road
000252	Cockwell	Jennifer Marie	90 Davis Street
000253	Cockwell	John Richard	14 Ross Road West
000254	Cockwell	Maurice Adam	90 Davis Street
000255	Cockwell	Samuel George	14 Ross Road West
000256	Cofre	Anya Evelyn	1 Brandon Road West
000257	Cofre	Elvio Miguel	1 Brandon Road West
000258	Collins	Shiralee	Flat 9 6 Jersey Road
000259	Connolly	Kevin Barry	1 King Street
000260	Coombe	Robert Dean	12 Ross Road West.
000261	Cotter	Caroline Jane	9 Jeremy Moore Avenue
000262	Cotter	Mary Jane	9 Jeremy Moore Avenue
000263	Cotter	Timothy Stewart	9 Jeremy Moore Avenue
000264	Courtney	Anthony Clive	30 Goss Road
000265	Courtney	Julie	30 Goss Road
000266	Coutts	Charles	12 Endurance Avenue
000267	Coutts	Charles Lindsay	33 Ross Road
000268	Coutts	Elsbeth Alice	12 Endurance Avenue
000269	Coutts	John	36 Ross Road West
000270	Coutts	Olga	33 Ross Road
000271	Coutts	Peter	13 Campbell Drive
000272	Crabb	Elizabeth Ann	34a Davis Street
000273	Crawford	May Doreen	3 Goss Road
000274	Crowie	Alan John	72 Davis Street
000275	Crowie	Ana Bonita	72 Davis Street
000276	Crowie	Clare Frances	35 Callaghan Road
000277	Crowie	David Martin	Lookout Lodge
000278	Crowie	David Sean	51 Callaghan Road
000279	Crowie	Michelle	1 Discovery Close
000280	Crowie	Nicola Jane	35 Callaghan Road
000281	Crowie	Peter James	35 Callaghan Road
000282	Crowie	Robert John	35 Callaghan Road
000283	Crowie	Roxanne	72 Davis Street
000284	Curtis	Alfred William Hamilton	6 Brandon Road West
000285	Curtis	Barbara Annette Hamilton	37 Ross Road East
000286	Curtis	Barbara Joan	6 Brandon Road West
000287	Curtis	Bonnie Elizabeth Hamilton	6 Brandon Road West
000288	Curtis	James William Hamilton	6 Ross Road

000289	Davies	Anthony Warren	7 Callaghan Road
000290	Davies	Christine Susan	8 Fitzroy Road East
000291	Davies	Colin George	15 Ross Road West
000292	Davies	Eileen Wynne	15 Ross Road West
000293	Davies	Jacqueline Nancy	7 Callaghan Road
000294	Davies	Sian Karen	7 Callaghan Road
000295	Davies	William	8 Fitzroy Road East
000296	Davis	Doreen Susan	Stanley
000297	Davis	Ellen Rose	39 Davis Street
000298	Davis	Maurice	39 Davis Street
000299	Davis	Nicholas	15 James Street
000300	Davis	Roy George Victor	6 Narrows View
000301	Davis	Sharon Sandra Evelyn	6 Narrows View
000302	Davis	Yona	37 Davis Street
000303	Davy	Patrick Alex Field	Flat3 3 Jeremy Moore Ave East
000304	Dent	Janice Vanessa	16 Scoresby Close
000305	Dent	Stephen John	16 Scoresby Close
000306	Desborough	Gladys Malvina	14 Allardyce Street
000307	Dickson	Caroline Christine Bird	108 Davis Street
000308	Dickson	Michael Keith	Davis Street
000309	Dickson	Steven Charles	14 Endurance Avenue
000310	Didlick	Christopher Graham	13 Jeremy Moore Avenue
000311	Didlick	Fiona Margaret	13 Jeremy Moore Avenue
000312	Didlick	Graham John	13 Jeremy Moore Avenue
000313	Didlick	Imogen Fiona	13 Jeremy Moore Avenue
000314	Didlick-Smith	Rhiannon Elinore	13 Jeremy Moore Avenue
000315	Diggle	Jean Katherine	12 Jersey Road
000316	Diggle	Roger John	12 Jersey Road
000317	Dobbys	Kathleen Gay	60 Davis Street
000318	Dodd	Alison	1 Pioneer Row
000319	Dodd	Nigel Keith	1 Pioneer Row
000320	Doherty	Ian	2 Brisbane Road
000321	Donnelly	Derek	38 Ross Road East
000322	Drysdale	Karen Margaret	1 Watson Way
000323	Duncan	Delsha Vanessa Jane	Flat 3 30 Jersey Road
000324	Duncan	Doreen	Tenacres
000325	Duncan	Peter Ree Howard	K.E.M.H
000326	Duvall	Kenneth William	51 Callaghan Road
000327	Earnshaw	Jacqueline Elizabeth	37 Ross Road West
000328	East	Justin Clive Richard	1 Fieldhouse Close
000329	East	Michelle Jane	1 Fieldhouse Close
000330	Eccles	Bernard Leslie	18 Jeremy Moore Avenue
000331	Eccles	Moira Cameron	18 Jeremy Moore Avenue
000332	Edwards	Emma Jane	41 Ross Road East.
000333	Elliot	Elizabeth Rose	15 Callaghan Road
000334	Elliot	Henry James	15 Callaghan Road
000335	Ellis	Cyril	24 Ross Road East
000336	Ellis	Lucy	11 James Street

000337	Ellis	Paul	43 John Street
000338	Ellis	Sally Jean	43 John Street
000339	Ellis	Valerie	24 Ross Road East
000340	Elsby	Barry	Moody Brook House
000341	Eriksen	Fiona Alison	5 Racecourse Road
000342	Evans	Gladys Alberta	6 Barrack Street
000343	Evans	Michelle Paula	Murray Heights
000344	Evans	Russell	45 Ross Road East
000345	Evans	Susan Maureen	45 Ross Road East
000346	Ewing	Gordon	4 Jeremy Moore Avenue
000347	Ewing	Irene	4 Jeremy Moore Avenue
000348	Eynon	Carol	8 Villiers Street
000349	Eynon	David John	8 Villiers Street
000350	Faria	Mary Ann	6A Jeremy Moore Avenue
000351	Faria	Paul	14 Brandon Road
000352	Faria	Susanna Caroline Berntsen	14 Brandon Road
000353	Felton	Violet Regina Margaret	German Camp Callaghan Road
000354	Ferguson	Ellen Rose	51 Callaghan Road
000355	Ferguson	Finlay James	51 Callaghan Road
000356	Ferguson	John William	47 Ross Road East
000357	Ferguson	Marie Anne	2 Davis Street
000358	Ferguson	Robert John	4 Capricorn Road
000359	Ferguson	Rose	Flat7 1 Jeremy Moore Ave East
000360	Ferguson	Sian	47 Ross Road East
000361	Ferguson	Stephanie Janet	47 Ross Road East
000362	Ferguson	Thelma	4 Capricorn Road
000363	Fiddes	Douglas Graham	Moody Brook
000364	Fiddes	Gardner Walker	3 Watson Way
000365	Fiddes	Julia Bertrand	Moody Brook
000366	Fiddes	Mary McKinnon Livingstone	4 Moody Street
000367	Fiddes	Melody Christine	3 Watson Way
000368	Fiddes	Robert	4 Moody Street
000369	Finlayson	Barry Donald	3 Capricorn Road
000370	Finlayson	Iris Dwenda Margaret	29 Goss Road
000371	Finlayson	Iris Heather	3 Capricorn Road
000372	Finlayson	Marc Ian	Y.M.C.A
000373	Finlayson	Peter	6 Brandon Road
000374	Finlayson	Phyllis	6 Brandon Road
000375	Finn	Natalie Anne	9 Eliza Crescent
000376	Fisher-Smith	Julie Anne	8 Fieldhouse Close
000377	Floyd	Amanda Susan	Globe Hotel
000378	Floyd	Michael	7 Pitaluga Place
000379	Floyd	Michael Anthony	7 Pitaluga Place
000380	Floyd	Steven Paul	7 Pitaluga Place
000381	Fogerty	Richard Edwin John	Stone Cottage
000382	Ford	Alison Jane Marie	5 Jersey Road
000383	Ford	Arthur Henry	6 Drury Street
000384	Ford	Cara Michelle	5 Philomel Place

000385	Ford	Christopher James	12 Davis Street
000386	Ford	Colin Stewart	15 Kent Road
000387	Ford	Colleen Mary	Lady Hunt House John Street
000388	Ford	Darrel	1 James Street
000389	Ford	David	1 Davis Street
000390	Ford	Frederick James	Lady Hunt House John Street
000391	Ford	Gerard Allan	Flat 1 3 Jeremy Moore Avenue
000392	Ford	Jonathan	3 Pitaluga Place.
000393	Ford	Julie Ann	3 Pitaluga Place.
000394	Ford	Leann Caroline	15 Kent Road
000395	Ford	Leonard	5 Jersey Road
000396	Ford	Marilyn Christine	24 James Street
000397	Ford	Marvyn Neil	Lookout Lodge
000398	Ford	Michael	82 Davis Street
000399	Ford	Paul Edward	2 Philomel Place
000400	Ford	Robert	1 Davis Street
000401	Ford	Simon	1 James Street
000402	Ford	Tanya Louise	24 James Street
000403	Forrest	Jennifer Carol	16 Kent Road
000404	Forrest	Michael John	16 Kent Road
000405	Forster	Amanda	9 Fieldhouse Close
000406	Forster	Lynne	5 Discovery Close
000407	Forster	Sarah	9 Drury Street
000408	Fowler	Daniel Martin	2 Glasgow Road
000409	Fowler	John Andrew Thomas	2 Glasgow Road
000410	Fowler	Veronica May	2 Glasgow Road
000411	France	Graham Brian	7 Snake Street
000412	France	Ian Peter	7 Snake Street
000413	France	Jane Aileen Marie	7 Snake Street
000414	Freeman	Carl Francis	10 James Street
000415	Freeman	Dianne May	10 James Street
000416	Freeman	Rachael	12 James Street
000417	Freeman	Tracy	10 James Street
000418	Freer	Pamela Jane	56 John Street
000419	Freer	Stephen Paul James	56 John Street
000420	Fullerton	Mary Ellen	Government House
000421	Gilbert	Christopher Paul	11 Campbell Drive
000422	Gilbert	Judith Elizabeth	22 Jeremy Moore Avenue
000423	Gilbert	Mark Ian	22 Jeremy Moore Avenue
000424	Gilbert	Neil Robert	22 Jeremy Moore Avenue
000425	Gilbert	Robert Ernest	22 Jeremy Moore Avenue
000426	Gilson-Clarke	Dustin James	5 Villiers Street
000427	Gisby	Annie	33 Fitzroy Road
000428	Gleadell	Ian Keith	Stanley
000429	Goodwin	Angela Jane	11 Jersey Road
000430	Goodwin	Bonita Colleen	Flat 1 30 Jersey Road
000431	Goodwin	Christopher Sturdee	Lookout Lodge
000432	Goodwin	Colin Valentine	86 Davis Street

000433	Goodwin	Derek Samuel	Flat 1 30 Jersey Road
000434	Goodwin	Emily Rose	7 Brisbane Road
000435	Goodwin	Gareth Kevin	86 Davis Street
000436	Goodwin	Hazel Rose	3 Police Cottages 7 Ross Road
000437	Goodwin	June Elizabeth	86 Davis Street
000438	Goodwin	Kathleen Edith Marguerite	6 Thatcher Drive
000439	Goodwin	Mandy Hazel	45 Callaghan Road
000440	Goodwin	Robin	45 Callaghan Road
000441	Goodwin	Robin Christopher	27 Callaghan Road
000442	Goodwin	Simon James	Lookout Lodge
000443	Goodwin	Una	27 Callaghan Road
000444	Goodwin	William John Maurice	7 Brisbane Road
000445	Goss	Annagret	16 Jeremy Moore Avenue
000446	Goss	Corina Rose	20 Murray Heights
000447	Goss	Dorothy Ellen	4 Discovery Close
000448	Goss	Eric Miller	2 Fitzroy Road East
000449	Goss	Ian Ernest Earle	98 Davis Street
000450	Goss	Morgan Edmund	16 Jeremy Moore Avenue
000451	Goss	Roy Shepherd	4 Discovery Close
000452	Goss	Sandra Kathleen	11 Kent Road
000453	Goss	Shirley Ann	2 Fitzroy Road East
000454	Goss	Simon Peter Miller	11 Kent Road
000455	Goss	Susan Diann	98 Davis Street
000456	Goss	William Henry (jnr)	7 Brandon Road
000457	Gough	Ivan	John Street
000458	Gough	Phyllis Candy	John Street
000459	Gould	Arthur William	Moody Street
000460	Grant	Milly	3 Moody Street
000461	Gray	David Edward	22 Ross Road West
000462	Gray	Patricia May	22 Ross Road West
000463	Green	David William	Lois Cottage John Street
000464	Greenland	James Andrew William	9 Beaver Road
000465	Greenough	Geoffrey	50 Davis Street
000466	Greenough	Wanda Rose	50 Davis Street
000467	Grimmer	Edward	15 Pioneer Row
000468	Grimmer	Keith	15 Pioneer Row
000469	Grimmer	Marilyn	15 Pioneer Row
000470	Hadden	Alexander Burnett	27 Fitzroy Road
000471	Hadden	Sheila Peggy	27 Fitzroy Road
000472	Halford	Rodney John	Tenacres
000473	Halford	Sara Jayne	Tenacres
000474	Halford	Sharon	Tenacres
000475	Halliday	Cathy Anne	5 Drury Street
000476	Halliday	Gerald	Flat 1 6 Racecourse Road
000477	Halliday	Jeffrey James	8 Murray Heights
000478	Halliday	Raynor	9 Brisbane Road
000479	Hancox	Rachel Mary	9 Ross Road West
000480	Hancox	Robert James	4 James Street



000481	Hansen	Douglas John	6 Fitzroy Road
000482	Hansen	Keva Elizabeth	1 Dairy Paddock Road
000483	Hansen	Terence Joseph	1 Dairy Paddock Road
000484	Hardcastle	Kim Elizabeth	5 Pioneer Row
000485	Hardcastle	Simon Brook	5 Pioneer Row
000486	Harris	Christopher James	8 Pioneer Row
000487	Harris	Heather	3 Ross Road East
000488	Harris	Jill Yolanda Miller	19 Fitzroy Road
000489	Harris	Karl Henry	5a Ross Road East
000490	Harris	Leeann Watson	10 Dairy Paddock Road
000491	Harris	Leslie Sidney	19 Fitzroy Road
000492	Harris	Michael Ronald	3 Ross Road East
000493	Harris	Ralph Aaron	10 Dairy Paddock Road
000494	Harvey	Muriel Elizabeth Elsie	2 King Street
000495	Harvey	Sheila	41 Ross Road
000496	Harvey	William	21 Fitzroy Road
000497	Hawksworth	Jeanette	Flat 4 30 Jersey Road
000498	Hawksworth	Mary Catherine	5A Brisbane Road
000499	Hawksworth	Pauline May	29 Fitzroy Road
000500	Hawksworth	Terence	5A Brisbane Road
000501	Hayward	Marjorie	30 Eliza Cove Road
000502	Hayward	Neville	4 Rowlands Rise
000503	Hayward	Peter Dennis	30 Eliza Cove Road
000504	Hazell	Lee Felton	3 Drury Street
000505	Heathman	Malcolm Keith	15 Eliza Cove Road
000506	Heathman	Mandy Gail	15 Eliza Cove Road
000507	Heathman	Nyree	12 Scoresby Close
000508	Heathman	Tara	9 Snake Hill
000509	Henry	Alan Richard	8 Beaver Road
000510	Henry	Patricia Denise	8 Beaver Road
000511	Hernandez Manterola	Miguel Angel	3 Murray Heights
000512	Hernandez Trello	Maria Elena	3 Murray Heights
000513	Hewitt	Brian David	Stanley
000514	Hewitt	Clare Ann	1c Capricorn Road
000515	Hewitt	Frances Agnes	Flat 2 1 Jeremy Moore Avenue
000516	Hewitt	Gary George	3 Hebe Place
000517	Hewitt	Margaret Ann	3 Hebe Place
000518	Hewitt	Neil George	1C Capricorn Road
000519	Hewitt	Rachel Catherine Orissa	4 St. Marys Walk
000520	Hewitt	Robert John David	3 Thatcher Drive
000521	Hewitt	Sara Marie	102 Davis Street
000522	Hills	Heather Margaret	5 Davis Street
000523	Hills	Richard William	5 Davis Street
000524	Hirtle	Christine	5 Capricorn Road
000525	Hirtle	Debbie Ann	2b Capricorn Road
000526	Hirtle	Leonard John	2 Ian Campbell Drive
000527	Hirtle	Leonard Lloyd	2 Ian Campbell Drive
000528	Hirtle	Michael Barry	2 Ian Campbell Drive

000529	Hirtle	Rose Ann Shirley	4 Villiers Street
000530	Hirtle	Shirley	2 Ian Campbell Drive
000531	Hirtle	Zane Eric	Eliza Cove Road
000532	Hobman	Anilda Marilu	34 Ross Road West
000533	Hobman	Luis Alfonso	34 Ross Road West
000534	Hoggarth	Agnes Christina	2 James Street
000535	Howatt	Derek Frank	4 Racecourse Road
000536	Howatt	Suzanna Margaret	4 Racecourse Road
000537	Howe	Alison Delia	36 Davis Street
000538	Howe	Paul Anthony	36 Davis Street
000539	Howells	Anne Stephanie	112 Davis Street
000540	Howells	Roger	112 Davis Street
000541	Hoy	Dawn	2 Dean Street
000542	Humphreys	Hannah Elaine	7 Dean Street
000543	Humphreys	Margaret Anne	Endurance Avenue
000544	Hutton	Elizabeth Isabella	3 John Street
000545	Hutton	Philip	3 John Street
000546	Igao	Alejandro Neri	13 Scoresby Close
000547	Igao	Noel Neri	10 Goss Road
000548	Igao	Pauline Lynx	10 Goss Road
000549	Inglis	Alison Anne MacKenzie	9 Short Street
000550	Jackson	Kathleen	23 Fitzroy Road
000551	Jackson	Malcolm	23 Fitzroy Road
000552	Jackson	Mark Malcolm	5 Drury Street
000553	Jacobsen	Alistair	1A Philomel Street
000554	Jacobsen	Catherine Joan	1A Philomel Street
000555	Jacobsen	Tanzi	1a Philomel Street
000556	Jaffray	Elaine Michele	8 Discovery Close
000557	Jaffray	Estelle Anita	Snake Street
000558	Jaffray	Frank Alexander	8 Discovery Close
000559	Jaffray	Gerard Alan	19 Jersey Road
000560	Jaffray	Helen Rose	84 Davis Street
000561	Jaffray	Jacqueline Ann	17 Watson Way
000562	Jaffray	Janet	3 Fitzroy Road East
000563	Jaffray	John	40 Eliza Crescent
000564	Jaffray	John Summers	84A Davis Street
000565	Jaffray	John Willie	21 Watson Way
000566	Jaffray	June Elizabeth	17 Ross Road East
000567	Jaffray	Kenneth Ian	7 Jersey Road
000568	Jaffray	Lisa Jane	3 Biggs Road
000569	Jaffray	Phyllis	21 Watson Way
000570	Jaffray	Stephen James	11 James Street
000571	Jaffray	Tanya Fiona	5 Hebe Street
000572	Jaffray	Terence Roy	2 Rowlands Rise
000573	Jaffray	Terri-Ann	24 Endurance Avenue
000574	Jaffray	Tony	84 Davis Street
000575	Jaffray	Tracy	3 Fitzroy Road East
000576	Jennings	Neil	8 Moody Street

000577	Jennings	Stephen	5 Fitzroy Road
000578	Johnson	Lily Ann	5 Hebe Street
000579	Jones	Alan Smith	26 Ross Road West
000580	Jones	David Richard	6 Allardyce Street
000581	Jones	Dionne Michelle	35 Ross Road East
000582	Jones	Doreen Evelyn Margaret	6 Allardyce Street
000583	Jones	Evan Glynn	35 Ross Road East
000584	Jones	Jennifer	26 Ross Road West
000585	Jones	John Hugh	35 Ross Road East
000586	Jones	Kevin Richard	2 Discovery Close
000587	Jones	Michelle	35 Ross Road East
000588	Jones	Yvonne Malvina	3 Discovery Close
000589	Jonson	Amy Elizabeth	Rose Hotel Brisbane Road
000590	Jordan	Cara Jane	12 Goss Road
000591	Jordan	Ian	12 Goss Road
000592	Joshua	Josephine Mary	14a Brandon Road
000593	Joshua	Larry Arthur	14a Brandon Road
000594	Keane	Alva Rose Marie	18 Davis Street
000595	Keane	Olaf James	18 Davis Street
000596	Keane	Thomas James	18 Davis Street
000597	Keenleyside	Charles Desmond	3 Pioneer Row
000598	Keenleyside	Dorothy Maud	3 Pioneer Row
000599	Keenleyside	Manfred Michael Ian	2 Snake Street
000600	Keenleyside	Nanette Barbara	2 Snake Street
000601	Kenny	Erling	20 James Street
000602	Kidd	John Nathan	1 Hebe Street
000603	Kidd	Lillian Rose Orissa	1 Hebe Street
000604	Kiddle	Robert Karl	Flat3 6 Racecourse Road
000605	King	Anna Constance Eve	Villiers Street
000606	King	Desmond George Buckley	38 Davis Street
000607	King	Glynis Margaret	13 Ross Road East
000608	King	Michelle Beverley	4 Biggs Road
000609	King	Peter Thomas	10 Jeremy Moore Avenue
000610	King	Robert John	22/24 Davis Street
000611	King	Rosemarie	10 Jeremy Moore Avenue
000612	King	Vernon Thomas	39 Fitzroy Road
000613	Kirkham	Campbell Joseph	5 Capricorn Road
000614	Kultschar	John William	4 Davis Street East
000615	Kultschar	Yvonne Rosina	4 Davis Street East
000616	Laffi	Atilio Segundo	3 Brisbane Road
000617	Laffi	Kathleen Mary	3 Brisbane Road
000618	Lang	David Geoffrey	28 Goss Road
000619	Lang	James Patrick	Flat2 3 Jeremy Moore Ave East
000620	Lang	Marie-Bernard Therese	28 Goss Road
000621	Lang	Patrick Andrew	8a Moody Street
000622	Lang	Phillippa Josephine	28 Goss Road
000623	Lang	Sandra Shirleen	2 Allardyce Street
000624	Lang	Tamara Colette	4 Barrack Street

000625	Lang	Theresa Margaret	28 Goss Road
000626	Lang	Velma Emily	8a Moody Street
000627	Lang	William Frank	3 James Street
000628	Larsen	Ellen	74 Davis Street
000629	Lazo	Javier Waldemar Sanchez	80 Davis Street
000630	Lazo	Joanna Rose	80 Davis Street
000631	Lee	Alfred Leslie	11 Drury Street
000632	Lee	Beverley Christina	5 Villiers Street
000633	Lee	Gladys	11 Drury Street
000634	Lee	Joanne Hazel Rose	Pioneer Row
000635	Lee	Leslie James	10 Allardyce Street
000636	Lee	Mandy John	15 James Street
000637	Lee	Myles	Stanley
000638	Lee	Nicola	3 Davis Street East
000639	Lee	Owen Henry	4 Pioneer Row
000640	Lee	Tanya	15 Campbell Drive
000641	Lee	Trudi Dale	10 Allardyce Street
000642	Lee	Victoria Jane	Y.M.C.A
000643	Legg	Priscilla Alison	12a Brandon Road
000644	Legg	Robert Keith	12a Brandon Road
000645	Lennie	Gordon Carnie	9 Narrows View
000646	Lewis	David James	3 Campbell Drive
000647	Lewis	James	2 St. Marys Walk
000648	Lewis	Jason	9 Short Street
000649	Lewis	Jean	2 St. Marys Walk
000650	Lewis	Pamela Irene	3 Campbell Drive
000651	Lewis	Sharon	11 Campbell Drive
000652	Leyland	Frank	10 Brandon Road
000653	Leyland	Vera	10 Brandon Road
000654	Livermore	Anton	33 Callaghan Road
000655	Livermore	Darren	5 Philomel Place
000656	Livermore	Isla Karen	33 Callaghan Road
000657	Llamosa	Theresa Kathleen	25 Shackleton Drive
000658	Loftus	Geoffrey	11 Firzroy Road
000659	Loveridge	Daniel Nolan	1 Ross Road West
000660	Loveridge	Marie Pearl	1 Ross Road West
000661	Lowe	Anthony Trevor	54 Davis Street
000662	Luxton	Anna	1A Pioneer Row
000663	Luxton	Jennifer Mary	4 Hebe Place
000664	Luxton	Michael	1A Pioneer Row
000665	Luxton	Nicola	1A Pioneer Row
000666	Luxton	Robin	1 Jersey Road
000667	Luxton	Stephen Charles	7 Narrows View
000668	Luxton	Sybil Grace	38 John Street
000669	Luxton	Wendy Jennifer	1 Jersey Road
000670	Luxton	Winifred Ellen	15 Fitzroy Road
000671	Lyse	Ethel Malvina	65 Fitzroy Road
000672	Lyse	George Walter	8 Moody Street

000673	Lyse	Linda Margaret	65 Fitzroy Road
000674	Macaskill	Angus Lindsay	8 Jeremy Moore Avenue
000675	Macaskill	Jeanette May	8 Jeremy Moore Avenue
000676	Macaskill	John	34 Ross Road West
000677	MacBeth	Phyllis Elizabeth Grace	17 Brandon Road
000678	MacDonald	Colin George	26 Endurance Avenue
000679	MacDonald	Derek George	112 Davis Street
000680	MacDonald	Irene	26 Endurance Avenue
000681	Maciello	Susan Ovedia Franz De	12 Watson Way
000682	Maddocks	Robert Charles	11 Murray Heights
000683	Malcolm	Velma	7 Allardyce Street
000684	Marsh	Arlette Sharon	7 Jersey Road
000685	Marsh	James Justin	6 Murray Heights Stanley
000686	May	Brian Roy	21 Jeremy Moore Avenue
000687	May	Bruce Raymond	9 Kent Road
000688	May	Christopher Raymond	9 Callaghan Road
000689	May	Connie	9 Kent Road
000690	May	Donna Monica	YMCA
000691	May	Heather	1 Glasgow Road
000692	May	Jonathan Roy	12 Jeremy Moore Avenue
000693	May	Lindsey Olga	9 Callaghan Road
000694	May	Lucinda Vikki	12 Jeremy Moore Avenue
000695	May	Monica	21 Jeremy Moore Avenue
000696	May	Roger	11 Jersey Road
000697	May	William Albert	1 Glasgow Road
000698	McCallum	Bertina Kay	14 Drury Street
000699	McCallum	Christopher John	8A Jeremy Moore Avenue
000700	McCallum	Tanya	8 Discovery Close
000701	McCallum	Timothy Andrew	14A Drury Street
000702	McCormick	Dale Ronald	29 Callaghan Road
000703	McCormick	Pauline Margaret Ruth	29 Callaghan Road
000704	McCormick	Richard Paul	29 Callaghan Road
000705	McCormick	Wayne Stanley James	2 Hebe Place
000706	McGill	Cara Jane	21 John Street
000707	McGill	Coral Elizabeth	Flat 6 Jersey Estate
000708	McGill	Darrel Ian	20 Jeremy Moore Avenue
000709	McGill	David William	17 James Street
000710	McGill	Derek Gary	12 Scoresby Close
000711	McGill	Diane Beverley	2 James Street
000712	McGill	Doris Mary	32 Davis Street
000713	McGill	Gary	15 Brandon Road
000714	McGill	Glenda	1c Capricorn Road
000715	McGill	Ian Peter	1c Capricorn Road
000716	McGill	Len Stanford	2 James Street
000717	McGill	Lorraine Iris	10 Ross Road East
000718	McGill	Teresa Rose	26 Ross Road East
000719	McGinness	Janice	10 Beaver Road
000720	McKay	Clara Mary	20 Ross Road West

000721	McKay	Heather Valerie	16 Eliza Crescent
000722	McKay	Jeannie Paullina	64 Davis Street
000723	Mckay	Jennifer Coral	29 Callaghan Road
000724	McKay	Kevin Derek Charles	51 Callaghan Road
000725	McKay	Mandy Rose	51 Callaghan Road
000726	McKay	Melvyn Andrew	5 James Street
000727	McKay	Michael John	64 Davis Street
000728	McKay	Neil	62 Davis Street
000729	McKay	Paul Anthony	3 Nutt Cartmel Drive
000730	McKay	Peter John	21 Ross Road West
000731	McKay	Rex	16 Eliza Crescent
000732	McKay	Shelley Jane	7 Villiers Street
000733	McKay	Trudi Ann	10 Ian Campbell Drive
000734	McKay	William Robert	20 Ross Road West
000735	McKenzie	Alice Maude	Moody Brook Homestead
000736	McKenzie	Charles Alexander Albert John	Moody Brook Homestead
000737	McLaren	Caroline Mary	12 Allardyce Street
000738	McLaren	Tony Eugene Terence	12 Allardyce Street
000739	McLeod	David	49 Callaghan Road
000740	McLeod	Henry Donald Alexander	36 Eliza Crescent
000741	McLeod	Ian	9 Fitzroy Road
000742	McLeod	Ian James	30 Endurance Avenue
000743	McLeod	Jane Elizabeth Diana	36 Eliza Crescent
000744	McLeod	Janet Wensley	75 Davis Street
000745	McLeod	Janice	2 Ross Road West
000746	McLeod	Joan May	Stanley
000747	McLeod	John (1)	1 Campbell Drive
000748	McLeod	John (2)	23 Murray Heights
000749	McLeod	Louise	1 Campbell Drive
000750	McLeod	Madeline Jean	1 Campbell Drive
000751	McLeod	Mally	9 Fitzroy Road
000752	McLeod	Margaret Ann	Fitzroy Road East
000753	McLeod	Michael William	5 Short Street
000754	McLeod	Pearl Mary Ann	3 Brisbane Road
000755	McLeod	Robert	75 Davis Street
000756	McLeod	Robert John	2 Ross Road West
000757	McMullen	June	8 Brandon Road
000758	McMullen	Lucille Anne	6a John Street
000759	McMullen	Mathew John	8 Brandon Road
000760	McMullen	Tony	8 Brandon Road
000761	McNally	Patricia Jayne	18 Ross Road East
000762	McPhee	Denise	4 Brandon Road West
000763	McPhee	Iris Blanche	31 Ross Road East
000764	McPhee	Justin Owen	4 Brandon Road West
000765	McPhee	Marjorie May	14 John Street
000766	McPhee	Owen Horace	14 John Street
000767	McPhee	Patrick	31 Ross Road East
000768	McPhee	Sara	1 Hebe Place

000769	McRae	David Michael	2 H Jones Road
000770	McRae	Elvis Richard	Shackleton Drive
000771	McRae	Gloria Linda	2 H Jones Road
000772	McRae	Mandy	James Street
000773	McRae	Michael	8 Goss Road
000774	McRae	Richard Winston	Flat2 6 Racecourse Road
000775	Middleton	Brian	13 McKay Close
000776	Middleton	Caroline Ann	7 James Street
000777	Middleton	Dennis Michael	Dolphin Cottage
000778	Middleton	Graham Cyril	50 Davis Street
000779	Middleton	Joan Eliza	8 James Street
000780	Middleton	Kerry Ann	Dolphin Cottage
000781	Middleton	Leonard	67 Fitzroy Road
000782	Middleton	Phillip John	5 St Marys Walk
000783	Middleton	Sharon Elizabeth	Dolphin Cottage
000784	Middleton	Stephanie Anne	13 McKay Close
000785	Middleton	Yvonne Allison	50 Davis Street
000786	Miller	Andrew Nigel	12 James Street
000787	Miller	Betty Lois	6 St Marys Walk
000788	Miller	Bruce Graham	10 Pioneer Row
000789	Miller	Carol	Moody Brook
000790	Miller	Florence Roberta	5 Moody Street
000791	Miller	Gail Marie	2 Police Cottages 8 Ross Road
000792	Miller	Janet Mary	Market Garden Airport Road
000793	Miller	Jayne Elizabeth	27 Davis Street
000794	Miller	Jeanette	10 Pioneer Row
000795	Miller	Simon Roy	Moody Brook
000796	Miller	Steven Geoffrey	Lookout Lodge
000797	Miller	Timothy John Durose	Market Garden Airport Road
000798	Mills	Terence Kenneth	43 Callaghan Road
000799	Minnell	Adrian James	Flat 4 30 Jersey Road
000800	Minnell	Michelle Rose	41 Eliza Crescent
000801	Minto	Alistair Daen	Lookout Lodge
000802	Minto	Dilys Rose	18 Endurance Avenue
000803	Minto	Graham Stewart	12 Brisbane Road
000804	Minto	Isabel	12 Brisbane Road
000805	Minto	Patrick Andrew	3b Jersey Road
000806	Minto	Timothy Ian	18 Enurance Avenue
000807	Miranda	Augusto	31 Davis Street
000808	Miranda	Carmen	20 Davis Street
000809	Miranda	Ramon	3 Drury Street
000810	Miranda	Winifred Dorothy	3 Drury Street
000811	Mitchell	Cherilyn Julie	32 Ross Road East
000812	Mitchell	Lee Robertson	32 Ross Road East
000813	Mitchell	Leon John	6 Discovery Close
000814	Moffatt	Angela	20 Ross Road East
000815	Moffatt	James	20 Ross Road East
000816	Moffatt	Jay	20 Ross Road East

000817	Moffatt	Kelly	20 Ross Road East
000818	Molkenbuhr	Jill Edith	19 Sullivan Street
000819	Molkenbuhr	Lee Charles	19 Sullivan Street
000820	Morris	Alana Marie	4 Callaghan Road
000821	Morris	David	4 Callaghan Road
000822	Morris	Jason Paul	59 Fitzroy Road
000823	Morris	Michelle Jane	6 McKay Close
000824	Morris	Trevor Alan	6 McKay Close
000825	Morrison	Doreen	82 Davis Street
000826	Morrison	Edgar Ewen	13 Jersey Road
000827	Morrison	Eric George	5 Fieldhouse Close
000828	Morrison	Fayan	54 John Street
000829	Morrison	Graham Stewart	34a Davis Street
000830	Morrison	Jacqueline Denise Anita	13 Ian Campbell Drive
000831	Morrison	Joan Margaret	Flat6 1 Jeremy Moore Avenue
000832	Morrison	Joanne Elizabeth	3 Racecourse Road East
000833	Morrison	Joleen Coleen	Flat 6 1 Jeremy Moore Avenue
000834	Morrison	Kenneth	13 Ian Campbell Drive
000835	Morrison	Lewis Ronald	12 Callaghan Road
000836	Morrison	Marcus Lewis	82 Davis Street
000837	Morrison	Michael John	10 Fitzroy Road East
000838	Morrison	Muriel Eliza Ivy	40 Eliza Crescent
000839	Morrison	Nanette Rose	46 Davis Street
000840	Morrison	Nigel Peter	7 James Street
000841	Morrison	Patrick	1 Brandon Road West
000842	Morrison	Paul Roderick	3 Racecourse Road East
000843	Morrison	Ronald Terence	5 Racecourse Road
000844	Morrison	Russell John Allan	6A Jeremy Moore Avenue
000845	Morrison	Stewart	46 Davis Street
000846	Morrison	Susan Margaret	10 Fitzroy Road East
000847	Morrison	Tamara	13 Ian Campbell Drive
000848	Morrison	Timothy	YMCA
000849	Morrison	Valerie Anne	39 Ross Road
000850	Morrison	Violet Sarah	5 Racecourse Road
000851	Morrison	William Roderick Halliday	54 John Street
000852	Munro	Grant Mackintosh	69 Fitzroy Road
000853	Murphy	Ann Susan	2 King Street
000854	Murphy	Bessie	68 Davis Street
000855	Neilson	Barry Marwood	23 Ross Road
000856	Neilson	Edward Sydney	23 Ross Road
000857	Neilson	Harold Ian	66 Davis Street
000858	Neilson	Margaret	23 Ross Road
000859	Newell	Joseph Orr	3 Villiers Street
000860	Newell	Paula Michelle	11 Brandon Road
000861	Newell	Trudi Malvina	3 Villiers Street
000862	Newman	Andrew Raymond	4 Biggs Road
000863	Newman	Marlene	11 Jeremy Moore Avenue
000864	Newman	Raymond Winston	11 Jeremy Moore Avenue



000865	Newman	Tansy Fiona	5 Jersey Road
000866	Newman	Terence	24 Endurance Avenue
000867	Nutter	Arthur Albert	9 Brandon Road
000868	Nutter	Josephine Lesley	9 Brandon Road
000869	O'Dean	Barry Charles	1 Goss Road
000870	Olmedo	Alex	6 Watson Way
000871	Ormond	Christina Helen	6 Goss Road
000872	Ormond	Kevin Michael Patrick Joseph	6 Goss Road
000873	Parrin	Norman George	108 Davis Street
000874	Patterson-Smith	Ian Colin	15 Watson Way
000875	Pauloni	Hilary Maud	63 Fitzroy Road
000876	Pauloni	Romolo Vittorio	63 Fitzroy Road
000877	Paver	Bernadette Marguerite	Moody Brook House
000878	Payne	Dilys Agnes	2 Racecourse Road East
000879	Payne	Joanne Francis	2 Racecourse Road East
000880	Payne	Samantha Jane	2 Racecourse Road East
000881	Payne	St. John Peter	2 Racecourse Road East
000882	Peake	Arthur	19 James Street
000883	Peck	Burnerd Brian	22 James Street
000884	Peck	Carol Margaret	2 Discovery Close
000885	Peck	Christine	21 Jersey Road
000886	Peck	David John	15 Villiers Street
000887	Peck	Eleanor Margaret	10 Davis Street
000888	Peck	Gordon Pedro James	34 Eliza Crescent
000889	Peck	Harwood John Charles	26 Eliza Crescent
000890	Peck	James	2 Barrack Street
000891	Peck	Maureen Heather	78 Davis Street
000892	Peck	Patrick William	78 Davis Street
000893	Peck	Shirley	2 Barrack Street
000894	Peck	Terence John	10 Davis Street
000895	PED		6 Beaver Road
000896	Perkins	Vivienne Esther Mary	33 John Street
000897	Perry	Hilda Blanche	6 St Marys Walk
000898	Perry	Thora Virginia	17 Fitzroy Road
000899	Pettersson	Derek Richard	21 Eliza Crescent
000900	Pettersson	Tony	30 Davis Street
000901	Pettersson	Trudi Ann	21 Eliza Crescent
000902	Phillips	Albert James	16 Brandon Road
000903	Phillips	David Dawson	35 Fitzroy Road
000904	Phillips	Linda	16 Brandon Road
000905	Phillips	Paul David	11 Fieldhouse Close
000906	Phillips	Shula Louise	11 Fieldhouse Close
000907	Platt	Claire	Rose Hotel Drury Street
000908	Pole-Evans	Amy Rose	4 Harbour View
000909	Pole-Evans	Ian	Dorada
000910	Pole-Evans	John	16 Ross Road East
000911	Pole-Evans	Lisa	66 Davis Street
000912	Pole-Evans	Martin	YMCA

000913	Pole-Evans	Michael Anthony	4 Harbour View
000914	Pole-Evans	Paula	5 Biggs Road
000915	Pollard	Andrew Keith	4 Hebe Place
000916	Pollard	Elizabeth Eve	23 Ross Road East
000917	Pollard	John	23 Ross Road East
000918	Pollard	Mark John	23 Ross Road East
000919	Pompert	Joost Herman Willem	11 Ross Road West
000920	Poncet	Lars Nigel	2 Brandon Road West
000921	Poncet	Sally Elizabeth	2 Brandon Road
000922	Poole	Andrea Joan	52 John Street
000923	Poole	Christopher William	John Street
000924	Poole	Evelyn May	31 Fitzroy Road
000925	Poole	Nancy Margaret	52 John Street
000926	Poole	Raymond John	52 John Street
000927	Poole	Ross William	52 John Street
000928	Poole	William John	31 Fitzroy Road
000929	Porter	Charles	11 Fitzroy Road
000930	Porter	Elizabeth	5 Thatcher Drive
000931	Porter	Jean Lavinia	11 Fitzroy Road
000932	Porter	Tracy	5 Jeremy Moore Avenue
000933	Pratlett	Patricia Carol Ann	10 A James Street
000934	Prindle-Middleton	Stella Margaret	5 St Mary's Walk
000935	Pring	Bernadette June Spencer	5a Ross Road West
000936	Pring	Geoffrey Alan	5a Ross Road West
000937	Purvis	Alan	3 Narrows View
000938	Purvis	Marion Louise	3 Narrows View
000939	Reddick	Keith John	By-Pass Road
000940	Reeves	Carolyn Wendy	2 Moody Street
000941	Reeves	Michael	2 Moody Street
000942	Reid	Ann	Lois Cottage John Street
000943	Reid	Beverley Rose	9 Fitzroy Road East
000944	Reid	Colleen Rose	9 Fitzroy Road East
000945	Reid	Emily Margaret	14 Endurance Avenue
000946	Reid	John Alexander	41 Fitzroy Road
000947	Reid	Reynold Gus	9 Fitzroy Road East
000948	Reid De Davino	Pamela Ruth	7 John Street
000949	Reive	Roma Endora Mary	St Marys Walk
000950	Rendell	Michael	8 Ross Road West
000951	Rendell	Nicholas Simon Oliver	8 Ross Road West
000952	Rendell	Phyllis Mary	8 Ross Road West
000953	Richards	Shirley	8 James Street
000954	Riddell	Lisa Marie	9 Discovery Close
000955	Roberts	Cheryl Ann Spencer	49 Ross Road East
000956	Roberts	David Anthony	7 Jersey Road
000957	Roberts	Jill Christine	Narrows Bar
000958	Roberts	Laura May	7 Kent Road
000959	Roberts	Lynn	6 Rowlands Rise
000960	Roberts	Peter James	49 Ross Road East

000961	Roberts	Simon Theodore Nathaniel	Narrows Bar
000962	Robertson	Kim Rita Anne	Stanley House
000963	Robertson Pompert	Janet	11 Ross Road West
000964	Robson	Alison Emily	15 Villiers Street
000965	Robson	Cherry Rose	1 James Street
000966	Robson	Debbi Louisa	6 Brisbane Road
000967	Robson	Gerard Michael	1 Philomel Place
000968	Robson	Miranda Gay	6 Brisbane Road
000969	Robson	Phyllis Ann	1 Philomel Place
000970	Robson	Raymond Nigel	6 Brisbane Road
000971	Robson	William Charles	18 Ross Road East
000972	Rodriguez Reid	Elizabeth Jayne	33 Ross Road West
000973	Ross	Andrea Joanna Ampuero	4 Rowlands Rise
000974	Ross	Crystal Rose	Flat1 30 Jersey Road
000975	Ross	Glenn Stephen	23 Watson's Way
000976	Ross	Janet	23 Watson's Way
000977	Ross	Kevin John	21 John Street
000978	Ross	Lachlan Neil	7 Discovery Close
000979	Ross	Marie	3 Drury Street
000980	Ross	Roy	47 Callaghan Road
000981	Ross	Sheena Margaret	Crozier Place
000982	Rowland	Charlene Rose	19 Jeremy Moore Avenue
000983	Rowland	John Christopher	19 Jeremy Moore Avenue
000984	Rowland	Sarah Anne	19 Jeremy Moore Avenue
000985	Rowlands	Catherine Annie	3 Hebe Street
000986	Rowlands	Daisy Malvina	39 John Street
000987	Rowlands	Dorinda Roberta	3a Hebe Street
000988	Rowlands	Harold Theodore	8 Ross Road East
000989	Rowlands	Neil	3A Hebe Street
000990	Rowlands	Robert John	13 Callaghan Road
000991	Rozee	Betty Ellen	16 Davis Street
000992	Rozee	Bryn	Davis Street
000993	Rozee	Derek Robert Thomas	16 Davis Street
000994	Rozee	Karen Michella	16 Davis Steet
000995	Rozee	Shona Mary	5 Pitaluga Place
000996	Sackett	Albert John	25 Ross Road East
000997	Sackett	Michael John Carlos	30 Eliza Cove Road
000998	Sackett	Pauline	25 Ross Road East
000999	Sawle	Judith Margaret	Seaview Cottage Ross Road
001000	Sawle	Richard	Seaview Cottage Ross Road
001001	Seron	Jose Segundo	M/V Tamar C/o Byron Marine
001002	Shepherd	Ramsey	Discovery Close
001003	Short	Alison	9 Pioneer Row
001004	Short	Brenda	Barrack Street
001005	Short	Celia Soledad	1 Racecourse Road
001006	Short	Christina Ethel	12 Brandon Road
001007	Short	Derek Patrick	Ross Road West
001008	Short	Dilys Margaret Ann	6A Pioneer Row

001009	Short	Emily Christina	1 Fitzroy Road East
001010	Short	Gavin Phillip	Rose Hotel
001011	Short	Marc Peter	1 Racecourse Road
001012	Short	Marlene Cindy	9 Pitaluga Place
001013	Short	Matias Ricardo	4 Dairy Paddock Road
001014	Short	Montana Tyrone	4 Dairy Paddock Road
001015	Short	Nabil George	4 Dairy Paddock Road
001016	Short	Peter Robert	1 Fitzroy Road East
001017	Short	Richard Edward	9 Pitaluga Place
001018	Short	Riley Ethroe	Barrack Street
001019	Short	Robert Charles	12A Brandon Road
001020	Short	Vilma Alicia	4 Dairy Paddock Road
001021	Simpson	Bertha Veronica	8 Rowlands Rise
001022	Simpson	James Alexander Bruce	7 Racecourse Road
001023	Simpson	James Garry	7 Racecourse Road
001024	Simpson	John Frederick	8 Rowlands Rise
001025	Simpson	Mirabel Hermione	7 Racecourse Road
001026	Sinclair	Veronica Joyce	21 Ross Road West
001027	Skene	Greta Winnora Miller	22 Ross Road East
001028	Smallwood	Akira Ali	105 Davis Street
001029	Smallwood	Margo Ameer	105 Davis Street
001030	Smallwood	Michael Anthony	105 Davis Street
001031	Smith	Anthony David	10 Fieldhouse Close
001032	Smith	Caroline	5 Brandon Road
001033	Smith	Colin David	6 James Street
001034	Smith	Derek	8 Eliza Crescent
001035	Smith	Elenore Olive	3 Brisbane Road
001036	Smith	Eric	Flat 1 1 Moody Street
001037	Smith	George Patterson	15 Watson Way
001038	Smith	Gerard Alexander	8 Barrack Street
001039	Smith	Gina Ruth Mary	28 Jersey Road
001040	Smith	Heather	19 Watson Way
001041	Smith	Ian Lars	5 Brandon Road
001042	Smith	Ileen Rose	28 Ross Road West
001043	Smith	James Terence	3 Fitzroy Road West
001044	Smith	Jennifer Ethel	6 Watson Way
001045	Smith	Jenny Lorraine	15 Watson Way
001046	Smith	John	28 Ross Road West
001047	Smith	Julia Trindad	8 Eliza Crescent
001048	Smith	Lisa Margaret	Flat 8 2 Eliza Place
001049	Smith	Martyn James	6A Ross Road West
001050	Smith	Michael Edmund	15 Watson Way Stanley
001051	Smith	Natalie Marianne	6 James Street
001052	Smith	Nora Kathleen	5 Fitzroy Road East
001053	Smith	Osmund Raymond	3 Brisbane Road
001054	Smith	Paul	2 Ross Road West
001055	Smith	Paulette Rose	KEMH
001056	Smith	Rhona	8 Fitzroy Road

001057	Smith	Robin Charles	19 Watson Way
001058	Smith	Roy Alan	37 Ross Road East
001059	Smith	Russell James	8 Fieldhouse Close
001060	Smith	Tyssen John Richard	28 Jersey Road
001061	Socodo	Pheobe Esther	19 Murray Heights
001062	Sollis	Sarah Emma Maude	20 Drury Street
001063	Spicer	Mark Anthony	16 St Mary's Walk
001064	Spicer	Susan	16 St. Marys Walk
001065	Spink	Roger Kenneth	43 Ross Road East
001066	Spinks	Malvina Ellen	Flat6 7 Jeremy Moore Ave East
001067	Spruce	Helena Joan	29 Ross Road West
001068	Spruce	Mark Felton	29 Ross Road West
001069	Spruce	Terence George	29 Ross Road West
001070	Steen	Barbara Ingrid	39 Ross Road West
001071	Steen	Karen Lucetta	32 Fitzroy Road
001072	Steen MacDonald	Vanda Joan	38 Ross Road
001073	Stenning	Anna Russalka	5B Ross Road West
001074	Stenning	Timothy Charles	5B Ross Road West
001075	Stephenson	James	Moody Valley
001076	Stephenson	Joan Margaret	Moody Valley
001077	Stephenson	Katrina	4 Davis Street
001078	Stephenson	Zachary	4 Davis Street
001079	Stevens	Paul Theodore	6 Dairy Paddock Road
001080	Stevens	Valerie Ann	6 Dairy Paddock Road
001081	Stewart	Aarron Stephen	6 Pioneer Row
001082	Stewart	Celia Joyce	12 St Marys Walk
001083	Stewart	David William	55 Davis Street
001084	Stewart	Hulda Fraser	24 Ross Road West
001085	Stewart	Ian Bremner	34 Ross Road East
001086	Stewart	Irene Anne	Racecourse Road
001087	Stewart	Kenneth Barry	3 Discovery Close
001088	Stewart	Pam Ellen	18 Endurance Avenue
001089	Stewart	Robert	12 St Marys Walk
001090	Stewart	Robert William	Flats Racecourse Road
001091	Stewart	Sheila Olga	34 Ross Road East
001092	Stewart	Sylvia Rose	7 Ross Road West
001093	Stewart-Reid	Carol Ellen Eva	41 Fitzroy Road
001094	Strange	Georgina	The Dolphins Snake Street
001095	Strange	Maria Marta	The Dolphins Snake Street
001096	Strange	Shona Marguerite	6b Ross Road West
001097	Summers	Alastair Peter	1 Ross Road East
001098	Summers	Brian	1 Ross Road East
001099	Summers	Deborah	14 Pioneer Row
001100	Summers	Dennis David	18 Endurance Avenue
001101	Summers	Donna	8 Racecourse Road
001102	Summers	Dorothy Constance	42 Eliza Crescent
001103	Summers	Edith Catherine	5 Dean Street
001104	Summers	Irvin Gerard	Sir Rex Hunt House

001105	Summers	Jacqueline	11 Pioneer Row
001106	Summers	Jonathan Derek	5 Allardyce Street
001107	Summers	Judith Orissa	1 Ross Road East
001108	Summers	Lynn Jane	20 Jeremy Moore Avenue
001109	Summers	Michael Kenneth	6A Brisbane Road
001110	Summers	Michael Victor	11 Pioneer Row
001111	Summers	Naomi Christine	9 Eliza Crescent
001112	Summers	Nichola Jane	13 Jersey Road
001113	Summers	Owen William	5 Brandon Road
001114	Summers	Rowena Elsie	5 Allardyce Street
001115	Summers	Roy	9 Murray Heights
001116	Summers	Sheila	Sir Rex Hunt House
001117	Summers	Sybella Catherine Ann	1 Ross Road West
001118	Summers	Sylvia Jean	8 Racecourse Road
001119	Summers	Terence	1 Ross Road West
001120	Summers	Tony	8 Racecourse Road
001121	Summers	Veronica	5 Brandon Road
001122	Sutherland	Elizabeth Margaret	13/14 Eliza Cove Road
001123	Sutherland	John Gall	3B Jersey Estate
001124	Sutherland	William John Munro	13/14 Eliza Cove Road
001125	Teale	Colin Edwin	8 Brisbane Road
001126	Teale	Jeannette	8 Brisbane Road
001127	Tellez	Jose Hector	2 Hodson Villa West
001128	Thain	John	8 Davis Street
001129	Thain	Stephanie Ann	8 Davis Street
001130	Thom	David Anderson	47 Fitzroy Road
001131	Thom	Dorothy Irene	47 Fitzroy Road
001132	Thom	John Currie	25 Ross Road East
001133	Thom	Norma Ann	92 Davis Street
001134	Thompson	William John	Flat2 1 Moody Street
001135	Tomlinson	Anita Helen	6 Police Cottages
001136	Triggs	David William	3 Fieldhouse Close
001137	Triggs	Diane	3 Fieldhouse Close
001138	Triggs	Michael David	3 Fieldhouse Close
001139	Tuckwood	John Rodney	1 Drury Street
001140	Tuckwood	Phyllis Majorie	1 Drury Street
001141	Turner	Diana Jane	Murray Heights
001142	Turner	Melvyn George	36 John Street
001143	Turner	Ronald	KEMH
001144	Tyrrell	Garry Bernard	1 Beaver Road
001145	Tyrrell	Gina Michelle	1 Beaver Road
001146	Valler	Glyndwr Huw	Flat4 8 Jersey Road
001147	Valler	Robert Hugh	9 Philomel Street
001148	Vidal	Eileen Nora	12 Jeremy Moore Avenue
001149	Vidal Roberts	Leona Lucila	7 Jersey Road
001150	Villalon	Elizabeth Alice	7 McKay Close
001151	Villalon	Hector Ricardo	7 McKay Close
001152	Villegas	Caroline	7 Fieldhouse Close

001153	Vincent	Janette Mary	10 Endurance Avenue
001154	Vincent	Stephen Lawrence	10 Endurance Avenue
001155	Wade	Donald Harold	17 Murray Heights
001156	Wade	June Rose Elizabeth	17 Murray Heights
001157	Wallace	Fiona Alice	21 Murray Heights
001158	Wallace	Fraser Barrett	10 John Street
001159	Wallace	Helen Jean	10 John Street
001160	Wallace	James Barrett	38 Ross Road West
001161	Wallace	Maria Lilian	38 Ross Road West
001162	Wallace	Michael Ian	23 Callaghan Road
001163	Wallace	Stuart Barrett	38 Ross Road West
001164	Wallace	Una	23 Callaghan Road
001165	Ward	Alison Denise	19 Scoresby Close
001166	Ward	Dennis James	19 Scoresby Close
001167	Watson	Ben	7 Moody Street
001168	Watson	Paul	20 Endurance Avenue
001169	Watson	Ruth Jane	20 Endurance Avenue
001170	Watt	Stephen Robert	11 Narrows View
001171	Watt	Sylvia Ann	11 Narrows View
001172	Watts	Amara Theresa	25 Fitzroy Road
001173	Watts	Patrick James	13 Brisbane Road
001174	Webb	Gary Colin	58 Davis Street
001175	Webb	Loretta Isobel	58 Davis Street
001176	White	Judy Marie	Flat 1 3 Jeremy Moore Avenue
001177	White	Kathleen Elizabeth	9 Thatcher Drive
001178	Whitney	Frederick William	1 Police Cottages 9 Ross Road
001179	Whitney	Henry Leslie	3 St Marys Walk
001180	Whitney	Jason	15 Ross Road East
001181	Whitney	Kurt Ian	2 Pioneer Row
001182	Whitney	Lana Rose	22 Eliza Crescent
001183	Whitney	Susan Joan	1 Police Cottages 9 Ross Road
001184	Wilkinson	Alistair Graham	6 Murray Heights
001185	Wilkinson	Johan	6 Murray Heights
001186	Wilkinson	Robert John	2a Brisbane Road
001187	Williams	Gene	23 Ross Road West
001188	Williams	Gillian Carol	Flat4 1 Jeremy Moore Avenue
001189	Williams	Glen	33 Ross Road East
001190	Williams	Margaret Elizabeth	33 Ross Road East
001191	Williams	Marlene Rose	23 Ross Road West
001192	Winter	Teresa Irene	4A Jeremy Moore Avenue East
001193	Wylie	Julian Richard	1 McKay Close
001194	Zuvic-Bulic	Kuzma Mario	Holdfast Road
001195	Zuvic-Bulic	Sharon Marie	Holdfast Road

000001	Alazia	George Robert	Hope Cottage, East Falkland
000002	Alazia	Keith	Goose Green, East Falkland
000003	Alazia	Mandy Gwyneth	Port Edgar Farm, West Falkland
000004	Alazia	Michael Robert	Port Edgar Farm, West Falkland
000005	Alazia	Thora Lilian	North Arm, East Falkland
000006	Aldridge	Brian George	Goose Green East Falkland
000007	Aldridge	Diana Mary	Goose Green East Falkland
000008	Aldridge	Olive Elizabeth	Hill Cove, West Falkland
000009	Aldridge	Terence William	Hill Cove, West Falkland
000010	Anderson	Jenny	Smylies Farm, East Falkland
000011	Anderson	Lynda June	New House, East Falkland
000012	Anderson	Tony James	Smylies Farm, East Falkland
000013	Anderson	William John Stanley	New House, East Falkland
000014	Armstrong Ford	Karen Jane	North Arm, East Falkland
000015	Ashworth	Glennis	Riverside Farm, East Falkland
000016	Ashworth	Iain	Riverside Farm, East Falkland
000017	Ashworth	Malcolm	Riverside Farm, East Falkland
000018	Bagley	Darren Clive	Riverview Farm, East Falkland
000019	Bagley	Jacqueline Elizabeth	Riverview Farm, East Falkland
000020	Barnes	Dierdre	Dunbar Farm, West Falkland
000021	Barnes	Marshall	Dunbar Farm, West Falkland
000022	Barrientos	Jose Sixto Ruiz	Walker Creek, East Falkland
000023	Beattie	Ian Robert Ewen	North Arm, East Falkland
000024	Berntsen	Arina Janis	Pebble Island, West Falkland
000025	Berntsen	Benjamin John	Elephant Beach, East Falkland
000026	Berntsen	Leon	Albermarle Stn, West Falkland
000027	Berntsen	Pamela Margaret	Albermarle Stn, West Falkland
000028	Betts	Bernard Keith	Boundary Farm, West Falkland
000029	Betts	Diane Joan	Boundary Farm, West Falkland
000030	Betts	Irene Marion	Boundary Farm, West Falkland
000031	Binnie	Horace James	Fox Bay Village, West Falkland
000032	Blake	Anthony Thomas	Little Chartres, West Falkland
000033	Bober	John	Turners, MPA, East Falkland
000034	Bonner	Donald William	Sound House, North Arm E.F.I
000035	Bonner	Simon	Port Howard, West Falkland
000036	Bonner	Susan Anne	Port Howard, West Falkland
000037	Browning	Gavin	Fitzroy Farm East Falkland
000038	Butler	James Donald	Goose Green, East Falkland
000039	Chater	Anthony Richard	New Island, West Falkland
000040	Clark	Frederick Thomas	Hawkbit, Fitzroy East Falkland
000041	Clarke	Alan Neil	Port Howard, West Falkland
000042	Clarke	Anika Doreen	Goose Green East Falkland
000043	Clarke	Jan Michael	Kings Ridge Farm, E.F.I
000044	Clarke	Jeanette	Kings Ridge Farm, E.F.I
000045	Clarke	Michael Jan	Kings Ridge Farm, E.F.I
000046	Clarke	Shane Adrian	Douglas East Falkland
000047	Clarke	Violet Rose	Elephant Beach, East Falkland
000048	Clausen	Denzil	Berkeley Sound Farm EFI



000049	Clausen	Henry Edward	Port Louis, East Falkland
000050	Clifton	Leonard	Walker Creek, East Falkland
000051	Clifton	Thora Janeene	Walker Creek, East Falkland
000052	Cockwell	Benjamin William	Fox Bay Village, West Falkland
000053	Cockwell	Clare Marie	Fox Bay Village, West Falkland
000054	Cockwell	Grizelda Susan	Fox Bay Village, West Falkland
000055	Collins	Bernard	Turners, MPA, East Falkland
000056	Davis	Aase	Evelyn Station, East Falkland
000057	Davis	Ian John	Evelyn Station, East Falkland
000058	Davis	Reginald John	Evelyn Station, East Falkland
000059	Davis	William James	Goose Green, East Falkland
000060	Decroliere	Carrie Madeline Helen	Fox Bay Village, West Falkland
000061	Decroliere	Eric Ernest Albert	Fox Bay Village, West Falkland
000062	Dickson	Charles George	Brookfield, East Falkland
000063	Dickson	Doreen	Wreck Point, East Falkland
000064	Dickson	Gerald William	Wreck Point, East Falkland
000065	Dickson	Iris	Bleaker Island, East Falkland
000066	Dickson	Ronald Edward	Bleaker Island, East Falkland
000067	Donnelly	Daniel	Crooked Inlet, West Falkland
000068	Donnelly	Joyce Elizabeth	Crooked Inlet, West Falkland
000069	Dunford	David Philip	The Saddle, West Falkland
000070	Eagle	Alan William	Fitzroy Farm East Falkland
000071	Eagle	Sonia Ellen	Fitzroy Farm, East Falkland
000072	Edwards	Norma	Lake Sullivan, West Falkland
000073	Edwards	Roger Anthony	Lake Sullivan, West Falkland
000074	Evans	Donna Newell	South Harbour, West Falkland
000075	Evans	Michael David	South Harbour, West Falkland
000076	Evans	Raymond	Pebble Island, West Falkland
000077	Evans	Richard Gregory	Coach House, MPA Road E.F.I
000078	Fairley	John	Port Stephens, West Falkland
000079	Faria	Basil Harry	North Arm East Falkland
000080	Faria	Maria Anne	North Arm East Falkland
000081	Felton	Walter Arthur	North Arm, East Falkland
000082	Findlay	Andrew John	East Bay, West Falkland
000083	Finlayson	Neil Roderick	North Arm, East Falkland
000084	Ford	Neil Fraser	Fox Bay West, West Falkland
000085	Ford	Paul Edward	North Arm East Falkland
000086	Forster	Gwyneth May	Bold Cove, West Falkland
000087	Forster	James	Bold Cove, West Falkland
000088	Gilding	Melanie Carol	Port Louis, East Falkland
000089	Gilding	Peter Bernard	Port Louis, East Falkland
000090	Gill	Alicia Michelle	Fitzroy Farm, East Falkland
000091	Gleadell	Marklin John	North Arm, East Falkland
000092	Goodwin	Margo Jane	Goose Green, East Falkland
000093	Goodwin	Neil Alexander William	Goose Green, East Falkland
000094	Goss	Margaret Rose	Horseshoe Bay, East Falkland
000095	Goss	Michael Peter	Horseshoe Bay East Falkland
000096	Goss	Peter	Horseshoe Bay, East Falkland

000097	Greenland	Bonita Doreen	Darwin House, East Falkland
000098	Greenland	Kenneth David	Darwin House, East Falkland
000099	Halliday	Joyce Isabella Patience	Fox Bay Village, West Falkland
000100	Halliday	Kenneth William	Fox Bay Village, West Falkland
000101	Hansen	Ian	Main Point, West Falkland
000102	Hansen	Lionel Raymond	Hill Cove, West Falkland
000103	Hansen	Rose Idina	Hill Cove, West Falkland
000104	Hansen	Susan Ann	Main Point, West Falkland
000105	Hardcastle	Brook	Darwin, East Falkland
000106	Hardcastle	Eileen Beryl	Darwin, East Falkland
000107	Harvey	Jen	Hill Cove, West Falkland
000108	Harvey	Valerie Ann	Hill Cove, West Falkland
000109	Hawksworth	David	Plot 8 MPA Road East Falkland
000110	Heathman	Ailsa	Estancia, East Falkland
000111	Heathman	Ewart Tony	Estancia, East Falkland
000112	Hill	Jennifer Eileen	Stoney Ridge, West Falkland
000113	Hirtle	Anthony	Peaks Farm, West Falkland
000114	Hirtle	Doris Linda	Port Howard, West Falkland
000115	Hirtle	Odette Susan	Port Howard, West Falkland
000116	Hirtle	Samantha	Peaks Farm, West Falkland
000117	Hirtle	Susan Mary	Peaks Farm, West Falkland
000118	Hobman	David Gonsalo	Chartres, West Falkland
000119	Hobman	John Malcolm	Saladero, East Falkland
000120	Hobman	Juan Jose Eleuterio	Chartres, West Falkland
000121	Hobman	Vivien	Saladero, East Falkland
000122	Hooper	Peter Bernard	Mount Alice, West Falkland
000123	Jaffray	Alexander	Lively Island, East Falkland
000124	Jaffray	Derek Charles	Goose Green East Falkland
000125	Jaffray	Eileen	North Arm, East Falkland
000126	Jaffray	Elliott Jessie	Lively Island, East Falkland
000127	Jaffray	Ian	North Arm, East Falkland
000128	Jennings	Jacqueline	Port Howard West Falkland
000129	Jones	Mark Henry	Head Of Bay, East Falkland
000130	Jones	Michael David	Head Of Bay, East Falkland
000131	Jones	Sheila Janice	Head Of Bay, East Falkland
000132	Jonson	Carl	Bombilla, East Falkland
000133	Jonson	Rita Elizabeth	Bombilla, East Falkland
000134	Keeley	John Gabriel	Turners, MPA, East Falkland
000135	Kilmartin	Dinah May	Bluff Cove, East Falkland
000136	Kilmartin	Kevin Seaton	Bluff Cove, East Falkland
000137	Knight	Justin Robert Campbell	Coast Ridge, West Falkland
000138	Knight	Keith Andrew	Coast Ridge, West Falkland
000139	Knight	Nigel Arthur	Coast Ridge, West Falkland
000140	Knight	Shirley Louvain Patricia	Coast Ridge, West Falkland
000141	Lakin	Bernard	Turners, MPA, East Falkland
000142	Larsen	Ronald Ivan	Speedwell Island, East Falkland
000143	Larsen	Yvonne	Speedwell Island, East Falkland
000144	Lee	Carole	Port Howard, West Falkland

000145	Lee	Christopher	Hill Cove, West Falkland
000146	Lee	Elizabeth	Goose Green, East Falkland
000147	Lee	John Alfred	Goose Green, East Falkland
000148	Lee	Mervyn Richard	Goose Green East Falkland
000149	Lee	Rodney William	Port Howard, West Falkland
000150	Leo	Brenda May	NAAFI, MPA, East Falkland
000151	Lowe	Adrian Stewart	Murrel Farm, East Falkland
000152	Lowe	Lisa Helen	Murrel Farm, East Falkland
000153	Luxton	William Robert	Chartres, West Falkland
000154	MacBeth	Martyn Raymond	Narrows Farm, East Falkland
000155	MacBeth	Raymond John	Narrows Farm, West Falkland
000156	Marsh	Alastair Roy	Shallow Harbour, West Falkland
000157	Marsh	Anna Dierdre	Fox Bay Village, West Falkland
000158	Marsh	Gavin Nicholas	Fox Bay Village, West Falkland
000159	Marsh	Jodie Kim	Port North, West Falkland
000160	Marsh	June Helen	Rincon Ridge, West Falkland
000161	Marsh	Karen Diana	Port Howard, West Falkland
000162	Marsh	Kevin Roy	Shallow Harbour, West Falkland
000163	Marsh	Leon Peter	Rincon Ridge, West Falkland
000164	Marsh	Marlane Rose	Shallow Harbour, West Falkland
000165	Marsh	Patricia Ann	Lakelands, West Falkland
000166	Marsh	Robin Frank	Lakelands, West Falkland
000167	Marsh	Samantha Ann	Rincon Ridge Farm West FI
000168	Marsh	Tanya Elaine	Shallow Harbour Farm, West FI
000169	McBain	Arthur	Douglas Station, East Falkland
000170	McBain	Rhoda Margaret	Douglas Station, East Falkland
000171	McGhie	James	Stoney Ridge, West Falkland
000172	McGhie	Roy	Port North, West Falkland
000173	McGhie	Thomas Forsyth	Saunders Island, West Falkland
000174	McGill	Robin Perry	Carcass Island, West Falkland
000175	McKay	Christine	Fox Bay West, West Falkland
000176	McKay	Frazer Roderick	Teal River, West Falkland
000177	McKay	Isabella Alice	Westley, West Falkland
000178	McKay	Josephine Ann	Sheffield Farm, West Falkland
000179	McKay	Kenneth Andrew	Sheffield Farm, West Falkland
000180	McKay	Penelope Rose	Goring Station, West Falkland
000181	McLeod	Albert John	Goose Green, East Falkland
000182	McLeod	Dawn	K D CABIN M.P.A. Road E.F.I
000183	McLeod	Isabella Frances Diana	Berkeley Sound Farm EFI
000184	McLeod	Kenneth Benjamin John	K D CABIN M.P.A. Road E.F.I
000185	McLeod	Sarah Rose	Goose Green, East Falkland
000186	McPhee	June Iris	Brookfield, East Falkland
000187	McPhee	Kenneth John	Brookfield, East Falkland
000188	McPhee	Sheila Margaret	Kingsford Valley, East Falkland
000189	McPhee	Terence Owen	Kingsford Valley, East Falkland
000190	McPhee	Trudi Lynette	Brookfield, East Falkland
000191	Miller	Betty	Walker Creek, East Falkland
000192	Miller	Catherine McLeod	Fox Bay Village, West Falkland

000193	Miller	James Albert	Fox Bay Village, West Falkland
000194	Miller	Phillip Charles	Cape Dolphin, East Falkland
000195	Miller	Sheena Melanie	Cape Dolphin, East Falkland
000196	Minnell	Donna Marie	Moss Side, East Falkland
000197	Minnell	Hazel Eileen	Blue Beach, East Falkland
000198	Minnell	Michael Robert	Moss Side, East Falkland
000199	Morrison	Gerald	Goose Green, East Falkland
000200	Morrison	John	Port Howard, West Falkland
000201	Morrison	Kathleen Iris	Goose Green, East Falkland
000202	Morrison	Lena	Port Howard, West Falkland
000203	Morrison	Leslie Theodore Norman	Port Howard, West Falkland
000204	Murphy	Roy David	Port Howard, West Falkland
000205	Napier	Lily	West Point, West Falkland
000206	Napier	Roderick Bertrand	West Point, West Falkland
000207	Newman	Glynnis Karen	Goose Green East Falkland
000208	Nightingale	Charlene	West Lagoons, West Falkland
000209	Nightingale	Peter Richard	West Lagoons, West Falkland
000210	Parkinson	Allen	Turners, MPA, East Falkland
000211	Peck	Davina Margaret	Shallow Bay, West Falkland
000212	Peck	Farrah Louise	Shallow Bay Farm West Falkla
000213	Peck	Paul	Shallow Bay, West Falkland
000214	Phillips	Carol Joan	Hope Cottage, East Falkland
000215	Phillips	Terence	Hope Cottage, East Falkland
000216	Pitaluga	Antoinette Margaretha Mary	Salvador, East Falkland
000217	Pitaluga	Jene Ellen	Salvador, East Falkland
000218	Pitaluga	Nicholas Alexander R.	Salvador, East Falkland
000219	Pitaluga	Robin Andreas McIntosh	Salvador, East Falkland
000220	Pitt	Myra May	Goose Green, East Falkland
000221	Pole-Evans	Anthony Reginald	Saunders Island, West Falkland
000222	Pole-Evans	David Llewellyn	Saunders Island, West Falkland
000223	Pole-Evans	Shirley Helen	Manybranch, West Falkland
000224	Pole-Evans	Suzan	Saunders Island, West Falkland
000225	Pole-Evans	William Reginald	Manybranch, West Falkland
000226	Poncet	Dion Michael	Beaver Island, West Falkland
000227	Poncet	Jerome Pierre	Beaver Island, West Falkland
000228	Poncet	Leiv	Beaver Island, West Falkland
000229	Poole	Ella Josephine	Race Point, East Falkland
000230	Poole	Juliet Hazel	Race Point Farm East Falkland
000231	Poole	Steven Charles	Race Point, East Falkland
000232	Porter	Joan	Shallow Harbour, West Falklan
000233	Porter	William Kenneth	Fox Bay Village, West Falkland
000234	Reeves	Ronald James	Port Howard, West Falkland
000235	Robertson	Ann	Port Stephens, West Falkland
000236	Robertson	Paul Jonathan	Port Stephens, West Falkland
000237	Robertson	Peter Charles	Port Stephens, West Falkland
000238	Ross	William Henry	Fitzroy, East Falkland
000239	Rozee	Fiona	Spring Point, West Falkland
000240	Rozee	Ronald David	Spring Point, West Falkland

000241	Saunders	Felicity Joan Carlie	Hawkbit, Fitzroy East Falkland
000242	Short	Andrez Peter	Swan Inlet East Falkland
000243	Short	George Godfrey Ivan	Great Britain Hotel E.F.I
000244	Short	Isobel Rose	Mullet Creek East Falkland
000245	Short	Lindsay Marie	Wineglass Stn, East Falkland
000246	Short	Patrick Warburton	Mullet Creek East Falkland
000247	Short	Robert George	Wineglass Stn, East Falkland
000248	Sinclair	Simon Keith	Goose Green, East Falkland
000249	Smith	Andrew John	Port San Carlos, East Falkland
000250	Smith	Georgina Carol Anderson	Port San Carlos, East Falkland
000251	Smith	Robert William	Goose Green, East Falkland
000252	Smith	Susan	Blue Beach, East Falkland
000253	Smith	Terence George	North Arm, East Falkland
000254	Steen	Gail	Paragon House Lafone East FI
000255	Steen	Vernon Robert	Paragon House Lafone East FI
000256	Stevens	Richard James	Port Sussex, East Falkland
000257	Stevens	Toni Donna	Port Sussex, East Falkland
000258	Strange	Ian John	New Island South West F.I
000259	Taylor	Christopher John	Goose Green East Falkland
000260	Tellez	Arturo	North Arm, East Falkland
000261	Tellez	Charlotte Melize	North Arm, East Falkland
000262	Tellez	Rodolfo	Walker Creek, East Falkland
000263	Thorsen	Carol Margaret	Teal Inlet, East Falkland
000264	Thorsen	David Moller	Teal Inlet, East Falkland
000265	Thorsen	Gloria Penelope	Teal Inlet, East Falkland
000266	Towersey	Diane	Port Stephens, West Falkland
000267	Turner	Arthur Leonard Pitaluga	Rincon Grande, East Falkland
000268	Turner	Elaine Ellen	Rincon Grande, East Falkland
000269	Tuson	Olwyn Carol	Saunders Island, West Falkland
000270	Velasquez	Arleen	North Arm, East Falkland
000271	Velasquez	Oscar Herman	North Arm, East Falkland
000272	Watson	Glenda Joyce	Long Island, East Falkland
000273	Watson	Neil	Long Island, East Falkland
000274	Whitney	Daneila Grace	Mount Kent, East Falkland
000275	Whitney	Dennis	Fitzroy, East Falkland
000276	Whitney	Keith	Home Farm, East Falkland
000277	Whitney	Leona Ann	Home Farm, East Falkland
000278	Whitney	Patrick George	Mount Kent, East Falkland
000279	Whitney	Tyrone	Home Farm, East Falkland
000280	Wilkinson	David Clive Walter	Dunnose Head, West Falkland
000281	Wilkinson	Rosemary	Dunnose Head, West Falkland
000282	Yon	Gillian Rose	KIS, MPA, East Falkland



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PUBLISHED BY AUTHORITY

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*30th June 2003*

*No. 9*

## Appointments

Susan Ovedia Franz Maciello, Cleaner, Infant Junior School, Education Department, 1.6.03.

Phyllis Jaffray, Cook, Stanley Hostel, Education Department, 2.6.03.

Andrew John, Technical Engineer, Public Works Department, 2.6.03.

Joanne Hazel Rose Lee, Caretaker/Cleaner, Falkland Islands Community School, Education Department, 2.6.03.

Shirley Richards, Cleaner, Stanley Hostel, Education Department, 2.6.03.

Neil Williams, Theatre Charge Nurse, Health Services Department, 7.6.03.

Ruth Galwey, Senior Staff Nurse, Health Services Department, 25.6.03.

Susan Kathlyn Harvey, Veterinary Officer, Agricultural Department, 25.6.03.

## Promotions

Claire Yvonne Leo, from Support Worker, Health Services Department, to Supervisor, Health Services Department, 1.6.03

Janet Ross, from Clerk, Falkland Islands Government Air Service, to Senior Clerk, Falkland Islands Government Air Service, 11.6.03.

## Resignations

Arlette Sharon Marsh, Observer, Falkland Islands Government Air Service, 21.6.03.

Jon Alan Battersby, Senior Plumber, Municipal Section, Public Works Department, 27.6.03.

## Transfer

Teresa Ann Clifton, from Senior Clerk, Falkland Islands Government Air Service, to Accounts Clerk, Health Services Department, 11.6.03.

## Retirement

Majorie Hayward, Laundry Assistant, Health Services Department, 30.6.03.

## NOTICES

No. 39 9th June 2003

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

**TAKE NOTICE THAT** Charles Clifton, deceased of Stanley, Falkland Islands died on the 25th day of April 2003 intestate.

**WHEREAS** Terence Charles Clifton 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.

C. J. MITCHELL,  
*Registrar, Supreme Court.*

Stanley  
Falkland Islands  
9th June 2003  
Ref: PRO/6/03

No. 40

11th June 2003

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

**TAKE NOTICE THAT Benjamin James Minnell**, deceased of San Carlos, Falkland Islands died on the 13th day of May 2003 intestate.

**WHEREAS Hazel Eileen Minnell** 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.

C. J. MITCHELL,  
*Registrar, Supreme Court.*

Stanley  
Falkland Islands  
11th June 2003  
Ref: PRO/7/03

No. 41

11th June 2003

**CHRISTOPHER & LINDSEY MAY LIMITED**

Company Number: 11232

**NOTICE IS HEREBY GIVEN** that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 18th day of June 2003

Dated this 3rd day of July 2002.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 42

24th June 2003

**TAXES ORDINANCE 1997****Section 57B(2)****Addition to approved list of charities**

Notice is hereby given that the following charities have been approved by the Governor by way of addition to the approved list of charities for tax deduction purposes:

National Society for the Prevention of Cruelty to Children  
Motor Neurone Disease Association  
Worldwide Fund for Nature  
Royal Society for the Protection of Birds  
The National Trust  
Cancer Research UK

Dated this 24th day of June 2003

Graham James Cripps  
*Acting Attorney General.*

Note: Section 57A of the Taxes Ordinance provides for deductions

from income for tax purposes of donations of £50 or more made to registered charities in any calendar year provided written evidence from the charity of the total amount of donations made to the charity in the calendar year are provided to the Commissioner of Taxes. Approved charities are bodies which are registered as a charity under the Charities Act 1960 as it applies to the Falkland Islands and any body of persons or trust the name of which appears on the approved list of charities. The bodies "on the approved list" are charities established overseas which are not registered under the Charities Act 1960 in the Falkland Islands. They have been approved for tax deduction purposes.

No. 43

26th June 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Joan Patricia Marion Clarke has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to her by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st July 2003

D. HOY,  
*Immigration Officer.*

No. 44

26th June 2003

**APPLICATION FOR NATURALISATION**

Notice is hereby given that Carmen Benilda Ladron De Guevara Vilches is applying to His Excellency the Governor for naturalisation. Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs & Immigration Department, Stanley within 21 days of the date of publication of this notice.

D. HOY,  
*Immigration Officer.*

No. 45

27th June 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Kevin Charles George has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to him by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st July 2003

D. HOY,  
*Immigration Officer.*



# THE FALKLAND ISLANDS GAZETTE

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*31st July 2003*

*No. 10*

## **Appointments**

Patricia Emily Gardner, Pharmacist, Health Services Department, 04.07.03.

Patricia Ann Grant, Staff Nurse, Health Services Department, 18.07.03.

Luke Stephen Kenny, Fisheries Observer, Fisheries Department, 28.07.03.

Miranda McKee, Licensing Clerk, Royal Falkland Islands Police, 28.07.03.

## **Promotion**

Jennifer Ethel Smith from Assistant Secretary (Recruitment) Falkland Islands Government Office (London) to European Development Assistant Programme Officer, Secretariat, 01.07.03.

## **Transfer**

Gerard Ford from Agricultural Assistant, Department of Agriculture, to Plant Operator/Handyman, Public Works Department - Highways Section, 28.07.03.

## **Completion of contract**

Kevin Lawrence, Veterinary Officer, Agriculture Department, 12.07.03.

## **Resignations**

Debbie Louisa Robson, Senior Sports Attendant, Education Department, 05.07.03.

Sandra Leigh Picone, Teacher, Education Department, 07.07.03.

Mila Ped, Data Entry Clerk, Fisheries Department, 11.07.03.

Imogen Fiona Didlick, Licensing Clerk, Royal Falkland Islands Police, 25.07.03.

## **NOTICES**

No. 46

### **IRAQ (UNITED NATIONS SANCTIONS) (OVER-SEAS TERRITORIES) ORDER 2003 (SI 2003/1516)**

Notification pursuant to article 3

On 2 July 2003, the Committee referred to in paragraph 19 of resolution 1483 (2003) adopted by the Security Council of the United Nations on 22 May 2003, identified and published a list of fifty-five individuals as falling within paragraph 23 of that resolution. A full list of names is available at [www.un.org/Docs/sc/committees/IraqKuwait/1483\\_1st.htm](http://www.un.org/Docs/sc/committees/IraqKuwait/1483_1st.htm). Accordingly, notice is hereby given, pursuant to the requirements of article 3 of the above Order in Council, that the amendments set out in Schedule 3 to the Order came into effect from 2 July 2003.



No. 47

14th July 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Robert James Alexander Gordon has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to his by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st August 2003.

D. HOY,  
*Immigration Officer.*

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No. 48

14th July 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Hew McInnes Grierson has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to his by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st August 2003.

D. HOY,  
*Immigration Officer.*

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No. 49

14th July 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Elizabeth Ann Roberts has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to her by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st August 2003

D. HOY,  
*Immigration Officer.*

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

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

**I hereby appoint:**

**CPL Wayne John Stafford - G8248210**

to be a temporary Customs Officer from 05 July 2003 to 05 November 2003.

R. J. KING,  
*Collector of Customs.*

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

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

**I hereby appoint:**

**CPL Richard Andrew Hynes - A8418208**

to be a temporary Customs Officer from 09 July 2003 to 09 November 2003.

R. J. KING,  
*Collector of Customs.*

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# THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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*Vol. CXII*

*29th August 2003*

*No. 11*

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## Appointments

Beverly Rose Reid, Clerk, Fisheries Department, 24.07.03  
Dustin James Gilson-Clarke, Observer, Falkland Islands Government Air Service, 28.07.03.  
Michael Anthony Floyd, Computer Technician, Computer Department, 01.08.03.  
Robert John Andrew Ferguson, Labourer, Property & Municipal Section, Public Works Department, 11.08.03.  
Marvin Thomas Clarke, Water Supervisor Designate, Water Section, Public Works Department, 18.08.03.  
Michael Bennett, Special Education Needs Co-ordinator, Education Department, 25.08.03.  
Kevin Ormond, Prison Officer, Royal Falkland Islands Police Force, 25.08.03.

## Promotions

Derek Samuel Goodwin, from Mechanic, to Assistant Foreman, Public Works Department, 01.08.03.  
Charmaine Marie John, from Support Staff, to Supervisor, Young Person's Unit, Health & Social Services Department, 01.08.03.  
Lynn Roberts, from Support Staff, to Supervisor, Young Person's Unit, Health & Social Services Department, 01.08.03.  
Felicity Marie Clarke, from Clerk, Public Works Department to Clerk, Falkland Islands Government Air Service, 18.08.03.

## Completion of Contracts

Andrew Flint Stocks, Fisheries Observer, Fisheries Department, 29.07.03.  
Andrew Barnes, Teacher, Education Department, 08.08.03.  
Fiona Black, Senior Staff Nurse, Health Services Department, 08.08.03.  
Steven Mark Johnston, Station Manager/Programme Controller, Falkland Islands Broadcasting Station, 29.08.03.

## Resignations

Valerie Ann Morrison, Payroll Manager, Human Resources Department, 10.06.03.  
Christopher Graham Didlick, Senior Assistant Taxation Officer, Taxation Department, 18.07.03.  
Cornna Rose Goss, News Editor, Falkland Islands Broadcasting Station, 01.08.03.  
Colleen Mary Ford, Houseparent, Education Department, 08.08.03.  
Kim Robertson, Houseparent, Education Department, 08.08.03.  
Michael George Betts, Sports Attendant/Part-time Receptionist, Leisure Centre, Education Department, 24.08.03.

**NOTICES**

No. 50 5th August 2003

**INDEX OF RETAIL PRICES**

The calculation of the Index for the quarter ended 30 June 2003 has now been completed. A summary of the Index for the last four quarters is shown below:-

Date	Index	Annual % Increase	Quarter % Increase
30.09.02	108.41	1.270	0.370
31.12.02	107.26	0.140	(1.061)
31.03.03	108.43	2.033	1.091
30.06.03	108.13	0.111	(0.277)

Financial Secretary

No. 51 6th August 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Brian Frederick Harris has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to him by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 21st September 2003.

D. HOY,  
*Immigration Officer.*

No. 52 7th August 2003

**APPOINTMENT OF TRUSTEES OF THE MEDIA TRUST**

Notice is hereby given that His Excellency the Governor has appointed the following persons to be Trustees of the Media Trust with effect from 23rd November 2002-

Joyce Ena Allan  
Anya Evelyn Coffe  
Ian Hansen

and with effect from 1st August 2003-

Richard Sawle

Dated this 7th day of August 2003.

No. 53 12th August 2003

**CO-OPERATIVE SOCIETIES ORDINANCE**

Cancellation of Registration

of

**FALKLAND CO-OPERATIVE HOME INDUSTRIES LIMITED**

Registered No: CO-OP3

Having received an application made by three-quarters of the members of the above named registered Society and being of the opinion that the Society ought to be dissolved, I hereby order that the registration of the Society be cancelled.

Any member of the Society may, within two months from 12th August 2003 (being the date of my Order herein), appeal from such Order to the Governor in Council.

Take Notice that should no appeal be presented within two months from the making of the Order cancelling the registration of the Society, the Order shall take effect on the expiry of that period.

I hereby appoint ALISON MARGARET BAKER of Consultancy Services Falklands Limited, 44 John Street, Stanley to be, subject to my direction and control, the liquidator of the Society.

Dated 12th August 2003.

GRAHAM JAMES CRIPPS,  
*Registrar of Co-operative Societies.*

No. 54 12th August 2003

**CONDOR ASSOCIATES LIMITED  
Company Number: 11321**

**Take Notice** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 12th day of August 2003.

J.C. ROWLAND,  
*Registrar of Companies.*



# THE FALKLAND ISLANDS GAZETTE

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*Vol. CXII*

*30th September 2003*

*No. 12*

## Appointments

Ian Wallace, Sports Attendant, Education Department, 06.06.03.  
 Denise McPhee, Houseparent, Education Department, 01.09.03.  
 Dinah May Kilmartin, Houseparent, Education Department, 01.09.03.  
 Dominic Stephen Giles, Teacher, Education Department, 01.09.03.  
 Lisa Pole-Evans, Learning Support Assistant, Education Department, 01.09.03.  
 Maxine Sarah Sweeting, Primary Teacher, Education Department, 01.09.03.  
 Terrence Kenneth Mills, Labourer, Municipal Section, Public Works Department, 01.09.03.  
 Rachel Freeman, Part-time Receptionist, Education Department, 03.09.03.  
 Karin Pamela Sanchez Ladron De Guevara, Clerk, Public Service, 08.09.03.  
 Tracy Freeman, Part-time Receptionist, Education Department, 08.09.03.  
 Juliet Binnie, Receptionist, Falkland Islands Government Office, London, 12.09.03.  
 Stuart Ian Andrew Doyle, Mapping Officer, Agriculture/Environmental Planning Departments, 15.09.03.  
 Kerry Ann Middleton, Check-in Clerk, Falkland Islands Government Air Service, 22.09.03.  
 Stella Prindle-Middleton, Staff Nurse, Health Services Department, 22.09.03.

## Acting Appointment

Len Stanford McGill, Acting Chief Police Officer, Royal Falkland Islands Police, 19.07.03, to 08.09.03.

## Promotions

Kerry Jane Thomas, from Clerk, Human Resources Department, to Administrative Officer, Human Resources Department, 01.09.03.  
 Peter James Crowie, from Labourer, to Handyman, Municipal Section, Public Works Department, 01.09.03.  
 Tanya Lee, from Assistant Taxation Officer, to Senior Assistant Taxation Officer, Taxation Department, 01.09.03.  
 Wendy Ann Benjamin, from Administrative Officer, Human Resources Department, to Payroll Manager, Human Resources Department, 01.09.03.  
 Christine Susan Davies, from Office Manager, Secretariat, to Recruitment and Office Administrator, Falkland Islands Government Office, London, 29.09.03.

## Transfers

Karen Jane Armstrong-Ford, from Settlement Teacher, Education Department, to Primary Teacher, Education Department, 01.09.03.  
 Morgan Edmund Goss, from Pilot, Falkland Islands Government Air Service, to Maintenance Manager, Falkland Islands Government Air Service, 01.09.03.  
 Sheelagh Helen Farrow, from Special Education Needs Coordinator, Education Department, to Teacher of Pupils with Speech & Language Impairment, Education Department, 01.09.03.  
 St. John Peter Payne, from Leisure Centre Manager, Education Department, to Customs/Immigration Officer, Customs & Immigration Department, 01.09.03.

### Completion of Contracts

David Eric Snape, Physiotherapist, Health Services Department, 31.08.03.  
 Kristine Cant, Travelling Teacher, Education Department, 31.08.03.  
 Stephen Bruce Shillitoe, Designer/Draughtsman, Public Works Department, 31.08.03.

### Renewal of Contracts

David Eric Snape, Physiotherapist, Health Services Department, 01.09.03.  
 Stephen Bruce Shillitoe, Designer/Draughtsman, Public Works Department, 01.09.03.

### Resignations

Janet Jaffray, Cleaner, Falkland Islands Defence Force, 29.08.03.  
 Juliet Binnie, Part-time Receptionist, Education Department, 30.08.03.  
 Derek Gary McGill, Apprentice Mechanic, Public Works Department, 31.08.03.  
 Susan Ovedia Franz Maciello, Cleaner, Education Department, 08.09.03.  
 Alejandro Neri Igao, Plant Operator/Handyman, Public Works Department, 12.09.03.  
 Daisy Gapol, Cleaner, Education Department, 14.09.03.  
 Sharon Sandra Evelyn Davis, Dental Nurse, Health Services Department, 18.09.03.  
 Jorge Deigo Maciello, Refueller/Handyman, Falkland Islands Government Air Service, 19.09.03.  
 Julia Bertrand Fiddes, Clerk, Falkland Islands Government Air Service, 20.09.03.  
 Nicholas Dray, Dental Technician, Health Services Department, 24.09.03.  
 John Coutts, Maintenance Manager, Falkland Islands Government Air Service, 30.09.03.

### Retirement

Hulda Fraser Stewart, Teacher, Education Department, 31.08.03.

### NOTICES

No. 55

#### **JKTAIRYOLIMITED** **Company Number: 11148**

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from

the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.  
 Dated this 11th day of September 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 56

9th June 2003

### **SUPREME COURT OF THE FALKLAND ISLANDS**

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

**TAKE NOTICE THAT** Arthur William Gould, deceased of Stanley, Falkland Islands died on the 9th day of September 2003 intestate.

**WHEREAS** Irene Mary Carter 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.

C. J. MITCHELL,  
*Registrar, Supreme Court.*

Stanley  
 Falkland Islands  
 22nd September 2003  
 Ref: PRO/11/03.

No. 57

23rd September 2003

### **APPLICATION FOR PERMANENT RESIDENCE**

Notice is hereby given that Christopher Burt has applied through the Principal Immigration Officer to be granted a Permanent Residence Permit by the Governor.

Any person who knows of any reason why this permit should not be granted, should send a written and signed statement of the facts, giving grounds to their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 22 October 2003.

D. HOY,  
*Immigration Officer.*

No. 58

23rd September 2003

**APPLICATION FOR PERMANENT RESIDENCE**

Notice is hereby given that Jeremy Selwyn Lloyd Henry has applied through the Principal Immigration Officer to be granted a Permanent Residence Permit by the Governor. Any person who knows of any reason why this permit should not be granted, should send a written and signed statement of the facts, giving grounds to their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 22 October 2003.

D. HOY,  
*Immigration Officer.*

No. 59

23rd September 2003

**APPLICATION FOR PERMANENT RESIDENCE**

Notice is hereby given that Stanley Herbert Granville has applied through the Principal Immigration Officer to be granted a Permanent Residence Permit by the Governor. Any person who knows of any reason why this permit should not be granted, should send a written and signed statement of the facts, giving grounds to their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 22 October 2003.

D. HOY,  
*Immigration Officer.*

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

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

**I hereby appoint:**

**CPL Ian Ralph Wales - B8417104**

to be a temporary Customs Officer from 05 August 2003 to 06 December 2003.

R. J. KING,  
*Collector of Customs.*

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

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

**I hereby appoint:**

**SGT Jeremy Robert Dimond - K8220265**

to be a temporary Customs Officer from 24 July 2003 to 24 November 2003.

R. J. KING,  
*Collector of Customs.*





**THE  
FALKLAND ISLANDS GAZETTE  
Extraordinary**

**PUBLISHED BY AUTHORITY**

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*Vol. CXII*

*30th September 2003*

*No. 13*

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The following are published in this Gazette-

**Proclamation appointing date for Election in respect of Camp Constituency (Proclamation No. 1 of 2003);**

**Writ of Election for Camp Constituency;**

**By Election, Notice of Election, Camp Constituency.**



**PROCLAMATION****FALKLAND ISLANDS CONSTITUTION ORDER 1985****SCHEDULE 1****(section 28(2))****PROCLAMATION APPOINTING DATE FOR ELECTION TO FILL VACANCY IN  
MEMBERSHIP OF THE LEGISLATIVE COUNCIL IN RESPECT OF THE CAMP  
CONSTITUENCY****(Proclamation No. 1 of 2003)**

**WHEREAS** a vacancy has arisen in the membership of the Legislative Council in respect of the Camp constituency because the Honourable Philip Miller has resigned his membership of the said Council,

**IN EXERCISE** of my powers under section 28(2) of Schedule 1 to the Falkland Islands Constitution Order 1985 ("the Constitution") and of all other powers enabling me in that behalf, **I, HARRIET HALL**, Acting Governor of the Falkland Islands **PROCLAIM** that an Election shall be held of a member of the Legislative Council in respect of the Camp Constituency on Thursday the sixth day of November 2003.

Made this 30<sup>th</sup> day of September 2003 at Stanley, under my hand and the Public Seal of the Falkland Islands.

**H HALL**  
*Acting Governor*

**GOD SAVE THE QUEEN!**

**WRIT OF ELECTION**

To: the Returning Officer for the Camp Constituency

and to the Government Secretary

**IN THE NAME OF HER MAJESTY ELIZABETH THE SECOND** By the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen Head of the Commonwealth Defender of the Faith

**BY HER HONOUR HARRIET HALL**, Acting Governor of the Falkland Islands

To: the Returning Officer for the Camp Constituency **GREETING**

**WHEREAS** by Proclamation under section 28(2) of Schedule 1 to the Falkland Islands Constitution Order 1985 ("the Proclamation") I have this day appointed Thursday 6<sup>th</sup> November 2003 for the holding of an election to fill a vacancy in the membership of the Legislative Council of the Falkland Islands in respect of the Camp Constituency

**AND WHEREAS** by section 48(1) of the Electoral Ordinance I am required to issue a Writ of Election addressed to the Returning Officer for the said Constituency and to transmit a copy of the same to the Government Secretary

**NOW THEREFORE**, in accordance with the requirements of the said section —

1. I specify that this Writ relates to the Camp Constituency;
2. I state that the election above-mentioned is to be held on Thursday the sixth day of November 2003 (being the same date as was appointed by the Proclamation);
3. I require the Returning Officer —
  - (a) to cause an election to be made according to law of a member of the Legislative Council in respect of the Camp Constituency; and
  - (b) to certify by writing over his signature the name of the person elected at the election required by this Writ and to return the Writ so certified.

**GIVEN** under my hand and the Public Seal of the Falkland Islands at Government House Stanley this Thirtieth day of September in the year of Our Lord Two Thousand and three

**H HALL**  
*Acting Governor*

**BY ELECTION****6<sup>TH</sup> NOVEMBER 2003****NOTICE OF ELECTION  
(Section 51 Electoral Ordinance 1988)****CAMP CONSTITUENCY**

**I, JOHN CHRISTOPHER ROWLAND**, Returning Officer in respect of the Camp Constituency **HEREBY GIVE NOTICE** pursuant to section 51 of the Electoral Ordinance 1988 (Title 30.1) as follows —

- (1) That I have received a Writ of Election (“Writ”) addressed to me by Her Honour the Acting Governor requiring me to cause an election to be made in accordance with law of a member of the Legislative Council in respect of the Camp Constituency.
- (2) That an election of one person as member of the Legislative Council will be held on the day appointed by Her Honour the Acting Governor, that is to say Thursday the sixth day of November 2003.
- (3) That nomination papers may be obtained from my office at Ground Floor Town Hall Stanley between the hours of 8.30am and 12noon and 1.30pm and 4.00pm on Mondays to Fridays during the period beginning with the publication of this Notice until and including Friday 17<sup>th</sup> October 2003 (but not including Saturdays, Sundays and public holidays falling within that period).
- (4) That the last day on which completed nomination papers may be handed to me is the said Friday 17<sup>th</sup> October 2003 and the latest hour on that day by which they may be handed to me on that day is 4.30pm.
- (5) That I shall be personally in attendance at my said office on that day between the hours of 8.30am and 12.00noon and 1.30pm and 4.30pm for the purpose of receiving completed nomination papers.
- (6) In the event that a poll is required, polling day shall be Thursday 6<sup>th</sup> November 2003 and the poll will be conducted between the hours of 9.00am and 4.00pm at such polling places as are appointed by the Governor pursuant to section 59(1) of the Electoral Ordinance 1988 not less than ten days before polling day.
- (7) Paragraph 6 has effect without prejudice to section 60 (mobile polling teams) of the Electoral Ordinance.

Dated this 30<sup>th</sup> day of September 2003

**JOHN CHRISTOPHER ROWLAND**  
Returning Officer  
Camp Constituency



**THE  
FALKLAND ISLANDS GAZETTE  
Extraordinary**

**PUBLISHED BY AUTHORITY**

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*Vol. CXII*

*21st October 2003*

*No. 14*

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The following are published in this Gazette-

**The Electoral Ordinance (Title 30.1), Notification of Nominations, etc, Camp Constituency;**

**The Electoral Ordinance (Title 30.1), The election of officials for the purpose of the poll;**

**The Electoral Ordinance (Title 30.1), The election of officials for the purpose of the count.**

No. 60

**The Electoral Ordinance (Title 30.1)**  
**Notification of Nominations, etc**  
**Camp Constituency**

In accordance with section 70 of the Electoral Ordinance, I give notice that a poll will be taken on Thursday 06<sup>th</sup> November 2003 at Goose Green East Falkland and Fox Bay East West Falkland for the election of one member to the Legislative Council for the Camp Constituency.

Mobile polling teams will visit other areas in the Camp in the five business days ending with Thursday 06<sup>th</sup> November 2003 for the same purpose.

The candidates standing nominated for election is as follows: -

Candidate:	Darwin Lewis Clifton
Address:	53 Davis Street Stanley
Description:	Mr
Proposer:	Roderick Bertrand Napier
Seconder:	Alastair Roy Marsh
Supporters:	Marlane Rose Marsh Michael Jan Clarke Jeanette Clarke George Robert Alazia
Candidate:	Eric Miller Goss
Address:	2 Fitzroy Road East Stanley
Description:	Male/Retired Farmer
Proposer:	David Philip Dunford
Seconder:	Patrick Warburton Short
Supporters:	Kenneth William Halliday Norma Edwards Lindsay Marie Short Kevin Seaton Kilmartin

Candidate: Ian Hansen  
Address: Main Point West Falkland  
Description: Farmer

Proposer: William Reginald Pole-Evans

Seconder: Daniel Donnelly

Supporters: James Forster  
Gavin Nicholas Marsh  
Leon Peter Marsh  
Christopher Lee

Dated 20 October 2003

J C Rowland  
Returning Officer

**The Electoral Ordinance (Title 30.1)**  
**By-Election**  
**6 November 2003**

In accordance with section 100(1) of the Electoral Ordinance, the following persons have been appointed to be election officials for the purpose of the poll as indicated -

**Camp Constituency:**

	Mrs J Parke	Presiding Officer
	Mrs C Mitchell	Counting Clerk
	Mrs J Fisher-Smith	Counting Clerk
	Mr N Dodd	Counting Clerk
	Mrs T Lee	Counting Clerk
	Mrs H Wallace	Counting Clerk
	Mrs A Murphy	Counting Clerk
	Mrs C Rowland	Counting Clerk
	Mr G Clement	Counting Clerk/Security
	Mr J Parke	Security
	Mr F Wallace	Presiding Officer
Supernumerary	Mr D Lang	Presiding Officer
Fox Bay East	Mr K Halliday	Presiding Officer
Goose Green	Miss M Pitt	Presiding Officer
Mobile Team	Mrs C Blackley	Team Leader
	Mrs A May	Polling Clerk
Mobile Team (Air)	Mrs T Lee	Team Leader
	Miss S Rowland	Polling Clerk
Mobile Team (Air)	Mr G Middleton	Team Leader
	Mr M Smith	Polling Clerk
Mobile Team (Air)	Mr I C Patterson-Smith	Team Leader
	Mrs J Fisher Smith	Polling Clerk

Mobile Team (Air)	Mrs J Fisher-Smith	Team Leader
(Landrover) (West)	Mrs J Parke Mr J Parke	Team Leader Polling Clerk
(Landrover) (East)	Mr G Middleton Mr M Smith	Team Leader Polling Clerk
(Landrover) (East)	Mr B Eccles Mr M Floyd	Team Leader Polling Clerk
(Landrover) (East)	Mr IC Patterson-Smith Mr Gary Clement	Team Leader Polling Clerk

Dated 20 October 2003

J C Rowland  
Returning Officer



**The Electoral Ordinance (Title 30.1)  
By-Election  
6 November 2003**

In accordance with section 100(1) of the Electoral Ordinance, the following persons have been appointed to be election officials for the purpose of the count as indicated-

**Camp Constituency:**

	Mrs J Parke	Presiding Officer
	Mrs C Mitchell	Counting Clerk
	Mrs J Fisher-Smith	Counting Clerk
	Mr N Dodd	Counting Clerk
	Mrs T Lee	Counting Clerk
	Mrs H Wallace	Counting Clerk
	Mrs A Murphy	Counting Clerk
	Mrs C Rowland	Counting Clerk
	Mr G Clement	Counting Clerk/Security
	Mr J Parke	Security
	Mr F Wallace	Presiding Officer
Supernumerary	Mr D Lang	Presiding Officer

Dated 20 October 2003

J C Rowland  
Returning Officer

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**THE  
FALKLAND ISLANDS GAZETTE  
Extraordinary**

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*Vol. CXII*

*21st October 2003*

*No. 15*

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The following are published in this Gazette-

**The Electoral Ordinance (Title 30.1), Appointment of Polling Places.**

No. 63

21 October 2003

**IN EXERCISE** of my powers under section 59(1) of Electoral Ordinance (Title 30.1). I hereby appoint the following places to be Polling Places in accordance with the terms of the above provision –

Government Agent's Office Fox Bay East ( Camp Constituency – West Falkland )

School Goose Green ( Camp Constituency – East Falkland )

Dated 21<sup>st</sup> October 2003

A handwritten signature in black ink, appearing to read 'H J S Pearce', written over a horizontal line.

H J S PEARCE CVO  
Governor

**IN EXERCISE** of my powers under section 61(1) of the Electoral Ordinance, I hereby appoint the following places to be attended by mobile polling teams in accordance with the terms of the above provision:-

<u>PLACE</u>	<u>PROPOSED DATE</u>
Roy Cove	3 November 2003
Hill Cove	3 November 2003
Shallow Bay	3 November 2003
Main Point	3 November 2003
Sheffield	3 November 2003
Port Howard	3 November 2003
Chartres	4 November 2003
Little Chartres	4 November 2003
Spring Point	4 November 2003
Port Stephens (Road)	4 November 2003
West Point Island	3 November 2003
Carcass Island	3 November 2003
Saunders Island	3 November 2003
Lively Island	3 November 2003
Bleaker Island	3 November 2003
Speedwell Island	3 November 2003
New Island	3 November 2003
Beaver Island	3 November 2003
Dunnose Head	3 November 2003
Shallow Harbour	3 November 2003
Albermarle	3 November 2003
Pebble Island	3 November 2003
Port San Carlos	5 November 2003
Moss Side	5 November 2003
New House	5 November 2003
Cape Dolphin	5 November 2003
Elephant Beach	5 November 2003
Douglas Station	5 November 2003
Salvador	5 November 2003
Bombilla	5 November 2003
Teal Inlet	5 November 2003
Riverview	5 November 2003
Estancia	5 November 2003
Port Louis (Road)	6 November 2003

North Arm	6 November 2003
Walker Creek (Road)	6 November 2003
San Carlos	6 November 2003
Swan Inlet	6 November 2003
Fitzroy	6 November 2003
Bluff Cove	6 November 2003
Pony's Pass	6 November 2003

**NOTE:**

1. In the event that it is not possible for the mobile polling team because of any circumstances (particularly bad weather) to visit any of the above locations on the dates specified, the Team Leader of the mobile polling team will rearrange the visits if at all possible, so that a visit is made to those places. As announced over FIBS on or before Polling Day 06<sup>th</sup> November, if a person is not able to vote during a visit by a mobile polling team then he can vote at a Polling Place (Fox Bay East, Goose Green) on Polling Day 06<sup>th</sup> November during polling hours. The mobile polling team will do their best to visit all of the above places, however, in the worst combination of circumstances there is no absolute guarantee that the visit will take place.
2. The mobile polling team may at the discretion of the polling team leader concerned, stop at any place intermediate between any of the above points for the purpose of allowing electors to vote.

Dated *21<sup>st</sup> October 2003*



H J S PEARCE CVO  
Governor



# THE FALKLAND ISLANDS GAZETTE

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*Vol. CXII*

*31st October 2003*

*No. 16*

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## Appointments

Sue Gyford, News Editor, Falkland Islands Broadcasting Station, 25.09.03.  
Robert John Wilkinson, Aircraft Fitter, Falkland Islands Government Air Service, 25.09.03.  
Derek Donnelly, Plant Operator/Handyman, Asphalt Section, Public Works Department, 29.09.03.  
Lisa Marie Riddell, Station Manager/Programme Controller, Falkland Islands Broadcasting Station, 03.10.03.  
Christopher David Biggs, Sports Attendant, Education Department, 07.10.03.  
Stacy John Bragger, Sports Attendant, Education Department, 07.10.03.  
Janna Chtcherbich, Fisheries Scientist, Fisheries Department, 08.10.03.  
Ailie Christine Biggs, Record Librarian/Receptionist, Falkland Islands Broadcasting Station, 13.10.03.  
Kathryn Gilby, Assistant Taxation Officer, Taxation Department, 20.10.03.

## Promotions

Helen Mary O'Sullivan, from Staff Nurse, Health Services Department, to Senior Staff Nurse, Health Services Department, 06.10.03.  
Jennifer Anne Webster, from Staff Nurse, Health Services Department, to Senior Staff Nurse, Health Services Department, 06.10.03.  
Geoffrey Loftus, from Sports Attendant, Education Department, to Senior Sports Attendant, Education Department, 07.10.03.

Mandy Rose McKay, from Sports Attendant, Education Department, to Senior Sports Attendant, Education Department, 07.10.03.

## Transfers

Melanie Clausen, from Pensions Clerk, Treasury, to Assistant Printer, Printing Office, 01.10.03.  
Susana Caroline Faria, from Clerk, Treasury, to Pensions Clerk, Treasury, 01.10.03.  
John Stuart Henry, from Plant Operator/Handyman, Asphalt Section, to Plant Operator/Handyman, Property and Municipal Section, Public Works Department, 07.10.03.  
Peter Finlayson, from Plant Operator/Bowser Driver, Property and Municipal Section, to Refueller/Handyman, Falkland Islands Government Air Service, 13.10.03.

## Completion of Contracts

Vladimir Laptikhovsky, Fisheries Observer, Fisheries Department, 30.06.03.  
George William Burroughs, Clerk of Works, Public Works Department, 12.09.03.  
David Fyfe, Senior Dental Officer, Health Services Department, 30.09.03.  
Michael James Harte, Economic Advisor, Secretariat, 30.09.03.  
Edgar John Peter Sutton, Assistant Materials Manager, Public Works Department, 30.09.03.  
Alexandre Arkhipkine, Senior Fisheries Scientist, Fisheries Department, 06.10.03.

**Re-appointments**

David Fyfe, Senior Dental Officer, Health Services Department, 01.10.03.  
 Michael James Harte, Economic Advisor, Secretariat, 01.10.03.  
 Edgar John Peter Sutton, Assistant Materials Manager, Public Works Department, 01.10.03.  
 Vladimir Laptikhovskiy, Fisheries Observer, Fisheries Department, 06.10.03.  
 Alexandre Arkhipkine, Senior Fisheries Scientist, Fisheries Department, 07.10.03.  
 George William Burroughs, Clerk of Works, Public Works Department, 16.10.03.

**Resignations**

Patricia Emily Gardner, Pharmacist, Health Services Department, 01.10.03.  
 Neil George Hewitt, Employment Programme Co-ordinator, Human Resources Department, 03.10.03.  
 Lee Clement, Plant Operator/Handyman, Property and Municipal Section, Public Works Department, 31.10.03.  
 Anton Livermore, Assistant Secretary (Policy), Secretariat, 31.10.03.

**NOTICES**

No. 64 3rd September 2003

**A & E HOLDINGS LIMITED**  
**Company Number: 11509**

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.  
 Dated this 3rd day of September 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 65 25th September 2003

**FALKLAND JERKY LIMITED**  
**Company Number: 10737**

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 25th day of September 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 66 25th September 2003

**LIBRALIMITED**  
**Company Number: 10738**

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.  
 Dated this 25th day of September 2003.

J.C. ROWLAND,  
*Registrar of Companies.*

No. 67 14th October 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Andrew James Heathcock has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to him by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley by 22 November 2003.

D. HOY,  
*Immigration Officer.*

No. 68 16th October 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that Rebecca Justine Ingham has applied through the Principal Immigration Officer for Falkland Islands Status to be granted to her by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs and Immigration Department, Stanley by 22 November 2003.

D. HOY,  
*Immigration Officer.*



No. 69

16th October 2003

**APPLICATIONS FOR PERMANENT RESIDENCE**

Notice is hereby given that the below named individuals have applied through the Principal Immigration Officer to be granted a Permanent Residence Permit by the Governor.

Any person who knows of any reason why a permit should not be granted to any individual, 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 November 2003.

Caroline Patricia Wakefield (Nee Hopkin)  
 Peter John Wakefield  
 Paul Michael Loosley  
 Alan Claude Fowler  
 Vanessa Kay Fowler (Nee Reynolds)  
 Jeromy John Henry  
 Arlene Elizabeth Henry (Nee Bowers)  
 Darren Richard Plato  
 Roma Ann Plato (Nee Peters)  
 Henry Herman Guala Oyarzo  
 Jay Joshua (Nee Andrews)  
 Alan Theodore Yon  
 Donna Marie Yon (Nee Crowie)  
 Garry George Thomas

D. HOY,  
*Immigration Officer.*

No. 70

8th October 2003

**MAGISTRATES COURT OF THE FALKLAND ISLANDS**

Notice under Section 52 Police Ordinance 2000

TAKE NOTICE that the following items have been found by members of the public and are in the possession of the Royal Falkland Islands Police Force:

Date Found	Description of Property
13/10/01	Child's Black Coat (Sz 30)
30/11/01	Blue Umbro Fleece
01/04/02	'Vibe' Watch
19/04/02	Yellow Coloured Ring
23/04/02	Bead Necklace with Crucifix
07/05/02	Boys Green/Silver Jacket & Multi-Coloured Head Band
07/05/02	Girls Spectacles (Rose Antique Frame)
10/05/02	2 x £20 (F.I.) Notes
15/07/02	Black Fleece Bodywarmer
15/07/02	Purple Neckwarmer & 'Lafont Paris' sunglasses

24/07/02	35 mm Halina Camera with Pouch
03/08/02	1 x F.I. £10 Note
10/09/02	Small Black Purse w/mirror + £11.35
25/09/02	1 Pair 'Alibi' Sunglasses + Black Case
23/09/02	1 Pair 'Joseph 300' Glasses
20/10/02	Navy Blue Windproof 'Carbrini' Jacket (Medium)
11/11/02	White 'Carvel' Quartz Watch (Broken Strap)
02/12/02	Yellow Coloured Chain W/ Flower Heart Pendant
08/12/02	Bike Chain Effect Keyring
28/12/02	Cord Necklace With Bullet Pendant
29/12/02	Yellow Coloured Watch
01/01/03	Ladies Yellow Coloured Seiko Watch
03/01/03	Tarton Coloured Purse Containing £39.01
05/01/03	Black/Red 'Oregon Trail' Rucksack + Oil Ulay/Max Factor Cream
05/01/03	Lypstyl/Lip Balm/Cigarettes
15/01/03	Purple 'North Face' Fleece
17/01/03	Black Pentax Camera
14/02/03	Yellow Coloured Ring with 'White' Stone
10/03/03	Yellow Coloured Sekonda Watch
14/03/03	Black/Grey 'Columbia Sportswear' Jacket + a Biro
25/03/03	Pr of Spectacles (Multicoloured Lens) in Black Bag
01/04/03	Pr Silver Rimmed Spectacles in Green Case (Cotswold Collection)
04/04/03	1 x £20 Note
05/04/03	Yellow Coloured Religious Pendant on Broken Chain
12/04/03	Purple 'double mirror' Compact
12/04/03	Blue Hat with 'Spiderman' Badge + 1 tub Hairgel
03/05/03	Black Purse & £3.41 + 1 x US Quarter Dollar
11/05/03	Red/Black Reebok 'Liverpool Top (Xtra Large)
14/05/03	Childs 'Action Man' Black Watch
23/05/03	Black/Blue 'Stanley' Hammer
29/05/03	1 x £10 Note
11/07/03	Blue Cloth Purse with 'Union Jack' Hearts on Front & £13.39
No date recorded-	Next' Blue Fleece Hat with Cloth Tassle (adult size)
07/08/03	Yellow Coloured Ring (3 clear stones & 3 green stones)

Any person who may have a claim to this property is to lodge a claim in writing to the Courts Administrator at the Town Hall, Stanley within six months from the date of the publication hereof.

The finder of any of the above named property should lodge a claim for the return of the property, or the proceeds of sale of the property, with the Chief Police Officer, in writing, at any time after three months but before six months from the date of publication of this notice.

C. MITCHELL,  
*Courts Administrator.*





**THE  
FALKLAND ISLANDS GAZETTE  
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*Vol. CXII*

*7th November 2003*

*No. 17*

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The following are published in this Gazette-

**Election of Legislative Councillor for the Camp Constituency.**

**LEGISLATIVE COUNCIL**  
**ELECTION OF LEGISLATIVE COUNCILLOR FOR THE**  
**CAMP CONSTITUENCY**

I the undersigned, **JOHN CHRISTOPHER ROWLAND** being the Returning Officer at this By-Election of one member for the Legislative Council for the Camp Constituency:-

**DO HEREBY GIVE NOTICE** of the result of the By- Election as follows:-

Votes Cast.....	.....	<b>227</b>	.....
Clifton Darwin Lewis	.....	<b>63</b>	..... <b>Votes</b>
Goss Eric Miller	.....	<b>66</b>	..... <b>Votes</b>
Hansen Ian	.....	<b>96</b>	..... <b>Votes</b>

Rejected Ballot Papers.....	.....
(1) want of an official mark.....	.....
(2) voting for more candidates than voter is entitled to...	.....
(3) writing or mark by which voter could be identified...	.....
(4) unmarked .....	.....
(5) void for uncertainty.....	<b>TWO</b> .....

**I THEREFORE DECLARE**

**IAN HANSEN**

to be **DULY ELECTED** to the Legislative Council to serve for the Camp Constituency until the dissolution of the Legislative Council for the General Election 2005.

Dated this 6<sup>th</sup> day of November 2003

**JC Rowland**  
**Returning Officer**



# THE FALKLAND ISLANDS GAZETTE

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*Vol. CXII*

*28th November 2003*

*No. 18*

## Appointments

Elane Lennie, Clerk, The Treasury, 03.11.03.  
Joan Morrison, Warden, Health Services Department, 03.11.03.  
Anita Helen Tomlinson, Office Manager, Secretariat, 10.11.03.  
Kenneth Gardner, Maintenance Inspector/Surveyor, Public Works Department, 24.11.03.

## Transfer

Darrel Ford, from Seasonal Plant Operator/Handyman, Highways Section, Public Works Department to Plant Operator/Handyman, Highways Section, Public Works Department, 19.11.03.

## Completion of Contracts

Helen Otley, Fisheries Observer, Fisheries Department, 16.11.03.  
Paul Dunford, Fisheries Observer, Fisheries Department, 19.11.03.  
Lisa Smith, Staff Nurse, Health Services Department, 19.11.03.  
Luke Kenny, Fisheries Observer, Fisheries Department, 28.11.03.

## Re-appointments

Alan Francis, Plant Operator/Handyman, Public Works Department, 17.11.03.  
Helen Otley, Fisheries Observer, Fisheries Department, 17.11.03.  
Belfred Scipio O'Dean, Plant Operator/Handyman, Public Works Department, 18.11.03.  
Paul Dunford, Fisheries Observer, Fisheries Department, 20.11.03.

## Resignations

Daniel Desloges, Maintenance Technician, Public Works Department, 26.11.03.  
John Summers Jaffray, Fire Fighter, Fire and Rescue Service, 28.11.03.

## Retirement

Henry James Elliot, Sergeant, Royal Falkland Islands Police, 11.11.03

## NOTICES

No. 72

4th November 2003

## INDEX OF RETAIL PRICES

The calculation of the Index for the quarter ended 30 September 2003 has now been completed.

A summary of the Index for the last four quarters is shown below:-

Date	Index	Annual % Increase	Quarter % Increase
31.12.02	107.26	0.140	(1.061)
31.03.03	108.43	2.033	1.091
30.06.03	108.13	0.111	(0.277)
30.09.03	109.04	0.581	0.842

D. HOWATT,  
*Financial Secretary.*

No. 73

**REMISSION OF TAX: WEST FALKLAND  
CO-OPERATIVE SOCIETY**

Under the provisions of section 7(2) of the Taxes Ordinance 1997, as amended, Notice is hereby given that the Governor, as advised by the Executive Council on 30 October 2003, approved the following remission of tax payable by the West Falkland Co-Operative Society:

		Tax payable £
Year ended 30 June	2000	2,792
	2001	2,624
	2002	2,828
Interest to 30 October	2003	1,198
Sub total actual remission		<u>9,442</u>
Year end 30 June	2003	2,800 (Estimated)
Total approximate remission		<u>12,242</u> -----

*Commissioner of Taxation*  
The Treasury  
Stanley  
5 November 2003.

No. 74

**INSURANCE ORDINANCE 2003**

IN EXERCISE of my powers under section 3(2) of the Insurance Ordinance 2003, I GRANT APPROVAL to -

**CARIBBEAN ALLIANCE INSURANCE COMPANY  
LIMITED**

a company incorporated in Antigua under number 2284

to carry on general insurance business in the Falkland Islands.

Dated this 7th day of November 2003.

H. J. S. PEARCE CVO,  
*Governor.*

No. 75

24th October 2003

**SOUTHERN COMMERCE LIMITED**  
Company Number: 8747

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good

cause do be shown as to why such action should not be taken.

Dated this 24th day of October 2003.

J. C. ROWLAND,  
*Registrar of Companies.*

No. 76

3rd November 2003

**FALKLANDER LIMITED**  
Company Number: 10453

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good cause do be shown as to why such action should not be taken.

Dated this 3rd day of November 2003.

J. C. ROWLAND,  
*Registrar of Companies.*

No. 77

12th November 2003

**CONDOR ASSOCIATES LIMITED**  
Company Number: 11321

**NOTICE IS HEREBY GIVEN** that the above named company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 12th day of November 2003.

Dated this 12th day of November 2003.

J. C. ROWLAND,  
*Registrar of Companies.*

No. 78

24th November 2003

**STANLEY DECORATING AND BUILDING  
SERVICES LIMITED**  
Company Number: 10583

**TAKE NOTICE** that in accordance with the provisions of section 353 of the Companies Act 1948 in its application to the Falkland Islands and the requirements of the said section having been complied with the above named company will be removed from the Register of Companies upon the expiry of three months from the publication of this notice in the Gazette unless good

cause do be shown as to why such action should not be taken.

Dated this 24th day of November 2003.

J. C. ROWLAND,  
*Registrar of Companies.*

No. 79

**SUPREME COURT OF THE FALKLAND ISLANDS**

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

**TAKE NOTICE THAT Lyndsay Rae Blake** deceased of Stanley, Falkland Islands died on the 16th day of May 2003 intestate.

**WHEREAS Anthony Thomas Blake** 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.

C. J. MITCHELL,  
*Registrar,  
Supreme Court.*

Stanley  
Falkland Islands  
21st day of November 2003.

Ref: PRO/13/03

No. 80 17th November 2003

**APPLICATION FOR PERMANENT RESIDENCE**

Notice is hereby given that the below named individuals have applied through the Principal Immigration Officer to be granted a Permanent Residence Permit by the Governor.

Any person who knows of any reason why a permit should not be granted to any individual, 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 December 2003.

Alan CRUICKSHANK  
Moirá CRUICKSHANK (Nee SHEARER-FLAHERTY)  
Adam James GLANVILLE  
Jessica Paola CAMPOS GUALA  
Roberto Ignacio OJEDA CAMPOS

D. HOY,  
*Immigration Officer*

**Appointment of Temporary Customs Officers**

**Customs Ordinance 1943**

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

**I hereby appoint:**

**Cpl Andrew John ACKERS - L8292272**

to be a temporary Customs Officer from 23 October 2003 to 22 November 2003.

R. J. KING,  
*Collector of Customs.*

**Customs Ordinance 1943**

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

**I hereby appoint:**

**Cpl Phillip Anthony JOHNSTON - T8285065**

to be a temporary Customs Officer from 02 November 2003 to 02 March 2004.

R. J. KING,  
*Collector of Customs.*

**Customs Ordinance 1943**

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

**I hereby appoint:**

**Cpl Neil John WILSON - P8409341**

to be a temporary Customs Officer from 07 November 2003 to 07 March 2004.

R. J. KING,  
*Collector of Customs.*

**Customs Ordinance 1943**

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

**I hereby appoint:**

**Sgt Stephen Andrew KERSHAW - G8213720**

to be a temporary Customs Officer from 17 November 2003 to 17 March 2004.

R. J. KING,  
*Collector of Customs*







# THE FALKLAND ISLANDS GAZETTE

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24th December 2003

No. 19

## Appointments

Sara Cole, Staff Nurse, Health Services Department, 01.12.03.  
 Shiralee Collins, Police Constable, Royal Falkland Islands Police Force, 01.12.03.  
 Matthew Kelly, Meat Hygiene Inspector, Department of Agriculture, 01.12.03.  
 Shona Strange, Customs and Immigration Officer, Customs and Immigration Department, 01.12.03.  
 Teslyn Barkman, Clerk, Public Service, 03.12.03.  
 Claire Butler, Staff Nurse, Health Services Department, 20.12.03.

## Promotions

Suzanne Clarke, from Constable to Leading Constable, Royal Falkland Islands Police Force, 01.12.03.  
 Thomas Whistler, from Leading Constable to Sergeant, Royal Falkland Islands Police Force, 01.12.03

## Completion of Contracts

Michael Forrest, Director of Public Works, Public Works Department, 30.11.03.  
 Matthias Weinig, General Practitioner/Medical Officer, Health Services Department, 30.11.03.  
 Margaret Grebby, Health Visitor, Health Services Department, 05.12.03.  
 Dominic Giles, Teacher, Education Department, 06.12.03.  
 Tracy Irish, Teacher, Education Department, 06.12.03.  
 Larry Neale, Materials Manager, Public Works Department, 18.12.03.  
 Gordon Whiting, Social Worker, Health Services Department, 19.12.03.

## Re-appointments

Matthias Weinig, General Practitioner/Medical Officer, Health Services Department, 01.12.03.  
 Margaret Grebby, Health Visitor, Health Services Department, 05.12.03.  
 Larry Neale, Materials Manager, Public Works Department, 19.12.03.

## Resignations

Wanda Greenough, Auxiliary Nurse, Health Services Department, 22.12.03.  
 Robert Ferguson, Labourer, Public Works Department, 24.12.03.

## NOTICES

No. 81

3rd December 2003

### **A & E HOLDINGS LIMITED**

**Company Number: 11509**

**NOTICE IS HEREBY GIVEN** that the abovenamed company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 3rd day of December 2003.

Dated this 3rd day of December 2003.

J. C. ROWLAND,  
*Registrar of Companies.*

No. 82

9th December 2003

**JK TAIRYO LIMITED**  
Company Number: 11148

**NOTICE IS HEREBY GIVEN** that the abovenamed company was dissolved pursuant to section 353 of the Companies Act 1948 in its application to the Falkland Islands on the 8th day of December 2003.

Dated this 9th day of December 2003.

J. C. ROWLAND,  
*Registrar of Companies.*

No. 83

15th December 2003

**APPLICATION FOR NATURALISATION**

Notice is hereby given that the below named individuals are applying to His Excellency the Governor for naturalisation. Any person who knows of any reason why naturalisation should not be granted is invited to send a written and signed statement of the facts to the Immigration Officer, Customs & Immigration Department, Stanley within 21 days of the date of publication of this notice.

Janna Nikolaevna CHTCHERBITCH  
Alexander Ivanovich ARKHIPKINE

D. HOY,  
*Immigration Officer.*

No. 84

15th December 2003

**APPLICATION FOR PERMANENT RESIDENCE**

Notice is hereby given that the below named individuals have applied through the Principal Immigration Officer to be granted a Permanent Residence Permit by the Governor.

Any person who knows of any reason why these permit should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 22 January 2004.

Luis Alberto BAHAMONDE SALAZAR  
Thomas Mark WHISTLER  
Leonildo De La Cruz BRUNA AGUILAR  
Roberto Miguel Alejandro OJEDA GALLARDO

D. HOY,  
*Immigration Officer.*

No. 85

15th December 2003

**FALKLAND ISLANDS STATUS APPLICATION**

Notice is hereby given that the below named individuals have applied through the Principal Immigration Officer for Falkland Islands Status to be granted to them by the Governor.

Any person who knows of any reason why such status should not be granted, should send a written and signed statement of the facts, giving grounds for their objection, to the Immigration Officer, Customs & Immigration Department, Stanley by 22 January 2004.

David MacGregor FYFE  
Wendy Ann BENJAMIN  
Dennis Sefton HARRIS  
Timothy Daniel FRANCIS  
Gordon Malcolm LIDDLE

D. HOY,  
*Immigration Officer.*

**Erratum**

Falkland Islands Gazette Supplement No. 25 of Volume 14 dated 4th December 2003 was wrongly so numbered No. 25 and is now renumbered No. 24.



**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*15th January 2003*

*No. 1*

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The following are published in this Supplement -

**Import Prohibition (Certain Additives in Feeding-Stuffs), Proclamation (No. 4) of 2002;**

**Abattoir (Miscellaneous Provisions) Order 2002, (S. R. & O. No: 35 of 2002);**

**Criminal Justice Bill 2002, Explanatory Memorandum;**

**Criminal Justice Bill 2002;**

**Criminal Law (Miscellaneous Provisions) Bill 2002, Explanatory Memorandum;**

**Criminal Law (Miscellaneous Provisions) Bill 2002;**

**Conservation of Wildlife and Nature (Amendment) Bill 2002.**

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## PROCLAMATION

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### CUSTOMS

#### Import Prohibition ( Certain Additives in Feeding-Stuffs) Proclamation

(Proclamation No. 4 of 2002)

**IN EXERCISE** of my powers under section 35 of the Customs Ordinance (Title 26.1) I make the following Proclamation —

#### **Citation and Commencement**

1. This Proclamation may be cited as the Import Prohibition (Certain Additives in Feeding-Stuffs) Proclamation 2002 and comes in to force upon publication.

#### **Interpretation**

2. For the purposes of this Proclamation “feeding-stuffs” means organic or inorganic substances, used singly or in mixtures, whether or not containing additives, for oral animal feeding.

#### **Import Prohibition**

3. The importation of any feeding-stuffs containing the antibiotics additives listed in paragraph 4 is prohibited and the importation of any of the antibiotics listed in paragraph 4 for the purpose of incorporation into feeding-stuffs is also prohibited.

#### **Prohibited Antibiotics additives**

4. Avoparcin,  
Bacitracin Zinc,  
Spiramycin,  
Virginiamycin; and  
Tylosin Phosphate.

Made this 23rd day of December 2002

H J S Pearce  
*Governor*

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## SUBSIDIARY LEGISLATION

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### ABATTOIR

#### Abattoir (Miscellaneous Provisions) Order 2002

S. R. & O. No: 35 of 2002

*Made: 23 December 2002*

*Published: 15 January 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 1, 8 (1)(b), 11, 28 and 35 of the Animal Health Act 1981 in its application to the Falkland Islands<sup>(a)</sup> and sections 5 and 6 of the Abattoirs Ordinance 1997<sup>(b)</sup> and of all other powers enabling me in that behalf, I make the following Order —

#### **Citation and commencement**

1. This Order may be cited as the Abattoir (Miscellaneous Provisions) Order 2002 and comes into force on publication.

#### **Interpretation**

2. In this Order —

“Fresh Meat (Hygiene and Inspection) Regulations 1995” means those regulations in the form in which they apply to the Falkland Islands by virtue of Article 2 of the Designated Abattoirs (Application of Legislation) Order 1998.

#### **Amendment of Fresh Meat (Hygiene and Inspection) Regulations 1995**

3. The Fresh Meat (Hygiene and Inspection) Regulations 1995 are amended in the manner specified in the Schedule to this Order.

#### **Animal health - prohibition on export of certain infected animals**

4.—(1) Any animal, carcass or part thereof which is infected with a disease listed in paragraph (2) shall not be exported.

- (2) Tuberculosis;  
Cysticercosis.

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<sup>(a)</sup> Under section 2(1) of the Animal Health Ordinance 1998 (No. 9 of 1998)

<sup>(b)</sup> No 7 of 1997

## SCHEDULE

### Amendment of the Fresh Meat (Hygiene and Inspection) Regulations 1995

1. The Fresh Meat (Hygiene and Inspection) Regulations 1995 are amended as specified in subsequent paragraphs of this schedule in which a reference to a regulation of a particular number is a reference to the regulation of that number as it applies in the Falkland Islands by virtue of Article 2 and Schedule 1 to the Designated Abattoirs (Application of Legislation) Order 1998.

2. Regulation 8 is amended by adding the following paragraph (5) —

“(5) An OVS shall be in full time attendance at any premises licensed as a slaughter house under regulation 4 when those premises are undertaking any slaughter or processing operations for the production of fresh meat for export.”

3. Schedule 10 is amended by adding the following paragraph 3 —

“3.—(1) The inspection to be undertaken by an OVS or inspector as required under paragraph 1 must consist of a continuous attendance on the production line and the OVS or inspector must complete the inspection of a carcass and its associated offals before moving on to inspection of the next carcass.

(2) The requirements of paragraph 3(1) do not apply to operations undertaken for the production of fresh meat for local consumption, but shall only apply in relation to slaughter or processing operations for the production of fresh meat for export.”

Made this 23rd day of December 2002

H J S Pearce  
Governor

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EXPLANATORY NOTE

*(not forming part of the above Order)*

This Order sets out the following matters which are required to be regulated for the purpose of enabling the export of fresh meat from the Falkland Islands to the European Union:

1. Whilst a slaughter house licensed under the Fresh Meat (Hygiene and Inspection) Regulations 1995 is operating for the purposes of production of fresh meat for export:
  - (a) an Official Veterinary Surgeon shall be continually present on the premises; and
  - (b) there shall be a continuous post mortem inspection by the OVS or Inspector of the slaughter production line.
  
2. Any animals, carcass or part thereof infected with Tuberculosis or Cysticercosis are prohibited from export.

# **EXPLANATORY MEMORANDUM**

## **Criminal Justice Bill 2002**

### ***Introductory***

1. The Criminal Justice Bill 2002 seeks to amend the Criminal Justice Ordinance and the Criminal Justice (Evidence) Ordinance 2000.
2. The Criminal Justice Ordinance will be amended by the Bill to remove inconsistencies and/or duplicity with the provisions of the Criminal Justice (Evidence) Ordinance 2000.
3. The Criminal Justice (Evidence) 2000 is amended by the Bill by making various typographical corrections as well as taking into account changes and/or repeals in English legislation that are referred to in the Ordinance.

### ***Clause 2 of the Bill***

4. Clause 2 of the Bill makes the amendments to the Criminal Justice Ordinance as specified in Schedule 1.

### ***Clause 3 of the Bill***

5. Clause 3 of the Bill makes the amendments to the Criminal Justice (Evidence) Ordinance 2000 as specified in Schedule 2.

### ***Schedule 1***

6. Paragraph 2 of Schedule 1 of the Bill removes a duplicity with the Criminal Justice (Evidence) Ordinance 2000 by repealing the provisions in the Criminal Justice Ordinance relating to evidence given by children as these matters are now dealt with in section 42 and section 43 of the Criminal Justice (Evidence) Ordinance 2000.
7. Paragraph 2 of Schedule 1 of the Bill repeals also sections 92, 93 and Schedule 3 of the Criminal Justice Ordinance. Sections 92, 93 and Schedule 3 restricted the admissibility of computer records. These provisions ceased to have effect by virtue of section 45 of the Criminal Justice (Evidence) Ordinance 2000 which provided that "any provision of the written law of the Falkland Islands which would or might render evidence from computer records inadmissible unless conditions relating to proper use and operation of the computer are shown to be satisfied shall cease to have effect and the common law in relation to the inadmissibility of such evidence shall again apply". The common law position is that in the absence of any evidence to the contrary, the courts will presume that the computer system was working properly. If there is evidence that it may not have been, the party seeking to introduce the evidence will need to prove that it was working.



8. Paragraph 3 of Schedule 1 makes minor typographical corrections to the Criminal Justice Ordinance.
9. Paragraph 4 of Schedule 1 of the Bill replaces the provisions in relation to the competency and compellability of an accused's spouse to give evidence in the Criminal Justice Ordinance. The competency of a witness to give evidence means whether a witness may lawfully give evidence. The compellability of a witness to give evidence means that a witness can be required to give evidence on behalf a party.

The competence of a witness to give evidence is now provided in section 40 of the Criminal Justice (Evidence) Ordinance 2000. Section 40 redefines the test of competence to give evidence in criminal proceedings. Under it, everybody would be competent unless unable to understand questions put to the person as a witness or to give understandable answers. Under section 40 a defendant would not be competent for the prosecution unless no longer liable to be convicted in those proceedings and that could be because he has already pleaded guilty or for some other reason.

The new general rule renders obsolete the existing rules on the competence of husbands and wives to give evidence for and against each other.

This means that section 102 of the Ordinance as currently drafted is in effect duplicated in general terms by section 40 of the Criminal Justice (Evidence) Ordinance 2002. In view of this, the references to competency in the Criminal Justice Ordinance need to be removed.

In all other respects, the replacement provision in clause 4 of this Bill differs from section 102 of the Ordinance in only one material way. This is the removal of section 102(8) which provided that "for the sake of avoidance of doubt, it is declared that section 1(d) of the Criminal Evidence Act 1898 (which related to communications between spouses) and section 43(1) of the Matrimonial Causes Act 1965 (Evidence as to Marital Intercourse) ceased to have effect in the Falkland Islands on 1 January 1986 (which is the date upon which the provisions of English law corresponding to this section came into effect in England)".

The only other changes made by clause 4 of the Bill are drafting changes. The provisions in relation to compellability remain unaltered.

### ***Schedule 2***

10. The amendments made by clauses 2 to 33 makes various typographical corrections to the Criminal Justice (Evidence) Ordinance 2000 as well as taking into account changes and/or repeals in English legislation that are referred to in that Ordinance.

## **Criminal Justice Bill 2002**

(No:            of 2002)

### **ARRANGEMENT OF PROVISIONS**

#### **Clause**

1.     **Short title**
2.     **Amendment of Criminal Justice Ordinance**
3.     **Amendment of Criminal Justice (Evidence) Ordinance 2000**

**Schedule 1**

**Schedule 2**

## **CRIMINAL JUSTICE BILL 2002**

(No:                      of 2002)

*(assented to: .....2003)*

*(commencement: on publication)*

*(published: .....2003)*

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

### **Short title**

1. This Ordinance may be cited as the Criminal Justice Ordinance 2002.

### **Amendment of Criminal Justice Ordinance**

2. The Criminal Justice Ordinance (Title 24.1) is amended in the manner specified in Schedule 1 to this Ordinance.

### **Amendment of Criminal Justice (Evidence) Ordinance 2000**

3. The Criminal Evidence Ordinance 2000 is amended in the manner specified in Schedule 2 to this Ordinance.

## **SCHEDULE 1**

### **Amendment of Criminal Justice Ordinance (Title 24.1)**

1. In this Schedule “the Ordinance” means the Criminal Justice Ordinance (Title 24.1).
2. Sections 70P and 70R (inserted by section 3 of the Criminal Law (Amendment) Ordinance 1996), 92 and 93 of and Schedule 3 to the Ordinance are repealed.
3. Section 70Q(2) of the Ordinance (inserted by section 3 of the Criminal Law (Amendment) Ordinance 1996) is amended by replacing the words “newspaper, news agency” with the words “news gathering or news reporting organisation,”.
4. Section 102 of the Ordinance is replaced by the following —

**“Compellability of accused’s spouse**

**102.—(1)** In any proceedings the wife or husband of a person charged in the proceedings shall, subject to subsection (4), be compellable to give evidence on behalf of that person.

(2) In any proceedings the wife or husband of a person charged in the proceedings shall, subject to subsection (4) be compellable —

(a) to give evidence on behalf of any other person charged in the proceedings but only in respect of any specified offence with which that other person is charged; or

(b) to give evidence for the prosecution but only in respect of any specified offence with which any person is charged in the proceedings.

(3) In relation to the wife or husband of a person charged in any proceedings, an offence is a specified offence for the purpose of subsection (2) if —

(a) it involves an assault on, or injury or a threat of injury to, the wife or husband or a person who was at the material time under the age of sixteen;

(b) it is a sexual offence alleged to have been committed on a person who was at the material time under that age; or

(c) it consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a) or paragraph (b) of this subsection.

(4) No person who is charged in any proceedings shall be compellable by virtue of subsection (1) or (2) to give evidence in the proceedings.

(5) References in this section to a person charged in any proceedings do not include a person who is not, or is no longer, liable to be convicted of an offence in the proceedings (whether as a result of pleading guilty or for any other reason).

(6) In any proceedings a person who has been but is no longer married to the accused shall be compellable to give evidence as if that person and the accused had never been married.

(7) In subsection (3), “sexual offence” means an offence under the Sexual Offences Act 1956, the Indecency with Children Act 1960, the Sexual Offences Act 1967, section 54 of the Criminal Law Act 1977 or the Protection of Children Act 1978 in their respective application to the Falkland Islands.

(8) The failure of the wife or husband of a person charged in any proceedings to give evidence in the proceedings shall not be made the subject of any comment by the prosecution.”

**SCHEDULE 2**  
**Amendment of Criminal Justice (Evidence) Ordinance 2000**

1. In this Schedule “the Ordinance” means the Criminal Justice (Evidence) Ordinance 2000.
2. The Ordinance is subject to the following amendments:-
3. In section 1(2) the word “Section” is replaced by the word “Sections” and the words “Schedules 1 and 3” are replaced with the words “Schedules 1 to 3”.
4. In section 1(3)(b) the word “the” is inserted before the word “screening”.
5. In section 1(3)(b)(iv) in line 1 the word “a” is inserted between the words “of” and “witness”.
6. Section 3(1)(c) is replaced by —  

“(c) an offence under section 32 of the Mental Health Ordinance (Title 50.1) (unlawful intercourse with female patient);”
7. In section 5(4) the word “or” in line 4 is replaced by the word “of”.
8. In section 9(2)(a) the word “subsection” is replaced by the word “section”.
9. In section 10(2)(a) in line 1 the word “a” is inserted between the words “of” and “direction”.
10. In section 15(4)(a) of the Ordinance the word “that” is inserted after the words “the court”.
11. In section 15(6) the word “refers” is replaced with the word “references”.
12. In section 15(10) in line 1 the word “has” is replaced by the word “as” and in line 2 the word “Magistrate’s” is replaced by the word “Magistrates”.
13. In section 16(7) the word “apply” is replaced by the word “applying”.
14. In section 17(7) in line 3 the words “a interpreter” are replaced with the words “an interpreter”.
15. In section 19(7) the words “section 35(2)” are replaced by the words “section 44(2)”, and the words “in its application to the Falkland Islands” are omitted.
16. In section 27(1) the word “prevent” is replaced with the word “prevented”.
17. In section 28(7)(a) the second word “person” is replaced with the word “persons”.
18. In section 30(2) the bracket before the word “if” is omitted.
19. In section 32(1) the words and brackets “(subject to subsection (2))” are omitted.

20. Section 32(2) is repealed.

21. In section 33(12)(a) the words “an further appeal” are replaced with the words “a further appeal”.

22. In section 34(3) the word “a” is inserted between the words “to” and “specified”.

23. In section 34 the subsection number “(7)” is omitted and the subsection numbers “(8)” and “(9)” are replaced with the subsection numbers “(7)” and “(8)” respectively.

24. In section 35 the words “the Children and Young Persons Act 1933 and” are omitted and the reference to the Sexual Offences (Amendment) Act 1976 is replaced with reference to the Sexual Offences Act 1992.

25. In section 43(1)(9) the words “evidence to criminal proceedings” are replaced with the words “evidence in criminal proceedings”.

26. Schedule 1 is amended by omitting paragraphs 1 to 4.

27. In Schedule 1, paragraph 7(5) the words “paragraph (m)” are replaced with the words “paragraph (n)”.

28. In Schedule 1, paragraph 9(3)(a) the words “conspiracy of incitement” are replaced with the words “conspiracy or incitement”.

29. In Schedule 2, paragraph 1(1) the word “Schedule” is replaced by the word “Section”.

30. In Schedule 2, paragraph (1)(6) the first occurrence of the words “who is called as a witness in the proceedings” are omitted.

31. Schedule 2 is amended by omitting paragraphs 2(2), 3, 4, 5 and 6.

32. In Schedule 2, paragraph 10 the word “subject” is inserted between the words “effect” and “to”.

33. Schedule 3 is amended (but not so as to revive the application of any provision in the Falkland Islands) by omitting the entries relating to —

(a) the Children and Young Persons Act 1933;

(b) the Sexual Offences (Amendment) Act 1976;

(c) the Magistrates’ Courts Act 1980 so far as it relates to section 126(d) of that Act;

(d) the Police and Criminal Evidence Act 1984;

(e) the Criminal Justice Act 1988, so far as it relates to sections 24(1)(c), 32, 32A and 158 and Schedule 13 of that Act; and

(f) the Broadcasting Act 1990.

## **EXPLANATORY MEMORANDUM**

### **Criminal Law (Miscellaneous Provisions) Bill 2002**

This Ordinance amends the Crimes Ordinance —

(a) by abolishing the “year and a day rule”. This rule provided that for the purposes of offences involving death and of suicide, an act or omission is conclusively presumed not to have caused a person’s death if more than a year and a day has elapsed when the person dies;

(b) by abolishing the rebuttable presumption that a child aged 10 or over is incapable of committing an offence.

This Ordinance amends the Criminal Justice Ordinance by abolishing the right of the accused to make an unsworn statement.

**Criminal Law (Miscellaneous Provisions) Bill 2002**

(No:            of 2002)

**ARRANGEMENT OF PROVISIONS**

**Clause**

1. Short title and commencement
2. Amendment of Crimes Ordinance
3. Amendment of Criminal Justice Ordinance

Schedule 1

Schedule 2





### **Amendment of Criminal Justice Ordinance**

3. The Criminal Justice Ordinance (Title 24.1) is amended in the manner specified in Schedule 2 to this Ordinance.

### **SCHEDULE 1**

#### **Amendment of Crimes Ordinance (Title 23.1)**

1. In this Schedule, "the Ordinance" means the Crimes Ordinance (Title 23.1).
2. The following section headings and sections are inserted in the Ordinance immediately after section 23 —

#### **"Abolition of "Year and a Day Rule"**

**23A.**—(1) Subject to subsection (2), the rule known as the "year and a day rule" (that is, the rule that, for the purposes of offences involving death and of suicide, an act or omission is conclusively presumed not to have caused a person's death if more than a year and a day elapsed before he died) is abolished for all purposes.

(2) This section shall not affect the continued application of the "year and a day rule" to cases where the act or omission (or the last of the acts or omissions) which caused the death occurred before the day on which this Ordinance is passed.

#### **Restrictions on institution of proceedings for a fatal offence**

**23B.**—(1) Proceedings to which this section applies may only be instituted by or with the consent of the Attorney General.

(2) This section applies to proceedings against a person for a fatal offence if —

(a) the injury alleged to have caused the death was sustained more than three years before the death occurred, or

(b) the person has previously been convicted of an offence committed in circumstances alleged to have been connected with the death.

(3) In subsection (2) "fatal offence" means —

(a) murder, manslaughter, infanticide or any other offence of which one of the elements is causing a person's death, or

(b) the offence of aiding, abetting, counselling or procuring a person's suicide."

3. Section 47 of the Ordinance is amended as follows —

(a) by inserting the number “(1)” immediately before “It” in the first line; and

(b) by inserting the following subsection after subsection (1) —

“(2) The rebuttable presumption of criminal law that a child aged 10 or over is incapable of committing an offence is abolished.”

**SCHEDULE 2**  
**Amendment of Criminal Justice Ordinance (Title 24.1)**

1. In this Schedule “the Ordinance” means the Criminal Justice Ordinance (Title 24.1).

2. The following section heading and section is inserted in the Ordinance immediately after section 101 (Time for taking accused’s evidence) —

**“Abolition of right of accused to make unsworn statement**

**101A.—**(1) Subject to subsections (2) and (3) below, in any criminal proceedings the accused shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination; but this section shall not affect the right of the accused, if not represented by counsel or a solicitor, to address the court or jury otherwise than on oath on any matter on which, if he were so represented, counsel or a solicitor could address the court or jury on his behalf.

(2) Nothing in subsection (1) shall prevent the accused making a statement without being sworn —

(a) if it is one which he is required by law to make personally; or

(b) if he makes it by way of mitigation before the court passes sentence upon him.

(3) Nothing in this section applies —

(a) to a trial; or

(b) to proceedings before examining justices (which function is exercisable by two or more justices of the peace sitting together as the Summary Court),

which began before the commencement of this section.”

**Conservation of Wildlife and Nature (Amendment) Bill 2002**

(No:            of 2002)

**ARRANGEMENT OF PROVISIONS**

Clause

1.     Short title
2.     Amendment of the Conservation of Wildlife and Nature Ordinance 1999

**CONSERVATION OF WILDLIFE AND NATURE (AMENDMENT) BILL 2002**

(No:            of 2002)

*(assented to:     2002)*  
*(commencement: on publication)*  
*(published:)*

A BILL

for

AN ORDINANCE

To amend the Conservation of Wildlife and Nature Ordinance 1999

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and Commencement**

1. This Ordinance may be cited as the Conservation of Wildlife and Nature (Amendment) Ordinance 2002 and shall come into force upon publication in the *Gazette*.

**Amendment of the Conservation of Wildlife and Nature Ordinance 1999**

2. The Conservation of Wildlife and Nature Ordinance 1999 is amended as follows —

(a) by replacing section 3(4) with the following subsection —

“(4) The owner or occupier of any land or any person authorised by either of them does not commit an offence under subsection (1) or subsection (2) by doing in relation to a bird included in Part 1 of Schedule 1 or its nest or any of its eggs any of the things which would otherwise constitute an offence by him under one or other of those subsections.”

(b) by replacing section 4(5) is replaced with the following subsection —

“(5) Subject to subsection (6) a person shall not be convicted of an offence under subsection (1) if he shows —

(a) that the animal had not been captured or killed, or had been lawfully captured or killed,

(b) in respect of an animal mentioned in Part 2 of Schedule 2 to this Ordinance, that he captured it by rod and line outside the closed season, and does not capture more than six of the animal on the day in question.”

(c) by inserting the following subsection immediately after section 4(5) —

“(5A) Subject to subsection (6) a person shall not be convicted of an offence under subsection (2) if he shows in respect of an animal mentioned in Part 2 of Schedule 2 to this Ordinance, that he captured it by rod and line outside the closed season, and does not capture more than six of the animal on the day in question.”

(d) Section 9(1) is amended by replacing the full-stop (“.”) with a comma (“,”) at the end of paragraph (b) and inserting the following words —

“but neither paragraph (a), (b) or subsection 2(h) shall apply to except from sections 3 – 8 the collection for human consumption of any species of Albatross or Petrel egg.”





**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*24th January 2003*

*No. 2*

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The following are published in this Supplement -

**Income Tax (Disclosure of Information) Order 2003, (S. R. & O. No: 1 of 2003);**

**Crozier Place, John Street and Reservoir Road No Waiting Regulations  
(Amendment) Order 2003, (S. R. & O. No: 2 of 2003).**

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**SUBSIDIARY LEGISLATION**

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**INCOME TAX**

**Income Tax (Disclosure of Information) Order 2003**

S. R. & O. No: 1 of 2003

*Made: 20th January 2003*

*Published: 24th January 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 204 of the Taxes Ordinance 1997(a) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Income Tax (Disclosure of Information) Order 2003 and comes into force on publication in the *Gazette*.

**Declaration of secrecy**

2. Every person having any official duty or being employed in the administration of the Taxes Ordinance 1997 shall make and subscribe before a Justice of the Peace a declaration in the form set out in the Schedule to this Order.

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(a) No 14 of 1997



## SCHEDULE

### Form of declaration of official secrecy

I do swear/solemnly and sincerely affirm [*delete as appropriate*] that in connection with my official duty and or employment in the administration of the Taxes Ordinance 1997, I shall regard and deal with all documents, information and returns relating to the income or items of income of any person as secret and confidential, and except as may be authorised or required in accordance with that Ordinance to do I will not directly nor indirectly reveal such matters

So help me God [*delete as appropriate*]

Signature of person making Declaration

Sworn/Affirmed [*delete as appropriate*] this                      day of                      before me

Signature of Justice of the Peace

Made this 20th day of January 2003

H J S Pearce  
Governor

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#### EXPLANATORY NOTE (*not forming part of the above Order*)

The Order sets out the form of declaration of secrecy required by section 202 of the Taxes Ordinance 1997.

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**SUBSIDIARY LEGISLATION**

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**ROAD TRAFFIC**

**Crozier Place, John Street and Reservoir Road No Waiting Regulations (Amendment)  
Order 2003**

S. R. & O. No: 2 of 2003

*Made: 20th January 2003*

*Published: 24th January 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 18 of the Road Traffic Ordinance(a) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Crozier Place, John Street and Reservoir Road No Waiting Regulations (Amendment) Order 2003 and shall come into force on publication.

**Amendment of the Crozier Place, John Street and Reservoir Road No Waiting Regulations Order 2000**

2. The Crozier Place, John Street and Reservoir Road No Waiting Regulations Order 2000(b) is amended by deleting regulation 4(3).

Made this 20th day of January 2003

H J S Pearce  
*Governor*

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(a) Cap 60 Laws of the Falkland Islands 1950 Edition

(b) SR&O No 13 of 2000 (as amended by SR&O No 18 of 2000)

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**EXPLANATORY NOTE**

*(not forming part of the above Order)*

This Order amends the Crozier Place, John Street and Reservoir Road No Waiting Regulations Order 2000 by removing the exemption, in relation to Crozier Place, for the licensee or licensees of the Globe Tavern.



**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*27th February 2003*

*No. 3*

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The following are published in this Supplement -

**Rate of Statutory Interest on Debts Order 2003, (S. R. & O. No. 3 of 2003);**

**Supplementary Appropriation (2002-2003) Ordinance 2003;**

**Criminal Justice Ordinance 2003;**

**Criminal Law (Miscellaneous Provisions) Ordinance 2003;**

**Conservation of Wildlife and Nature (Amendment) Ordinance 2003;**

**Licensing (Amendment) Ordinance 2003.**

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**SUBSIDIARY LEGISLATION**

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**MONEY**

**Rate of Statutory Interest on Debts Order 2003**

(S. R. & O. No: 3 of 2003)

*Made: ..... 3 February 2003*

*Published: ..... 27 February 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 7 of the Interest on Debts Ordinance 2002(a) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Rate of Statutory Interest on Debts Order 2003 and shall come into force upon publication in the Gazette.

**Prescribed Rate of Statutory Interest**

2.—(1) The prescribed rate of statutory interest shall be 8% per annum above the published base lending rate of the Bank of England, as amended from time to time.

(2) The rate of interest prescribed in sub-paragraph (1) shall be deemed to have effect from 1 January 2003.

Made this 3<sup>rd</sup> day of February 2003

H J S Pearce  
Governor

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**EXPLANATORY NOTE**

*(not forming part of the above Order)*

This Order prescribes the rate of statutory interest which may be applied to any qualifying debt within the terms of the Interest on Debts Ordinance 2002.

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**SUPPLEMENTARY APPROPRIATION (2002-2003) ORDINANCE 2003**

(No: 1 of 2003)

ARRANGEMENTS OF PROVISIONS

Section

1. Short title
2. Appropriation of further sum
3. Replenishment of Contingencies Fund

Schedule 1  
Schedule 2

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**SUPPLEMENTARY APPROPRIATION (2002-2003) ORDINANCE 2003**

(No: 1 of 2003)

An Ordinance

*(assented to: 18 February 2003)*

*(commencement: upon publication)*

*(published: 27 February 2003)*

To appropriate and authorise the withdrawal from the Consolidated Fund of the additional sum of £872,320 for the service of the financial year ending 30 June 2003.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Supplementary Appropriation (2002-2003) Ordinance 2003.

**Appropriation of further sum**

2. The Financial Secretary may for the purposes specified in the Schedules cause to be withdrawn from the Consolidated Fund and applied to the service of the year commencing on 1 July 2002 and ending on 30 June 2003 (“the financial year”) the further sum of £872,320 in addition to sums already appropriated by Ordinance.

**Replenishment of Contingencies Fund**

3. The Financial Secretary shall out of the sum appropriated by section 2 replenish the Contingencies Fund to the extent that sums specified in Schedule 1, prior to the commencement

of this Ordinance, have been withdrawn from the Contingencies Fund by the authority of Contingencies Warrant Numbers 3, 4 and 5 of 2002-2003 (the authority of which lapses on the commencement of this Ordinance).

#### SCHEDULE 1

<b>PART I OPERATING EXPENDITURE</b>		£
0200	Health & Social Services	214,300
	<b>TOTAL OPERATING EXPENDITURE</b>	<b>214,300</b>
<b>PART II CAPITAL EXPENDITURE</b>		
0950	Capital	487,020
	<b>TOTAL SUPPLEMENTARY EXPENDITURE</b>	<u>701,320</u>

#### SCHEDULE 2

<b>PART II CAPITAL EXPENDITURE</b>		
0950	Capital	171,000
	<b>TOTAL SUPPLEMENTARY EXPENDITURE</b>	<u>171,000</u>

Passed by the Legislature of the Falkland Islands this 31<sup>st</sup> day of January 2003.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Criminal Justice Ordinance 2003**

(No: 2 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of Criminal Justice Ordinance
3. Amendment of Criminal Justice (Evidence) Ordinance 2000

Schedule 1

Schedule 2



ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**CRIMINAL JUSTICE ORDINANCE 2003**

(No: 2 of 2003)

*(assented to: 18 February 2003)*  
*(commencement: on publication)*  
*(published: 27 February 2003)*

AN ORDINANCE

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Criminal Justice Ordinance 2003.

**Amendment of Criminal Justice Ordinance**

2. The Criminal Justice Ordinance (Title 24.1) is amended in the manner specified in Schedule 1 to this Ordinance.

**Amendment of Criminal Justice (Evidence) Ordinance 2000**

3. The Criminal Evidence Ordinance 2000 is amended in the manner specified in Schedule 2 to this Ordinance.

**SCHEDULE 1**

**Amendment of Criminal Justice Ordinance (Title 24.1)**

1. In this Schedule “the Ordinance” means the Criminal Justice Ordinance (Title 24.1).
2. Sections 70P and 70R (inserted by section 3 of the Criminal Law (Amendment) Ordinance 1996), 92 and 93 of and Schedule 3 to the Ordinance are repealed.
3. Section 70Q(2) of the Ordinance (inserted by section 3 of the Criminal Law (Amendment) Ordinance 1996) is amended by replacing the words “newspaper, news agency” with the words “news gathering or news reporting organisation,”.

4. Section 102 of the Ordinance is replaced by the following —

**“Compellability of accused’s spouse**

**102.—(1)** In any proceedings the wife or husband of a person charged in the proceedings shall, subject to subsection (4), be compellable to give evidence on behalf of that person.

(2) In any proceedings the wife or husband of a person charged in the proceedings shall, subject to subsection (4) be compellable —

(a) to give evidence on behalf of any other person charged in the proceedings but only in respect of any specified offence with which that other person is charged; or

(b) to give evidence for the prosecution but only in respect of any specified offence with which any person is charged in the proceedings.

(3) In relation to the wife or husband of a person charged in any proceedings, an offence is a specified offence for the purpose of subsection (2) if —

(a) it involves an assault on, or injury or a threat of injury to, the wife or husband or a person who was at the material time under the age of sixteen;

(b) it is a sexual offence alleged to have been committed on a person who was at the material time under that age; or

(c) it consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within paragraph (a) or paragraph (b) of this subsection.

(4) No person who is charged in any proceedings shall be compellable by virtue of subsection (1) or (2) to give evidence in the proceedings.

(5) References in this section to a person charged in any proceedings do not include a person who is not, or is no longer, liable to be convicted of an offence in the proceedings (whether as a result of pleading guilty or for any other reason).

(6) In any proceedings a person who has been but is no longer married to the accused shall be compellable to give evidence as if that person and the accused had never been married.

(7) In subsection (3), “sexual offence” means an offence under the Sexual Offences Act 1956, the Indecency with Children Act 1960, the Sexual Offences Act 1967, section 54 of the Criminal Law Act 1977 or the Protection of Children Act 1978 in their respective application to the Falkland Islands.

(8) The failure of the wife or husband of a person charged in any proceedings to give evidence in the proceedings shall not be made the subject of any comment by the prosecution.”

**SCHEDULE 2**  
**Amendment of Criminal Justice (Evidence) Ordinance 2000**

1. In this Schedule “the Ordinance” means the Criminal Justice (Evidence) Ordinance 2000.
2. The Ordinance is subject to the following amendments —
3. In section 1(2) the word “Section” is replaced by the word “Sections” and the words “Schedules 1 and 3” are replaced with the words “Schedules 1 to 3”.
4. In section 1(3)(b) the word “the” is inserted before the word “screening”.
5. In section 1(3)(b)(iv) in line 1 the word “a” is inserted between the words “of” and “witness”.
6. Section 3(1)(c) is replaced by —

“(c) an offence under section 32 of the Mental Health Ordinance (Title 50.1) (unlawful intercourse with female patient);”
7. In section 5(4) the word “or” in line 4 is replaced by the word “of”.
8. In section 9(2)(a) the word “subsection” is replaced by the word “section”.
9. In section 10(2)(a) in line 1 the word “a” is inserted between the words “of” and “direction”.
10. In section 15(4)(a) of the Ordinance the word “that” is inserted after the words “the court”.
11. In section 15(6) the word “refers” is replaced with the word “references”.
12. In section 15(10) in line 1 the word “has” is replaced by the word “as” and in line 2 the word “Magistrate’s” is replaced by the word “Magistrates”.
13. In section 16(7) the word “apply” is replaced by the word “applying”.
14. In section 17(7) in line 3 the words “a interpreter” are replaced with the words “an interpreter”.
15. In section 19(7) the words “section 35(2)” are replaced by the words “section 44(2)”, and the words “in its application to the Falkland Islands” are omitted.
16. In section 27(1) the word “prevent” is replaced with the word “prevented”.
17. In section 28(7)(a) the second word “person” is replaced with the word “persons”.
18. In section 30(2) the bracket before the word “if” is omitted.
19. In section 32(1) the words and brackets “(subject to subsection (2))” are omitted.

20. Section 32(2) is repealed.
21. In section 33(12)(a) the words “an further appeal” are replaced with the words “a further appeal”.
22. In section 34(3) the word “a” is inserted between the words “to” and “specified”.
23. In section 34 the subsection number “(7)” is omitted and the subsection numbers “(8)” and “(9)” are replaced with the subsection numbers “(7)” and “(8)” respectively.
24. In section 35 the words “the Children and Young Persons Act 1933 and” are omitted and the reference to the Sexual Offences (Amendment) Act 1976 is replaced with reference to the Sexual Offences Act 1992.
25. In section 43(1)(9) the words “evidence to criminal proceedings” are replaced with the words “evidence in criminal proceedings”.
26. Schedule 1 is amended by omitting paragraphs 1 to 4.
27. In Schedule 1, paragraph 7(5) the words “paragraph (m)” are replaced with the words “paragraph (n)”.
28. In Schedule 1, paragraph 9(3)(a) the words “conspiracy of incitement” are replaced with the words “conspiracy or incitement”.
29. In Schedule 2, paragraph 1(1) the word “Schedule” is replaced by the word “Section”.
30. In Schedule 2, paragraph (1)(6) the first occurrence of the words “who is called as a witness in the proceedings” are omitted.
31. Schedule 2 is amended by omitting paragraphs 2(2), 3, 4, 5 and 6.
32. In Schedule 2, paragraph 10 the word “subject” is inserted between the words “effect” and “to”.
33. Schedule 3 is amended (but not so as to revive the application of any provision in the Falkland Islands) by omitting the entries relating to —
  - (a) the Children and Young Persons Act 1933;
  - (b) the Sexual Offences (Amendment) Act 1976;
  - (c) the Magistrates’ Courts Act 1980 so far as it relates to section 126(d) of that Act;
  - (d) the Police and Criminal Evidence Act 1984;
  - (e) the Criminal Justice Act 1988, so far as it relates to sections 24(1)(c), 32 , 32A and 158 and Schedule 13 of that Act; and
  - (f) the Broadcasting Act 1990.

Passed by the Legislature of the Falkland Islands this 31<sup>st</sup> day of January 2003.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Criminal Law (Miscellaneous Provisions) Ordinance 2003**

(No: 3 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Amendment of Crimes Ordinance
3. Amendment of Criminal Justice Ordinance

Schedule 1

Schedule 2

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**CRIMINAL LAW (MISCELLANEOUS PROVISIONS) ORDINANCE 2003**

(No: 3 of 2003)

*(assented to: 18 February 2003)*

*(commencement: in accordance with section 1)*

*(published: 27 February 2003)*

**AN ORDINANCE**

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1.—(1) This Ordinance may be cited as the Criminal Law (Miscellaneous Provisions) Ordinance 2003 and, except as provided in subsection (2), shall come into force upon publication in the Gazette.

(2) Section 23B of the Crimes Ordinance inserted by paragraph 3 of Schedule 1 of this Ordinance shall not come into force until the end of the period of two months beginning with the day on which this Ordinance is published; but that section applies to the institution of proceedings after the end of that period in any case where the death occurred during that period (as well as in any cases where the death occurred after the end of that period).

**Amendment of Crimes Ordinance**

2. The Crimes Ordinance (Title 23.1) is amended in the manner specified in Schedule 1 to this Ordinance.

### **Amendment of Criminal Justice Ordinance**

3. The Criminal Justice Ordinance (Title 24.1) is amended in the manner specified in Schedule 2 to this Ordinance.

### **SCHEDULE 1**

#### **Amendment of Crimes Ordinance (Title 23.1)**

1. In this Schedule, “the Ordinance” means the Crimes Ordinance (Title 23.1).
2. The following section headings and sections are inserted in the Ordinance immediately after section 23 —

#### **“Abolition of “Year and a Day Rule”**

**23A.**—(1) Subject to subsection (2), the rule known as the “year and a day rule” (that is, the rule that, for the purposes of offences involving death and of suicide, an act or omission is conclusively presumed not to have caused a person’s death if more than a year and a day elapsed before he died) is abolished for all purposes.

(2) This section shall not affect the continued application of the “year and a day rule” to cases where the act or omission (or the last of the acts or omissions) which caused the death occurred before the day on which this Ordinance is passed.

#### **Restrictions on institution of proceedings for a fatal offence**

**23B.**—(1) Proceedings to which this section applies may only be instituted by or with the consent of the Attorney General.

(2) This section applies to proceedings against a person for a fatal offence if —

(a) the injury alleged to have caused the death was sustained more than three years before the death occurred, or

(b) the person has previously been convicted of an offence committed in circumstances alleged to have been connected with the death.

(3) In subsection (2) “fatal offence” means —

(a) murder, manslaughter, infanticide or any other offence of which one of the elements is causing a person’s death, or

(b) the offence of aiding, abetting, counselling or procuring a person’s suicide.”



3. Section 47 of the Ordinance is amended as follows —

(a) by inserting the number “(1)” immediately before “It” in the first line; and

(b) by inserting the following subsection after subsection (1) —

“(2) The rebuttable presumption of criminal law that a child aged 10 or over is incapable of committing an offence is abolished.”

## **SCHEDULE 2**

### **Amendment of Criminal Justice Ordinance (Title 24.1)**

1. In this Schedule “the Ordinance” means the Criminal Justice Ordinance (Title 24.1).

2. The following section heading and section is inserted in the Ordinance immediately after section 101 (Time for taking accused’s evidence) —

#### **“Abolition of right of accused to make unsworn statement**

**101A.—**(1) Subject to subsections (2) and (3) below, in any criminal proceedings the accused shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination; but this section shall not affect the right of the accused, if not represented by counsel or a solicitor, to address the court or jury otherwise than on oath on any matter on which, if he were so represented, counsel or a solicitor could address the court or jury on his behalf.

(2) Nothing in subsection (1) shall prevent the accused making a statement without being sworn —

(a) if it is one which he is required by law to make personally; or

(b) if he makes it by way of mitigation before the court passes sentence upon him.

(3) Nothing in this section applies —

(a) to a trial; or

(b) to proceedings before examining justices (which function is exercisable by two or more justices of the peace sitting together as the Summary Court),

which began before the commencement of this section.”

Passed by the Legislature of the Falkland Islands this 31<sup>st</sup> day of January 2003.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Conservation of Wildlife and Nature (Amendment) Ordinance 2003**

(No: 4 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of the Conservation of Wildlife and Nature Ordinance 1999

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**CONSERVATION OF WILDLIFE AND NATURE (AMENDMENT) ORDINANCE 2003**

(No: 4 of 2003)

*(assented to: 18 February 2003)*  
*(commencement: on publication)*  
*(published: 27 February 2003)*

AN ORDINANCE

To amend the Conservation of Wildlife and Nature Ordinance 1999

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and Commencement**

1. This Ordinance may be cited as the Conservation of Wildlife and Nature (Amendment) Ordinance 2003 and shall come into force upon publication in the *Gazette*.

**Amendment of the Conservation of Wildlife and Nature Ordinance 1999**

2. The Conservation of Wildlife and Nature Ordinance 1999 is amended as follows —

(a) by replacing section 3(4) with the following subsection —

“(4) The owner or occupier of any land or any person authorised by either of them does not commit an offence under subsection (1) or subsection (2) by doing in relation to a bird included in Part 1 of Schedule 1 or its nest or any of its eggs any of the things which would otherwise constitute an offence by him under one or other of those subsections.”

(b) by replacing section 4(5) is replaced with the following subsection —

“(5) Subject to subsection (6) a person shall not be convicted of an offence under subsection (1) if he shows —

(a) that the animal had not been captured or killed, or had been lawfully captured or killed,

(b) in respect of an animal mentioned in Part 2 of Schedule 2 to this Ordinance, that he captured it by rod and line outside the closed season, and does not capture more than six of the animal on the day in question.”

(c) by inserting the following subsection immediately after section 4(5) —

“(5A) Subject to subsection (6) a person shall not be convicted of an offence under subsection (2) if he shows in respect of an animal mentioned in Part 2 of Schedule 2 to this Ordinance, that he captured it by rod and line outside the closed season, and does not capture more than six of the animal on the day in question.”

(d) Section 9(1) is amended by replacing the full-stop (“.”) with a comma (“,”) at the end of paragraph (b) and inserting the following words —

“but neither paragraph (a), (b) or subsection 2(h) shall apply to except from sections 3 – 8 the collection for human consumption of any species of Albatross or Petrel egg.”

Passed by the Legislature of the Falkland Islands this 31<sup>st</sup> day of January 2003.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Licensing (Amendment) Ordinance 2003**

(No: 5 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Interpretation
3. Amendment of the principal Ordinance

ELIZABETH II



Colony of the Falkland Islands

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**LICENSING (AMENDMENT) ORDINANCE 2003**

(No: 5 of 2003)

*(assented to: 18 February 2003)*

*(commencement: upon publication)*

*(published: 27 February 2003)*

**AN ORDINANCE**

To amend the Licensing Ordinance 1994

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1. This Ordinance may be cited as the Licensing (Amendment) Ordinance 2003 and shall come into force upon publication in the Gazette.

**Interpretation**

2. In this Ordinance “the principal Ordinance” means the Licensing Ordinance 1994(a).

**Amendment of the principal Ordinance**

3. The principal Ordinance is amended —

(a) in section 37 by inserting the following subsection between section 37(2) and section 37(3) —

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(a) No 18 of 1994

“(2A) Part VII does not apply to premises in respect of which a club is registered under this Part insofar as to permit the officers of the club to apply to the Summary Court for the grant of a Children’s Certificate under section 66A.”

(b) at the beginning of section 37(2) by inserting the words “subject to subsection (2A)”;

(c) at section 66 by inserting the following subsection between section 66(5) and section 66(6) —

“(5A) Subsection (1) does not apply to premises in Camp exempted by order of the Licensing Justices from its provisions.”; and

(d) by deleting the words “Part VII” where they appear between section 83 and section 84 and substituting the words “Part VIII”.

Passed by the Legislature of the Falkland Islands this 31<sup>st</sup> day of January 2003.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON, M.B.E.,  
*Clerk of Councils.*







**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*28th February 2003*

*No. 4*

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The following is published in this Supplement -

**Road Traffic (Increase of Fine) Order 2003, (S. R. & O. No. 4 of 2003).**

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**SUBSIDIARY LEGISLATION**

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**ROAD TRAFFIC**

**Road Traffic (Increase of Fine) Order 2003**

S. R. & O. No: 4 of 2003

*Made: 28 February 2003*

*Published: 28 February 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 5(1) of the Criminal Justice Ordinance<sup>(a)</sup>, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Road Traffic (Increase of Fine) Order 2003 and shall come into force upon publication in the *Gazette*.

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<sup>(a)</sup> No 17 of 1989

**Increase in amount of fine imposable on conviction of offence of causing death by reckless driving**

2. Section 14(2) of the Road Traffic Ordinance(b) is amended by replacing the words “£10,000” with the words “the maximum of level 7 on the standard scale”.

**Increase in amount of fine imposable on conviction of offence of causing serious injury by reckless driving**

3. Section 16(2) of the Road Traffic Ordinance(b) is amended by replacing the words “£5,000” with the words “the maximum of level 6 on the standard scale”.

**Increase in amount of fine imposable on conviction of offence of reckless driving**

4. Section 16(4) of the Road Traffic Ordinance(b) is amended by replacing the words “£1,000” with the words “the maximum of level 5 on the standard scale”.

**Increase in amount of fine imposable on conviction of offence of driving without due care and attention**

5. Section 18(3) of the Road Traffic Ordinance(b) is amended —

(a) by replacing in subsection (a) the words “£200” with the words “the maximum of level 4 on the standard scale” in subsection (a);

(b) by replacing in subsection (b) the words “£1,000” with the words “the maximum of level 5 on the standard scale”.

Made this 28<sup>th</sup> day of February 2003

Russell Thomas Jarvis  
*Acting Governor*

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(b) Cap 60 Laws of the Falkland Islands, 1950 Edition



**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*14th March 2003*

*No. 5*

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The following are published in this Supplement -

**Customs Bill 2003 Explanatory Memorandum;**

**The Customs Bill 2003.**

## **EXPLANATORY MEMORANDUM CUSTOMS BILL 2003**

### ***Introductory***

1. The present Customs Ordinance (Chapter 16, Laws of the Falkland Islands 1950 edition) as amended (Title 26 Revised Laws of the Falkland Islands) was enacted in 1943 as the Customs Ordinance 1943. It has subsequently been amended, in relatively minor respects, in 1946, 1954, 1956, 1959 (twice), 1968, 1988 and 1993. It appears to have been enacted by reference to a model ordinance, prepared just before the Second World War, for United Kingdom Colonies, that Ordinance being very largely based on the United Kingdom Customs Consolidation Act 1876 overlaid as that Act was in 1943 by a patchwork quilt of direct and referential amendments.

2. The present Ordinance, at the very least, requires very substantial amendment so as to deal with modern circumstances and needs. It is, however, difficult to amend the Ordinance satisfactorily without doing violence to its structure and drafting style. Moreover, the amending Bill would not readily be understood without reference to the existing Ordinance and, for that reason, it appears more satisfactory entirely to repeal, and to replace, the existing Ordinance.

### ***Draft Customs Bill 2003***

3. The Customs Bill 2003 has therefore been prepared for that purpose. It must (and does) cover all of the ground and subject matter dealt with by the present Ordinance and makes such additional provision as appears to be necessary.

## **THE PROVISIONS OF THE BILL**

### ***Clause 1***

4. Clause 1 of the Bill provides for it to come into force on such date as is fixed by notice published in the Gazette. A large number of definitions are contained in clause 2(1) which corresponds to section 2 of the present Ordinance. A few of the definitions contained in that section are dealt with in a different way in clause 2(1) or are omitted as being unnecessary. Many new definitions are included. Clauses 2(2) to (7) contain interpretation provisions. Clause 3 provides that, generally speaking, goods for use in a ship or aircraft shall be treated as stores (i.e. will not bear duty).

### ***Clause 4***

5. It is necessary for the provisions of the Bill to apply to Crown aircraft other than Military aircraft (for example, that the provisions of the Bill should apply to FIGAS aircraft). This is provided for by clause 4.

### ***Clause 5***

6. The time of importation and exportation is dealt with by clause 5 which makes provision corresponding with that made by section 209 of the present Ordinance, although in different terms. For example section 209(1) provides that the goods are deemed to be imported at "the time at which the aircraft or ship importing such goods actually landed in the Colony or came within the waters thereof". Clause 5 provides that, in relation to a ship, goods are imported when the ship comes within the limits of the port and, in the case of an aircraft goods are imported

when the aircraft lands or at the time when the goods are unloaded, whichever is the earlier. In relation to exportation of goods, clause 5 would make similar provision to that made by section 209 of the present Ordinance.

***Clause 6***

7. Part II of the Bill (clauses 6 to 12) makes provision in relation to the administration of the Ordinance. Clause 6 makes provision for the appointment of the Collector of Customs and Deputy Collector of Customs. While there is no specific provision of the present Ordinance in relation to such appointments, the posts of Collector and Deputy Collector of Customs are contemplated by the definitions in section 2. Section 4 of the present Ordinance provides that customs officers can be appointed by the Collector of Customs and this does not, strictly speaking, accord with the provisions of the Constitution. Clause 7(1) provides that customs officers can be appointed by the Governor. Clause 7(2) provides that every police officer and every existing customs officer shall be customs officers deemed to have been appointed under clause 7 (1) and clause 7(3) enables the Collector to depute any person in the service of the Falkland Islands Government or the United Kingdom Government to exercise the powers and duties of a customs officer.

***Clause 8***

8. Clause 8 makes provision for the duties of the Collector of Customs, Deputy Collector of Customs and customs officers. There is no directly corresponding provision in the present Ordinance.

***Clause 9***

9. An important function of Customs is to acquire statistics of imports. This information is obtained from documents which can be regarded as commercially confidential and as belonging to other people. It is desirable to provide that the Collector may disclose information derived by him from such documents, without directly disclosing the name of the importer or the price of the goods. Provision would be made in relation to that by clause 9 of the Bill. There is no corresponding provision in the present Ordinance.

***Clause 10***

10. Clause 10, reflects a provision appearing in section 175(5) of the existing Ordinance, would render it an offence for a person for an unlawful purpose to pretend to be a customs officer and clause 11, in relation to which there is also no corresponding provision in the present Ordinance, makes bribery of, and collusion by, a customs officer an offence. Clause 12 would make obstruction, etc, of the customs officers an offence. It corresponds to the provisions of section 170 of the present Ordinance.

***Part III of the Bill (clauses 13 to 27)***

11. Part III of the Bill (clauses 13 to 27) deals with Customs Control Areas. Clause 13 provides for customs ports (the corresponding provisions of the present Ordinance are contained in the definitions of "boarding station" and "port" and "port of entry" in section 2 of that Ordinance). Clause 14 in relation to the approval of wharves is dealt with in the present Ordinance by the definitions of "approved place of unloading" and "approved place of loading". Similarly

“customs airports”, which are dealt with by clause 15 of the Bill are dealt with by those definitions in the present Ordinance. Clauses 14 and 15 make more detailed provision than is made in the present Ordinance and provide for conditions or restrictions to be attached to approval of approved wharves and make more detailed provision in relation to customs airports than is made by the present Ordinance. It should be noted that some provision in relation to the unloading etc of goods from aircraft and ships is made by section 64 of that Ordinance. Clause 16 makes provision for examination stations at Customs airports, for which provision of a more limited nature is made by section 64(b) of the present Ordinance.

12. There is no provision in the present Ordinance in relation to the movement of goods by pipeline. Provision would be made by clause 17 of the Bill. Fuel is delivered by pipeline from FIPASS to the storage tank at Stanley Services Depot. Clause 18 makes provision in relation to transit sheds, as to which no provision appears to be made by the present Ordinance.

13. Clause 20(1) provides powers for customs officers to board a ship within the limits of a port or an aircraft while it is at an aerodrome. The corresponding provision is to be found in section 48 of the present Ordinance. Clause 20(2) which requires accommodation below decks to be provided for a customs officer stationed on a ship corresponds to clause 56 of the present Ordinance, but the provisions of clause 20(2) requiring safe access and egress do not appear to have a corresponding provision in the present Ordinance.

14. Customs officers need to have free access to every part of a ship at a port or an aircraft at an aerodrome and this is provided for by clause 21 which would also confer additional powers. Corresponding provisions are to be found in sections 48 and 49 of the present Ordinance. While section 53 of the present Ordinance provides for the detention of the Master of a ship if he fails to give a satisfactory account of any goods on the ship, clause 22 of the Bill would confer powers to detain a ship or aircraft, but in much extended circumstances. Clause 23 which makes provision in relation to the control of movement of uncleared goods in a port or airport appears to have no equivalent in the present Ordinance and the same would seem to apply in respect of clause 24 of the Bill, which makes provision for inland clearance depots, of which there are none at present in the Falkland Islands. Clause 25 would render it an offence for a ship or aircraft to carry away a customs officer against his will. Equivalent provision is contained in section 145 of the present Ordinance. Clause 26 contains provisions in relation to the inspection of aircraft, aerodromes and records. These are much more extensive than the powers contained in sections 46 and 48 of the present Ordinance. There is no equivalent to the present Ordinance to clause 27 which enables a customs officer to prevent the flight of an aircraft for an overseas destination from an aerodrome other than a customs airport or before customs clearance is given.

#### ***Part IV of the Bill (clauses 28 to 43)***

15. Part IV of the Bill (clauses 28 to 43) contains provisions relating to the control of importation. The provisions of clause 28 on report inwards contain much more extensive provision than is contained in section 46 (procedure on arrival) of the present Ordinance, which also deals with other matters. It appears that no special provision is made in the present Ordinance as to Naval ships corresponding to the provisions contained in clause 29 of the Bill. Clause 30 makes provision for entry of goods on importation. Clause 31 makes provision for

entry by Bill of Sight. Clause 32 makes provision as to surplus stores in more modern, and it is believed more satisfactory, form than is made by section 65 of the present Ordinance. Similarly clause 33 of the Bill, which deals with the removal of uncleared goods to a Queen's warehouse more fully covers the ground which is covered by section 73 of the present Ordinance. Clause 34 creates a general offence in relation to the failure to comply with the provisions of Part IV of the Bill.

16. Clause 35 enables the Governor to make regulations in relation to the unloading and removal of imported goods. There is no specific provision of the present Ordinance which corresponds to clause 35 but possibly such regulations could be made under section 230 of the present Ordinance.

17. Clause 36 contains a general prohibition on delivery or removal of imported goods until any Customs Duty has been paid. There is no directly equivalent provision in the present Ordinance. However section 64(c) requires the authority of a customs officer for the removal of goods from any part of the customs area or the Queen's warehouse. In any event clause 36 makes much more detailed and, it is believed, more satisfactory provision. Clause 37 provides for standing deposits to be maintained with the Treasury, so as to enable the immediate release of dutiable goods. There is no equivalent provision in the present Ordinance. Provision permitting the making of regulations to allow deferred payment of Customs Duty would be made by clause 36. There is no equivalent provision in the present Ordinance, but it is possible that such regulations could be made under section 230 ("the Governor and Council may make regulations for the better carrying out of the provisions for the Customs Rules, and may, in such regulations, prescribe fees, rents or charges to be paid in respect of any matter therein referred to."). It is not, however, certain that such regulations could be made under that provision. Clause 38 permits regulations to be made permitting the deferred payment of duty.

18. Clause 39, which permits goods to be warehoused without payment of duty makes provision which, in the present Ordinance, is contained in the first sentence of section 81. Clauses 40 and 41, which provide for relief from payment of duty of goods entered for transit or transshipment and of goods temporarily imported make provision which, in the present Ordinance, is found in section 38.

19. Clause 42 of the Bill provides for the forfeiture of goods which are improperly imported. There is provision in section 66, read with sections 64 and 65, of the present Ordinance for forfeiture of goods improperly imported but there are a number of loopholes in those provisions which would be closed if clause 42 were to be enacted.

20. Clause 43 renders it a criminal offence to import goods without payment of duty or to import prohibited goods. The clause provides for very substantial fines and prison sentences. While there is a general provision in section 182 of the present Ordinance in relation to the same subject matter the offences provided for by that section only incur a penalty of £100.00 or three times the value of the goods and do not provide for prison sentences. Section 182 is clearly inadequate.



***Part V of the Bill (clauses 44 to 60)***

21. Part V of the Bill (clauses 44 to 60) deals with the control of exportation of goods. In the present Ordinance, this subject is in the main dealt with by sections 112 to 136.

22. Clause 44 contains a definition of the phrase “dutiable or restricted goods”, which must be distinguished from “prohibited” goods which are dealt with in clause 144. By clause 45 of the Bill an entry outwards of dutiable or restricted goods is required. A similar requirement is contained in section 112 of the present Ordinance. Clause 45(1)(b) however enables the Collector of Customs to require security that goods will be duly shipped or exported and discharged at the destination for which they are entered outwards. No similar provision appears in the present Ordinance. Indeed section 112 of the present Ordinance does not in its requirements distinguish between dutiable and restricted goods and goods which are neither dutiable nor restricted. However, in the Bill separate provision is made in clause 46 as to the entry outwards of such goods. There is no power in the present Ordinance for the Collector of Customs to accept an incomplete entry outwards of goods which are to be exported. Clause 47, however, enables a customs officer to accept an incomplete entry of goods which are to be exported. The purpose of this is that the goods may thus “catch the ship” and not be held up. Where an incomplete entry outwards is accepted under clause 47(1), the exporter will be obliged under clause 47(2) to correct the incomplete entry or substitute a correct entry within such period of time as the collector allows.

23. The present Ordinance does not appear to contain any provision enabling an exporter to correct or cancel an entry of goods for export. Clause 48 however allows, subject to the conditions it lays down, such cancellation. Clause 49 of the Bill deals with the situation in which goods which have been entered for export are not exported and for cancellation of the export entry and the provision of information by the exporter. Clause 49 covers the ground covered by sections 131 to 133 of the present Ordinance. Those provisions, however, contain very tight time limits in relation to notifications of non-export and the provisions of clause 49 are more flexible. In addition clause 50 makes provision for a simplified clearance procedure in relation to goods which are not dutiable or restricted without an export entry being required. The provisions of clause 50 will, it is believed, be important for farmers and fishing companies. Clause 51 contains supplementary provision in relation to clause 50. The effect of clauses 50 and 51 read together is to provide for simplified export documentation and procedure in those cases where information as to export is required only for the purpose of being able to maintain adequate statistics of exports. No corresponding provision is contained in the present Ordinance.

24. Clause 52 makes provision in relation to the export of goods by pipe-line. There is, of course, no corresponding provision in the present Ordinance and, at present, no export by pipe-line takes place.

25. Clause 53 of the Bill makes provision in relation to ships and aircraft stores (duty-free goods for consumption onboard the ship or aircraft). It covers the ground covered by section 134 of the present Ordinance. Clause 54 enables the Collector of Customs to require information or documentation on the export of goods. Clauses 55 and 56 correspond to section 137 to 143 of the present Ordinance in relation to the clearance of departing ships and aircraft. There appears

to be no specific provision enabling refusal or cancellation of clearance of a ship or aircraft in the present Ordinance. Such a power is, it is believed, implicit in the provisions of the Ordinance. However, clause 57 of the Bill makes specific provision in relation to the refusal or cancellation of clearance and the purposes or reasons for which this may be done. It also provides for the procedure on such cancellation. Clause 58 is a provision enabling the Governor to make Regulations in relation to the exportation of goods. It contains a number of specific enabling powers. As mentioned above, section 230 of the present Ordinance appears to be the only provision enabling Regulations to be made.

26. Clause 59 is a general provision creating criminal offences in relation to the exportation of goods and clause 60 makes provision for offences in relation to the exportation of prohibited or restricted goods. Provision is made in relation to such offences in various sections of the present Ordinance. The fines provided for when the Ordinance was enacted in 1943 have not been increased in the intervening 55 years and, as might be expected, are sadly inadequate in present circumstances. The prison sentences provided for by the present Ordinance are, in a number of instances, regarded as inadequate to deal with serious offences.

***Part VI of the Bill (clauses 61 to 66)***

27. Part VI of the Bill (clauses 61 to 66) deals with the control of coastwise traffic. This subject is dealt with by sections 146 to 164 of the present Ordinance. Clause 61 defines what is meant by a coasting ship and coasting trade and equates to section 146 of the present Ordinance. There is no difference in the effect of the two provisions and clause 62 of the Bill similarly equates to section 147 of the present Ordinance. Clauses 63 and 64 make provision for the subject matter of sections 154 to 162 of the present Ordinance. Clause 65 would give power to make regulations as to the carriage of goods coastwise and the keeping of cargo records and clause 64 provides for offences in relation to coasting ships.

***Part VII of the Bill (clauses 67 to 83)***

28. Part VII of the Bill (clause 65 to 81) contains a number of supplementary provisions in relation to customs control. Some of these provisions have no equivalent in the present Ordinance. Clause 65 imposes special controls in relation to the exportation of explosives and there appears to be no corresponding provision in the present Ordinance. While various provisions of the present Ordinance require the keeping of records, there are no provisions as specific or comprehensive as clauses 68 to 70. The need for some of the provisions of these clauses derives from the general need to have accurate statistics, but other provisions are related also to the need to be able to demonstrate compliance with international prohibitions as to the export of certain categories of goods to various countries and in relation to which the present Ordinance is deficient.

29. Clause 70 is an important provision enabling the Collector of Customs to require any person concerned in the importation or exportation of goods to supply information to him, including the production of documents. Clause 71 is an important provision in relation to the declaration of dutiable goods by persons entering the Falkland Islands. Provision in relation to this subject is contained in section 52(1) of the present Ordinance which, however, does not require a specific personal customs declaration.

30. Clause 72 of the Bill is a general power for the Collector of Customs to require evidence to be produced to his satisfaction in support of any information required by a customs officer in the exercise of any of his powers under the preceding provisions of the Bill. Clause 73 contains power for the Governor by Order made under the section to regulate small ships. The purpose of the provision is to facilitate control of smuggling and, in particular, smuggling of illicit drugs. The clause, if enacted, would not come into force until an Order made under clause 73(1) brought it into force. Some of the provisions of clause 73 are contained in clauses of the present Ordinance. They are directed more to the smuggling inwards of tobacco and alcohol on which duty has not been paid.

31. Clause 74 (power to haul up revenue vessels and patrol coasts) covers the same ground as sections 177 and 178 of the present Ordinance. Clause 75 provides an offence of interfering with customs seals and clause 76 deals with an offence of signalling to smugglers, the same subject matter as is dealt with by section 171 of the present Ordinance. Similarly clause 77 of the Bill, which makes provision for the offence of interfering with revenue vessels and customs gear, equates to section 172 of the present Ordinance. Clause 78 would provide for a special penalty where an offender is armed with an offensive weapon or is disguised in any way. There is no equivalent provision in the present Ordinance. Clause 79 of the Bill creates an offence of offering goods for sale as smuggled goods, whether or not they are unlawfully imported or are in fact chargeable with duty. Similar provisions are contained in the present Ordinance. Clause 81 provides for forfeiture of a ship jettisoning cargo. It makes different provision from that made by sections 165 to 167 of the present Ordinance. Under those sections, a ship of less than 250 tonnes jettisoning cargo is liable to forfeiture but an aircraft or a ship exceeding 250 tonnes is not liable to forfeiture. Clause 82 provides for forfeiture of a ship or aircraft unable to account for missing cargo. Clause 83 provides an offence in relation to ships which fail to bring to when required to do so and comparable provision is made by section 169 of the present Ordinance.

***Part VIII of the Bill (clauses 84 to 92)***

32. Part VIII of the Bill (clauses 84 to 92) contains provisions about warehouses, Queen's warehouses and related provisions about pipe-lines. No provision about pipe-lines is contained in the present Ordinance. While there are various provisions in relation to warehouses and Queen's warehouses in the present Ordinance there is no provision in it directly equivalent to clause 84 of the Bill, which relates to the approval of warehouses. However section 84 of the present Ordinance provides for the use of a building or place as a private warehouse when a bond, in a sum stipulated by the Collector of Customs is given. Section 85 of the present Ordinance contains obsolete provision in relation to hulk warehouses.

33. Clause 85 of the Bill, which provides for regulation of warehouses and warehouse goods and the making of "warehousing regulations" by the Governor, covers the ground covered by sections 81, 82, 86 to 102, 104 and 107 to 109 of the present Ordinance. The subject matter of clauses 86 and 87 of the Bill is dealt with by section 110 of the present Ordinance but the effect of that provision is somewhat different. Clause 88 of the Bill which deals with deficiency in goods moved by pipe-line does not correspond with any provision contained in the present Ordinance. Clause 89, which restricts the liability of the Crown to pay compensation for loss or damage of goods in, or for removal of goods from, a warehouse or pipe-line and clause 90 which deals with

the procedure on a warehouse ceasing to be approved do not have equivalents in the present Ordinance.

34. Clause 91, which makes provisions in relation to deposit of goods in a Queen's warehouse covers the subject matter with which sections 74 and 75 of the present Ordinance are concerned, but to slightly different effect. Clause 92 contains provisions as to general offences relating to warehouses and warehoused goods and is in somewhat wider terms than the corresponding provision, section 117, in the present Ordinance.

***Part IX of the Bill (clauses 93 to 112)***

35. Part IX of the Bill (clauses 93 to 112) of the Bill contains general provisions relating to customs duties and drawbacks. These provisions which are largely concerned with the calculation of duty payable do not directly correspond to the provisions of the present Ordinance. Clause 93 of the Bill provides for the delivery of imported goods on security being given if it is impracticable immediately to ascertain whether any or what duty is payable in respect of the imported goods. Such delivery may be allowable with the written permission of the Collector under section 64 of the present Ordinance but the provisions for security being given and the various notices which are provided for by clause 93 are not provided for by the present Ordinance.

36. Clause 94 would enable the Governor to make Regulations containing provisions for determining the place of origin of any goods. There is no specific provision having the same effect under the present Ordinance. Similarly there appears to be no provision of the present Ordinance equating to clause 95 of the Bill which enables the Collector to impose restrictions where the duty payable on any imported goods (other than the use to be made of the goods) is not reasonably ascertainable from an examination of the goods or conclusively determined by the production of any documentation.

37. Clause 96 enables the Governor to make Regulations to determine the use of particular goods, where the duty payable depends on the use to be made of the goods. Clause 97 makes provision for the repayment of duty where goods which are imported in pursuance of a contract of sale are found to be either damaged in transit or not conform to contract, and are returned to the seller or destroyed unused.

38. Clause 98 provides that imported goods which have been relieved from customs duty or charged with duty at a reduced rate are liable to forfeiture where any condition required in connection with the relief of duty is not complied with. There is no specific provision having the same effect under the present Ordinance. Clause 99 is concerned with calculating the value of imported goods where the duty payable depends on their value, and enables the Governor to make regulations for this purpose. Section 14 of the present Ordinance contains detailed rules on calculating the value of imported goods. Making provision by regulations allows greater flexibility. Clause 100 is concerned with the calculation of duty on manufactured or composite goods and replaces section 16 of the present Ordinance.

39. Clause 101 enables the Governor to make regulations permitting the payment of duty to be deferred, subject to such conditions as may be imposed by the Regulations. Clause 102 restricts the delivery of goods in certain circumstances. Clauses 103 and 104 provide for the remittance or repayment of duty on denatured goods or goods lost or destroyed. Sections 21 to 25 of the present Ordinance concern the abatement of duty on damaged goods but do not permit abatement on alcohol or tobacco. Clause 105 entitles the Crown to enforce a bond where goods are removed without payment of duty.

40. Clauses 106 to 112 are concerned with the drawback of duty. Clause 106(1) extends drawback on goods shipped as stores to the warehousing of those goods as stores while clause 106(2) extends drawback payable on the exportation of any goods to the warehousing of those goods. Section 41 of the present Ordinance provides for drawback of the whole or any part of duties paid on importation to be allowed in accordance with Regulations made by the Governor under that section, subject to such conditions as the Regulations may impose. Clause 107 requires a claim for drawback to be made in such form as the Collector of Customs directs, and replaces section 42 of the present Ordinance. Clause 108 permits drawback on goods destroyed or damaged (and subsequently abandoned) by accident on board an exporting ship or aircraft and replaces sections 203 and 204 of the present Ordinance. Clause 109 provides that drawback shall not be paid unless a claim for payment is made within two years for the date upon which drawback becomes payable. The time limit under section 44 of the present Ordinance is one year. Clause 110 makes provision for offences in relation to claims for drawback. The clause provides for very substantial fines and prison sentences and for the forfeiture of goods. There is a general provision in section 181 of the present Ordinance in relation to the same subject matter but the penalty imposed by that section is £500 which is clearly inadequate.

41. Clause 111 makes general provision for the recovery and calculation of duties and drawbacks. Clause 112 provides that the Crown is liable to repay overpaid duty. No claim for repayment may be made after six years from the date of payment. The corresponding provision in the present Ordinance is section 45 which provides for the repayment of overpaid duty provided a claim for repayment is made within two years from the date of overpayment.

***Part X of the Bill (clauses 113 to 132)***

42. Part X of the Bill (clauses 113 to 132) is concerned with the imposition of duty and the various reliefs and exemptions from duty. Clause 113 gives Legislative Council the power by resolution to impose, vary or revoke (a) import or export duties upon any kind of goods imported into or exported from the Falkland Islands and (b) excise duties upon any kind of goods manufactured or produced within the Islands. The corresponding provision in the present Ordinance is section 5 which is concerned only with customs duties on imported and exported goods and not with excise duties. There is no corresponding provision in the Bill to section 6 of the present Ordinance which allows the Governor in Council to make an interim order pending ratification by Legislative Council imposing, varying or revoking customs duties.

43. Clause 113(2) of the Bill is an important new provision which provides that Legislative Council shall not, without the consent of the Secretary of State, impose differential rates of duties in relation to the same category of goods applicable by relation to their place of origin or

manufacture. This is to ensure that the Falkland Islands do not breach international obligations. Clause 113(3) requires any resolution imposing, varying or revoking customs or excise duties to be published in the Gazette.

44. It should be noted that clause 113 is drawn in wide terms enabling Legislative Council to introduce new import or export duties or excise duties upon any kind of goods whatsoever. Although at present duty is only charged on alcohol and tobacco, it is important that the Ordinance be drawn in such a way as to provide flexibility to enable Legislative Council to introduce new duties in the future if it considers it appropriate in changing circumstances.

45. Clause 114 exempts from duty of goods imported by various persons and organisations. This clause replaces section 6A of the present Ordinance which was inserted into the Customs Ordinance in 1988. A new category of exempted persons is added in the Bill, so that all goods imported by any contractor to the United Kingdom Government for the performance of its contract but not further or otherwise are duty free. Clause 115 provides for drawback on supply to an exempted person under clause 114.

46. Clause 116 to 120 contain further reliefs from duty. Clause 116 enables the Governor by Order to make provision for conferring relief from duty in respect of imported legacies. Clause 117 allows importation without duty subject to such conditions as the Collector of Customs may consider appropriate of trade samples or of articles supplied without charge for the purpose of being re-exported with goods manufactured or produced in the Falkland Islands. Clause 118 allows for relief from duty on goods which are re-imported into the Falkland Islands. The corresponding provision is section 12 of the present Ordinance. Provisions relating to the supply of duty free goods to Royal Navy ships are contained in clause 119. Clause 120 makes detailed provision for conferring relief from duty on persons entering the Falkland Islands (e.g. "duty free allowances").

47. There is no provision in the present Ordinance in relation to fish or other natural produce of the sea or continental shelf. Clause 121 of the Bill provides that fish or other natural produce of the sea or continental shelf which are brought direct to the Falkland Islands are to be treated as originating in the Islands and shall not be treated as imported.

48. Clause 122 contains provisions for ascertaining the strength, volume and weight of alcoholic liquors including methylated spirits and clause 123 contains provisions for ascertaining the gravity of any liquid. There are no corresponding provisions in the present Ordinance. Section 27 provides that the certificate of the Collector of Customs shall be prima facie evidence of the strength of alcoholic liquor.

49. Clause 124 charges duty on alcoholic spirits imported into or manufactured in the Falkland Islands. Clause 125 prescribes in what manner spirits are to be imported or exported. The corresponding provisions in the present Ordinance are found in section 36. Clause 126 exempts from duty spirits which are required for medical or scientific purposes. Clauses 127, 128, 130 and 131 charge to duty beer, wine, spirituous beverages and fortified wine respectively. Clause 131 makes provision for the charge to duty of other strong liquor imported into or manufactured

in the Falkland Islands. Clause 132 enables the Governor to make regulations regulating the keeping, use and manufacture of stills.

***Part XI of the Bill (clauses 133 to 143)***

50. Part XI of the Bill (clauses 133 to 143) concern the detention of persons, forfeiture of goods and ships and other matters ancillary to legal proceedings. Clause 133 provides that any customs officer, police officer or member of Her Majesty's Armed Forces may arrest any person for whom there are reasonable grounds to suspect of having committed an offence under the Ordinance within 12 years from the date of the commission of the offence. Sections 188 and 189 of the present Ordinance provide a general power of forfeiture of any goods and all aircraft, ships and other things involved in the commission or attempted commission of an offence under the Ordinance, and sets out the procedures to be followed in the case of seizure. The corresponding provision in the new Bill is found in clause 134. Clause 135 contains a new provision concerned with the forfeiture of spirits. Clause 136 to 138 are supplementary provisions concerned with the forfeiture of ships, aircraft or other things involved in the commission or attempted commission of an offence under the Ordinance.

51. Clause 139 provides that where the Crown seizes or detains any article liable to forfeiture, and judgment is subsequently found in favour of the person from whom the article has been seized, the aggrieved person is not entitled to recover any damages or costs and the Crown or any officer shall not be liable to any punishment provided the court is satisfied that there were reasonable grounds for seizing or detaining the article under the Ordinance. The corresponding provision in the present Ordinance is section 222.

52. The institution of proceedings and service of process is governed by clause 140 of the Bill which also provides that proceedings for an offence shall not be commenced after 12 years from the date of the offence. The corresponding provision in the present Ordinance is section 214 which does not allow proceedings to be commenced at any time after seven years from the date of the offence. Clauses 141 and 142 contain ancillary provisions on proof of various matters in legal proceedings. The corresponding provisions in the present Ordinance are sections 223 and 224.

***Part XII of the Bill (clauses 143 to 164)***

53. Part XII of the Bill (clauses 143 to 164) contain various miscellaneous provisions. Clause 143 enables the Governor by Order to prohibit or regulate the importation or exportation from the Falkland Islands of all or particular types of goods. The corresponding provision in the present Ordinance is section 35. Section 36 of the present Ordinance contains a list of articles, the importation of which is prohibited. There is no corresponding provision in the Bill.

54. Clause 144 requires a person exporting goods from the Falkland Islands to satisfy the Collector of Customs on the final destination of the goods. Clause 145 enables the Collector of Customs to require any person to give security for goods by way of a bond or otherwise and the observance of any condition in connection with customs. There is no directly corresponding provision in the present Ordinance. Clause 146 concerns the provision of premises and facilities to customs officers by any person required to provide them.

55. Clauses 147 to 152 contain important powers entitling customs officers to examine goods; take samples; search premises; enter land in connection with access to pipe-lines; search vessels or aircraft; and search persons respectively. The corresponding provisions are found in sections 175 to 178 and section 199 of the present Ordinance. Section 175 requires a customs officer to obtain a search warrant before entering a property to search for uncustomed or prohibit goods or books or documents relating thereto. This is unsatisfactory because for enforcement purposes (e.g. smuggling) an immediate power is needed. By contrast, clause 149 of the Bill entitles customs officers to enter any building or place where there are reasonable grounds to suspect that any item liable to forfeiture is concealed there. No search warrant is required for the exercise of this power although it may only be exercised at night if the customs officer is accompanied by a police officer.

56. Clause 153 of the Bill entitles a customs officer to refuse to transact any business relating to customs with any agent unless the agent bears written authority from the principal. There is no corresponding provision in the present Ordinance.

57. Clauses 154 to 159 create offences in relation to the making of untrue declarations, the counterfeiting of documents, the use of false scales and the fraudulent evasion of duty respectively. Clause 160 contains further miscellaneous provisions relating to offences and provides for substantial fines and prison sentences. Clause 161 is a general provision permitting directions made under the Ordinance to make different provision for different circumstances and to be varied or revoked by subsequent directions.

58. Clause 161 repeals the present Customs Ordinance and revokes paragraph 4 of the Customs Order. Paragraph 4 of the Customs Order exempts from import duties articles imported by military or navy messes, camps or canteens; goods which are to used on board merchant vessels outside the territorial waters of the Falkland Islands; goods imported as official supplies for the use of consuls of any foreign countries; any article imported for use of the British Antarctic Survey; and certain categories of spirits and tobaccos. Certain of these reliefs are contained within the new Bill and previously referred to in this memorandum. Clause 159 also provides that all subsidiary legislation made under the Customs Ordinance shall remain in full force and effect but may be revoked or amended by Order of the Governor in Council.

59. Finally, the Schedule to the Bill amends the Prohibited Goods Ordinance.



# CUSTOMS BILL 2003

(No:            of 2003)

## ARRANGEMENT OF PROVISIONS

Clause

### PART I PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Treatment of goods for use in ship or aircraft
4. Application to certain Crown aircraft
5. Time of importation, exportation, etc

### PART II ADMINISTRATION

*Appointment and duties of Collector of Customs, Customs Officers, etc.*

6. Appointment of Collector of Customs and Deputy Collector of Customs
7. Appointment of Customs Officers
8. Duties of Collector
9. Disclosure by the Collector of certain information as to imported goods

*Offences in connection with Collector, Deputy Collectors, customs officers, etc*

10. Unlawful assumption of character of officer
11. Bribery and collusion
12. Obstruction of officers, etc

### PART III CUSTOMS CONTROL AREAS

13. Appointment of ports, etc
14. Approval of wharves
15. Control of movement of aircraft, etc into and out of the Falkland Islands
16. Approval of examination stations at customs airports
17. Control of movement of goods by pipe-line
18. Transit sheds
19. Hovercraft and Hydrofoils
20. Customs officers' powers of boarding
21. Customs officers' powers of access, etc
22. Customs officers' powers of detention of ships, etc
23. Control of movement of uncleared goods within or between port or airport and other places
24. Control of movement of goods to and from inland clearance depot, etc
25. Penalty for carrying away officers
26. Power to inspect aircraft, aerodromes, records, etc
27. Power to prevent flight of aircraft

PART IV  
CONTROL OF IMPORTATION

*Inward entry and clearance*

28. Report inwards
29. Provisions as to Her Majesty's ships, etc
30. Entry of goods on importation
31. Entry by Bill of sight
32. Entry of surplus stores
33. Removal of uncleared goods to Queen's warehouse
34. Failure to comply with provisions as to entry
35. Power to regulate unloading, removal, etc. of imported goods

*Provisions as to duty on imported goods*

36. Duty on imported goods
37. Exclusion of section 36(1) for importers etc. keeping standing deposits
38. Deferred payment of customs duty
39. Goods to be warehoused without payment of duty
40. Relief from payment of duty of goods entered for transit or transshipment
41. Relief from payment of duty of goods temporarily imported

*Forfeiture, offences, etc. in connection with importation*

42. Forfeiture of goods improperly imported
43. Penalty for improper importation of goods

PART V  
CONTROL OF EXPORTATION

*Outward entry and clearance of goods*

44. Meaning for this Part of "dutiable or restricted goods"
45. Entry outwards of dutiable or restricted goods
46. Entry outwards of goods which are not dutiable or restricted goods
47. Acceptance of incomplete entry
48. Correction and cancellation of entry
49. Failure to export
50. Simplified clearance procedure
51. Provisions supplementary to section 50
52. Pipe-lines
53. Provisions as to stores
54. Information, documentation, etc. as to export goods

*Outward entry and clearance of ships, etc.*

55. Entry outwards of exporting ships
56. Clearance outwards of ships and aircraft
57. Power to refuse or cancel clearance of ship or aircraft

*General regulation of exportation, etc*

58. Power to make regulations as to exportation, etc

*Offences in relation to exportation*

- 59. Offences in relation to the exportation of goods
- 60. Offences in relation to the exportation of prohibited or restricted goods

PART VI  
CONTROL OF COASTWISE TRAFFIC

- 61. Coasting trade
- 62. Coasting trade: exceptional provisions
- 63. Clearance of coasting ship and transire
- 64. Additional powers of customs officers in relation to coasting ships
- 65. Power to make regulations as to the carriage of goods coastwise, etc
- 66. Offences in connection with carriage of goods coastwise

PART VII  
CUSTOMS CONTROL: SUPPLEMENTARY PROVISIONS  
*Special requirements as to movement of certain goods*

- 67. Explosives

*Keeping and preservation of records*

- 68. Records relating to importation and exportation

*Additional provisions as to information*

- 69. Information in relation to goods imported or exported
- 70. Information powers
- 71. Customs control of persons entering or leaving the Falkland Islands
- 72. Power to require evidence in support of information

*Prevention of smuggling*

- 73. Power to regulate small craft
- 74. Power to haul up revenue vessels, patrol coasts, etc
- 75. Penalty for removing seals, etc
- 76. Penalty for signalling to smugglers
- 77. Penalty for interfering with revenue vessels, etc
- 78. Special penalty where offender armed or disguised
- 79. Penalty for offering goods for sale as smuggled goods

*Forfeiture of ships, etc. for certain offences*

- 80. Forfeiture of ship, aircraft or vehicle constructed, etc. for concealing goods
- 81. Forfeiture of ship jettisoning cargo, etc
- 82. Forfeiture of ship or aircraft unable to account for missing cargo
- 83. Ships failing to bring to

PART VIII  
WAREHOUSES AND QUEEN'S WAREHOUSES  
AND RELATED PROVISIONS ABOUT PIPE-LINES

- 84. Approval of warehouses
- 85. Regulation of warehouses and warehoused goods

- 86. Deficiency in warehoused goods
- 87. Deficiency in goods occurring in course of removal from warehouse without payment of duty
- 88. Deficiency in certain goods moved by pipe-line
- 89. Restriction on compensation for loss or damage to goods in, or for removal of goods from, warehouse or pipe-line
- 90. Procedure on warehouse ceasing to be approved
- 91. Provisions as to deposit in Queen's warehouse
- 92. General offences relating to warehouses and warehoused goods

## PART IX

### DUTIES AND DRAWBACKS: GENERAL PROVISIONS

#### *General provisions relating to imported goods*

- 93. Delivery of imported goods on giving security
- 94. Regulations for determining origin of goods
- 95. Power to impose restrictions where duty depends on certain matters other than use
- 96. Regulations where duty depends on use
- 97. Repayment of duty where goods returned or destroyed by importer
- 98. Forfeiture for breach of certain conditions
- 99. Valuation of goods for purpose of ad valorem duties
- 100. Charge of duty on manufactured or composite imported articles

#### *Deferred payment of duty on goods*

- 101. Deferred payment of duty on goods

#### *General provision relating to charge of duty on and delivery of goods*

- 102. Restriction on delivery of goods
- 103. Power to remit or repay duty on denatured goods
- 104. Power to remit or repay duty on goods lost or destroyed, etc
- 105. Enforcement of bond in respect of goods removed without payment of duty

#### *Drawback, allowances, duties, etc: general*

- 106. Extension of drawback
- 107. General provisions as to claims for drawback
- 108. Drawback and allowance on goods damaged or destroyed after shipment
- 109. Time limit on payment of drawback or allowance
- 110. Offences in connection with claims for drawback, etc
- 111. Recovery of duties and calculation of duties, drawbacks, etc
- 112. Repayment of overpaid duty

## PART X

### IMPOSITION OF DUTY AND RELIEF AND EXEMPTION FROM DUTY

#### *Imposition of duty and exemptions from payment of duty*

- 113. Imposition of duties by the Legislative Council
- 114. Persons exempted from liability to pay duty
- 115. Entitlement to drawback on supply to an exempted person
- 116. Power to provide for reliefs from duty in respect of imported legacies
- 117. Relief from duty on trade samples, labels, etc

118. Relief from duty on certain foreign goods re-imported

*Relief for goods for Her Majesty's ships*

119. Supply of duty-free goods to Her Majesty's ships

*Personal reliefs*

120. Power to provide, in relation to persons entering the Falkland Islands, for reliefs from duty

*Produce of the sea or of the continental shelf*

121. Produce of the sea or the continental shelf

*Provisions in relation to duty on alcoholic liquors: introductory*

122. Ascertainment of strength, volume and weight of alcoholic liquors

123. Meaning of and method of ascertaining gravity of liquids

*Charge of duty upon alcohol*

124. Spirits: charge of duty

125. Importation and exportation of spirits

126. Restrictions on use of certain goods relieved from spirits duty

127. Beer: charge of duty

128. Wine: charge of duty

129. Spirituous beverage: charge of duty

130. Fortified wine: charge of duty

131. Other strong liquor: charge of duty

*Stills*

132. Power to make regulations in relation to stills

PART XI

DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

*Detention*

133. Provisions as to arrest of persons

*Forfeiture*

134. Provisions as to detention, seizure and condemnation of goods, etc

135. Forfeiture of spirits

136. Forfeiture of ships, etc. used in connection with goods liable to forfeiture

137. Special provisions as to forfeiture of larger ships

138. Penalty in lieu of forfeiture of larger ship where responsible officer implicated in offence

139. Protection of customs officers etc. in relation to seizure and detention of goods etc

*General provisions*

140. Institution of proceedings, service of process and time limit for proceedings

141. Proof of certain documents

142. Proof of certain other matters

PART XII  
GENERAL AND MISCELLANEOUS  
*Prohibition of imports and exports*

- 143. Prohibition of imports and exports
- 144. Provisions as to ultimate destination of goods

*General powers etc*

- 145. Bonds and security
- 146. Power to require provision of facilities
- 147. Power to examine and take account of goods
- 148. Application of customs and excise enactments to certain postal packets
- 149. Power to detain postal packets containing contraband
- 150. Power to take samples
- 151. Power to search premises
- 152. Power to enter land for or in connection with access to pipe-lines
- 153. Power to search vehicles or vessels or aircraft
- 154. Power to search persons
- 155. Agents

*General offences*

- 156. Untrue declarations, etc
- 157. Counterfeiting documents, etc
- 158. False scales, etc
- 159. Penalty for fraudulent evasion of duty
- 160. General provisions as to offences and penalties

*Miscellaneous*

- 161. Directions
- 162. Regulations
- 163. Repeals, savings and amendments

SCHEDULE  
AMENDMENT OF PROHIBITED GOODS ORDINANCE (TITLE 26.2)



“cider” means cider or perry obtained from the fermentation of apple or pear juice without the addition at any time of any alcoholic liquor or of any liquor or substance which communicates colour or flavour other than such as the Collector allows as appearing to him to be necessary to make cider (or perry);

“claimant”, in relation to proceedings for the condemnation of any thing as being forfeited, means a person claiming that that thing is not liable to forfeiture;

“cleared out of charge”, in relation to any goods, means any goods which are no longer subject to customs control by reason of customs formalities having been completed in respect of them and the duty payable in respect thereof (if any) having been paid or secured to the satisfaction of the Collector;

“coasting ship” has the meaning given by section 61;

“Collector” means the person holding office under section 6 as the Collector of Customs, and any Deputy Collector of Customs or customs officer exercising, in accordance with this Ordinance, the powers and duties of the Collector;

“commander”, in relation to an aircraft, includes any person having or taking the charge or command of the aircraft;

“container” includes any bundle or package and any box, cask or other receptacle whatsoever;

“contravenes” includes fails to comply with;

“customs airport” has the meaning given by section 15(7) ;

“customs” includes excise;

“customs officer” means any person holding office under section 7 as a customs officer and every police officer and includes the Collector and any Deputy Collector;

“customs resolution” means a resolution of the Legislative Council pursuant to section 113 for the time being in force;

“customs station” has the meaning given by section 15(7);

“drawback” means a refund of all or part of any duty authorised by law;

“drawback goods” means goods in the case of which a claim for drawback has been or is to be made;

“dutiable goods”, except in the expression “dutiable or restricted goods” means goods of a class or description subject to any duty of customs or excise, whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid thereon;

“dutiable or restricted goods” has the meaning given by section 44;

“duty” includes both a duty of customs and a duty of excise;



“examination station” has the meaning given by section 16(1);

“exporter”, in relation to goods for exportation or for use as stores, includes the shipper of the goods and any person performing in relation to an aircraft functions corresponding to those of a shipper;

“fortified wine” means any liquor —

(a) which is not within the definitions contained in this subsection of beer, wine, strong liquor or spirituous beverage, and

(b) which contains more than 15% alcohol by volume but does not contain more than 22% alcohol by volume,

“goods” includes stores and baggage and all kinds of goods, wares, merchandise and live stock;

“gravity”, in relation to any liquid, (and unless otherwise provided) means the ratio of the weight of a volume of the liquid to the weight of an equal volume of distilled water, the volume of each liquid being computed at 20° Centigrade, and where the gravity of any liquid is expressed as a number of degrees that number is the said ratio multiplied by 1000;

“importer”, in relation to any goods at any time between their importation and the time when they are delivered out of charge, includes any owner or other person for the time being possessed of or beneficially interested in the goods and, in relation to goods imported by means of a pipe-line, includes the owner of the pipe-line;

“land” and “landing”, in relation to an aircraft, include alighting on water;

“liquor” means any liquor containing more than 2% alcohol by volume and which has not been rendered impotent by denaturing (that is to say, by the addition thereto of methanol or any other nauseous substance);

“master”, in relation to a ship, includes any person having or taking the charge or command of the ship;

“methylated spirits”, in the case of methylated spirits imported from the United Kingdom or spirits mixed in the Falkland Islands means spirits mixed with some other substance in accordance with the law for the time being in force in the United Kingdom in relation to the methylation of spirits;

“night” means the period between 10 p.m. and 6.00 a.m.;

“occupier” in respect of bonded premises, includes any person who has given security to the Crown in respect of those premises;

“original gravity”, in relation to any liquid in which fermentation has taken place, means its gravity before fermentation;

“other strong liquor” means any liquor —

(a) which is not beer, wine or fortified wine, spirituous beverage or spirits (each as defined in this subsection),

(b) which, if did not contain more than 12% alcohol by volume would be beer as defined in this subsection, and

(c) which contains less than 22% alcohol by volume;

“perfume” means any mixture of alcohol and essential oils or alcohol and synthetic materials intended, in either case, to be applied to a person, animal or thing to impart a pleasant fragrance to that person, animal or thing;

“port” without prejudice to subsection (2) means a port appointed under section 13;

“proper”, in relation to the person by, with or to whom, or the place at which, anything is to be done, means the person or place appointed or authorised in that behalf by the Collector;

“proprietor”, in relation to any goods, includes any owner, importer, exporter, shipper or other person for the time being possessed of or beneficially interested in those goods;

“Queen’s warehouse” means any place provided by the Crown or appointed by the Collector for the deposit of goods for security thereof and of the duties chargeable thereon;

“relevant enactment” means this Ordinance, any provision of this Ordinance and any other enactment relating to customs and any proclamation or subsidiary legislation, and any resolution made under the authority of any such enactment;

“revenue trader” means —

(a) any person carrying on a trade or business which consists of or includes —

(i) the buying, selling, importation, exportation, dealing in or handling of any goods of a class or description which is subject to duty;

(ii) the financing or facilitation of any such transaction or activities; and

(b) any person who is a wholesaler or an occupier of a warehouse and who is not a revenue trader by virtue of paragraph (a) of this definition;

“ship” and “vessel” includes any boat or other vessel whatsoever;

“shipment” includes loading into an aircraft, and “shipped” and cognate expressions shall be construed accordingly;

“spirit”, except in relation to methylated spirits, means any liquor containing more than 22% alcohol by volume;

“spirituous beverage” means any liquor —

- (a) in which the majority of the alcohol contained therein is distilled alcohol, and
- (b) which does not contain more than 22% alcohol by volume;

“stiffening order” means permission granted by a customs officer to load goods by way of ballast to steady a ship;

“stores” means goods for use in a ship or aircraft, including merchandise for sale by retail to persons carried therein, fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

“strength” in relation to any liquor, means its alcoholic strength computed in accordance with section 122, with the ratio referred to in section 122(2)(c) being computed as a percentage;

“tobacco” includes manufactured and unmanufactured tobacco of every description, including snuff, tobacco stalks and tobacco refuse;

“tons register” means the tons of a ship’s net tonnage as ascertained and registered according to the tonnage regulations for the time being in force in relation to ships registered in the Falkland Islands and, in relation to ships not so registered, ascertained in like manner as if it were to be so registered;

“transit goods” means imported goods entered on importation for transit or transshipment;

“transit or transshipment”, in relation to the entry of goods, means transit through the Falkland Islands or transshipment with a view to the re-exportation of the goods in question or transshipment of those goods for use as stores;

“transit shed” means a transit shed for the time being approved under section 18(1);

“warehouse”, except in the expression “Queen’s warehouse” means a place of security approved by the Collector under section 84(1) and “warehoused” and cognate expressions shall, subject to any regulations made by virtue of section 85(2)(e)(i) or (h) or (5) of this Ordinance be construed accordingly;

“warehousing regulations” has the meaning given by section 85(1);

“wine” means any liquor —

(a) which is not beer as defined by this subsection and which (but for the limitation by that definition of the percentage of alcohol by volume which a liquor may contain if it is to be beer) would not otherwise be beer as so defined, and

(b) which does not contain more than 15% alcohol by volume;

“worts”, in relation to any liquid or liquor, means a liquid or liquor which is unfermented or in the course of fermentation;

(2) Wherever the context so admits, “port” in any provision of this Ordinance includes any place within the Falkland Islands or its territorial sea at which the Collector may permit any ship to load or discharge goods or embark or disembark any person;

(3) Methyl alcohol, notwithstanding that it is so purified or prepared as to be drinkable, shall be deemed not to be spirits neither shall naphtha or any mixture or preparation containing naphtha or methyl alcohol not containing an admixture of ethyl alcohol.

(4) The gravity of any liquid at any time shall be ascertained by such means as the Collector may approve, and the gravity so ascertained shall be deemed to be the true gravity of the liquid.

(5) Where for any purposes of a relevant enactment it is necessary to ascertain the original gravity of worts in which fermentation has commenced or of any liquid produced from such worts, that gravity shall be determined in such a manner as the Governor may by regulations prescribe.

(6) Different regulations may be made under subsection (5) in relation to different liquids.

(7) Wherever it is provided in this Ordinance that a person commits an offence if he contravenes a provision of this Ordinance, any Order or regulation made thereunder or any condition, limitation, or restriction subject to which any approval or authorisation is given under any provision of this Ordinance or any other relevant enactment, as the case may be (“the requirement”), that person commits the same offence if he fails to comply with the requirement.

(8) Where by any provision of this Ordinance it is provided that a person convicted of an offence specified in that provision is liable to a fine of, or not exceeding, the amount specified in the first-mentioned provision or to imprisonment for a term not exceeding that specified therein, a person convicted of such an offence may, if the court sees fit, in respect of one and the same offence be ordered both to pay a fine not exceeding that amount and to a term of imprisonment not exceeding that term.

### **Treatment of goods for use in a ship or aircraft**

3. Subject to section 119 (by which goods for use in naval ships or establishments may be required to be treated as exported), any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein shall be treated for the purposes of the relevant enactments as stores, and any reference in those enactments to the consumption of stores shall, in relation to goods so treated, be construed as referring to the sale thereof as aforesaid.

### **Application to certain Crown aircraft**

4.—(1) The provisions of this Ordinance relating to aircraft shall apply to any aircraft belonging to or employed in the service of Her Majesty other than a military aircraft.

(2) In this section “military aircraft” includes naval and air force aircraft and any aircraft commanded by a person in naval, military or air force service detailed for the purpose of such command.

### **Time of importation, exportation, etc**

5.—(1) The time of importation of any goods shall be deemed to be —

(a) where the goods are brought in by sea, the time when the ship carrying them comes within the limits of a port or unloads the goods, whichever is the earlier; or

(b) where the goods are brought in by air, the time when the aircraft carrying them lands in the Falkland Islands or the time when the goods are unloaded in the Falkland Islands, whichever is the earlier.

(2) Subject to subsection (3), the time of exportation of any goods, whether the goods are exported by sea or by air, shall be deemed to be the time when the goods are shipped for exportation.

(3) In the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under or virtue of any enactment which are exported by sea or air, the time of exportation shall be deemed to be the time when the exporting ship or aircraft departs from the last port or customs or excise airport at which it is cleared before departing for a destination outside the Falkland Islands.

(4) A ship shall be deemed to have arrived at or departed from a port at the time when the ship comes within, or as the case may be, leaves the limit of that port.

## PART II ADMINISTRATION

### *Appointment and duties of Collector of Customs, Customs Officers etc*

#### **Appointment of Collector of Customs and Deputy Collectors of Customs**

6.—(1) The Governor may appoint a person to be the Collector of Customs, who shall have such powers and duties as are conferred upon him by this Ordinance and any other relevant enactment.

(2) Until such time as an appointment is made pursuant to subsection (1) or he ceases for any reason to be a public officer, the person who held office as Collector of Customs at the commencement of this Ordinance shall be the Collector of Customs.

(3) The Governor may appoint a person or persons to be a Deputy Collector of Customs, and except as may otherwise be provided by or under this Ordinance or any other enactment, a Deputy Collector of Customs may exercise any of the powers and duties of the Collector.

#### **Appointment of Customs Officers**

7.—(1) The Governor may appoint any person to be a customs officer.

(2) Every police officer and every person at the commencement of this Ordinance holding office as a customs officer under the provisions of the repealed Ordinance shall be deemed to have been appointed to be a customs officer under the provisions of subsection (1).

(3) The Collector may in writing authorise any person in the service of Her Majesty, whether in right of Her government of the Falkland Islands or in right of Her government of the United Kingdom, to exercise the powers and duties of a customs officer for such period, and subject to such conditions and

limitations, as may be specified by him in writing. A person authorised under this section shall not be entitled, either by reason of that authorisation or by the exercise in accordance therewith of any powers or duties of a customs officer, to remuneration payable out of the public funds of the Falkland Islands.

### **Duties of Collector**

**8.**—(1) The Collector shall —

(a) subject to the general control of the Financial Secretary under the provisions of the Finance and Audit Ordinance 1988, collect and account for all revenues of the Falkland Islands by way of customs;

(b) administer, subject to such general or special directions not inconsistent with the provisions of this Ordinance as the Governor may give to him, the provisions of this Ordinance and of every other enactment relating to customs.

(2) All revenues collected pursuant to subsection (1) shall be paid into, and form part of, the Consolidated Fund.

(3) In subsection (1), “revenues of the Falkland Islands by way of customs” includes any sum received under a relevant enactment, including any sum so received by way of excise and any pecuniary penalties or the pecuniary proceeds of any forfeiture, costs, fees or otherwise howsoever.

(4) Any security for money taken by or under the authority of the Collector shall be taken and shall be held for and on behalf of Her Majesty in right of Her government of the Falkland Islands and in accordance with the general or special directions of the Financial Secretary.

(5) Every Deputy Collector and every customs officer (including every police officer) shall assist the Collector with the performance of his duties under every relevant enactment.

### **Disclosure by the Collector of certain information as to imported goods**

**9.**—(1) The Collector may, if so authorised by the Governor, disclose through such person or persons as the Governor may specify, such information as to which this section applies in respect of imported goods, in respect of imported goods of such descriptions, as may be so specified.

(2) The information to which this section applies is information contained in any document with which the Collector has been provided in pursuance of any relevant enactment, being information of the following descriptions —

(a) the description of the goods, including any maker’s catalogue number;

(b) the quantity of the goods imported in a particular period, so however, that if any quantity is given by value it shall not also be given in any other form;

(c) the name of the maker of the goods;

(d) the country of origin of the goods;

(e) the country from which the goods were consigned.

(3) The Governor may by Order add to the descriptions of information to which this section applies any further description of information contained in any document such as is mentioned in subsection (2) other than the price of the goods or the name of the importer of the goods.

*Offences in connection with Collector, Deputy Collectors, customs officers, etc*

**Unlawful assumption of character of officer**

10. If, for the purpose of obtaining admission to any house or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done on his own authority, or for any other unlawful purpose, any person falsely assumes the name, designation or character of the Collector, any Deputy Collector or customs officer he commits an offence in respect of which he may be arrested without warrant and is liable on conviction of the offence to a fine not exceeding the maximum of level 10 on the standard scale and to imprisonment for 2 years.

**Bribery and collusion**

11.—(1) A customs officer commits an offence under this section who —

(a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or

(b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby Her Majesty is or may be defrauded or which is otherwise unlawful being a thing related to customs,

and a person reasonably suspected of having committed an offence under this subsection may be arrested without warrant.

(2) A person who commits an offence under this section who —

(a) directly or indirectly offers or gives to any customs officer any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward; or

(b) proposes or enters into any agreement with any customs officer,

in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby Her Majesty is or may be defrauded or which is otherwise unlawful, being an act or thing relating to customs, or otherwise to take any course contrary to his duty, and a person reasonably suspected of having committed an offence under this section may be arrested without warrant.

(3) A person convicted of an offence under this section shall be liable to a fine not exceeding the maximum of level 5 on the standard scale.

**Obstruction of customs officers, etc**

12.—(1) A person commits an offence who —

(a) obstructs, hinders, molests or assaults any person engaged in the performance of any duty or the exercise of any power imposed or conferred on him by any relevant enactment, or any person acting in his aid;

(b) does anything which impedes or is calculated to impede the carrying out of any search for anything liable to forfeiture under any such enactment or the detention, seizure or removal of any such thing;

(c) rescues damages or destroys any thing so liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not any thing is so liable to forfeiture; or

(d) prevents the arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested,

or who attempts to do any of the aforementioned things.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for 2 years.

(3) A customs officer may arrest without a warrant any person whom he reasonably suspects to have committed or be committing an offence under subsection (1).

### PART III CUSTOMS CONTROL AREAS

#### **Appointment of ports, etc**

13.—(1) The Governor may by Order appoint and name as a port for the purpose of customs any area in the Falkland Islands specified in the Order.

(2) The Governor may in any port from time to time appoint boarding stations for the purpose of the boarding of or disembarkation from ships by customs officers.

(3) Any port which was a port named or appointed as such, and any boarding station appointed, under the provisions of the repealed Ordinance and, in either case, remaining so named or appointed immediately before the commencement of this Ordinance, shall be deemed to have been appointed and named, or as the case may be appointed, under the provisions of this section.

(4) Save as permitted by the Collector, the master of a ship arriving in the Falkland Islands from a place outside the Falkland Islands or departing from the Falkland Islands shall not cause or permit the ship to load or discharge any goods or embark or disembark any person after its arrival in Falkland Islands waters or before its departure therefrom except at a port.

(5) Save as permitted by the Collector, no person shall depart on a voyage to a destination outside the Falkland Islands from any place in the Falkland Islands other than a port.



(6) Subsection (3) shall not apply in relation to any ship voyaging from or to any place outside the Falkland Islands which is compelled by accident, stress of weather or other unavoidable cause to discharge goods or disembark any person at a place other than a port; but the master of the ship —

(a) shall take all steps within his power to report the landing or disembarkation to a customs officer or police officer at the earliest possible moment; and

(b) shall comply with any directions given by a customs officer with respect to any goods which have been discharged.

#### **Approval of wharves**

**14.**—(1) The Collector may approve, for such periods and subject to such reservations and conditions as he thinks fit, places for the loading or unloading of goods of any class or description and the embarkation or disembarkation of passengers and may from time to time revoke or vary the terms and conditions of any such approval.

(2) Any approval, reservation or condition, revocation or variation made under subsection (1) shall be notified in the *Gazette*.

(3) A person who contravenes any condition or restriction attaching to an approval by virtue of which a place is an approved wharf commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(4) A customs officer may at any time enter an approved wharf and inspect it and any goods for the time being at the wharf.

#### **Control of movement of aircraft, etc. into and out of the Falkland Islands**

**15.**—(1) Save as permitted by the Collector, the commander of an aircraft entering the Falkland Islands from a place outside the Falkland Islands shall not cause or permit the aircraft to land —

(a) for the first time after its arrival in the Falkland Islands; or

(b) at any time while it is carrying passengers or goods brought in that aircraft from a place outside the Falkland Islands and not yet cleared,

at any place other than a customs airport.

(2) Save as permitted by the Collector, no person importing or concerned in importing any goods in any aircraft shall bring the goods into the Falkland Islands at any place other than a customs airport.

(3) Save as permitted by the Collector —

(a) no person shall depart on a flight to a place or area outside the Falkland Islands from any place in the Falkland Islands other than a customs airport;

(b) the commander of any aircraft engaged in a flight from a customs airport to a place or area outside the Falkland Islands shall not cause or permit it to land at any place in the Falkland Islands other than a customs airport specified in the application for a clearance for that flight.

(4) Subsections (1) to (3) shall not apply in relation to any aircraft flying from or to any place or area outside the Falkland Islands to or from any place in the Falkland Islands which is required by or under any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at a place other than a customs airport; but, subject to subsection (5) —

(a) the commander of any such aircraft —

(i) shall immediately report the landing to a customs officer or to a police officer and shall on demand produce to him the journey log book belonging to the aircraft;

(ii) shall not without the consent of a customs officer permit any goods carried in the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the aircraft,

(iii) shall comply with any directions given by a customs officer in relation to such goods; and

(b) no passenger or member of the crew shall without the consent of a customs officer or police officer leave the immediate vicinity of the aircraft.

(5) Nothing in subsection (4) shall prohibit —

(a) the departure of passengers or crew from the vicinity of an aircraft; or

(b) the removal of goods from an aircraft,

where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.

(6) A person who contravenes any provision commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding 3 months.

(7) In this Ordinance “customs airport” means Mount Pleasant Airport and Stanley Airport and any other airport designated by the Governor as a customs airport by Order made under this subsection.

#### **Approval of examination stations at customs airports**

16.—(1) The Collector may approve, for such periods and subject to such conditions as he thinks fit, a part of, or a place at, any customs airport for the loading or unloading of goods and the embarkation and disembarkation of passengers and may at any time revoke or vary the terms of any approval given under this section.

(2) A person who contravenes any condition or restriction attaching to an approval by virtue of which a part of, or place at, a customs airport is an examination station commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

### **Control of movement of goods by pipe-line**

**17.—(1)** Goods shall not be imported by means of a pipe-line that is not for the time being approved by the Governor for the purposes.

(2) Uncleared goods, that is to say —

(a) imported goods, whether or not chargeable with duty, which have not been cleared out of charge, and in particular goods which are, or are to be, moved under section 23; or

(b) dutiable goods moved from the warehouse without payment of duty,

shall not be moved by means of a pipe-line that is not for the time being approved by the Governor for the purposes of this section.

(3) The Governor may give his approval under this section for such period and subject to such conditions as he thinks fit, and may at any time —

(a) vary the terms of his approval; and

(b) after having given to the owner of the pipe-line not less than 3 months' notice of his intention to do so, revoke his approval.

(4) Section 79 of the Offshore Minerals Ordinance 1994 applies in relation to the service of notices under subsection (3)(b).

(5) A person commits an offence who —

(a) contravenes subsection (1) or (2), or contravenes a condition imposed by the Governor under subsection (3);

(b) except with the authority of the Collector or for just and sufficient cause, obtains access to goods which are in, or are in the course of conveyance by, a pipe-line approved under this section,

and —

(i) may be arrested without warrant in respect of that offence;

(ii) any goods in respect of which the offence was committed are liable to forfeiture.

(6) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for 2 years.

### **Transit sheds**

**18.—(1)** The Collector may approve, for such periods and subject to such conditions and restrictions as he thinks fit, places for the deposit of goods imported and not yet cleared out of charge, including goods not yet reported and entered and may from time to time revoke or vary the terms of any approval given under this section.

(2) A person who contravenes with any conditions or restriction attaching to an approval by virtue of which a place is a transit shed commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(3) A customs officer may at any time enter a transit shed and inspect it and any goods for the time being in the transit shed.

### **Hovercraft and Hydrofoils**

**19.—**(1) If it shall at any time appear to the Governor necessary or expedient to do so, he may by regulations under this section —

(a) impose conditions and restrictions as respects the movement of hovercraft and hydrofoils and the carriage of goods by them;

(b) make such additional or consequential provision as he may consider necessary in relation to the foregoing or the application of the provisions of this Ordinance to or in relation to hovercraft and hydrofoils

(2) If any person contravenes any provision of any regulations made under subsection (1), he creates an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

### **Customs officers' powers of boarding**

**20.—**(1) At any time a ship is within the limits of a port, or an aircraft is at an aerodrome or a vehicle is —

(a) entering, leaving or about to leave the Falkland Islands;

(b) at, entering or leaving an aerodrome; or

(c) at, entering or leaving an approved wharf, transit shed or customs warehouse;

any customs officer and any person duly engaged in the prevention of smuggling may board the ship or aircraft and remain there and rummage and search any part thereof.

(2) The Collector may station officers in any ship at any time while it is within the limits of a port, and if the master of any ship neglects or refuses to provide —

(a) reasonable accommodation below decks for any customs officer stationed therein; or

(b) means of safe access to and egress from the ship in accordance with the requirements of any such officer,

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

### **Customs officers' powers of access, etc**

21.—(1) Without prejudice to section 20, the proper officer shall have free access to every part of any ship or aircraft at a port or aerodrome, and of any vehicle which is brought to a customs station, and may —

(a) cause any goods to be marked before they are unloaded from that ship, aircraft or vehicle;

(b) lock up, seal mark or otherwise secure any goods carried on the ship, aircraft or vehicle or any place or container in which they are so carried; and

(c) break open any place or container which is locked and of which the keys are withheld.

(2) Any goods found concealed on board any such ship, aircraft or vehicle are liable to forfeiture.

### **Customs officers' power of detention of ships, etc**

22.—(1) Where, in the case of any ship or aircraft of which due report has been made under section 28, any goods are still on board that ship or aircraft at the expiration of the relevant period, the proper officer may detain that ship or aircraft until there have been paid to the Collector —

(a) any expenses properly incurred in watching and guarding the goods beyond the relevant period, except in the case of a ship or aircraft, in respect of the day of the clearance inwards; and

(b) where the goods are removed from the ship, aircraft or vehicle to a Queen's warehouse, the expenses of that removal.

(2) In subsection (1), "the relevant period" means —

(a) in the case of a ship or vehicle, 21 clear days from the date of making due report of the ship or vehicle under section 28 or such longer period as the Collector may in any case allow;

(b) in the case of an aircraft, 7 clear days from the date of making due report of the aircraft under that section or such longer period as the Collector may in any case allow.

(3) Where in the case of any derelict or other ship or aircraft coming, driven or brought into the Falkland Islands under legal process, by stress of weather or for safety, it is necessary for the protection of the revenue to station any officer in charge thereof, whether on board or otherwise, the proper officer may detain that ship or aircraft until any expenses incurred by the Collector have been repaid.

### **Control of movement of uncleared goods within or between port or airport or other places**

23.—(1) The Collector may from time to time give general or special directions as to the manner in which, and the conditions under which, goods to which this section applies, or any class or description of such goods, may be moved within the limits of any port or customs airport or between any port or customs airport and any other place.

(2) This section applies to goods chargeable with any duty which has not been paid, to drawback goods, and to any goods which have not been cleared out of charge.

(3) Any directions under subsection (1) may require that any goods to which this section applies shall be moved only —

(a) by persons licensed by the Collector for the purpose;

(b) in such ships, aircraft or vehicles or by such other means as may be approved by the Collector for that purpose,

and any such licence or approval may be granted for such period and subject to such conditions and restrictions as the Collector thinks fit and may be revoked at any time by the Collector.

(4) A person who contravenes any direction given by the Collector under this section commits an offence and is liable to a fine not exceeding the maximum of level 2 on the standard scale.

### **Control of movement of goods to and from inland clearance depot, etc**

24.—(1) The Governor may by regulations impose conditions and restrictions as respects —

(a) the movement of imported goods between the place of importation and a place approved by the Collector for the clearance out of charge of such goods or the place of exportation of such goods; and

(b) the movement of goods intended for export between a place approved by the Collector for the examination of such goods and the place of exportation.

(2) Regulations under subsection (1) may in particular —

(a) require the goods to be moved within such period as may be specified under the regulations;

(b) require the goods to be carried in a vehicle or container complying with such requirements and secured in such manner as may be so specified;

(c) prohibit, except in such circumstances as may be so specified, any unloading or loading of the vehicle or container or any interference with its security.

(3) If any person contravenes any regulation under subsection (1) or any requirement imposed by or under any such regulation, he and any person then in charge of the goods is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

### **Penalty for carrying away officers**

25.—(1) If any ship or aircraft departs from any place carrying on board without his consent any customs officer or other Government officer, the master of the ship or the commander of the aircraft shall be liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(2) Without prejudice to the liability of any person under subsection (1), the amount of any expenses incurred by the Crown by the reason of the carrying away of the customs officer or other Government

officer may be recovered summarily as a civil debt from that person or from the owner of the ship or aircraft concerned.

**Power to inspect aircraft, aerodromes, records etc.**

**26.—**(1) The commander of an aircraft shall permit an officer at any time to board the aircraft and inspect —

- (a) the aircraft and any goods loaded therein;
- (b) all documents relating to the aircraft or to goods or persons carried therein;

and an officer shall have the right of access at any time to any place to which access is required for the purpose of any such inspection.

(2) The person in control of an aerodrome shall permit a customs officer at any time to enter upon and inspect the aerodrome and all buildings and goods thereon.

(3) The person in control of an aerodrome licensed under any enactment relating to air navigation and, if so required by the Collector, the person in control of any other aerodrome shall —

- (a) keep a record in such form and manner as the Collector may approve of all aircraft arriving or departing from the aerodrome;
- (b) keep that record available and produce it on demand to any customs officer, together with all other documents kept at the aerodrome which relate to the movement of aircraft; and
- (c) permit any officer to make copies of and take extracts from any such record or document.

(4) Any person who contravenes any of the provisions commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding 3 months.

**Power to prevent flight of aircraft**

**27.—**(1) If it appears to any customs officer or police officer that an aircraft is intended or likely to depart for a destination outside the Falkland Islands from —

- (a) any place other than a customs airport;
- (b) a customs airport before clearance outwards is given,

he may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.

(2) A person who contravenes any instructions given under subsection (1) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding 3 months.

(3) If an aircraft flies in contravention of any instructions given under subsection (1) or notwithstanding any steps taken to prevent the flight, the owner and commander of the aircraft, each commit an offence under subsection (2), without prejudice to the liability of any other person under that subsection, but it is a defence for the owner or commander to prove that the flight took place without his knowledge or connivance.

PART IV  
CONTROL OF IMPORTATION  
*Inward entry and clearance*

**Report inwards**

28.—(1) Report shall be made within 24 hours of the arrival of every ship and aircraft to which this section applies in such form and in such manner and containing such particulars as the Collector may direct.

(2) This section applies to every ship arriving at a port —

(a) from any place outside the Falkland Islands; or

(b) carrying any goods brought in that ship from some place outside the Falkland Islands and not yet cleared on importation;

(3) This section applies to every aircraft arriving at any place in the Falkland Islands—

(a) from any place or area outside the Falkland Islands;

(b) carrying passengers or goods taken on board that aircraft at a place outside the Falkland Islands, being passengers or goods either —

(i) bound for a destination in the Falkland Islands and not already cleared at a customs airport;  
or

(ii) bound for a destination outside the Falkland Islands.

(4) The Governor may make regulations prescribing the procedure for making report under this section.

(5) If the person by whom the report should be made fails to make report as required by or under this section —

(a) he is liable on summary conviction to a fine not exceeding the maximum of level 3 on the standard scale; and

(b) any goods required to be reported which are not duly reported may be detained by any customs officer until so reported or until the omission is explained to the satisfaction of the Collector, and may in the mean time be deposited in Queen's warehouse.



(6) The person making the report shall at the time of making it answer all such questions relating to the ship or aircraft, to the goods carried therein, to the crew and to the voyage or flight as may be put to him by the proper officer; and if he refuses to answer he commits an offence and is liable on conviction not exceeding the maximum of level 3 on the standard scale.

(7) If at any time after a ship or aircraft carrying goods brought therein from any place outside the Falkland Islands arrives in or over Falkland Islands waters, and before report has been made in accordance with this section —

(a) bulk is broken; or

(b) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part thereof before due report has been made; or

(c) any part of the goods is staved, destroyed or thrown overboard or any container is opened,

and the matter is not explained to the satisfaction of the Collector, the master of the ship or the commander of the aircraft commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

#### **Provisions as to Her Majesty's ships, etc**

**29.—**(1) The person in command of any ship having a commission from Her Majesty or any foreign State which has on board goods loaded in any place outside the Falkland Islands shall, before any such goods are unloaded, or at any time when called upon to do so by the proper officer, deliver to the proper officer an account of the goods in accordance with subsection (2) and if he fails to do so he shall be liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(2) An account of goods under subsection (1) shall be in such form, and shall contain to the best of the knowledge of the person delivering the account such particulars, and shall be delivered in such manner, as the Collector may direct.

(3) The person delivering such an account shall, when delivering it answer all such questions relating to the goods as may be put to him by the proper officer and if he refuses to answer he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

(4) Subject in the case of ships having a commission from Her Majesty to the regulations (if any) made by Her Majesty's Treasury in the United Kingdom and having effect for the purposes of section 36(4) of the Customs and Excise Management Act 1979 (which Regulations shall have effect in the Falkland Islands, with all necessary modifications as to localities and authorities as if they were Regulations made under this Ordinance), the provisions of Parts III to VII of this Ordinance as to the boarding and search of ships shall have effect in relation to such a ship as they have effect in relation to any other ship, and any customs officer may remove to the Queen's warehouse any goods loaded as aforesaid found on board such a ship.

### **Entry of goods on importation**

**30.**—(1) The importer of any goods, other than goods which are exempt from the requirements of this section, shall deliver to the proper officer an entry thereof in such form and manner and containing such particulars as the Collector may direct.

(2) The following goods are exempt from the requirements of this section —

(a) fresh fish (including shell-fish) of Falkland Islands taking brought by ships registered in the Falkland Islands and;

(b) passengers' baggage.

(3) Subject to subsections (4) and (5) of this section, goods may be entered under this section —

(a) for home use, if so eligible;

(b) for warehousing;

(c) for transit or transshipment;

(d) for inward processing; or

(e) in such cases as the Collector may permit, for temporary retention with a view to subsequent re-exportation.

(4) All good imported by means of a pipe-line and chargeable with duty shall be entered for warehousing.

(5) The Collector may —

(a) refuse to accept an entry of any goods if he is not satisfied that those goods were imported before the time of the delivery of the entry;

(b) subject to subsection (4) of this section, direct that goods of any class or description specified in the direction shall not be permitted to be entered for warehousing.

(6) If, in the case of any goods which are not dutiable goods, any such entry as aforesaid is inaccurate in any particular, the importer shall, within 14 clear days of the delivery of the entry or such longer period as the Collector may in any case allow, deliver to the proper officer a full and accurate account of the goods.

(7) If an account of the goods is delivered in accordance with subsection (6) of this section and the Collector is satisfied that the inaccuracy was inadvertent and immaterial except for statistical purposes, then notwithstanding anything in any other legislation relating to customs the goods shall not be liable to forfeiture, or the importer to any penalty, by reason only of the inaccuracy of the entry.

### **Entry by Bill of Sight**

**31.**— (1) Without prejudice to section 30, where on the importation of any goods the importer is unable for want of full information to make immediately perfect entry thereof, he may, subject to subsection 2 of this section, on making a signed declaration to the effect before the proper officer, deliver to that officer an

entry of the goods by bill of sight in such form and manner and containing such particulars as the Collector may direct.

(2) Notwithstanding subsection (1) of this section, the Collector may refuse to accept an entry by bill of sight of any goods if he is not satisfied that those goods were imported before the delivery of the entry.

(3) An entry of any goods by bill of sight under subsection (1) above when signed by the proper officer shall be the warrant of the examination of the goods by the importer in the presence of the proper officer with a view to making perfect entry thereof.

(4) If within such a period from the date of the entry of any goods by Bill of Sight as the Collector may allow, no entry purporting to be a perfect entry has been made of those goods, the proper officer may cause the goods to be deposited in a Queen's warehouse; and, without prejudice to sections 91(3) of this Ordinance, if any goods so deposited are not cleared within 28 days from the date of the deposit the Collector may sell them.

### **Entry of surplus stores**

**32.—**(1) With the permission of the proper officer, surplus stores of any ship or aircraft —

(a) if intended for private use and in quantities which do not appear to him to be excessive, may be entered and otherwise treated as if they were goods imported in the ship or aircraft; or

(b) in any other case, may, subject to subsection (2), be entered for warehousing notwithstanding that they could not lawfully be imported as merchandise.

(2) Goods entered for warehousing by virtue of subsection (1)(b), shall not, except with the sanction of the Collector, be further entered, or be removed from the warehouse, otherwise than for use as stores.

### **Removal of uncleared goods to Queen's warehouse**

**33.—**(1) Where in the case of any imported goods —

(a) entry has not been made thereof by the expiration of the relevant period; or

(b) at the expiration of 21 clear days from the date when they were presented at the proper office of Customs and Excise they have not been produced for examination and clearance and the failure to produce them is attributable to an act or omission for which the importer is responsible; or

(c) being goods imported by sea and not being in large quantity, they are at any time after the arrival of the importing ship at the port or place at which they are to be unloaded the only goods remaining to be unloaded from the ship at that port,

the proper officer may cause the goods to be deposited in a Queen's warehouse.

(2) Where any small package or consignment of goods is imported, the proper officer may at any time after the relevant date cause that package or consignment to be deposited in a Queen's warehouse to await entry.

(3) Without prejudice to section 89(3), if any goods deposited in a Queen's warehouse by the proper officer under this section are not cleared by the importer thereof —

(a) in the case of goods which are in the opinion of the Collector of a perishable nature, forthwith;  
or

(b) in any other case, within 3 months after they have been so deposited or such longer time as the Collector may in any case allow,

the Collector may sell them.

(4) In this section —

(a) "the relevant period" means a period of, in the case of goods imported by air, 7, and in any other case, 14, clear days from the relevant date; and

(b) "the relevant date" means, subject to subsection (5), the date when report was made of the importing ship or aircraft under section 28, or where no such report was made, the date when it should properly have been made.

(5) Where any restriction is placed on the unloading of goods from any ship or aircraft by virtue of any enactment relating to the prevention of epidemic and infectious diseases, then, in relation to that ship or aircraft, "the relevant date" in this section means the date of removal of the restriction.

#### **Failure to comply with provisions as to entry**

34. Without prejudice to any liability under any other provision of any relevant enactment, any person making entry of goods on their importation who fails to comply with any of the requirements of this Part of this Ordinance commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale, and the goods in question shall be liable to forfeiture.

#### **Power to regulate unloading, removal etc. of imported goods**

35.—(1) The Governor may make regulations —

(a) prescribing the procedure to be followed by a ship arriving at a port, an aircraft arriving at a customs airport;

(b) regulating the unloading, landing, movement and removal of goods on their importation;

and different regulations may be made with respect to importation by sea and air, respectively.

(2) A person who contravenes any regulation made under this section or any direction given by the Collector or the proper officer in pursuance of any such regulation and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

*Provisions as to duty on imported goods*

**Duty on imported goods**

**36.—**(1) Save as permitted by any relevant enactment, no imported goods shall be delivered or removed on importation until the importer has paid to the proper officer any duty chargeable thereon, and that duty shall, in the case of goods of which entry is made, be paid on making the entry.

(2) Subject to subsections (3) to (5), the duties of customs and the rates thereof chargeable on imported goods —

(a) if entry is made thereof, except where entry is for warehousing, or if they are declared under section 71, shall be those in force with respect to such goods at the time when entry is accepted or the declaration is made;

(b) if entry or, in the case of goods entered by bill of sight, perfect entry is made for warehousing, shall be ascertained in accordance with warehousing regulations;

(c) if no entry is made thereof and the goods are not declared under section 69 shall be those in force with respect to such goods at the time of their importation.

(3) Where the Collector requires a duty of customs to be paid because of a failure to comply with a condition or other obligation imposed under section 38 or 39 (not being a condition or obligation required to be complied with before the goods were allowed to be removed or delivered) the duty shall be charged as if entry of the goods had been accepted at the time when non-compliance occurred.

(4) Where any duties of customs are chargeable in respect of waste or debris resulting from the destruction of imported goods in free circulation, those duties and their rates shall be those in force at the time when the goods were destroyed.

(5) As respects goods which have been unlawfully removed from customs charge, subsection (2)(c) shall have effect with respect to any duties of customs as if they had been imported at the time of their removal.

(6) Any goods brought or coming into the Falkland Islands by sea otherwise than as cargo, stores or baggage carried in a ship shall be chargeable with the like duty, if any, as would be applicable to those goods if they had been imported as merchandise; and if any question arises as to the origin of the goods they shall, unless that question is determined under section 121, be deemed to be the produce of such country as the Collector may determine.

(7) Where entry of goods is made otherwise than for warehousing and there is a reduction in the rate of duty of customs chargeable on the goods between —

(a) the time mentioned in subsection 2(a); and

(b) the time when the goods are cleared from customs charge,

the rate of duty chargeable on the goods shall, if the importer so requests, be that in force at the time mentioned in paragraph (b) of this subsection unless clearance of the goods has been delayed by reason of any act or omission for which the importer is responsible.

#### **Exclusion of section 36(1) for importers etc. keeping standing deposits**

37. Where the Financial Secretary so directs, section 36(1) shall not apply if and so long as the importer or his agent pays to, and keeps deposited with, the Treasury a sum by way of standing deposit sufficient in the Financial Secretary's opinion to cover any duty which may become payable in respect of goods entered by that importer or agent, and if the importer or agent complies with such other conditions as the Financial Secretary, after consulting the Collector, may impose.

#### **Deferred payment of customs duty**

38.—(1) The Governor may by regulations provide for the payment of customs duty to be deferred in such cases as may be specified by the regulations and subject to such conditions as may be imposed by or under the regulations; and duty of which payment is deferred under the regulations shall be treated, for such purposes as may be specified thereby, as if it had been paid.

(2) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.

#### **Goods to be warehoused without payment of duty**

39. Any goods which are on their importation permitted to be entered for warehousing shall be allowed, subject to such conditions or restrictions as may be imposed under warehousing regulations, to be warehoused without payment of duty.

#### **Relief from payment of duty of goods entered for transit or transshipment**

40. Where any goods are entered for transit or transshipment, the Collector may allow the goods to be removed for that purpose, subject to such conditions and restrictions as he sees fit, without payment of duty.

#### **Relief from payment of duty of goods temporarily imported**

41. In such cases as the Governor may by regulations prescribe, where the Collector is satisfied that goods are imported only temporarily with a view to subsequent re-exportation, the Collector may permit the goods to be delivered on importation, subject to such conditions as the Collector sees fit to impose, without payment of duty.

#### *Forfeiture, offences etc. in connection with importation*

#### **Forfeiture of goods improperly imported**

42.—(1) Where —

(a) except as provided by or under any relevant enactment, any imported goods, being goods chargeable on their importation with customs duty, are, without payment of that duty —

(i) unshipped in any port;

(ii) unloaded from any aircraft in the Falkland Islands; or

(iii) removed from their place of importation or from any approved wharf, examination station or transit shed; or

(b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or

(c) any goods, being goods chargeable with duty, goods the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any ship or aircraft; or

(d) any goods are imported concealed in a container holding goods of a different description; or

(e) any imported goods are found, whether before or after delivery, not to correspond with the entry made thereof; or

(f) any imported goods are concealed or packed in any manner appearing to be intended to deceive a customs officer,

those goods are, subject to subsection (2), liable to forfeiture.

(2) Where any goods, the importation of which is for the time being prohibited or restricted by or under any enactment, are on their importation either —

(a) reported as intended for exportation in the same ship or aircraft; or

(b) entered for transit or transshipment; or

(c) entered to be warehoused for exportation or for use as stores,

the Collector may, if he sees fit, permit the goods to be dealt with accordingly.

#### **Penalty for improper importation of goods**

**43.—**(1) Subsection (2) applies to goods of the following descriptions, that is to say—

(a) goods chargeable with a duty which has not been paid; or

(b) goods the importation, landing or unloading of which is for the time being prohibited or restricted by or under any enactment.

(2) Any person who, with intent to defraud Her Majesty of any such duty or to evade any such prohibition or restriction as is mentioned in subsection (1) —

(a) unships or lands at any port or unloads from any aircraft in the Falkland Islands any goods to which this subsection applies, or assists or is otherwise concerned in such unshipping, landing or unloading; or

(b) removes from their place of importation or from any approved wharf, examination station, transit shed or customs station and goods to which this subsection applies or assists or is otherwise concerned in such removal,

commits an offence under this subsection and may be arrested without warrant.

(3) Any person who imports or is concerned in importing any goods contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods, whether or not those goods are unloaded, and does so with intent to evade the prohibition or restriction, commits an offence under this subsection and may be arrested without warrant.

(4) Subject to subsection (5) or (6), a person convicted of an offence under subsection (2) or (3) is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

(5) In the case of an offence under subsection (2) or (3) in connection with a prohibition or restriction having effect by virtue of section 3 of the Misuse of Drugs Ordinance 1987, subsection (4) has effect subject to the modifications specified in Schedule 1 to this Ordinance.

(6) In the case of an offence under subsection (2) or (3) in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981 in its application to the Falkland Islands under the provisions of the Crimes Ordinance 1989, subsection (4) shall have effect as if the words "7 years" were replaced by the words "10 years".

(7) Any person who —

(a) imports or causes to be imported any goods concealed in a container holding goods of a different description;

(b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry made thereof;

commits an offence and is liable on conviction to a fine not exceeding three times the value of the goods or the maximum of level 3 on the standard scale, whichever is the greater.

PART V  
CONTROL OF EXPORTATION  
*Outward entry and clearance of goods*

**Meaning for this Part of "dutiable or restricted goods"**

44. For the purposes of this Part of this Ordinance "dutiable or restricted goods" are goods of the following descriptions, that is to say —

(a) goods from warehouse;

(b) transit goods;

(c) any other goods chargeable with duty which has not been paid;



(d) drawback goods;

(e) goods with respect to the exportation of which any restriction is for the time being in force under or by virtue of any enactment; or

(f) any goods required by or under any provision of this Ordinance other than a provision of this Part or by or under any provision of any other Ordinance to be entered before exportation or before shipment for exportation or as stores.

#### **Entry outwards of dutiable or restricted goods**

**45.—**(1) Where any dutiable or restricted goods are to be shipped for exportation or as stores for use on a voyage or a flight to an eventual destination outside the Falkland Islands or are brought to any customs station for exportation, the exporter shall, subject to subsection (2) —

(a) deliver to the proper officer an entry outwards of the goods under this section in such form and in such manner and containing such particulars as the Collector may direct;

(b) give security to the satisfaction of the Collector that the goods will be duly shipped or exported and discharged at the destination for which they are entered outwards within such time as the Collector considers reasonable, or, in the case of goods for use as stores, will be duly so used, or that they will be otherwise accounted for to the satisfaction of the Collector.

(2) The Collector may relax all or any of the requirements imposed by or under subsection (1) as he thinks fit in relation to any goods.

(3) If any goods of which entry is required under this section are shipped for exportation or as stores or are waterborne for such shipment before entry thereof has been duly made, the goods are liable to forfeiture and, where shipping or making waterborne is done with fraudulent intent, any person concerned therein with knowledge of that intent commits an offence under this section and may be arrested without warrant.

(4) A person who is convicted of an offence under subsection (3) is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or three times the value of the goods, whichever is greater, and to imprisonment for a term not exceeding 2 years

(5) If any goods are found not to correspond with any entry made thereof under this section they are liable to forfeiture.

#### **Entry outwards of goods which are not dutiable or restricted goods**

**46.—**(1) Subject to subsection (5), before any goods which are not dutiable or restricted goods are exported or shipped for exportation, the exporter shall deliver to the proper officer an entry outwards of the goods under this section.

(2) The form of entries under this section, the particulars to be contained therein and the manner of their delivery shall be such as the Collector may from time to time direct.

(3) Where the particulars contained in any entry delivered under this section are in any way incorrect or inaccurate, the person delivering it shall notify the proper officer of any necessary correction within fourteen days beginning with the day of delivery.

(4) The Collector may give directions under this section imposing on persons specified in the directions requirements as to the giving of information with respect to, and the furnishing of documents in connection with, goods which have been entered under this section but are not exported or shipped for exportation within a specified period beginning with the day of delivery of the entry.

(5) The Collector may relax any requirement imposed by or under this section as he thinks fit in relation to any goods.

(6) Subject to this section and to section 45, a person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale if —

(a) being the exporter of goods, those goods are exported or shipped before delivery of an entry in respect thereof;

(b) he fails to comply with subsection (3) in respect of any entry; or

(c) he contravenes with any direction given under this section.

#### **Acceptance of incomplete entry**

47.—(1) The proper officer may, if he thinks fit, accept an entry which does not in every respect comply with section 45 or 46, but he shall not do so in a case in which the goods have not been presented.

(2) Where an entry is accepted under this section, the exporter shall, within such time as the Collector may allow, deliver to the Collector such of the particulars or documents as were required to be, but were not, contained in or delivered with the entry or, if the Collector so permits, deliver to him a substituted entry complying in all respects with section 45 or 46.

(3) Any person who fails to comply with subsection (2) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

#### **Correction and cancellation of entry**

48.—(1) The exporter may correct any of the particulars contained in an entry of goods under section 45 or 46 after it has been accepted if —

(a) the appropriate authority has not been given for the removal of the goods;

(b) the exporter has not been notified by a customs officer that the goods are to be examined; and

(c) the entry has not been found by a customs officer to be incorrect;

and in paragraph (a) “the appropriate authority” means, in the case of goods which have been presented to the proper officer at a place approved by the Collector under section 24(1)(b), any

authority to remove the goods from the place where they were presented to the proper officer which is required under section 24;

(2) Particulars in an entry may be corrected after the giving of such authority as mentioned in subsection (1)(a) if they relate to a matter which can be established in the absence of the goods.

(3) The proper officer may permit or require any correction allowed by subsection (1) to be made by the delivery of a substituted entry.

(4) Subject to subsection (5), an entry which has been accepted may be cancelled at the request of the exporter if he delivers to the proper officer all copies of the entry and such other documents delivered to him on or in connection with the entry as the Collector may require and shows to the satisfaction of the Collector that the goods are in the Falkland Islands and the arrangements for exporting them have been cancelled.

(5) An entry shall not be cancelled under subsection (4) —

(a) in a case where the exporter is informed by a customs officer that the goods are to be examined, until the examination has taken place;

(b) until the exporter has complied with any requirements imposed by the Collector as to the movement of the goods in respect of which the entry was made to such places as he may specify.

(6) Where an entry in respect of goods which are not dutiable or restricted goods is cancelled under subsection (4), the exporter shall within such period as may be specified by directions given by the Collector furnish him with such information and such documents relating to the goods as may be specified in the directions.

(7) A person who contravenes with subsection (6) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

### **Failure to export**

**49.**—(1) Where any goods in respect of which an entry has been accepted have not been shipped, an officer may by notice given to the exporter require the goods to be exported within such time as is specified in the notice; and if the notice is not complied with the entry shall be treated as cancelled.

(2) Where, in the case of any such goods as are mentioned in subsection (1) which are due to be loaded into a ship or aircraft specified in the entry or by the person having charge of them at the port or customs airport for intended shipment, no notice has been served under that subsection and the goods have not been shipped by the time the ship or aircraft departs from the port or airport at which it has been cleared by the proper officer, then —

(a) the entry shall be treated as cancelled at that time;

(b) if the goods are dutiable or restricted goods, they are liable to forfeiture unless notice of the failure to export them is given to the proper officer immediately after that time.

(3) Where an entry in respect of dutiable or restricted goods is treated as cancelled by virtue of this section —

(a) the exporter shall within such period as may be specified by directions given by the Collector furnish him with such information and such documents as may be specified in the directions; and

(b) if the goods have not been forfeited under subsection (1) (b), they shall be warehoused or, if the Collector shall so require, shall be moved to such place as the Collector may specify.

(4) Where an entry in respect of goods which are not dutiable or restricted goods is treated as cancelled by virtue of this section, the exporter shall within such time as may be specified by directions given by the Collector furnish him with such information and such documents relating to the goods as may be specified in the directions.

(5) A person commits an offence who contravenes with subsection (3) or (4) and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

### **Simplified clearance procedure**

**50.**—(1) Goods which are not dutiable or restricted goods may be shipped for exportation without entry under section 46 if —

(a) the exporter is registered in a register of exporters maintained by the Collector for the purposes of this section; and

(b) before the goods are shipped the conditions mentioned in subsection (3) are satisfied.

(2) The Collector may for the purposes of this section —

(a) enter in a register maintained by him any person applying for registration and appearing to the Collector to be concerned in the exportation of goods and to satisfy such requirements for registration as he may think fit to impose;

(b) give directions imposing requirements on registered persons, including, in particular, requirements as to the keeping of accounts and the giving of access to them;

(c) suspend or cancel the registration of any person if it appears to him that he has failed to comply with any direction under this section or with section 51(1) or (2) or that there is other reasonable cause for the suspension or cancellation.

(3) The conditions referred to in subsection (1) are —

(a) that the goods are presented to the proper officer;

(b) that the exporter delivers to the proper officer and the proper officer accepts such document relating to the goods as the direction may require;

(c) that the exporter complies with such other requirements as the directions may impose,

and goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Collector may direct, to the proper officer of the presence of the goods at the place designated by him.

(4) The document referred to in subsection (3) (b) shall be delivered and accepted in such manner as the directions may require and once acceptance of that document by the proper officer has been signified the goods shall not be removed without his consent from the place they were at the time of acceptance.

(5) The Collector may relax any requirement imposed under this section as he thinks fit in relation to any goods and, if he does, may impose substituted requirements.

(6) Sections 48 shall apply in relation to a document required to be delivered under sub section (3)(b) as it applies in relation to an entry and section 49 shall apply in relation to goods in respect of which such a document has been accepted under that subsection as it applies to goods in respect of which an entry has been accepted.

#### **Provisions supplementary to section 50**

51.—(1) Where by virtue of section 50 goods have been shipped for exportation without entry under section 44, the exporter shall deliver to the proper officer a specification of the goods containing, as the Collector may direct, either the particulars that would have been required to have been contained in the entry or such other particulars as may be so directed.

(2) The specification referred to in subsection (1) above may, if the Collector permits, be a single specification relating to the goods exported during a particular period and shall be delivered at such place and in such manner and by such time as the Collector may allow.

(3) A person commits an offence who —

(a) fails to deliver a specification in accordance with the foregoing provisions of this section or delivers a specification which is incorrect and does not correct it within the fourteen days following delivery, or

(b) without reasonable excuse fails to comply with a requirement imposed on him by section 50.

#### **Pipe-lines**

52.—(1) For the purposes of this Part of this Ordinance goods which are to be exported by means of a pipe-line shall be treated as having been presented to the proper officer when notice of the goods to be exported has been given to the proper officer and accepted by him.

(2) Notice under subsection (1) shall be given by such person and in such form and manner and shall contain such particulars as the Governor may direct.

#### **Provisions as to stores**

53.—(1) The Financial Secretary may give directions —

(a) as to the quantity of any goods which may be carried in any ship or aircraft as stores for use on a voyage or flight to an eventual destination outside the Falkland Islands;

(b) as to the descriptions of vessel on which goods carried as stores may be used in port without payment of duty;

(c) as to the quantity of any goods which may be carried as stores for use in port as mentioned in paragraph (b) and as to the time within which such goods or any specified quantities of them may be so used; and

(d) as to the authorisation to be obtained for the supply and carriage of, and the procedure to be followed in supplying, any goods as stores for use as mentioned in paragraph (a) or (b), whether or not any duty is chargeable or has been paid, or any drawback is payable, in respect of those goods.

(2) Save as provided in subsection (3), goods shall not be permitted to be shipped as stores without payment of duty or on drawback except in a ship of not less than 40 tons register departing on a voyage, or in an aircraft departing on a flight, to a country outside the Falkland Islands.

(3) The Financial Secretary may, in such cases and subject to such conditions and restrictions as he sees fit, permit goods to be shipped as mentioned in subsection (2) in —

(a) any ship departing from the Falkland Islands, being a ship of not less than forty tons register departing for a voyage not falling within subsection (2) or a ship of less than forty tons register; or

(b) any aircraft departing from the Falkland Islands for a flight not falling within that subsection.

(4) If any goods shipped or carried as stores for use on a voyage or flight to an eventual destination outside the Falkland Islands or for use in a port without payment of duty are without the authority of the proper officer landed or unloaded at any place in the Falkland Islands —

(a) the goods are liable to forfeiture; and

(b) the master or commander and the owner of the ship or aircraft each commit an offence and are each liable on conviction to a fine not exceeding the greater of three times the value of the goods or level 3 on the standard scale.

(5) The proper officer may lock up, mark, seal or otherwise secure any goods entered, shipped or carried as stores for use as mentioned in subsection (4) or any place or container in which such goods are kept or held.

(6) If any ship or aircraft which has departed from any port or customs airport for a destination outside the Falkland Islands carrying stores fails to reach the destination for which it was cleared outwards and returns to any place within the Falkland Islands —

(a) if the failure was not due to stress of weather, mechanical defect or any other unavoidable cause and any deficiency is found in the said goods; or

(b) if the failure was due to any such cause as is mentioned in paragraph (a) and any deficiency is discovered in the said goods which, in the opinion of the Collector, exceeds the quantity which might fairly have been consumed having regard to the length of time between the ship's or aircraft's departure and return as aforesaid,

the master of the ship or commander of the aircraft has committed an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale, and shall also pay on the deficiency or, as the case may be, on the excess deficiency any duty chargeable on the importation of the good (and any such duty shall be recoverable as a civil debt).

#### **Information, documentation, etc. as to export goods**

54.—(1) The Collector may give directions under this subsection imposing on persons specified in the directions, requirements as to the giving of information with respect to, or the furnishing of documents in connection with goods exported, or intended to be exported, in any such container as is specified in the directions, or by such other means, or in accordance with any such commercial procedure, as is so specified.

(2) The Collector may relax any requirement imposed under subsection (1) as he thinks fit in relation to any goods.

(3) Subject to subsection (2), a person commits an offence who fails to comply with a direction under subsection (1) and he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

#### *Outward entry and clearance of ships, etc*

##### **Entry outwards of exporting ships**

55.—(1) Where a ship is to load any goods at a port or other place exceptionally approved by the Collector of Customs for exportation or as stores for use on a voyage to an eventual destination outside the Falkland Islands, the master of the ship shall, before any goods are taken on board that ship at that port or other place, other than goods for exportation loaded in accordance with a stiffening order issued by the proper officer, deliver to the proper officer —

(a) an entry outwards of the ship in such form and manner and containing such particulars as the Collector may direct; and

(b) a certificate from the proper officer of the clearance inwards or coastwise of the ship of her last voyage with cargo; and

(c) if the ship has already loaded goods at some other port or place for exportation or use as stores for use as aforesaid or has been cleared in ballast from some other port or place, the clearance outwards of the ship from that other port or place.

(2) If on the arrival at any port of a ship carrying goods coastwise from one place in the Falkland Islands to another such place, it is desired that the ship shall proceed with those goods or any of them to a place outside the Falkland Islands, entry outwards shall be made of that ship (whether or not any other goods are to be loaded at that port) and of any of those goods which are dutiable or restricted

goods as if the goods were to be loaded for exportation at that port, but any such entry may, subject to such conditions as the Collector sees fit to impose, be made without the goods first being discharged.

(3) A ship may, subject to subsection (4), be entered outwards from a port under this section notwithstanding that before departing for any place outside the Falkland Islands the ship is to go to another port.

(4) A ship carrying cargo brought in that ship from some place outside the Falkland Islands and intended to be discharged in the Falkland Islands may only be entered outwards by virtue of subsection (3) subject to such conditions as the Collector sees fit to impose.

(5) If, when a ship is required by this section to be entered outwards from any port, any goods are taken on board that ship at that port, except in accordance with such a stiffening order as is mentioned in subsection (1), before the ship is so entered, the goods are liable to forfeiture and the master of the ship commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(6) Where goods are taken on board a ship as mentioned in subsection (5) or made waterborne for that purpose with fraudulent intent, any person concerned therein with knowledge of that intent commits an offence in respect of which he may be arrested without warrant and is liable on conviction to a fine not exceeding the greater of three times the value of the goods and the maximum of level 12 on the standard scale and to imprisonment for a term not exceeding 7 years.

#### **Clearance outwards of ships and aircraft**

**56.—**(1) Save as permitted by the Collector, no ship or aircraft shall depart from any port or customs airport from which it commences, or at which touches during, a voyage or flight to an eventual destination outside the Falkland Islands until clearance of the ship or aircraft for the departure has been obtained from the proper officer at that port or airport.

(2) The Collector may give directions —

(a) as to the procedure for obtaining clearance under this section;

(b) as to the documents to be produced and the information to be furnished by any person applying for such a clearance.

(3) Where clearance is sought under this section for any ship which is in ballast or has on board no goods other than stores, the baggage of passengers carried in that ship, chalk, slate, or empty returned containers upon which no freight or profit is earned, the proper officer in granting clearance thereof shall, on the application of the master, clear the ship as in ballast.

(4) Any customs officer may board any ship which is cleared outwards from a port at any time while the ship is in the Falkland Islands and require the production of the ship's clearance, and if the master refuses to produce it or to answer such questions as the customs officer may put to him concerning the ship, cargo or intended voyage, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.



(5) Every ship departing from a port shall, if so required, for the purpose of disembarking a customs officer or of further examination, bring to at the boarding station, and if any ship fails to comply with any such requirement the master commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

(6) If any ship or aircraft required to be cleared under this section departs from any port or customs airport without a valid clearance, the master or commander commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(7) If, when any aircraft is required to obtain clearance from any customs airport under this section, any goods are loaded, or are waterborne for loading in that aircraft at that airport before application has been made for clearance has been made, the goods are liable for forfeiture and, where the loading or making waterborne is done with fraudulent intent any person concerned therein commits an offence under this subsection, may be arrested without warrant and is liable on conviction to a fine not exceeding the greater of three times the value of the goods concerned and the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

#### **Power to refuse or cancel clearance of ship or aircraft**

57.—(1) For the purpose of its detention in pursuance of any power or duty conferred or imposed by or under any enactment, or for the purpose of securing compliance with any provision of the relevant enactments or of any other enactment or of any instrument made thereunder, being a provision relating to the importation or exportation of goods —

(a) the proper officer may at any time refuse clearance of a ship or aircraft; and

(b) where clearance has been granted to a ship or aircraft, any customs officer may at any time while the ship is within the limits of any port or the aircraft is at any customs airport demand that the clearance be returned to him.

(2) Any such demand may be made either orally or in writing on the master of the ship or the commander of the aircraft, and if in writing may be served —

(a) by delivering it to him personally;

(b) by leaving it as his last known place of abode;

(c) by leaving it on board the ship or aircraft with the person appearing to be in charge or command thereof.

(3) Where a demand for the return of a clearance is made as aforesaid —

(a) the clearance forthwith becomes void; and

(b) if the demand is not complied with, the master of the ship or the commander of the aircraft commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

*General regulation of exportation, etc*

**Power to make regulations as to exportation, etc**

58.—(1) The Governor may make regulations —

(a) regulating with respect to ships and aircraft respectively the loading and making waterborne for loading of goods for exportation or as stores and the embarking of passengers for a destination outside the Falkland Islands;

(b) requiring delivery of a manifest containing such particulars as the Collector may direct of all cargo carried in an exporting ship and, if the Collector so directs, such other documents relating to the cargo as are specified in the direction;

(c) requiring delivery of a certificate of the fuel shipped in any ship departing from a port for a place outside the Falkland Islands.

(2) A person who contravenes any regulation made under this section commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

*Offences in relation to exportation*

**Offences in relation to the exportation of goods**

59.—(1) If any goods which have been loaded or retained on board any ship or aircraft for exportation are not exported to and discharged at a place outside the Falkland Islands but are unloaded in the Falkland Islands, then, unless —

(a) the unloading was authorised by the proper officer, and

(b) except where that officer otherwise permits, any duty chargeable and unpaid on the goods is paid and any drawback or allowance paid in respect thereof is repaid,

the master of the ship or the commander of the aircraft and any person concerned in the unshipping, relanding, landing, unloading or carrying of the goods from the ship or aircraft without such authority, payment or repayment each commits an offence under this section.

(2) The Collector may impose such conditions as he sees fit with respect to any goods loaded or retained as mentioned in subsection (1) which are permitted to be unloaded in the Falkland Islands and any person who contravenes or is concerned in any contravention of any condition imposed under this subsection commits an offence under this section.

(3) Where any goods loaded or retained as mentioned in subsection (1) are —

(a) goods from warehouse;

(b) transit goods;

(c) other goods chargeable with duty which has not been paid; or

(d) drawback goods,

then if any container in which the goods are held is without the authority of the proper officer opened, or any mark, letter or device on such container or on any lot of the goods is without that authority cancelled, obliterated or altered, every person concerned in the opening, cancellation, obliteration or alteration commits an offence under this section.

(4) Any goods in respect of which an offence under this section is committed are liable to forfeiture and any person convicted of an offence under this section is liable to a fine not exceeding three times the value of the goods concerned or the maximum of level 3 on the standard scale, whichever is the greater.

### **Offences in relation to exportation of prohibited or restricted goods**

**60.**—(1) If any goods are —

(a) exported or shipped as stores;

(b) brought to any place in the Falkland Islands for the purpose of being exported or shipped as stores,

and the exportation or shipment is or would be contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, the goods are liable to forfeiture and the exporter or intending exporter of the goods and any agent of his concerned in the exportation or shipment or intended exportation or shipment each commits an offence and is liable on conviction to a fine not exceeding three times the value of the goods or the maximum of level 3 on the standard scale, whichever is the greater.

(2) A person who is knowingly concerned in the exportation or shipment as stores, or in the attempted exportation or shipment as stores, of any goods with intent to evade any such prohibition or restriction as is mentioned in subsection (1) commits an offence and may be arrested without warrant.

(3) Subject to subsection (4) or (5), a person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

(4) In the case of an offence under subsection (2) in connection with the prohibition contained in section 21 of the Forgery and Counterfeiting Act 1981 in its application to the Falkland Islands, subsection (3) shall have effect as if the words “10 years” appeared in place of the words “7 years”.

(5) If by virtue of any such restriction as is mentioned in subsection (1) any goods may be exported only when consigned to a particular place or person and any goods so consigned are delivered to some other place or person, the ship or aircraft in which they were exported is liable to forfeiture unless it is proved to the satisfaction of the Governor that both the owner of the ship or aircraft and the master of the ship or commander of the aircraft —

(a) took all reasonable steps to secure that the goods were delivered to the particular place to which or person to whom they were consigned; and

(b) did not connive at or, except under duress, consent to the delivery of the goods to that other place or person.

## PART VI CONTROL OF COASTWISE TRAFFIC

### **Coasting trade**

**61.**—(1) Subject to section 62, any ship for the time being engaged in the trade of carrying goods coastwise between places in the Falkland Islands shall for the purposes of the relevant enactments be a coasting ship.

(2) Subject to that section, no goods not yet entered on importation and no goods for exportation shall be carried in a ship engaged in the trade of carrying goods coastwise.

### **Coasting trade: exceptional provisions**

**62.**—(1) The Collector may, subject to such conditions and restrictions as he sees fit to impose, permit a ship to carry goods coastwise notwithstanding that the ship is carrying goods brought therein from some place outside the Falkland Islands and not yet entered on importation; but a ship so permitted to carry goods coastwise shall not for the purposes of the relevant enactments be a coasting ship.

(2) The Collector may, subject to such conditions and restrictions as he sees fit to impose, permit goods brought by an importing ship to some place in the Falkland Islands but consigned to and intended to be delivered at some other such place to be transshipped before due entry of the goods has been made to another ship for carriage coastwise to that other place.

(3) Where any ship has begun to load goods at any place in the Falkland Islands for exportation or as stores for use on voyage to an eventual destination outside the Falkland Islands and is to go to any other such place to complete loading, the Collector may, subject to such conditions as he sees fit, permit that ship to carry other goods coastwise until she has completed her loading.

(4) If, where any goods are permitted to be carried coastwise in any ship under this section, the goods are loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Collector, the goods are liable to forfeiture and the master of the ship has committed an offence in respect of which he is on conviction liable to a fine not exceeding the maximum of level 2 on the standard scale.

### **Clearance of coasting ship and transire**

**63.**—(1) Subject to the provisions of this section and save as permitted by the Collector, before any coasting ship departs from any port the master of the ship shall deliver to the proper officer an account in such form and in such manner as the Collector may direct; and that account when signed by the proper officer shall be the transire, that is to say the clearance of the ship from that port and the pass for any goods to which the account relates.

(2) The Collector may, subject to such conditions as he sees fit, grant a general transire in respect of any coasting ship and any goods carried therein.

(3) Any such general transire may be revoked by the Collector by notice in writing delivered to the master or owner of the ship or to any member of the crew on board the ship.

(4) If any coasting ship departs from any port without a correct account having been delivered, except as permitted by the Collector or under and in compliance with any conditions imposed on the grant of a general transire, the master commits an offence and is liable to a fine not exceeding the maximum of level 2 on the standard scale.

#### **Additional powers of customs officers in relation to coasting ships**

**64.**—(1) The proper officer may examine any goods carried or to be carried on a coasting ship —

(a) at any time while they are on board the ship;

(b) at any place in the Falkland Islands to which the goods have been brought for shipment in, or at which they have been unloaded from the ship.

(2) For the purpose of examining any goods in pursuance of subsection (1), the proper officer may require any container to be opened or unpacked; and any such opening or unpacking and any repacking shall be done by or at the expense of the proprietor of the goods.

(3) The proper officer —

(a) may board and search a coasting ship at any time during its voyage;

(b) may at any time require any document which should properly be on board a coasting ship to be produced or brought to him for examination;

and if the master of the ship fails to produce or bring any such document to the proper officer when required, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 2 on the standard scale.

#### **Power to make regulations as to the carriage of goods coastwise, etc.**

**65.**—(1) The Governor may make regulations as to the carriage of goods coastwise—

(a) regulating the loading and unloading and the making waterborne for loading of the goods;

(b) requiring the keeping and production by the master of a coasting ship of such record of the cargo carried in that ship as may be prescribed by the regulations.

(2) Any person who contravenes a regulation made under this section commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

#### **Offences in connection with carriage of goods coastwise**

**66.**—(1) If in the case of any coasting ship —

(a) any goods are taken on board or removed therefrom at sea or at any place outside the Falkland Islands;

(b) except for some unavoidable cause the ship touches at any place outside the Falkland Islands or deviates from her voyage; or

(c) the ship touches at any place outside the Falkland Islands and the master does not report that fact in writing to the proper officer at the first port at which the ship arrives thereafter,

the master commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(2) Any goods which are shipped and carried coastwise, or which, having been carried coastwise, are unloaded in any place in the Falkland Islands, otherwise than in accordance with the provisions of sections 61 to 63 of this Ordinance or of any regulations made under section 65, or which are brought to any place for the purpose of being so shipped and carried coastwise, are liable to forfeiture.

(3) If any goods —

(a) are carried coastwise or shipped as stores in a coasting ship contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or

(b) are brought to any place in the Falkland Islands for the purpose of being so carried or shipped,

then those goods are liable to forfeiture and the shipper or intending shipper of the goods commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(4) In any case where a person would, apart from this subsection, be guilty of —

(a) an offence under subsection (3); and

(b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction in question, being an offence in respect of which a fine or other penalty is expressly provided by that enactment or other instrument,

he is not guilty of an offence under subsection (3).

PART VII  
CUSTOMS CONTROL: SUPPLEMENTARY PROVISIONS  
*Special requirements as to movement of certain goods*

**Explosives**

67.—(1) No goods which are explosives within the meaning of the Explosives Act 1875 in its application to the Falkland Islands shall be loaded into any ship or aircraft for exportation, exported by land or shipped for carriage coastwise as cargo, until due entry has been made of the goods in such form and manner and containing such particulars as the Collector may direct.

(2) Without prejudice to section 45 of this Ordinance, any goods required to be entered under this section which are loaded, exported or shipped as mentioned in subsection (1) without being entered under this section are liable to forfeiture, and the exporter or, as the case may be, shipper commits an

offence if any such requirement is contravened and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

*Keeping and preservation of records*

**Records relating to importation and exportation**

**68.**—(1) Every person who is concerned (in whatever capacity) in the importation or exportation of goods shall keep such records as may be required by regulations under this Ordinance and, if no such regulations have been made, such records as may be required by the Collector.

(2) Such records shall be preserved for such period as may be required by such regulations or, in the absence of any such regulations, for such period not exceeding 4 years as may be required by the Collector.

(3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as is prescribed by or permitted under regulations having effect for the purposes of subsection (1) or, in the absence of such regulations, by such means as the Collector may approve. Where information is preserved by any such means, a copy of any document forming part of the records shall, subject to the following provisions of this section, be admissible in evidence in any proceedings. Whether civil or criminal, to the same extent as the records themselves.

(4) The Collector may, as a condition of an approval under subsection (3) above of any means of preserving information, impose such reasonable requirements as appear to him necessary for securing that the information will be readily available to him as if the records themselves had been preserved.

(5) The Collector may at any time for reasonable cause revoke or vary the conditions of any approval given under subsection (3).

*Additional provisions as to information*

**Information in relation to goods imported or exported**

**69.**—(1) A customs officer may require any person —

(a) concerned with the shipment for carriage coastwise of goods of an entry of which is required by or under any relevant enactment;

(b) concerned in the carriage, unloading, landing or loading of goods which are being or have been imported or exported,

to furnish in such form as the officer may require any information relating to the goods and to produce and allow the officer to inspect and take extracts from or make copies of any invoice, bill of lading or other book or document whatsoever relating to the goods.

(2) A person commits an offence who without reasonable cause fails to comply with a requirement imposed on him under subsection (1) and he is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(3) Where any prohibition or restriction to which this subsection applies, that is to say, any prohibition or restriction under or by virtue of any enactment with respect to —

(a) the exportation of any goods to any particular destination; or

(b) the exportation of goods of any particular class or description to any particular destination,

is for the time being in force, then, if any person about to ship for exportation or to export any goods or, as the case may be, any goods of that class or description, in the course of making any entry thereof before shipment or exportation makes a declaration as to the ultimate destination thereof, and the Collector has reason to suspect that the declaration is untrue in any material particular, the goods may be detained until the Collector is satisfied as to the truth of the declaration, and if he is not so satisfied the goods are liable to forfeiture.

### **Information powers**

**70.—**(1) Every person who (in whatever capacity) is concerned in the importation or exportation of goods for which for that purpose an entry is required under any provision of any regulations made under this Ordinance or an entry or specification is required by or under this Ordinance shall —

(a) furnish to the Collector, within such time and in such form he may reasonably require, such information relating to the goods or to the importation or exportation as the Collector may reasonably specify; and

(b) if so required by a customs officer, produce or cause to be produced for inspection by the officer—

(i) at the principal place of business of the person upon whom the demand is made or at such other place as the officer may reasonably require, and

(ii) at such time as the officer may reasonably require,

any documents relating to the goods or to the importation or exportation.

(2) Where, by virtue of subsection (1), an officer has power to require the production of any documents from any such person as is referred to in that subsection, he shall have the like power to require the production of the documents concerned from any other person who appears to the officer to be in possession of them, but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(3) A customs officer may take copies of, or make extracts from, any document produced under subsection (1) or subsection (2) .

(4) If it appears to him to be necessary to do so, an officer may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or subsection (2) and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under subsection (2) above, the removal of the document shall not be regarded as breaking the lien.



(5) Where a document removed by an officer under subsection (4) is reasonably required for the proper conduct of a business, the officer shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(6) Where any documents removed under the powers conferred by this section are lost or damaged, the Crown is liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(7) Any person who fails to comply with a requirement made by a customs officer under this section commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

### **Customs control of persons entering or leaving the Falkland Islands**

71.—(1) Any person entering the Falkland Islands shall, at such place and in such manner as the Collector may direct, declare any thing contained in his baggage or carried with him which —

(a) he has obtained outside the Falkland Islands;

(b) being dutiable goods or chargeable goods, he has obtained in the Falkland Islands without payment of duty or tax,

and in respect of which he is not entitled to exemption from duty and tax under by virtue of any provision of, or of any Order made under, this Ordinance or any relevant enactment (personal reliefs).

(2) In subsection (1) “chargeable goods” means goods on the importation of which under any provision of any law of the Falkland Islands for the time being in force tax is payable and “tax” means any such tax.

(3) Any person entering or leaving the Falkland Islands shall answer such questions as the proper officer may put to him with respect to his baggage and any thing contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Collector may direct.

(4) Any person who fails to declare any thing or produce any baggage or thing as required by this section commits an offence and is liable on conviction of that offence to a fine of three times the value of the thing not declared or of the baggage or thing not produced, as the case may be, or to a fine not exceeding the maximum of level 3 on the standard scale, whichever is the greater.

(5) Any thing chargeable with any duty or tax which is found concealed, or not declared, and any thing which is being taken into or out of the Falkland Islands contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, is liable to forfeiture.

### **Power to require evidence in support of information**

72.—(1) The Collector may, if he considers it necessary, require evidence to be produced to his satisfaction in support of any information required by or under Parts II to VII of this Ordinance to be provided in respect of goods imported or exported.

(2) Without prejudice to subsection (1), where any question as to the duties chargeable on any imported goods, or the operation of any prohibition or restriction on importation, depends on any question as to the place from which the goods were consigned, or any question where they or other goods are to be treated as grown, manufactured or produced, or any question as to payments made or relief from duty allowed in any country or territory, then —

(a) the Collector may require the importer of the goods to furnish to him, in such form as he may prescribe, proof of —

(i) any statement made to him as to any fact necessary to determine that question, or

(ii) the accuracy of any certificate or other document furnished in connection with the importation of the goods and relating to the matter in issue,

and if such proof is not furnished to his satisfaction, the question may be determined without regard to that statement or to that certificate or document; and

(b) in any proceedings relating to the goods or to the duty chargeable thereon the accuracy of any such certificate or document comes in question, it shall be for the person relying on it to furnish proof of its accuracy.

#### *Prevention of smuggling*

##### **Power to regulate small craft**

73.—(1) The following provisions of this section shall not have effect until they are brought into effect by an Order made by the Governor under this subsection.

(2) In this section “small ships” means ships not exceeding 100 tons register.

(3) The Governor may make general regulations with respect to small ships and any such regulations may in particular make provision as to the purposes for which and the limits within which such ships may be used.

(4) Different provisions may be made by regulations under this section for different classes or descriptions of small ships.

(5) The Governor may, in respect of any small ship, grant a licence exempting that ship from all or any of the provisions of any regulations made under this section.

(6) Any such licence may be granted for such period, for such purpose, and subject to such conditions and restrictions as the Governor sees fit, and may be revoked at any time.

(7) Any small ship which, except under and in accordance with the terms of a licence granted under this section, is used contrary to any regulation made under this section, and any ship granted such a licence which is found not to have that licence on board, shall be liable to forfeiture.

(8) Every boat belonging to a British ship registered at a port in the Falkland Islands and every other vessel not exceeding 100 tons register shall be marked in such manner as the Collector may direct, and any such boat or vessel which is not so marked, is liable to forfeiture.

#### **Power to haul up revenue vessels, patrol coasts, etc**

**74.—**(1) The person in command or charge of any vessel in the service of Her Majesty which is engaged in the prevention of smuggling —

(a) may haul up and leave that vessel on any part of the coast or of the shore or bank of any river or creek;

(b) may moor that vessel at any place below high water mark on any part of the coast or of any such shore or bank.

(2) Any customs officer and any person acting in aid of such an officer or otherwise duly engaged in the prevention of smuggling may for that purpose patrol upon and pass freely along and over any part of the coast or of the shore or bank of any river or creek, over any aerodrome or land adjoining any aerodrome.

#### **Penalty for removing seals, etc**

**75.—**(1) Where, in pursuance of any power conferred by any relevant enactment or of any requirement imposed by or under any relevant enactment, a seal lock or mark is used to secure or identify any goods for any of the purposes of those enactments and —

(a) at any time while the goods are in the Falkland Islands or within the limits of any port in the Falkland Islands, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person; or

(b) at any time before the lock seal or mark is lawfully removed, any of the goods are wilfully removed by any person,

that person and the person in charge of the goods each commit an offence and are each liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale.

(2) For the purposes of subsection (1) of this section, goods in a ship or aircraft shall be deemed to be in the charge of the master of the ship or commander of the aircraft.

#### **Penalty for signalling to smugglers**

**76.—**(1) In this section references to a “prohibited signal” or “prohibited message” are references to a signal or message connected with the smuggling or intended smuggling of goods out of or into the Falkland Islands.

(2) A person commits an offence who by any means makes any prohibited signal or transmits any prohibited message from the Falkland Islands or from any ship or aircraft for the information of any person in any ship or aircraft and such a person is liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding 6

months and may be arrested without warrant and any equipment or apparatus used for sending the signal or message is liable to forfeiture.

(3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at the time in smuggling goods.

(4) If, in any proceedings under subsection (2), any question arises as to whether any signal or message was a prohibited signal or message, the burden of proof lies upon the defendant or claimant.

(5) If any customs officer or police officer or any member of Her Majesty's armed forces has reasonable grounds for suspecting that any prohibited signal or message is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter that ship, aircraft, vehicle, house or place and take such steps as are reasonably necessary to stop or prevent the sending of the signal or message.

#### **Penalty for interfering with revenue vessels, etc**

77.—(1) A person commits an offence, save for just and sufficient cause, interferes in any way with any ship, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used for the purposes of any of the functions of the Collector under Parts III to VII of this Ordinance and such a person is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(2) A person who fires upon any vessel, aircraft or vehicle in the service of Her Majesty while that vessel, aircraft or vehicle is engaged in the prevention of smuggling commits an offence and is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 5 years.

#### **Special penalty where offender armed or disguised**

78.—(1) A person commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 10 on the standard scale or to a term of imprisonment not exceeding 3 years who —

(a) while concerned in the movement, carriage or concealment of goods —

(i) contrary to or for the purpose of contravening any prohibition or any restriction for the time being in force under or by virtue of any enactment with respect to the importation or exportation thereof; or

(ii) without payment having been made of or any security having been given for any duty payable thereon,

is armed with any offensive weapon or disguised in any way; or

(b) while so armed or disguised is found in the Falkland Islands in possession of any goods liable to forfeiture under any provision of any relevant enactment relating to imported goods or restricted goods.

(2) A person who commits an offence to which subsection (1) relates may be arrested without a warrant.

**Penalty for offering goods for sale as smuggled goods**

79. A person commits an offence who offers any goods for sale as having been imported unlawfully without the payment of duty or as having been otherwise unlawfully imported and, whether or not the goods were in fact unlawfully imported or were in fact chargeable with duty, the goods are liable to forfeiture and the person is liable on conviction of the offence to a fine not exceeding three times the value of the goods or the maximum of level 5 on the standard scale, whichever is the greater, and may be arrested without a warrant.

*Forfeiture of ships, etc. for certain offences*

**Forfeiture of ship, aircraft or vehicle constructed, etc. for concealing goods**

80. Where —

- (a) a ship is or has been in Falkland Islands waters; or
- (b) an aircraft is or has been at any place, whether on land or on water, in the Falkland Islands; or
- (c) a vehicle is or has been within the limits of any port or any aerodrome,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft or vehicle is liable to forfeiture.

**Forfeiture of ship jettisoning cargo, etc**

81.—(1) If any part of the cargo of a ship is thrown overboard or is staved or destroyed to prevent seizure —

- (a) while the ship is in Falkland Island waters; or
- (b) while the ship, having been properly summoned to bring to by any vessel in the service of Her Majesty, fails to do so and chase is given, at any time during the chase,

the ship is liable to forfeiture.

(2) For the purposes of this section a ship shall be deemed to have been properly summoned to bring to—

- (a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and
- (b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was in Falkland Islands waters.

**Forfeiture of ship or aircraft unable to account for missing cargo**

82. Where a ship has been within the limits of any port in the Falkland Islands, or an aircraft has been in the Falkland Islands, with a cargo on board and a substantial part of that cargo is afterwards found in the Falkland Islands to be missing, then, if the master of the ship or the commander of the aircraft fails to account therefor to the satisfaction of the Collector, the ship or aircraft is liable to forfeiture.

### **Ships failing to bring to**

**83.**—(1) If, save for just and sufficient cause, any ship which is liable to forfeiture or examination under any provision of any relevant enactment does not bring to when required to do so, the master of the ship commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

(2) Where any ship liable to forfeiture or examination as aforesaid has failed to bring to when required to do so and chase has been given thereto by any vessel in the service of Her Majesty in right of the Falkland Islands or of the United Kingdom and, after the commander of that vessel has hoisted an ensign and caused a gun to be fired as a signal, the ship still fails to bring to, the ship may be fired upon.

## PART VIII WAREHOUSES AND QUEEN'S WAREHOUSES AND RELATED PROVISIONS ABOUT PIPE-LINES

### **Approval of warehouses**

**84.**—(1) The Collector may approve, for such periods and subject to such conditions as he thinks fit, places of security for the deposit, keeping and securing —

- (a) of imported goods chargeable as such with duty without payment of the duty;
- (b) of goods for exportation or for use as stores, being goods not eligible for home use;
- (c) of goods manufactured or produced in the Falkland Islands and permitted by or under the relevant enactment to be warehoused without payment of any duty of excise chargeable thereon;
- (d) of goods imported into or manufactured or produced in the Falkland Islands and permitted by or under the relevant enactments to be warehoused on drawback,

subject to and in accordance with warehousing regulations, and any place of security so approved is referred to in this Ordinance as a "customs warehouse".

(2) The Collector may from time to time give directions —

- (a) as to the goods which may or may not be deposited in any particular warehouse or class of warehouse;
- (b) as to the part of any warehouse in which any class or description of goods may be kept or secured.

(3) If, after the approval of a warehouse as a customs warehouse, the occupier thereof makes without the previous consent of the Collector any alteration therein or addition thereto, he commits an offence and is liable on conviction of that offence to a fine of an amount not exceeding the maximum of level 8 on the standard scale.

(4) The Collector may at any time for reasonable cause revoke or vary the terms of his approval of any warehouse under this section.

(5) Where any person contravenes any condition imposed or direction given by the Collector under this section, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 7 on the standard scale.

### **Regulation of warehouses and warehoused goods**

**85.—(1)** The Governor may by regulations under this section (referred to in this Ordinance as “warehousing regulations”) —

(a) prohibit the deposit or keeping of goods in a warehouse except where the occupier of the warehouse has been approved by the Collector in accordance with the regulations and where such regulations and where such conditions as may be prescribed in relation to that occupier are satisfied;

(b) otherwise regulate the deposit, keeping, securing and treatment of goods in a warehouse;

(c) make provision, in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the keeping, preservation and production of records and the furnishing of information;

(d) regulate the removal of goods from a warehouse and make provision with respect to goods which have lawfully been permitted to be removed from a warehouse without payment of duty; and

(e) make provision in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the keeping, preservation and production of records and the furnishing of information.

(2) Warehousing regulations may, without prejudice to the generality of subsection (1), include provisions —

(a) imposing or providing for the imposition under the regulations of conditions or restrictions subject to which goods may be deposited in, secured in, kept in or removed from any warehouse or made available there to their owner for any prescribed purpose;

(b) requiring goods deposited in warehouse to be produced to or made available for inspection by a customs officer on request by him;

(c) permitting the carrying out on warehoused goods of such operations as may be prescribed or allowed under the regulations in such manner and subject to such conditions and restrictions as may be imposed by or under the regulations;

(d) for determining, for the purpose of charging or securing the payment of duty, the duties and the rates thereof to be applied to warehoused goods and in that connection —

(i) for determining the time by reference to which warehoused goods are to be classified;

(ii) for determining the time at which warehoused goods are to be treated as having been removed from the warehouse;

- (iii) for ascertaining the quantity which is to be taken as the quantity of warehoused goods;
- (e) providing for all or any prescribed purposes of any relevant enactment —
- (i) for goods to be treated as warehoused where in a prescribed case they are in the custody or under the control of an approved occupier of the warehouse; and
- (ii) for goods to be treated, at such times before the duty point for those goods as may be prescribed or as may be determined under the regulations, as goods which are required to be deposited in a warehouse;
- (f) providing for the revocation of the approval under regulations of any occupier of a warehouse and applying, with modifications, any of the provisions of section 90 of this Ordinance in relation to such a revocation or to cases where such an approval is not renewed;
- (g) enabling the Collector to allow goods to be removed from warehouse without approval of duty in such circumstances and subject to such conditions as he may determine;
- (h) providing that goods which are required to be deposited in a warehouse, or which have been lawfully permitted to be removed from a warehouse without payment of duty, are to be treated as if, for all or any prescribed purposes of the relevant enactments, they were warehoused;
- (i) permitting goods to be destroyed or abandoned to the Collector without payment of duty in such circumstances and subject to such conditions as he may determine;
- (j) requiring goods which are required to be deposited in a warehouse or which have lawfully been permitted to be removed from a warehouse without payment of duty to be accompanied by such documents in such form and containing such particulars as may be prescribed;
- (k) imposing or providing for the imposition under the regulations of requirements on persons concerned in any prescribed respect with the carriage of such goods to keep and preserve the documents that are required to accompany the goods;
- (l) imposing or providing for the imposition under the regulations of requirements on a person so concerned to produce or cause to be produced any documents which are required to accompany any goods by virtue of paragraph (j) of this subsection to a customs officer when required to do so for the purposes of allowing the officer to inspect them or remove them at a reasonable time and for a reasonable period;
- (m) imposing or providing for the imposition under the regulations of requirements on the occupier of a warehouse or the proprietor of goods in a warehouse or goods which have been in or are required to be deposited in a warehouse to keep and preserve such records as may be prescribed relating to his occupation of the warehouse or proprietorship of the goods;
- (n) imposing or providing for the imposition of requirements on such an occupier or proprietor to preserve all other records kept by him for the purpose of any relevant business or activity, except any records which (or records of a class which) the Collector specifies as not needing preservation;



(o) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to produce or cause to be produced any records which he has been required to preserve by virtue of paragraph (l) or (m) of this subsection to a customs officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;

(p) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to furnish the Commissioners with any information relating to any relevant business or activity which they specify as information which they think it is necessary or expedient for them to be given for the protection of the revenue;

(q) allowing a requirement to preserve any records which has been imposed by virtue of paragraph (m) of this subsection to be discharged by the preservation in a form approved by the Collector of the information contained in the records,

and may contain such incidental or supplementary provisions as the Governor thinks necessary or expedient for the protection of the revenue.

(3) In subsection (2) "relevant business or activity" means, in relation to an occupier or proprietor, any business or activity of his which includes occupation of a warehouse or (as the case may be) proprietorship of goods in a warehouse or goods which have been in or are required to be deposited in a warehouse, where the goods are of a kind in which the proprietor trades or deals.

(4) Where any documents or records removed under the powers conferred by subsection (2) of this section are lost or damaged, the Crown is liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(5) Warehousing regulations may make different provision for different cases, including different provision for different occupiers or descriptions of occupier, for warehouses or parts of warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.

(6) Warehousing regulations may make provision about the removal of goods from one warehouse to another or from one part of a warehouse to another part or for treating goods remaining in a warehouse as if, for all or any of the prescribed purposes of the relevant enactments, they had been so removed; and regulations about the removal of goods may, for all or any of the prescribed purposes of those enactments, include provision for treating the goods as having been warehoused or removed from warehouse (where they would not otherwise be so treated).

(7) Warehousing regulations made by virtue of paragraph (a) or (c) of subsection (2) may also provide for the forfeiture of goods in the event of non-compliance with any condition or restriction imposed by virtue of that paragraph or in the event of the carrying out of any operation on warehoused goods which is not by virtue of the said paragraph (c) permitted to be carried on in the warehouse.

(8) Warehousing regulations made by virtue of any of paragraphs (j) to (l) or (m) to (o) of subsection (2) may also provide for the forfeiture of the goods in question in the event of any contravention of any

requirements imposed by or under the regulations with respect to any documents or records relating to the prescribed goods.

(9) Any person who fails to comply with any warehousing regulation or with any condition or requirement imposed under a warehousing regulation commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 7 on the standard scale.

(10) In this section —

(a) “prescribed” means prescribed by warehousing regulations;

(b) references to goods which are required to be deposited in a warehouse are references to goods which have been entered for warehousing on importation, which have been removed from a producer’s premises for warehousing without payment of duty, which are to be warehoused on drawback or which are otherwise to be treated by virtue of sub-paragraph (ii) of paragraph (e) of subsection (2) of this section as goods which are required to be deposited in a warehouse.

#### **Deficiency in warehoused goods**

**86.—**(1) This section applies where goods have been warehoused, and before they are lawfully removed from warehouse in accordance with a proper clearance thereof, they are found to be missing or deficient.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Collector that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Collector may require the occupier of the warehouse or the proprietor of the goods to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as he sees fit, the duty chargeable or deemed under warehousing regulations to be chargeable on such goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to the drawback and any allowance paid in respect of those goods.

(3) The occupier of the warehouse or the proprietor of the goods, as the case may be, commits an offence on conviction of which he is liable to a fine of twice the amount he is required to pay under subsection (2) of this section if, on the written demand of a customs officer to pay that sum he refuses to pay, or fails within seven days to pay, the required sum.

(4) This section has effect without prejudice to any other provision of any relevant enactment providing for an offence to have been committed or for forfeiture of any goods to have been incurred.

#### **Deficiency in goods occurring in course of removal from warehouse without payment of duty**

**87.—**(1) Where any goods have been lawfully permitted to be taken from a warehouse without payment of duty for removal to another warehouse or to some other place, section 86 of this Ordinance shall, subject to subsection (2) of this section, have effect in relation to those goods in the course of removal as if those goods were still in the warehouse.

(2) In its application in relation to any goods by virtue of subsection (1) of this section, section 86 of this Ordinance shall have effect as if the references in subsections (2) and (3) of that section to the occupier of the warehouse were omitted.

### **Deficiency in certain goods moved by pipe-line**

**88.**—(1) This section applies where goods of any of the following descriptions, that is to say —

- (a) goods which are chargeable with any duty which has not been paid;
- (b) goods on which duty has been repaid or remitted in whole or in part; and
- (c) goods on which drawback has been paid,

are moved by pipe-line, or notified to the proper officer as being goods to be moved by pipe-line, and are thereafter found to be missing or defective.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Collector that the absence or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Collector may require the owner of the pipe-line or the proprietor of the goods to pay immediately in respect of the missing goods, or in respect of the whole or part of the deficiency, as he sees fit, the amount of the duty unpaid or repaid therefrom or, as the case may be, an amount equal to the drawback paid thereon.

(3) A person commits an offence on conviction of which he is liable to a fine of an amount not exceeding twice the amount referred to in subsection (2) if, on the written demand of a customs officer, any person refuses to pay any sum which he is required to pay under subsection (2).

(4) For the purposes of this section any absence or deficiency in the case of goods moved by a pipe-line used for the importation or exportation of goods shall be deemed to have taken place in the Falkland Islands unless the contrary is shown.

(5) This section has effect without prejudice to any provision of any relevant enactment under which anything to which this section relates might constitute an offence or lead to forfeiture of any goods.

### **Restriction on compensation for loss or damage to goods in, or for removal of goods from, warehouse or pipe-line**

**89.**—(1) This section applies to —

- (a) any loss or damage caused to goods while in a warehouse or pipe-line; and
- (b) any unlawful removal of goods from a warehouse or pipe-line.

(2) Subject to subsection (3), no compensation shall be payable by, and no action shall lie against, the Crown, the Collector or any customs officer acting in the execution of his duty for any loss or damage to which this section applies or for any unlawful removal to which this section applies.

(3) If any goods in a warehouse or pipe-line are destroyed, stolen or unlawfully removed by or with the connivance of a customs officer and that officer is convicted of the offence, then, except where the proprietor of the goods or the occupier of the warehouse or, as the case may be, the owner of the pipe-line was a party to the offence, the Crown shall pay compensation for any loss caused by any such destruction, theft or removal.

(4) Where compensation is payable by virtue of subsection (3) then, notwithstanding any other provision of any relevant enactment, no duty is payable on the goods by the proprietor of the goods or by the occupier of the warehouse or, as the case may be, the owner of the pipe-line, and any sum paid by way of duty on those goods by any of those persons before the conviction shall be repaid.

#### **Procedure on warehouse ceasing to be approved**

**90.**—(1) Where the Collector intends to revoke or not to renew his approval of a warehouse, he shall, not later than the beginning of the prescribed period ending with the date on which the revocation is to take effect or the approval is due to expire, as the case may be, give notice of his intention, specifying therein the said date and, unless the notice has been withdrawn or extended, the warehouse shall cease to be approved on that date.

(2) The notice shall be given in writing and shall be deemed to have been served on all persons interested in any goods then deposited in that warehouse or permitted under any relevant enactment to be so deposited between the giving of the notice and the date specified therein, if addressed to the occupier of, and left at, the warehouse.

(3) If after the date on which the warehouse ceases to be approved any goods not duly cleared still remain in the former warehouse —

(a) they may be taken by a customs officer to a Queen's warehouse and, without prejudice to section 91(3), if they are not cleared from it within one month may be sold; or

(b) if the Collector so allows, they may remain in the former warehouse and if they are not cleared from it within one month may be sold.

(3) Where in accordance with paragraph (b) of subsection (3) goods remain in the warehouse after revocation or expiry of the Collector's approval —

(a) section 91(6) and (7) apply as if they were deposited in a Queen's warehouse under any relevant enactment; and

(b) sections 85, 86, 87, 89 and 92 apply and any security given by bond or otherwise and any condition imposed by or under any relevant enactment shall continue to have effect, as if the former warehouse were still a warehouse.

(4) In this section "the prescribed period" means 3 months or such greater period as may be prescribed by warehousing regulations.

#### **Provisions as to deposit in Queen's warehouse**

**91.**—(1) The following provisions of this section have effect in relation to any goods which are deposited in a Queen's warehouse under or by virtue of any provision of a relevant enactment.

(2) Such rent shall be payable while the goods are deposited as may be fixed by the Governor.

(3) If the goods are of a combustible or inflammable nature or otherwise of such a character as to require special care or treatment —

(a) they shall, in addition to any other charges payable thereon, be chargeable with such expenses for securing, watching and guarding them as the Collector, subject to any direction by the Governor, may see fit;

(b) neither the Crown, the Collector or any customs officer shall be liable to make good any damage which the goods may have sustained;

(c) if the proprietor of the goods has not cleared them within a period of 28 days from the date of deposit, they may be sold by the Collector,

but, in the case of goods deposited by virtue of section 33(2) of this Ordinance, paragraph (c) of this subsection shall only apply if the goods are of a combustible or inflammable nature.

(4) Save as may be permitted by or under any relevant enactment, the goods shall not be removed from the warehouse until —

(a) any duty chargeable thereon; and

(b) any charges in respect of —

(i) the goods removal to the warehouse, and

(ii) under subsection (2) and (3),

have been paid and, in the case of goods requiring entry and not yet entered, until entry has been made of the goods.

(5) The customs officer having the custody of the goods may refuse to allow them to be removed until he is satisfied that any freight charges due in respect of them have been paid.

(6) If the goods are sold under or by virtue of any relevant enactment, the proceeds of the sale shall be applied —

(a) first, in paying any duty chargeable on the goods:

(b) secondly, in defraying any such charges as are mentioned in subsection (4) of this section; and

(c) thirdly, in defraying any charges for freight;

and if the person who was immediately before the sale the proprietor of the goods makes application in that behalf, the remainder, if any, shall be paid to him.

(7) When the goods are authorised to be sold under any relevant enactment but cannot be sold —

(a) if the goods are to be exported, for a sum sufficient to make the payment mentioned in paragraph (b) of subsection (6) of this section; or

(b) in any other case, for a sum sufficient to make the payments mentioned in paragraphs (a) and (b) of that subsection,

the Collector may destroy the goods.

### **General offences relating to warehouses and warehoused goods**

**92.—(1)** A person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale, and in respect of which he may be arrested without a warrant, who without the authority or of the proper officer and without just and sufficient cause —

(a) opens any of the doors or locks of a warehouse or Queen's warehouse; or

(b) makes or obtains access to any such warehouse or to any goods warehoused in any such warehouse.

(2) Goods are liable to forfeiture if —

(a) having been entered for warehousing or being otherwise required to be entered in a warehouse, they are taken into the warehouse without the authority of, or otherwise than in accordance with any directions given by, the proper officer;

(b) having been entered for warehousing or being otherwise required to be deposited in a warehouse, they are, save as permitted by any relevant enactment or by or under warehousing regulations, removed without being duly warehoused;

(c) having been deposited in a warehouse or Queen's warehouse, they are unlawfully removed from it or are unlawfully loaded into any ship, aircraft or vehicle for removal or for exportation or use as stores;

(d) having been entered for warehousing or being otherwise required to be deposited in a warehouse they are concealed before they are warehoused or when they are required to be in the custody or under the control of the occupier of a warehouse;

(e) having been lawfully permitted for any purpose to be removed from a warehouse or a Queen's warehouse without payment of duty, they are not duly delivered at the destination to which they should have been taken in accordance with that permission.

(3) A person commits an offence in respect of which he may be arrested without a warrant if he takes, removes, loads or conceals any goods as mentioned in subsection (2), with intent —

(a) to defraud Her Majesty of any duty chargeable thereon; or

(b) to evade any prohibition or restriction for the time being in force in relation to them under or by virtue of any enactment.

(4) A person convicted of an offence under subsection (3) is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

PART IX  
DUTIES AND DRAWBACKS: GENERAL PROVISIONS

*General provisions relating to imported goods*

**Delivery of imported goods on giving security**

**93.**—(1) Where it is impracticable immediately to ascertain whether any or what duty is payable in respect of any imported goods which are entered for home use or for free circulation, whether on importation or from warehouse, the Collector may, if he thinks fit and notwithstanding any other provision of any relevant enactment, allow those goods to be delivered upon the importer giving security by deposit of money or otherwise to their satisfaction for payment of any amount unpaid which may be payable by way of duty.

(2) The Collector may for the purposes of subsection (1) treat goods as entered for home use notwithstanding that the entry does not contain all the particulars required for perfect entry if it contains as many of those particulars as are then known to the importer, and in that event the importer shall supply the remaining particulars as soon as may be to the Collector.

(3) Where goods are allowed to be delivered under this section, the Collector shall, when he has determined the amount of duty which is in his opinion payable, give to the importer a notice specifying the amount.

(4) On the giving of a notice under subsection (3) the amount specified in the notice or, where any amount has been deposited under subsection (1), any difference between those amounts shall forthwith be paid or repaid as the case may require.

(5) Subject to subsection (6), if the importer disputes the correctness of the amount specified in a notice given to him under subsection (3), he may at any time within 3 months of the date of the notice make an application to the Senior Magistrate as referee to determine the matter, and the decision of the Senior Magistrate shall be final and binding.

(6) No requirement or application shall be made by virtue of subsection (5) until any sum falling to be paid by the importer under subsection (4) has been paid.

**Regulations for determining origin of goods**

**94.**—(1) The Governor may by regulations make provision for determining, for the purposes of any duty of customs, the origin of any goods in cases where it does not fall to be determined under any enactment or other instrument having the force of law.

(2) Regulations under this section may —

(a) make provision as to the evidence which is required to be or is to be sufficient for the purpose of showing that goods are of a particular origin; and

(b) make different provision for different purposes and in relation to goods of different descriptions.

(3) Subject to the provisions of any regulations under this section, where in connection with a duty of customs chargeable on any goods any question arises as to the origin of the goods, the Collector may require the importer of the goods to furnish to him, in such form as he may prescribe, proof of any statement made to him as to any fact necessary to determine that question; and if such proof is not furnished to his satisfaction, the question may be determined without regard to that statement.

**Power to impose restrictions where duty depends on certain matters other than use**

**95.** Where any question arises as to the duties of customs chargeable on any imported goods (other than the use to be made of the goods) not reasonably ascertainable from an examination of the goods, and that question is not in law conclusively determined by the production of any certificate or other document, then on the importation of those goods, the Collector may impose such conditions as he sees fit for the prevention of abuse or the protection of the revenue (including conditions requiring security for the observance of any conditions so imposed).

**Regulations where duty depends on use**

**96.—**(1) The Governor may make regulations applying in cases where any question as to the duties of customs chargeable on any goods depends on the use to be made of them.

(2) Regulations made under subsection (1) may make such provision for the purpose of securing that the relevant use is made of the goods as appears to the Governor to be necessary or expedient.

**Repayment of duty where goods returned or destroyed by importer**

**97.—**(1) Subject to such conditions as the Collector sees fit to impose, where it is shown to the satisfaction of the Collector —

(a) that goods were imported in pursuance of a contract of sale and that the description, quality, state or condition of the goods was not in accordance with the contract or that the goods were damaged in transit; and

(b) that the importer with the consent of the seller —

(i) returned the goods unused to the seller and for that purpose complied with section 45 as to entry in like manner as if they had been dutiable or restricted goods for the purposes of Part V of this Ordinance; or

(ii) destroyed such goods unused,

(c) that the importer has, with the consent of the Collector, destroyed any goods on which duty has been paid,

the importer is entitled to obtain from the Collector repayment of any duty paid on the importation of the goods.

(2) Nothing in this section shall apply to goods imported on approval, or on sale or return, or on other similar terms.



### **Forfeiture for breach of certain conditions**

**98.**—(1) Where —

(a) any imported goods have been relieved from customs duty chargeable on their importation or have been charged with duty at a reduced rate; or

(b) any condition or other obligation required to be complied with in connection with the relief of the charge of duty at that rate is not complied with,

the goods shall be liable to forfeiture.

(2) The provisions of this section shall apply whether or not any undertaking or security has been given for compliance with the condition or obligation or for the payment of duty payable apart therefrom, and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking or security.

### **Valuation of goods for purpose of ad valorem duties**

**99.**—(1) For the purposes of any duty for the time being chargeable on any imported goods by reference to their value, the value of goods shall be determined on the basis of a delivery to the buyer at the port or place of importation into the Falkland Islands.

(2) The Governor may make regulations for the purpose of giving effect to subsection (1), and in particular for requiring any importer or other person concerned with the importation of goods —

(a) to furnish to the Collector in such form as he may require, such information as in his opinion is necessary for a proper valuation of the goods; and

(b) to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

(3) A person who contravenes any regulation made under subsection (2) commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 3 on the standard scale.

### **Charge of duty on manufactured or composite imported articles**

**100.**—(1) Subject to subsections (2) to (4), if any imported goods contain as a part or ingredient thereof any article chargeable with duty, duty shall be chargeable on the goods in respect of each article according to the quantity thereof appearing to the Collector to be used in the manufacture or preparation of the goods.

(2) Where, in the opinion of the Financial Secretary, it is necessary for the protection of the revenue, such imported goods shall be chargeable with the amount of duty with which they would be chargeable if they consisted wholly of the chargeable article or, if the goods contain more than one such article, of that one of the chargeable articles which will yield the highest amount of duty.

(3) The Governor may by regulations make provision with respect to the duties to be charged and the drawbacks to be allowed, on imported composite goods containing a dutiable part or ingredient.

(4) Subsections (1) and (2) do not apply where other provision is made by any other Ordinance relating to duties on imported goods.

(5) Any rebate which can be allowed by law on any article when separately charged shall be allowed in charging goods under subsection (1) or (2) in respect of any quantity of that article used in the manufacture or preparation of the goods.

*Deferred payment of duty on goods*

**Deferred payment of duty on goods**

**101.**—(1) The Governor may by regulations make provision for the payment (in accordance, where any requirement to pay the duty takes effect, with that requirement) of any duty on goods of a prescribed kind to be deferred, in prescribed cases, subject to such conditions or requirements as may be imposed —

(a) by the regulations; or

(b) where the regulations so provide, by the Collector.

(2) Any duty payment of which is deferred under the regulations shall be treated, for prescribed purposes, as if it had been paid.

(3) Where —

(a) any duty to which an application for deferment of duty made under the regulations relates is payable on goods on their removal from a warehouse; and

(b) the Collector is not satisfied —

(i) that the conditions imposed under section 84(1) have been complied with by the occupier of the warehouse; or

(ii) that the warehousing regulations made by virtue of section 85(2)(m) have been complied with by the occupier or by the proprietor of the goods,

the Collector may, notwithstanding any provision of the regulations, refuse the application or refuse it in so far as it relates to those goods.

(4) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.

(5) In this section “prescribed” means prescribed by regulations made under this section.

*General provision relating to charge of duty on and delivery of goods*

**Restriction on delivery of goods**

**102.**—(1) During any period not exceeding 3 months specified at any time by Order of the Governor for the purposes of this section, the Collector may refuse to allow the removal for home use on payment of duty, or the sending out for home use after the charging of duty, of goods of any class or

description chargeable with duty, notwithstanding payment of that duty, in quantities exceeding those which appear to the Collector to be reasonable in the circumstances.

(2) Where the Collector has during any such period exercised his powers under this section with respect to goods of any class or description, then, in the case of any such goods which are removed or sent for home use after the end of the period the duties and the rates thereof chargeable on those goods shall, notwithstanding any other provision of any relevant enactment relating to the determination of those duties and rates, be those in force at the date of the removal or sending out of the goods.

### **Power to remit or repay duty on denatured goods**

**103.**—(1) Subject to subsection (2), where any goods —

(a) which have been imported but not yet cleared for any purpose for which they may be entered on importation; or

(b) which are chargeable with a duty the requirement to pay which has not yet taken effect,

have by reason of their state and condition ceased to be worth the full duty chargeable thereon and have been denatured in such manner as the Collector may direct and in accordance with such conditions as he sees fit to impose, the Collector may remit or repay the whole or any part of any duty chargeable or paid thereon, or waive repayment of the whole or part of any drawback paid on their warehousing, upon delivery of the goods for use for such purposes as the Collector may allow.

(2) Subsection (1) does not apply to spirits.

(3) Where, whether under subsection (1) or otherwise, any goods chargeable with duty have gone into home use after having been denatured by mixture with some other substance, any person who separates the goods from the other substance commits an offence under this subsection in respect of which he may be arrested without a warrant, and the goods are liable to forfeiture.

(4) A person convicted of an offence under subsection (3) is liable on conviction to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding 2 years.

### **Power to remit or repay duty on goods lost or destroyed etc**

**104.**—(1) Where it is shown to the satisfaction of the Collector that any goods chargeable with duty have been lost or destroyed by unavoidable accident —

(a) after importation but before clearance for any purpose for which they might be entered on importation;

(b) in the case of goods chargeable with duty on their manufacture or production or on their removal from their place of manufacture or production, at any time before removal from that place; or

(c) while in a warehouse or Queen's warehouse; or

(d) at any time while that duty is otherwise lawfully unpaid, except where payment of that duty has become due but has been allowed by the Collector to be deferred; or

(e) at any time after drawback of that duty has been paid,

the Collector may remit or repay any duty chargeable or paid thereon or waive repayment of any drawback paid on their warehousing.

(2) The Collector may, at the request of the proprietor of the goods in question and subject to compliance with such conditions as the Collector sees fit to impose, permit the destruction of and waive payment of duty and repayment of drawback on —

(a) any part of any warehoused goods which becomes damaged or surplus by reason of the carrying out of any permitted operation on those goods in warehouse, and any refuse resulting from any such operation; and

(b) any imported goods not yet cleared for any purpose for which they might be entered on importation or any warehoused goods, being in either case goods which by reason of their state or condition ceased to be worth the full duty chargeable thereon.

#### **Enforcement of bond in respect of goods removed without payment of duty**

105. If any goods which have ceased to be lawfully permitted to be removed for any purpose without payment of duty are unlawfully taken from any ship, aircraft, vehicle or place before that purpose is accomplished, the Crown may if it sees fit enforce any bond given in respect thereof notwithstanding that any time prescribed in the bond for accomplishing that purpose has not expired.

#### *Drawback, allowances, duties, etc: general*

#### **Extension of drawback**

106.—(1) Without prejudice to any other provision of any relevant enactment or other written law, where drawback is allowable on the shipment of any goods as stores, the like drawback shall, subject to such conditions and restrictions as the Collector sees fit to impose, be allowed on the warehousing in a warehouse of those goods for use as stores.

(2) Without prejudice to any other provision of any relevant enactment or other written law, where drawback would be payable on the exportation of any goods, or on the warehousing of any goods for exportation, then, subject to such conditions and restrictions as the Collector sees fit, the like drawback shall be payable on the shipment of any such goods as stores or, as the case may be, on their warehousing in a warehouse for use as stores.

#### **General provisions as to claims for drawback**

107.—(1) Any claim for drawback shall be made in such form and manner and contain such particulars as the Collector may direct.

(2) Where drawback has been claimed in the case of any goods subsections (3) to (6) shall apply in relation to the claim.

(3) No drawback shall be payable unless it is shown to the satisfaction of the Collector that duty in respect of the goods or the article contained therein or used in the manufacture or preparation thereof in respect of which the claim is made has been duly paid and has not been drawn back.

(4) No drawback shall be paid until the person entitled thereto or his agent has made a declaration in such form and manner and containing such particulars as the Collector may direct that the conditions on which the drawback is payable have been fulfilled.

(5) The Collector may require any person who has been concerned at any stage with the goods or article —

(a) to furnish such information as may be reasonably necessary to enable the Collector to determine whether duty has been duly paid and not drawn back and for enabling a calculation to be made of the amount of the drawback payable; and

(b) to produce any book of account or other document of whatever nature relating to the goods or article.

(6) Any person who fails to comply with any requirement made under subsection (5) commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 3 on the standard scale.

#### **Drawback and allowance on goods damaged or destroyed after shipment**

**108.**—(1) Where it is proved to the satisfaction of the Collector that any goods after being duly shipped for exportation have been destroyed by accident on board the exporting ship or aircraft, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be payable in the same manner as if the goods had been exported to their destination.

(2) Where it is proved to the satisfaction of the Collector that any goods after being duly shipped for exportation, have been materially damaged by accident on board the exporting ship or aircraft, and the goods are with the consent of and in accordance with any conditions imposed by the Collector reloaded or unloaded again in or brought back into the Falkland Islands and either abandoned to the Collector or destroyed, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be paid as if they had been duly exported and not so reloaded, unloaded or brought back.

(3) Notwithstanding any provision of any relevant enactment or other written law relating to the reimportation of exported goods, the person to whom any amount is payable or has been paid under subsection (2) above shall not be required to pay any duty in respect of goods reloaded, unloaded or brought back under that subsection.

#### **Time limit on payment of drawback or allowance**

**109.** No payment shall be made in respect of any drawback or allowance unless the debenture or other document authorising payment is presented for payment within 2 years from the date of the event on the happening of which the drawback or allowance became payable.

**Offences in connection with claims for drawback, etc.**

110.—(1) A person commits an offence under this subsection who, with intent to defraud Her Majesty, obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which—

(a) is not lawfully payable or allowable in respect thereof; or

(b) is greater than the amount so payable or allowable.

(2) A person commits an offence under this subsection who, without such intent as is mentioned in subsection (1), does any of the things there mentioned.

(3) A person convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding the maximum of level 11 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater, or to imprisonment for a term not exceeding 7 years and a person convicted of an offence under subsection (2) is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater.

(4) Any goods in respect of which an offence under subsection (1) or (2) has been committed are liable to forfeiture; but in the case of a claim for drawback, the Collector may, if he sees fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as he considers proper.

(5) Without prejudice to the foregoing provisions of this section, if in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any entry made thereof in connection with that claim, the goods are liable to forfeiture and any person by whom such claim or entry was made has committed an offence in respect of which he is liable on conviction to a fine not exceeding three times the amount claimed or the maximum of level 3 on the standard scale, whichever is the greater.

(6) Subsection (5) applies in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made where it is found that the goods, if sold for home use, would realise less than the amount claimed as it applies where the finding specified in subsection (5) is made except that it does not apply by virtue of this subsection to any claim under sections 97 or 108(2).

**Recovery of duties and calculation of duties, drawbacks, etc**

111.—(1) Without prejudice to any other provision of any relevant enactment, any amount due by way of duty may be recovered as a debt due to the Crown.

(2) Any duty, drawback, allowance or rebate the rate of which is expressed by reference to a specified quantity or weight of any goods shall, subject to subsection (3), be chargeable or allowable on any fraction of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately.

(3) The Collector may for the purposes of subsection (2) determine the fractions to be taken into account in the case of any weight or quantity.

(4) For the purposes of calculating any amount due from or to any person under any relevant enactment by way of duty, drawback, allowance, repayment or rebate any fraction of a penny in that amount shall be disregarded.

#### **Repayment of overpaid duty**

**112.**—(1) Where a person pays to the Collector an amount by way of duty which is not due, the Crown is liable to repay that amount.

(2) The Crown is not required to make any such repayment unless a claim is made to the Collector in such form, and supported by such documentary evidence as may be prescribed by regulations made by the Governor, and regulations under this subsection may make different provision for different cases.

(3) It is a defence to a claim for repayment that the repayment would unjustly enrich the claimant.

(4) No claim for repayment may be made after the expiry of 6 years beginning with the date of payment or, if later, the date on which the claimant (or, where the right to repayment has been assigned or otherwise transmitted, any predecessor in title of his) discovered, or could with reasonable diligence have discovered, that the amount was due.

(5) Except as provided by this section the Crown is not, nor is the Collector, liable to repay an amount paid to the Collector by way of duty by reason of the fact that it was not due.

### **PART X**

#### **IMPOSITION OF DUTY AND RELIEF AND EXEMPTION FROM DUTY**

##### *Imposition of duty and exemptions from payment of duty*

#### **Imposition of duties by the Legislative Council**

**113.**—(1) Subject to subsection (2), the Legislative Council may by resolution impose, vary or revoke—

(a) import or export duties of customs or excise upon any kind of goods whatsoever which may be imported into or exported from the Falkland Islands; or

(b) excise duties upon any kind of goods whatsoever manufactured, extracted or produced within, the Falkland Islands.

(2) The Legislative Council shall not, unless the Governor has notified it in writing that the Secretary of State has consented thereto, exercise its powers under subsection (1) so as impose differential rates of duties, that is to say different rates of duties in relation to the same category of goods applicable by relation to the place of origin or manufacture, treatment or processing of the goods or place from which the goods were shipped to the Falkland Islands.

(3) Any resolution of the Legislative Council under this section shall be published in the *Gazette*.

### **Persons exempted from liability to pay duty**

**114.** Notwithstanding any other provision of any relevant enactment, there are exempt from all duties payable by virtue of this Ordinance —

(a) all goods imported or acquired by Her Majesty in her personal capacity and all goods imported or acquired by Her Majesty in right of her Government of the Falkland Islands or in right of Her Government of the United Kingdom (including goods imported or acquired for the use of Her Majesty's armed forces);

(b) all goods imported or acquired by the Governor for his personal use;

(c) all goods imported for his personal use by a person not having Falkland Islands status who —

(i) is a serving member of Her Majesty's armed forces, is in connection with the defence of the Falkland Islands in the service in a civil capacity of Her Majesty in right of Her Government of the United Kingdom or is an employee of the Navy Army and Air Force Institute or of the British Forces Broadcasting Service;

(ii) is a person or a member of persons declared by the Governor after consultation with the Executive Council to be so closely associated with persons to whom subparagraph (i) applies that he ought fairly to have the benefit of the exemption under this paragraph;

(iii) is the spouse or a dependent of any person mentioned in subparagraph (i) or (ii);

(d) all goods imported by the Navy Army and Air Force Institute or the British Forces Broadcasting Corporation for its own use or supply to a person or persons exempt from the payment of duty by any of the foregoing paragraphs or by paragraph (e); and

(e) all goods imported by any contractor to Her Majesty in right of Her Government of the United Kingdom for its own use or supply to a person or persons exempt from the payment of duty by virtue of any of the foregoing paragraphs, but in either case, only if the goods are used or supplied in performance of the contract in question and are not used or supplied further or otherwise.

### **Entitlement to drawback on supply to an exempted person**

**115.—**(1) Subject to subsections (2) and (3), a person who satisfies the Collector that he has, in the course of any trade or business carried on by him, supplied to any person to whom paragraphs (a), (b), (d) or (e) of section 114 apply any goods by way of sale in respect of which he has paid duty which has not previously been repaid to him by way of drawback or refunded to him or if so repaid or refunded, that he has repaid the amount thereof to the Consolidated Fund, is entitled to be repaid any duty which he satisfies the Collector that he has paid in respect of those goods and, if he has not paid that duty is no longer liable to pay the same.

(2) Subsection (1) does not apply in respect of any goods which have previously been used in the Falkland Islands whether by the supplier of the goods or any other person.

(3) If any goods supplied as mentioned in subsection (1) are returned to the supplier, then unless he satisfies the Collector that the goods have been destroyed or delivers them to the Collector for



destruction or disposal as the Collector sees fit, the supplier is liable forthwith to pay the duty repaid or excused by virtue of subsection (1).

#### **Power to provide for reliefs from duty in respect of imported legacies**

**116.**—(1) The Governor may by Order make provision for conferring reliefs from duty in respect of goods imported into the Falkland Islands by or for any person who has become entitled to them as legatee.

(2) Any such relief may take the form either of an exemption from payment of duty or of a provision whereby the sum payable by way of duty is less than it would otherwise be.

(3) An Order under this section —

(a) may make any relief for which it provides subject to any conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies;

(b) may, in relation to any relief conferred by Order made under this section, contain such incidental and supplementary provisions as the Governor thinks necessary or expedient; and

(c) may make different provision for different cases.

(4) In this section, “legatee” means any person taking under a testamentary disposition or donatio mortis causa or on an intestacy.

#### **Relief from duty on trade samples, labels, etc**

**117.** The Collector may allow the delivery without payment of duty on importation, subject to such conditions and restrictions as he sees fit —

(a) of trade samples of such goods as he sees fit, whether imported as samples or drawn from the goods on their importation;

(b) of labels or other articles supplied without charge for the purpose of being re-exported with goods manufactured or produced in the Falkland Islands.

#### **Relief from duty on certain foreign goods re-imported**

**118.**—(1) Without prejudice to any other provision of any relevant enactment, but subject to subsection (2), goods manufactured or produced outside the Falkland Islands after exportation therefrom may on their re-importation be delivered without payment of duty for home use, where so eligible, if it is shown to the satisfaction of the Collector —

(a) that no duty was payable thereon at their previous importation or that any duty so chargeable was then paid;

(b) that no drawback has been paid or duty refunded on their exportation or that any drawback so paid or duty refunded has been repaid to the Consolidated Fund; and

(c) that the goods have not undergone any process outside the Falkland Islands since their exportation.

(2) For the purposes of this section, goods which on their previous importation were entered for transit or transshipment or were permitted to be delivered without payment of duty as being imported only temporarily with a view to subsequent re-exportation and which were re-exported accordingly shall on their re-importation be deemed not to have been previously imported.

*Relief for goods for Her Majesty's ships*

**Supply of duty-free goods to Her Majesty's ships**

**119.**—(1) Unless by Order under this subsection the Governor provides to the contrary, and subject to any regulations under subsection (3) for the time being in force, all goods dutiable as alcohol or tobacco which are supplied either—

(a) to any ship of the Royal Navy for the use of persons serving on that ship, being persons borne on the books of that or some other ship of the Royal Navy or a naval establishment;

(b) to the Ministry of Defence of the United Kingdom, for the use of persons serving in ships of the Royal Navy or naval establishments,

shall for all or any purposes of any duty or drawback in respect of those goods be treated as exported, and a person supplying or intending to supply goods as mentioned in paragraph (a) or (b) shall be treated accordingly as exporting or intending to export them.

(2) The Governor may by Order under this subsection amend subsection (1) so as to add to the categories of dutiable goods in relation to which it applies.

(3) An Order made under subsection (1) or subsection (2) may—

(a) contain such incidental or supplementary provisions as appear to the Governor to be necessary for the purposes of this section, including any adaptation of any provision of any relevant enactment; and

(b) make different provision in relation to different cases.

*Personal reliefs*

**Power to provide, in relation to persons entering the Falkland Islands, for reliefs from duty**

**120.**—(1) The Governor may by Order make provision for conferring on persons entering the Falkland Islands reliefs from duty; and any such relief may take the form either of an exemption from payment of duty or of a provision whereby the sum payable by way of duty is less than otherwise it would be.

(2) Without prejudice to subsection (1), the Governor may by Order make provision whereby, in such cases and to such extent as may be specified in the Order, a sum calculated at a rate specified in the Order is treated as the amount payable by way of duty in respect of goods imported by a person entering the Falkland Islands; but any Order making such provision shall enable the person concerned to elect that duty shall be charged on the goods at the rate which would be applicable apart from that provision.

(3) An Order under this section —

(a) may make any relief for which it provides subject to conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies and conditions with respect to the conduct in relation to the goods of persons other than the person on whom the relief is conferred and of persons whose identity cannot be ascertained at the date of importation;

(b) may, in relation to any relief conferred by Order made under this section, contain such incidental and supplementary provisions as the Governor thinks necessary or expedient, including provisions requiring any person to whom a condition of the relief at any time relates to notify the Collector of any non-compliance with the condition and provisions for the forfeiture of the goods in the event of non-compliance with any condition subject to which they have been relieved from duty; and

(c) may make different provision for different cases.

(4) An Order under this section may provide, in relation to any relief which under any such Order is made subject to a condition, for there to be a presumption that, in such cases as may be described in the Order by reference —

(a) to the quantity of goods in question; or

(b) to any other factor which the Governor considers appropriate,

the condition is to be treated, unless the Collector is satisfied to the contrary, as not being complied with.

(5) An Order under this section may provide, in relation to any requirement of such an Order for the Collector to be notified of non-compliance with a condition to which any relief from payment of duty is made subject, for goods to be exempt from forfeiture under section 98 in respect of non-compliance with that condition if —

(a) the non-compliance is notified to the Collector in accordance with that requirement;

(b) any duty which becomes payable on those goods by virtue of the non-compliance is paid; and

(c) the circumstances are otherwise such as may be described in the Order.

(6) A person who fails to comply with any requirement of an Order under this section to notify the Collector of any non-compliance with a condition to which any relief is made subject commits an offence and —

(a) is liable on conviction of that offence to a fine not exceeding level 5 on the standard scale;

(b) the goods in respect of which the offence was committed are liable to forfeiture.

(7) In subsection (3) “conduct”, in relation to a person who has or may acquire possession or control of any goods, includes that person’s intentions at any time in relation to those goods.

(8) Nothing in any Order made under this section shall be construed as authorising any person to import any thing in contravention of any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment.

*Produce of the sea or of the continental shelf*

**Produce of the sea or continental shelf**

**121.**—(1) Fish or other natural produce of the sea, or goods produced or manufactured therefrom at sea, if brought direct to the Falkland Islands, shall —

(a) in the case of goods which, under any enactment or instrument having the force of law, are to be treated as originating in the Falkland Islands, be deemed for the purposes of any charge to customs duty not to be imported; and

(b) in the case of goods which, under any enactment or instrument having the force of law, are to be treated as originating in any other country or territory, be deemed to be consigned to the Falkland Islands from that country or territory.

(2) Any goods brought into the Falkland Islands which are shown to the satisfaction of the Collector to have been grown, produced or manufactured in any area which is a designated area of the continental shelf and to have been brought direct from that area shall be deemed for the purposes of any charge to duty not to be imported.

(3) The Governor may, after consulting the Secretary of State and in accordance with such advice as he then receives, by regulations prescribe cases in which, with a view to exempting any goods from any duty, or charging goods with duty at a reduced or preferential rate, under any relevant enactment the continental shelf of any country prescribed by the regulations, or of any country or class of countries so prescribed, shall be treated for the purposes of such of those enactments or of any instruments made thereunder as may be so prescribed as if the shelf formed part of that country and any goods brought from that shelf were consigned from that country.

(4) In subsection (3) —

(a) “continental shelf”, in relation to the Falkland Islands, has the same meaning as it has under section 2(1) the Offshore Minerals Ordinance 1994: and

(b) in any other case, “continental shelf” is the sea-bed and subsoil of the submarine areas adjacent to the coast, but outside the seaward limits of the territorial sea, of that country over which the exercise by that country of sovereign rights in accordance with international law is recognised or authorised by Her Majesty’s Government in the United Kingdom.

*Provisions in relation to duty on alcoholic liquors: introductory*

**Ascertainment of strength, volume and weight of alcoholic liquors**

**122.**—(1) This section applies to spirits, methylated spirits and any fermented liquor other than wash, and “liquor” in this section shall be construed accordingly.

(2) For all the purposes of this Part —

(a) except where some other measure of quantity is specified, any computation of the quantity of any liquor or of the alcohol contained in any liquor shall be made in terms of the volume of the liquor or alcohol, as the case may be;

(b) any computation of the volume of any liquor or of the alcohol contained in any liquor shall be made in litres at 20° Centigrade; and

(c) the alcoholic strength of any liquor is the ratio of the alcohol contained in the liquor to the volume of the liquor (inclusive of the alcohol contained in it).

(3) All regulations made under, or for the time being having effect as if made or partly made under section 2(3) of the Alcoholic Liquor Duties Act 1979 of the United Kingdom shall, subject to such modifications as are required by section 76 of the Interpretation and General Clauses Ordinance 1977, have effect for the purposes of prescribing the means to be used for ascertaining for any purpose the strength, weight or volume of any liquor for the purposes of this Part as they have effect for the purposes of the said Act.

#### **Meaning of and method of ascertaining gravity of liquids**

**123.—**(1) The gravity of any liquid shall be ascertained by such method as the Collector may approve, and the gravity so ascertained shall be deemed to be the true gravity of the liquid.

(2) Where for the purposes of any relevant enactment it is necessary to ascertain the original gravity of worts in which fermentation has commenced or of any liquid produced from such worts, subject to any modifications which may be required by section 76 of the Interpretation and General Clauses Ordinance 1977, that gravity shall be determined in such manner as is prescribed by the regulations made under or for the time being having effect as if made under, or partly made under, section 3(2) of the Alcoholic Liquor Duties Act 1979.

(3) Where the original gravity of any worts has been determined in accordance with the regulations mentioned in subsection (2) for the purposes of charging duty by reference to the quantity and original gravity of worts produced, a deduction of  $\frac{3}{4}^{\circ}$  shall be allowed from the original gravity so determined, so however as not to reduce the original gravity by reference to which the duty is charged below the gravity of the worts as ascertained by the proper officer in accordance with subsection (1).

#### *Charge of duty upon alcohol*

#### **Spirits: charge of duty**

**124.—**(1) Subject to any relevant enactment, there shall be charged on spirits imported into the Falkland Islands or distilled or manufactured in the Falkland Islands duty at such rate per litre of alcohol in the spirits as is for the time being prescribed by customs resolution.

(2) The Collector may, subject to such conditions as he sees fit to impose, direct that the aromatic flavouring essence commonly known as angostura bitters shall be treated as not being spirits for the purpose of the charge to duty on spirits.

(3) The Collector may if he thinks fit, and subject to any conditions he sees fit to impose, permit spirits to be imported or delivered from warehouse without payment of duty if he is satisfied that those spirits are to be used for medical purposes or for scientific purposes.

(4) A person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale if he contravenes any condition imposed under subsection (2) or (3).

### **Importation and exportation of spirits**

**125.**—(1) Save as permitted by the Collector, spirits shall not be imported —

(a) in any ship of less than 40 tons register; or

(b) in containers of a capacity less than 40 litres each unless in bottles properly packed in cases.

(2) Save as permitted by the Collector, spirits other than bottled spirits shall not be exported, or be brought to any place or be waterborne for exportation in containers holding less than 40 litres each.

(3) Any spirits imported, exported, brought or waterborne contrary to this section are liable to forfeiture.

(4) Where any ship is or has been in Falkland Islands waters while having on board or attached in any manner thereto any spirits in containers other than such as are permitted by or under subsection (1), the ship and any spirits found therein are liable to forfeiture.

### **Restrictions on use of certain goods relieved from spirits duty**

**126.**—(1) Any person who uses otherwise than for a medical or scientific purpose —

(a) any mixture which has on importation been relieved to any extent of the duty chargeable in respect of the spirits contained in it or used in its preparation or manufacture by reason of being a mixture which is recognised by the Collector as being used for medical purposes;

(b) any article containing spirits which were exempted from duty under section 124; or

(c) any article manufactured or prepared from spirits in respect of which remission of duty has been obtained under section 124,

unless he has complied with the requirements specified in subsection (2) of this section, commits an offence and is liable on conviction to a fine of a maximum of three times the value of the mixture or the article so used or level 3 on the standard scale and any article in his possession in the preparation or manufacture of which the mixture or article has been used is liable to forfeiture.

(2) The requirements with which a person must comply to avoid incurring liability under subsection (1) are —

(a) he must obtain the consent of the Collector in writing to the use of the mixture or article otherwise than for a medical or scientific purpose;

(b) he must pay to the Collector an amount equal to the difference between the duty charged on the mixture and the duty which would have been chargeable if it had not been a mixture recognised as mentioned in subsection (1)(a) above, or to the amount of the duty remitted, as the case may be.

(3) The Governor may make regulations for the purpose of enforcing the provisions of this section.

(4) Regulations under subsection (3) may in particular require any person carrying on any trade in which spirits or mixture or articles containing or prepared or manufactured with spirits, are in the opinion of the Collector likely to be or to have been so used —

(a) to give and verify particulars of the materials which he is using or has used and of any such mixtures or articles he has used and of any mixture or articles he has sold;

(b) to produce any books of account or other documents of whatever nature relating to any such materials, mixture or articles.

(5) A person commits an offence who contravenes or fails to comply with any regulations made under subsection (3) and on conviction of that offence he is liable to a fine not exceeding the maximum of level 3 on the standard scale.

(6) In this section “mixture” includes a preparation and a compound, and any reference to a mixture or article includes a reference to any part thereof.

#### **Beer: charge of duty**

**127.**—(1) Subject to this section, there shall be charged on beer imported into, or produced in, the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) No duty shall be chargeable on beer brewed in the Falkland Islands by a person who brews the same only for his own domestic use and who is not also a wholesaler or retailer of beer.

#### **Wine: charge of duty**

**128.**—(1) Subject to this section, there shall be charged on wine imported into the Falkland Islands or produced in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more wines (“the constituent wines”) constitutes the production of wine if —

(a) the rate of duty applicable to one of the constituent wines is different from that applicable to the other or, as the case may be, at least one of the others; and

(b) the rate of duty applicable to the wine which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent wines;

(c) the blending or other mixing is with a view to dealing wholesale in the wine which is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any wine is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where, by virtue of subsection (2), wine is produced in the Falkland Islands, duty is chargeable on that wine by virtue of this Ordinance, whether or not duty was previously charged on all or any of the constituent wines by virtue of this Ordinance by virtue of its importation into or production in the Falkland Islands; but nothing in this subsection shall affect the operation of regulations under section 129 giving relief from duty on wine so produced by reference to duty charged on all or any of the constituent wines.

(4) No duty shall be chargeable on wine made in the Falkland Islands by a person who make the same only for his own domestic use and who is not also a wholesaler or retailer of wine.

### **Spirituos beverage: charge of duty**

**129.**—(1) Subject to this section, there shall be charged on spirituous beverages imported into or made in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more liquors (“the constituent liquors”) one or more of which is spirits constitutes the production of spirituous beverage if —

(a) the rate of duty applicable to one of the constituent liquors is different from that applicable to the other or, as the case may be, at least one of the others; and

(b) the rate of duty applicable to the mixed or blended liquor which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent liquors;

(c) the mixed or blended liquor which results is a spirituous beverage (that is to say, the majority of the alcohol therein is distilled alcohol and the percentage of alcohol therein by volume does not exceed 22%);

(d) the mixing or blending is with a view to dealing wholesale in the liquor which is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any spirituous beverage is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where, by virtue of subsection (2), spirituous beverage is produced in the Falkland Islands, duty is chargeable on that spirituous beverage by virtue of this Ordinance, whether or not duty was previously charged on all or any of the constituent liquors by virtue of this Ordinance by virtue of its importation into or production in the Falkland Islands.



**Fortified wine: charge of duty**

**130.**—(1) Subject to this section there shall be charged on fortified wine imported into or made in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more liquors (“the constituent liquors”) one or more of which is wine constitutes the production of fortified wine if—

(a) the rate of duty applicable to one of the constituent liquors is different from that applicable to the other or, as the case may be, at least one of the others; and

(b) the rate of duty applicable to the mixed or blended liquor which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent liquors;

(c) the mixed or blended liquor which results is fortified wine (that is to say, it is not within the definitions of beer, wine or spirituous beverage contained in section 2(1) and it contains at least 15% and not more than 22% alcohol

(d) the mixing or blending is with a view to dealing wholesale in the liquor which is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any fortified wine is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where, by virtue of subsection (2), fortified wine is produced in the Falkland Islands, duty is chargeable on that spirituous beverage by virtue of this Ordinance, whether or not duty was previously charged on all or any of the constituent liquors by virtue of this Ordinance by virtue of its importation into or production in the Falkland Islands.

**Other strong liquor: charge of duty**

**131.** There shall be charged on other strong liquor imported into or produced in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

*Stills*

**Power to make regulations in relation to stills**

**132.**—(1) The Governor may make regulations —

(a) regulating the keeping and use of stills;

(b) regulating the manufacture of stills;

(c) prohibiting the removal of stills or parts thereof.

(2) Any person who contravenes any regulation commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 5 on the standard scale and the still or part thereof in respect of which the offence was committed is liable to forfeiture.

PART XI  
DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS  
*Detention*

**Provisions as to arrest of persons**

**133.**—(1) Any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence in respect of which any provision of this Ordinance provides that a person who has committed that offence may be arrested without a warrant, may be arrested by any customs officer, police officer or any member of Her Majesty's armed forces at any time within 12 years from the date of the commission of the offence.

(2) Where it was not practicable to arrest any person in respect of an offence to which subsection (1) relates at the time of the commission of the offence, or where such person having been then or subsequently arrested for that offence has escaped he may be arrested by any customs officer, police officer or member of Her Majesty's armed forces at any time and may be proceeded against in like manner as if the offence had been committed at the date when he was finally arrested.

(3) Where a person is a member of the crew of any ship in Her Majesty's employment or service is arrested by a customs officer or police officer for an offence under any relevant enactment, the commanding officer of the ship shall, if so required by the arresting officer, keep that person on board that ship until he can be brought before a court and shall then deliver him up to the proper officer.

(4) Where any person has been arrested by virtue of this section, the person arresting him shall give notice of the arrest to the Collector.

*Forfeiture*

**Provisions as to detention, seizure and condemnation of goods, etc**

**134.**—(1) Any thing liable to forfeiture under any relevant enactment may be seized or detained by any customs officer or police officer or by any member of Her Majesty's Armed Forces in accordance with the provisions of the Prohibited Goods Ordinance (Title 26.2).

(2) The Prohibited Goods Ordinance is amended in the manner specified in Schedule 2 to this Ordinance.

**Forfeiture of spirits**

**135.** Where, by any provision of, or of any instrument made under, any relevant enactment, any spirits become liable to forfeiture by reason of some offence committed by a revenue trader, then —

(a) where that provision specifies the quantity of those spirits but does not specify the spirits so liable, the Collector may seize the equivalent of that quantity from any spirits in the stock of that trader; and

(b) where that provision specifies the spirits so liable, the Collector may, if he thinks fit, seize instead of the spirits so specified an equivalent quantity of any other spirits in the stock of that trader.

### **Forfeiture of ships, etc. used in connection with goods liable to forfeiture**

**136.**—(1) Without prejudice to any other provision of any relevant enactment, where any thing has become liable to forfeiture under any provision of such an enactment —

(a) any ship, aircraft, vehicle, animal, container (including any article of passenger's baggage) or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at a time when it was so liable of for the purposes of the commission of the offence for which it later became so liable; and

(b) any other thing mixed, packed or found with the thing so liable,

is also liable to forfeiture.

(2) Where any ship, aircraft, vehicle or animal has become liable to forfeiture under any relevant enactment, whether by virtue of subsection (1) of this section or otherwise, all tackle, apparel or furniture thereof is also liable to forfeiture.

(3) Where any ship not exceeding 100 tons register or any aircraft becomes liable to forfeiture under this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander each commit an offence and are liable on conviction of that offence to a fine not exceeding the lesser of the value of the ship or aircraft or the maximum of level 7 on the standard scale.

### **Special provisions as to forfeiture of larger ships**

**137.**—(1) Notwithstanding any other provision of any relevant enactment, a ship of 250 or more tons register shall not be liable to forfeiture under or by virtue of any provision of any relevant enactment, except section 80 of this Ordinance, unless the offence in respect of or in connection with which the forfeiture is claimed —

(a) was substantially the object of the voyage during which the offence was committed;

(b) was committed while the ship was under chase by a vessel in the service of Her Majesty after failing to bring to when properly summoned to do so by that vessel.

(2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to —

(a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and

(b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was in Falkland Islands waters.

(3) The exemption from forfeiture of any ship under this section shall not affect any liability to the forfeiture of goods carried therein.

**Penalty in lieu of forfeiture of larger ship where responsible officer implicated in offence**

138.—(1) Where any ship of 250 or more tons register would, but for section 138, be liable to forfeiture for or in connection with any offence under any relevant enactment and, in the opinion of the Senior Magistrate, a responsible officer of the ship is implicated either by his own act or by neglect in that offence, the Senior Magistrate may order the owners of the ship to pay to the Crown such sum, not exceeding £50,000, as he thinks fit.

(2) The Magistrate's Court may make an order under subsection (1) —

(a) in the course of criminal proceedings in the Magistrate's Court in relation to that offence; or

(b) on the application of the Collector or of the Attorney General,

but the Magistrate's Court shall not make such an order unless the owners of the ship have been given a reasonable opportunity of being heard in relation thereto.

(3) The Collector may detain a ship in respect of which he believes an order under subsection (1) could be made until the earliest of —

(a) until the conclusion of any criminal proceedings to which paragraph (a) of subsection relates;

(b) the delivery by or on behalf of the owners of such security as he considers sufficient, for such amount not exceeding £50,000 as he may require, for the payment of any sum which the Magistrate's Court may order under subsection (1);

(c) the payment of any amount ordered by the Magistrate's Court under subsection (1) to be paid;

(d) an order of a competent court that the ship be released.

(4) For the purposes of this section —

(a) "responsible officer", in relation to any ship, means the master, a mate or an engineer of the ship and, in the case of a ship carrying a passenger certificate, the purser or chief steward;

(b) without prejudice to any other grounds on which a responsible officer of a ship may be held to be implicated by neglect, he may be so held if goods not owned by any member of the crew are discovered in a place under that officer's supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.

**Protection of customs officers etc. in relation to seizure and detention of goods, etc**

**139.**—(1) Where, in any proceedings for the condemnation of any thing seized or liable to forfeiture under any relevant enactment, judgment is given for the claimant, the court may, if it thinks fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Crown, the Collector, the Attorney General or any person authorised by or under any relevant enactment to seize or detain any thing liable to forfeiture under any relevant enactment on account of the seizure or detention of any thing, and judgment is given for the plaintiff or prosecutor, then if either —

(a) a certificate relating to the seizure has been granted under subsection (1) above; or

(b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the relevant enactments,

the plaintiff or prosecutor is not entitled to recover any damages or costs and the defendant shall not be liable to any punishment.

(3) Nothing in subsection (2) affects any right of any person to the return of any thing seized or detained or to compensation in respect of any damage to the thing or in respect of its destruction.

(4) Any certificate under subsection (1) may be proved by the production of either the original certificate or a certified copy of it signed by the Senior Magistrate or the Courts Administrator.

*General provisions*

**Institution of proceedings, service of process and time limit for proceedings**

**140.**—(1) No proceedings for an offence under a relevant enactment shall be brought except by or with the authority of one or other of the Collector and the Attorney General.

(2) Any summons or other process for the purpose of any proceedings under any relevant enactment may be served upon the person to whom it is addressed —

(a) by delivering it to him personally;

(b) by leaving it so addressed at his last known place of abode or business or, in the case of a body corporate at its principal or registered office or in the case of an oversea company at its principal place of business in the Falkland Islands;

(c) by leaving it so addressed on board any vessel or aircraft to which he may belong or may have lately belonged;

(d) if that person is the owner or one of the owners or a charterer or one of the charterers of a vessel or the master or lately the master or other member of the crew of any vessel, by leaving it so addressed with any agents in the Falkland Islands of that vessel.

(3) Proceedings for an offence under any relevant enactment shall not be commenced after the end of 12 years beginning with the date on which the offence was committed.

### **Proof of certain documents**

**141.**—(1) Any document purporting to be signed by the Collector or by any other person with his authority shall, until the contrary is proved, be deemed to be so signed and may be proved by production of a copy of it purporting to be so signed.

(2) A photograph of any document delivered to the Collector for any customs purpose and certified by him to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

### **Proof of certain other matters**

**142.**—(1) An averment in any process in proceedings under a relevant enactment —

(a) that those proceedings were instituted with the authority of the Collector or of the Attorney General;

(b) that any person is or was the Collector, a customs officer or a police officer or a member of Her Majesty's armed forces; or

(c) that any person is or was appointed or authorised by the Collector to discharge, or was engaged by the orders or with the concurrence of the Collector in the discharge of, any duty;

(d) that the Collector has or has not been satisfied as to any matter as to which he is required by any provision of any relevant enactment to be satisfied;

(e) that any ship is a British ship; or

(f) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods,

shall, until the contrary is proved, be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to customs any question arises as to the place from which any goods have been brought or as to whether or not —

(a) any duty has been paid or secured in respect of any goods; or

(b) any goods or other things whatsoever are of the description or nature alleged in the information, writ or other process; or

(c) any goods have been lawfully imported or lawfully unloaded from any ship or aircraft;

(d) any goods have been lawfully loaded into any ship or aircraft or lawfully exported or were lawfully waterborne;

(e) any goods were lawfully brought to any place for the purpose of being loaded into any ship or aircraft or exported; or

(f) any goods are or were subject to any prohibition or restriction on their importation or exportation or carriage coastwise,

then, where those proceedings are brought by or against the Collector or the Attorney General or a customs officer, or against any other person in respect of anything purporting to have been done in pursuance of any power or duty conferred or imposed by him under any relevant enactment, the burden of proof lies on the other party to the proceedings.

PART XII  
GENERAL AND MISCELLANEOUS  
*Prohibited imports and exports*

**Prohibition of imports and exports**

**143.**—(1) The Governor may by Order make such provision as the Governor thinks expedient for prohibiting or regulating, in all cases or any specified classes of cases, and subject to such exceptions, if any, as may be made by or under the Order, the importation into, or exportation from, the Falkland Islands, or the carriage coastwise or shipment as ship's or aircraft's stores, of all goods or goods of a specified description.

(2) An Order under this section may constitute breaches of such of its provisions as are specified for the purpose offences punishable on conviction by a fine not exceeding such amount or imprisonment for a term not exceeding such length (or both such a fine and such imprisonment) as the Governor specifies in the Order (but so that no fine greater than the maximum of level 10 on the standard scale or term of imprisonment longer than 3 years shall be so specified).

(3) If any goods —

(a) are imported, exported carried coastwise or shipped as ship's or aircraft's stores in contravention of an Order under subsection (1); or

(b) are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped in contravention of such an Order,

those goods shall be deemed to be prohibited goods and are forfeit to the Crown and shall be disposed of in such manner as the Governor may direct.

(4) If any Order under subsection (1) prohibits the exportation of any goods unless consigned to a particular place or person, and such goods so consigned are delivered otherwise than to such place or person, as the case may be, the vessel or aircraft in which the goods were exported shall be deemed, unless the contrary is shown, to have been used in the conveyance of prohibited goods.

(5) If any goods are imported, exported, carried coastwise or shipped as ship's or aircraft's stores, or are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped, the proper officer may require any person possessing or having control of the goods to satisfy the Collector that the importation, exportation or carriage coastwise of the goods or the shipment of the goods as ship's or aircraft's stores, as the case may be, is not unlawful by virtue of an order under subsection (1) or some other written law and if he fails to do so then, unless the contrary is

proved, the goods shall be deemed to be prohibited goods and are forfeit to the Crown and shall be disposed of in such manner as the Governor may direct.

(6) Nothing in any foregoing provision of this section or in any Order made under subsection (1) applies to any goods imported into, carried coastwise in or exported from the Falkland Islands by or on behalf of Her Majesty in right of Her Government of the United Kingdom.

(7) The foregoing provisions of this section have effect without prejudice to the provisions of sections 35 and 36 of the repealed Ordinance or any Proclamation made under the said section 35.

#### **Provisions as to the ultimate destination of goods**

**144.**—(1) Where a person about to export goods from the Falkland Islands, in the course of making entry of them before shipment, makes a declaration as to their ultimate destination, and the Collector suspects that the declaration is untrue in any material particular, the goods may be detained until he is satisfied as to the truth of the declaration, and, if the Collector is not so satisfied, the goods shall be forfeit to the Crown and may be disposed of in such manner as the Governor may direct.

(2) An exporter or shipper of goods which have been exported from the Falkland Islands shall, if so required by the Collector, satisfy him that the goods have not reached (whether as ultimate destination or in transit) any country or territory or destination in any country or territory or any other place to which, by virtue of an Order under section 144(1) or any other written law, to which they may not lawfully be exported and if he fails to do so he commits an offence and is liable on conviction of that offence to a fine of an amount equivalent to three times the value of the goods or the maximum of level 10 on the standard scale, whichever is the greater, and to be imprisoned for a term not exceeding 3 years.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he did not consent to or connive at the goods reaching a destination (whether as ultimate destination or in transit) to which they could not lawfully be sent and that he took all reasonable steps to secure that the ultimate destination of the goods was that specified in the documents shown or furnished to customs officers in connection with the exportation of the goods.

#### *General powers, etc*

#### **Bonds and security**

**145.**—(1) Without prejudice to any express requirement as to security contained in any relevant enactment, the Collector may, if he thinks fit, require any person to give security by bond or otherwise for the observance of any condition in connection with customs.

(2) Any bond taken pursuant to subsection (1) —

(a) shall be taken on behalf of Her Majesty;

(b) shall be valid notwithstanding that it is entered into by a person under the age of 18 years; and

(c) may be cancelled at any time by order of the Collector.



### **Power to require provision of facilities**

**146.—**(1) Any person required by the Collector under a relevant enactment to give security in respect of any premises or place to be used for the examination of goods by a customs officer, shall —

(a) provide and maintain such appliances and afford such other facilities reasonably necessary to enable a customs officer to take any account or make any examination or search or perform any other duty on the premises of that person or at the bonded premises or place as the Collector may direct;

(b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose;

(c) allow the proper officer at any time to use anything so provided or give him any assistance necessary for the performance of his duties.

(2) A person who contravenes any provision of subsection (1) commits an offence on conviction of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(3) A person subject to a requirement to which subsection (1) relates shall provide and maintain any fitting required for the purpose of affixing any lock which the proper officer may require to affix to the premises of that person or any part thereof or to any vessel, utensil or other apparatus whatsoever kept thereon and in default —

(a) the fitting may be provided and any work necessary for its maintenance may be carried out by the proper officer, and any expenses so incurred shall be paid on demand by that person;

(b) if that person fails on demand to pay those expenses he commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(4) Any person who is subject to a requirement under subsection (1) or any employee of his commits an offence in respect of which he may be arrested without a warrant and is liable to a fine not exceeding the maximum of level 5 on the standard scale if —

(a) he willfully destroys or damages any such fitting as is mentioned in subsection (3) or any lock or key provided for use with it, or any label or seal placed on any such lock;

(b) he improperly obtains access to any place or article secured by any such lock; or

(c) he has any such fitting or any article intended to be secured by means of it so constructed that that intention is defeated.

### **Power to examine and take account of goods**

**147.—**(1) Without prejudice to any other power conferred by any relevant enactment, a customs officer may examine and take account of any goods —

(a) which are imported;

(b) which are in a Queen's warehouse;

(c) which have been loaded into any ship or aircraft at any place in the Falkland Islands;

(d) which are entered for exportation or for use as stores;

(e) which are brought to any place in the Falkland Islands for exportation or for shipment for exportation or as stores; or

(f) in the case of which any claim for drawback, allowance, rebate, remission or repayment of duty is made;

and may for that purpose require any container to be opened or unpacked.

(2) Any examination of goods under any relevant enactment shall be at such place as the Collector appoints for the purpose.

(3) In the case of such goods as the Collector may direct, and subject to such conditions as he sees fit to impose, a customs officer may permit goods to be skipped on the quay or bulked, sorted, lotted, packed or repacked before account is taken thereof.

(4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for the purposes of, or incidental to, the examination by an officer, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided, by or at the expense of the proprietor of the goods.

(5) If any imported goods which a customs officer has power under any relevant enactment to examine are without the authority of the proper officer removed from customs charge before they have been examined, those goods are liable to forfeiture.

(6) If any goods falling within subsection (5) are removed by a person with intent to defraud Her Majesty of any duty chargeable thereon or to evade any prohibition or restriction for the time being in force with respect thereto, that person commits an offence under this subsection in respect of which he may be arrested without a warrant.

(7) A person convicted of an offence under subsection (6) is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

(8) Without prejudice to the foregoing provisions of this section, where by this section or any other provision of any relevant enactment an account is authorised or required to be taken of any goods for any purpose by a customs officer, the Collector may, with the consent of the proprietor of the goods, accept as the account of the goods for that purpose an account taken by such other person as may be approved in that behalf by both the Collector and the proprietor of the goods.

**Application of customs and excise enactments to certain postal packets**  
148.—(1) Subject as follows, this Ordinance and all other enactments for the time being in force in relation to customs or excise shall apply to goods contained in postal packets to which this section

applies which are brought into or sent out of the Falkland Islands by post from or to any place outside the Falkland Islands as they apply in relation to goods otherwise imported, exported or removed into or out of the Falkland Islands from or to any such place.

(2) The Governor may make Regulations for —

(a) specifying the postal packets to which this section applies;

(b) making modifications or exceptions in the application of the enactments mentioned in subsection (1) to such packets;

(c) enabling persons engaged in the business of a postal operator to perform for the purposes of those enactments and otherwise all or any of the duties of the importer, exporter or person removing the goods;

(d) carrying into effect any arrangement with the Government or postal administration of any country or territory outside the Falkland Islands with respect to foreign postal packets;

(e) securing the observance of the enactments mentioned in subsection (1); and

(f) without prejudice to any liability of any person under those enactments, punishing any contravention of the Regulations.

(3) Duties (whether of customs or excise) charged on imported goods or other charges payable in respect of postal packets to which this section applies (whether payable to the Falkland Islands Post Office or to a foreign administrator) as a civil debt due to Her Majesty in Right of Her Government of the Falkland Islands.

(4) In any proceedings for the recovery of any charges payable as mentioned in subsection (3), a certificate of the Postmaster of the amount of the charges shall be evidence of that fact.

(5) In this section “foreign postal packet” means any postal packet either posted in the Falkland Islands and sent to a place outside the Falkland Islands, or posted in a place outside the Falkland Islands and sent to a place within the Falkland Islands, or in transit through the Falkland Islands to a place outside the Falkland Islands.”

#### **Power to detain postal packets containing contraband**

**149.**—(1) The Postmaster may —

(a) detain any postal packet if he suspects that it may contain relevant goods—

(b) forward any packet so detained to the Collector.

(2) In this section —

(a) “the Postmaster” includes any public officer employed in the Falkland Islands Post Office acting with the authority or under the instructions of the Postmaster;

(b) "relevant goods" means —

(i) any goods chargeable with any duty charged on imported goods (whether a customs or an excise duty) which has not been paid or secured, or

(ii) any goods in the course of importation, exportation or removal into or out of the Falkland Islands contrary to any prohibition or restriction for the time being in force by virtue of any enactment.

(3) Subsection (1) has effect without prejudice to section 148.

(4) The Collector may open and examine any postal packet received at a post office and any postal packet forwarded to him under this section and if he finds any relevant goods on opening and examine a postal packet under this section, made detain the packet and its contents for the purpose of proceedings being brought in relation to them.

(5) If the Collector does not find any relevant goods on opening and examining a postal packet under this section, he shall —

(a) deliver the packet to the addressee upon his paying any postage and other sums chargeable on it, or

(b) forward the packet to him by post.

(6) No provision of any enactment as to the inviolability of mails applies in relation to any power conferred by this section.

(7) In subsections (4) to (6) "the Collector" includes any customs officer acting with the authority or under the direction of the Collector.

### **Power to take samples**

**150.**—(1) A customs officer may at any time take samples of any goods —

(a) which he is empowered by any provision of any relevant enactment to examine;

(b) which are on premises where goods chargeable with any duty are manufactured, prepared, or subjected to any process; or

(c) which, being dutiable goods, are held by any person as stock for his business or as materials for manufacturing or processing.

(2) Where a customs officer takes from any vessel, pipe or utensil a sample of any product of, or any materials for, the manufacture of any person —

(a) the person may, if he wishes, stir up and mix together the contents of that vessel, pipe or utensil before the sample is taken;

(b) the sample taken by the officer shall be deemed to be representative of the whole contents of that vessel, pipe or utensil.

(3) Any samples taken under this section shall be disposed of and accounted for in such manner as the Collector may direct.

(4) Where any sample is taken under this section from any goods chargeable with duty after that duty has been paid, other than —

(a) a sample taken when goods are first entered on importation; or

(b) a sample taken from goods in respect of which a claim for drawback, allowance, rebate, remission or repayment of that duty is being made,

and the sample so taken is to be retained, the officer taking it shall, if so required by the person in possession of the goods, pay for the sample on behalf of the Collector such sum as reasonably represents its wholesale value.

#### **Power to search premises**

**151.**—(1) Without prejudice to any other power conferred by any relevant enactment but subject to subsection (2) of this section, where there are reasonable grounds to suspect that any thing liable to forfeiture under any relevant enactment is kept or concealed in any building or place, any customs officer may —

(a) enter that building or place at any time, whether by day or by night, on any day, and search for, seize, and detain or remove any such thing; and

(b) so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force or remove any other impediment or obstruction.

(2) No customs officer shall exercise the power of entry conferred by subsection (1) by night unless he is accompanied by a police officer.

#### **Power to enter land for or in connection with access to pipe-lines**

**152.** Where any thing conveyed by a pipe-line is chargeable with duty which has not been paid, a customs officer may enter any land adjacent to the pipe-line in order to get to the pipe-line for the purpose of exercising in relation to that thing any power conferred by or under any relevant enactment or to get from the pipe-line after an exercise of any such power.

#### **Power to search vehicles or vessels or aircraft**

**153.**—(1) Without prejudice to any other power conferred by any relevant enactment, where there are reasonable grounds to suspect that any vehicle, vessel or aircraft is or may be carrying any goods which are —

(a) chargeable with any duty which has not been paid or secured;

(b) in the course of being unlawfully removed from or to any place; or

(c) otherwise liable to forfeiture under any relevant enactment;

subject to subsection (2), any customs officer, police officer or member of Her Majesty's armed forces may stop and search that vehicle, vessel or aircraft.

(2) If when so required by any such officer, constable or member the person in charge of any such vehicle, vessel or aircraft refuses to stop or to permit the vehicle, vessel or aircraft to be searched, that person commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale in relation to vehicles, vessels or aircraft but the power to stop and search in subsection (1) is not available in respect of aircraft which are airborne.

### **Power to search persons**

**154.—**(1) Where there are reasonable grounds to suspect that any person to whom this section applies (referred to in this section as "the suspect") is carrying any article —

(a) which is chargeable with any duty which has not been paid or secured; or

(b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment,

a customs officer may exercise the powers conferred by subsection (2) and, if the suspect is not under arrest, may detain him for so long as may be necessary for the exercise of those powers and (where applicable) the exercise of the rights conferred by subsection (3) of this section.

(2) The customs officer may require the suspect —

(a) to permit such a search of any article which he has with him; and

(b) subject to subsection (3), to submit to such searches of his person, whether rub-down, strip or intimate,

as the customs officer may consider necessary or expedient; but no such requirement may be imposed under paragraph (b) of this subsection without the customs officer informing the suspect of the effect of subsection (3).

(3) If the suspect is required to submit to a search of his person, he may require to be taken —

(a) except in the case of a rub-down search, before a justice of the peace or, unless the customs officer requiring the search is the Collector, before a superior of the customs officer;

(b) in the case of a rub-down search, and unless the customs officer requiring the search is the Collector, before a superior of the customs officer;

and the justice or superior shall consider the grounds for suspicion and direct accordingly whether the suspect is to submit to the search.

(4) A rub-down or strip search shall not be carried out except by a person of the same sex as the suspect; and an intimate search shall not be carried out except by a suitably qualified person.

(5) This section applies to the following persons —

- (a) any person who is on board or who has landed from any ship or aircraft;
- (b) any person entering or about to leave the Falkland Islands;
- (c) any person at a customs airport;
- (d) any person in, entering or leaving any approved wharf or transit shed.

(6) In this section —

“approved wharf or transit shed” means the Falklands Interim Port and Storage System and the East Jetty at Stanley, the whole of the harbour facility at Mare Harbour the jetties at Fox Bay East and Port Howard in West Falkland and any other wharf or transit shed declared by an Order by the Governor under this subsection to be an approved wharf or transit shed;

“intimate search” means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person’s body orifices;

“rub-down search” means any search which is neither an intimate search nor a strip search;

“strip search” means a search which is not an intimate search but which involves the removal of an article of clothing which —

- (a) is being worn wholly or partly on a person’s trunk;
- (b) is being so worn either next to the skin or next to an article of underwear; and

“suitably qualified person” means a person who is registered as a medical practitioner under the Medical Practitioners, Midwives and Dentists Ordinance or is qualified to be so registered or is a person employed as a staff nurse, sister or nursing officer by the Crown or is a person who has been notified by the Governor in the *Gazette* as being a person whom he is satisfied is a person who is appropriately qualified for the purposes of this section.

### **Agents**

**155.—**(1) If any person requests a customs officer or a person appointed by the Collector to transact any business relating to customs with him on behalf of another person, the customs officer or person so appointed may refuse to transact that business with him unless written authority from that other person is produced in such form as the Collector may require.

(2) Subject to subsection (1), anything required by any relevant enactment to be done by the importer or exporter of goods may, except where the Collector otherwise requires, be done on his behalf by an agent.

### *General offences*

#### **Untrue declarations, etc**

**156.—**(1) If any person either knowingly or recklessly —

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Collector or to a customs officer, any declaration, notice, certificate or other document whatsoever; or

(b) makes any statement in answer to any question put to him by a customs officer which he is required by or under any enactment to answer,

being a document or statement produced or made for any purpose of any matter related to customs, which is untrue in any material particular, he commits an offence under this subsection in respect of which he may be arrested without a warrant; and any goods in relation to which the document or statement was made are liable to forfeiture.

(2) Without prejudice to subsection (4), a person who commits an offence under subsection (1) is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding 2 years.

(3) If any person —

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Collector or to a customs officer, any declaration, notice, certificate or other document whatsoever; or

(b) makes any statement in answer to any question put to him by a customs officer which he is required by or under any enactment to answer,

being a document or statement produced or made for any purpose of any matter relating to customs, which is untrue in any material particular, then, without prejudice to subsection (4), he is liable to a fine not exceeding the maximum of level 4 on the standard scale.

(4) Where by reason of any such document or statement as is mentioned in subsection (1) or (3) the full amount of duty is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of the duty unpaid or of the overpayment is recoverable as a debt due to the Crown or may be summarily recovered as a civil debt.

### **Counterfeiting documents, etc**

157.—(1) If any person —

(a) counterfeits or falsifies any document which is required by or under any enactment relating to customs or which is used in the transaction of any business relating to customs;

(b) knowingly accepts, receives or uses any such document so counterfeited or falsified;

(c) alters any such document after it is officially issued; or

(d) counterfeits any seal, signature, initials or other mark of, or used by, any customs officer for the verification of such a document or for the security of goods or for any other purpose relating to customs,



he commits an offence under this section in respect of which he may be arrested without a warrant.

(2) A person convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding 2 years.

#### **False scales, etc**

**158.**—(1) If any person required by or under any relevant enactment to provide scales for any purpose provides, uses or permits to be used any scales which are false or unjust he commits an offence under this section.

(2) Where any article is to be weighed, counted, gauged or measured for the purposes of the taking of an account or the making of an examination by a customs officer, then—

(a) any such person as is mentioned in subsection (1); or

(b) any person by whom or on whose behalf the article is weighed, counted, gauged or measured,

does anything whereby the customs officer might be prevented from, or hindered or deceived in, taking a true and just account or making a due examination, he commits an offence under this section.

(3) Any person committing an offence under this section is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale and any false or unjust scales, and any article in connection with which the offence was committed, shall be liable to forfeiture.

(4) In this section “scales” includes weights, measures and weighing or measuring machines or instruments.

#### **Penalty for fraudulent evasion of duty**

**159.**—(1) Without prejudice to any other provision of any relevant enactment any person who —

(a) knowingly acquires possession of any of the following goods —

(i) goods which have been unlawfully removed from a warehouse or Queen’s warehouse;

(ii) goods which are chargeable with a duty which has not been paid;

(iii) goods with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment; or

(b) is in any way knowingly concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any such goods,

does so with intent to defraud Her Majesty of any duty payable on the goods or to evade any such prohibition or restriction with respect to the goods he commits an offence under this section in respect of which he may be arrested without a warrant.

(2) Without prejudice to any other provision of any relevant enactment, if any person is in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion —

(a) of any duty chargeable on the goods;

(b) of any prohibition or restriction for the time being in force with respect to the goods under or by virtue of any enactment; or

(c) of any provision of any relevant enactment in relation to the goods,

he commits an offence under this section in respect of which he may be arrested without a warrant.

(3) Subject to subsection (4) and (5), a person convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

(4) In the case of an offence under this section in connection with a prohibition or restriction on importation having effect by virtue of section 3 of the Misuse of Drugs Ordinance 1987, subsection (3) of this section has effect subject to the modifications specified in Schedule 1 to this Ordinance.

(5) In the case of an offence under this section in connection with the prohibitions contained in section 20 and 21 of the Forgery Act 1981 in its application under the law of the Falkland Islands, subsection (3) shall have effect as if for the words “7 years” there were substituted the words “10 years”.

(6) In any case where a person would, apart from this subsection, be guilty of —

(a) an offence under this section in connection with a prohibition or restriction; and

(b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction, being an offence for which a fine or other penalty is expressly provided for by that enactment or other instrument,

he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

(7) Where any person commits an offence under this section, the goods in respect of which the offence was committed are liable to forfeiture.

### **General provisions as to offences and penalties**

**160.—**(1) Where —

(a) by any provision of any relevant enactment a punishment is prescribed for any offence under it or for any contravention of any regulation, direction, condition or requirement made given or imposed under it;

(b) any person is convicted in the same proceedings of more than one such offence or contravention,

that person is liable to that punishment for each such offence or contravention of which he is convicted.

(2) Where a fine for an offence under any relevant enactment is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might be reasonably expected to have fetched, after payment of any duty or tax charged on them, if they had been sold in the open market at or about the date of the commission of the offence in respect of which the fine is imposed.

(3) Where an offence under any relevant enactment has been committed by a body corporate and it is proved to have been committed with the consent or the connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate or any person purporting to act in such capacity, he as well as the body corporate has committed the offence and is liable to be proceeded against and punished accordingly.

(4) Where in any proceedings for an offence under any relevant enactment any question arises as to the duty or rate of duty chargeable on any imported goods, and it is not possible to ascertain the relevant time specified in section 36, that duty or rate shall be determined as if the goods had been imported without entry at the time when the proceedings were commenced.

#### *Miscellaneous*

##### **Directions**

**161.** Directions given under any provision of this Ordinance may make different provision for different circumstances and may be varied or revoked by subsequent directions.

##### **Regulations**

**162.** The Governor may make regulations for the better carrying out of the provisions of this Ordinance and any other relevant enactment, and may, in such regulations, prescribe fees, rents or charges to be paid in respect of any matter therein referred to.

##### **Repeal, savings and amendments**

**163.—(1)** Subject to subsection (2), the Customs Ordinance (Title 26.1) (“the repealed Ordinance”) is repealed.

(2) Sections 35 and 36 of the repealed Ordinance shall remain in force and effect but may be repealed or amended by Order under this section.

(3) Paragraph 4 of the Customs Order (Title 26.1.2) is revoked.

(4) Notwithstanding the repeal of the repealed Ordinance, and subject to subsection (2) of this section, all subsidiary legislation made under the repealed Ordinance (that is to say Title 26.1.1 to Title 26.1.5 as amended prior to the commencement of this Ordinance) remains in force and effect but may be revoked or amended by Order made under this subsection.

(5) Any provision of this Ordinance or any other relevant enactment relating to anything to be done or required or authorised to be done under or in pursuance of a relevant enactment shall have effect as if the repealed Ordinance were a relevant enactment.

(6) Any provision of this Ordinance relating to anything done or required or authorised to be done under, in pursuance of or by reference to that provision or any other provision of this Ordinance shall have effect as if any reference to that provision, or that other provision, as the case may be, included a reference to the corresponding provision of the repealed Ordinance.

## SCHEDULE

### AMENDMENT OF PROHIBITED GOODS ORDINANCE (TITLE 26.2)

1. The Prohibited Goods Ordinance (Title 26.2) (in this Schedule called "the Ordinance") is amended in the manner provided by the subsequent paragraphs of this Schedule.
2. Section 2 of the Ordinance is amended—
  - (a) by the addition of the following paragraph to the definition of "authorised person" appearing in that section—

"(d) a member of Her Majesty's Armed Forces"; and
  - (b) by the addition of the following paragraphs to the definition of "prohibited goods" appearing in that section—

"(c) any thing liable to forfeiture under the Customs Ordinance 2003 or any enactment which is a relevant enactment for the purposes of that Ordinance; and

(d) any dutiable goods seized or detained by any authorised person other than a customs officer notwithstanding that they were not liable to forfeiture by virtue of paragraph (c)."
3. Section 3 of the Ordinance is amended—
  - (a) by adding at the end of subsection (1) the words "and, subject to subsection (1A), shall deliver them as soon as reasonably possible to the Collector of Customs"; and
  - (b) by inserting the following subsections after subsection (1)—

"(1A) Where the person seizing or taking possession of anything under subsection (1) is a police officer and that thing is or may be required for use in connection with any proceedings to be brought otherwise than under an enactment which is for the purposes of the Customs Ordinance 2003 a relevant enactment that thing may, subject to subsection (1)(B), be retained in the custody of the police until either those proceedings are completed or it is decided that no such proceedings should be brought.

(1B) The following provisions apply in relation to things retained in the custody of the police by virtue of subsection 1(A)—

    - (a) notice in writing of the seizure or detention and of the intention to retain the thing in question in the custody of the police, together with full particulars of the thing, shall be given to the Collector;
    - (b) any customs officer shall be permitted to examine that thing and take account thereof at any time while it remains in the custody of the police; and
    - (c) nothing in the Police (Property) Act 1897 in its application to the Falkland Islands shall apply in relation to the thing.

(1C) Where the person seizing or detaining any thing as liable to forfeiture under any relevant enactment is a customs officer and that thing is or may be required for use in connection with any proceedings to be brought under a relevant enactment that thing may be retained in the custody of the Collector until either those proceedings are completed or it is decided that no such proceedings shall be brought."

(c) In that subsection 4, by inserting the words "as subject to subsection (4A)" after the words "the court" appearing in that subsection.

(d) By inserting the following subsection after subsection (4) —

"(4A) Where subsection (1A) or subsection (1C) applies in relation to any goods the Court shall not proceed to hear and determine the appeal unless it is satisfied that the proceedings referred to in such of those subsections as is relevant in the circumstances of the case have been completed or that it has been decided that no such proceedings shall be brought."



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**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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The following are published in this Supplement -

**Maintenance Orders (Reciprocal Enforcements) Regulations (Amendment) Order  
2003 (S. R. & O. No: 5 of 2003);**

**Licensing (Amendment) (No 2) Bill 2003;**

**Misuse of Drugs (Penalties Alteration) Bill 2003;**

**Criminal Procedure and Investigations Bill 2003.**



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**SUBSIDIARY LEGISLATION**

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**FAMILY LAW**

**Maintenance Orders (Reciprocal Enforcements) Regulations (Amendment) Order 2003**

S. R. & O. No: 5 of 2003

*Made:..... 27 February 2003*  
*Published: .....17 March 2003*  
*Coming into force: on publication*

IN EXERCISE of my powers under section 21 of the Maintenance Orders (Reciprocal Enforcement) Ordinance 1979 (a), I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Maintenance Orders (Reciprocal Enforcements) Regulations (Amendment) Order 2003 and shall come into force on publication in the Gazette.

**Amendment of Regulation 3**

2. Regulation 3 of the Maintenance Orders (Reciprocal Enforcement) Regulation Order 1989 is amended by deleting the words “Registrar General” and substituting the words “Courts Administrator”.

Made this 27<sup>th</sup> day of February 2003

H J S Pearce  
*Governor*

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**EXPLANATORY NOTE**  
*(not forming part of the above Order)*

The Order amends the Maintenance Orders (Reciprocal Enforcements) Regulations Order 1989 by removing reference to the Registrar General as the prescribed officer under the Regulations and replacing the Courts Administrator as prescribed officer.

**Licensing (Amendment) (No 2) Bill 2003**

(No: of 2003)

**ARRANGEMENT OF PROVISIONS**

Clause

1. Short title
2. Amendment of section 74(1) of the Licensing Ordinance 1994

**LICENSING (AMENDMENT) (NO 2) BILL 2003**

(No: of 2003)

*(assented to: 2003)*

*(commencement: 2003)*

*(published: 2003)*

A BILL

for

AN ORDINANCE

To amend the Licensing Ordinance 1994

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Licensing (Amendment) (No 2) Ordinance 2003.

**Amendment of section 74(1) of the Licensing Ordinance 1994**

2. Section 74(1) of the Licensing Ordinance 1994(a) is amended by omitting therefrom the words “without the express consent of the licensee of the premises or his servant or agent”.

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**OBJECTS AND REASONS**

To make an order by the court pursuant to section 74(1) of the Licensing Ordinance absolute (i.e. the offender cannot prevail upon the licensee or his servant or agent to permit him entry).

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(a) No 18 of 1994

## Misuse of Drugs (Penalties Alteration) Bill 2003

(No:            of 2003)

### ARRANGEMENT OF PROVISIONS

#### Clause

1. Citation and commencement
2. Increase in penalties

#### Schedule

## MISUSE OF DRUGS (PENALTIES ALTERATION) BILL 2003

(No:            of 2003)

*(assented to: 2003)*

*(commencement: 2003)*

*(published: 2003)*

### A BILL

for

### AN ORDINANCE

To amend the Misuse of Drugs Ordinance (Title 49.3)

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

#### **Citation and Commencement**

1. This Ordinance may be cited as the Misuse of Drugs (Penalties Alteration) Ordinance 2003 and shall come into force upon publication in the *Gazette*.

#### **Increase in penalties**

2.—(1) Subject to subsection (2), the Schedule to this Order shall have effect so as to alter the maximum penalties (imprisonment and fine) at present applicable under the provisions of the Misuse of Drugs Ordinance mentioned in the first column of that Schedule to the maximum period of imprisonment mentioned in the fourth column of that Schedule and the maximum level of the Standard Scale mentioned in the sixth column of that Schedule.

2.—(2) Nothing in subsection (1) or the Schedule to Order shall have effect in relation to any offence committed before this Ordinance comes into force.

## SCHEDULE

Section	Brief Description	Current Maximum Imprisonment	New Maximum Imprisonment	Current Maximum Fine	New Maximum Fine
(a) s.3(1)	Importation of controlled drug – Class A and B	10 years	14 years except if the drug concerned is cannabis when it shall be 7 years	£1000	Level 10 except if the drug concerned is cannabis when it shall be Level 8
(b) s.3(1)	Importation of controlled drug – Class C	5 years	unchanged	£500	Level 6
(c) s.4	Production and supply of controlled drug – Class A and B	10 years	14 years, except if the drug concerned is cannabis when it shall be 7 years	£1000	Level 10 except if the drug concerned is cannabis when it shall be Level 8
(d) s.4	Production and supply of controlled drug – Class C	5 years	unchanged	£500	Level 6
(e) s.5(1)	Possession of controlled drug – Class A	7 years	unchanged	£700	Level 8
(f) s.5(1)	Possession of controlled drug – Class B	5 years	unchanged	£500	Level 6 except when the drug concerned is cannabis when it shall be Level 5
(g) s.5(1)	Possession of controlled drug – Class C	2 years	unchanged	£200	Level 4
(h) s.5(2)	Possession of controlled drug with intent to supply – Class A and B	10 years	14 years	£1000	Level 10 except when the drug concerned is cannabis when it shall be Level 8
(i) s.5(2)	Possession of controlled drug with intent to supply – Class C	5 years	unchanged	£500	Level 6

(j) s.6	Cultivation of cannabis	5 years	7 years	£500	Level 8
(k) s.8	Permitting the use of premises – Class A and B	10 years	14 years	£1000	Level 10 except if the drug concerned is cannabis when it shall be Level 8
(l) s.8	Permitting the use of premises – Class C	5 years	unchanged	£500	Level 6
(m) s.9	Offences relating to Opium	10 years	14 years	£1000	Level 10
(n) s.10(1) & (3)	Supply of drug related articles	6 months	unchanged	£200	Level 3
(o) s.12(2)	Contravention of directions	2 years	unchanged	£200	Level 4
(p) s.13(6)	Contravention of directions to pharmacists etc – Class A and B	10 years	14 years	£1000	Level 10
(q) s.13(6)	Contravention of directions to pharmacists etc – Class C	5 years	unchanged	£500	Level 6
(r) s.14(3)	Contravention of directions – Class A and B	10 years	14 years	£1000	Level 10
(s) s.14(3)	Contravention of directions – Class C	5 years	unchanged	£500	Level 6
(t) s.15(3)	Failure to comply with notice	—	unchanged	£200	Level 2
(u) s.15(4)	Providing false information	2 years	unchanged	£500	Level 4
(v) s.16	Miscellaneous offences	2 years	unchanged	£1000	Level 4
(w) s.18(1)	Commission of offences outside Falkland Islands	10 years	14 years	£1000	Level 10

(x) s.21(5) Obstruction of investigation 2 years unchanged £500 Level 4

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**OBJECTS AND REASONS**

To increase the maximum penalties for offences under the Misuse of Drugs Ordinance.

# Criminal Procedure and Investigations Bill 2003

(No:                    of 2003)

## ARRANGEMENT OF PROVISIONS

### PART I INTRODUCTORY

Clause

1. Short title and commencement
2. Interpretation

### PART II DISCLOSURE

#### *Introductory*

3. Application of this Part
4. General interpretation of this Part

#### *The main provisions*

5. Primary disclosure by the prosecutor
6. Primary disclosure: further provisions
7. Compulsory disclosure by the accused
8. Voluntary disclosure by the accused
9. Secondary disclosure by prosecutor
10. Application by accused for disclosure
11. Continuing duty of prosecutor to disclose
12. Prosecutor's failure to observe time limits
13. Faults in disclosure by the accused

#### *Time limits*

14. Time limits
15. Time limits: transitional

#### *Public interest*

16. Public interest: review for summary trials
17. Public interest: review in other cases
18. Applications: opportunity to be heard

#### *Confidentiality*

19. Confidentiality of disclosed information
20. Confidentiality: contravention

#### *Other provisions*

21. Rules of court
22. Other rules as to statutory disclosure
23. Common law rules as to disclosure

PART III  
CRIMINAL INVESTIGATIONS

- 24. Introduction
- 25. Code of Practice
- 26. Examples of disclosure provisions
- 27. Operation and revision of code
- 28. Effect of code
- 29. Common law rules as to criminal investigations

PART IV  
PRELIMINARY HEARINGS

*Introduction*

- 30. Introduction

*Preparatory hearings*

- 31. Power to order preparatory hearing
- 32. Timing of preparatory hearing etc
- 33. The preparatory hearing
- 34. Court rules
- 35. Later stages of trial

*Appeals*

- 36. Appeals to Court of Appeal

*Reporting restrictions*

- 37. Restrictions on reporting
- 38. Offences in connection with reporting

PART V  
RULINGS

- 39. Application of this Part
- 40. Meaning of pre-trial hearing
- 41. Power to make rulings
- 42. Restrictions on reporting
- 43. Offences in connection with reporting



# CRIMINAL PROCEDURE AND INVESTIGATIONS BILL 2003

(No: of 2003)

(assented to: 2003)

(commencement: upon publication)

(published: 2003)

A BILL

for

AN ORDINANCE

To make provision about criminal procedure and criminal investigations.

BE IT ENACTED by the Legislature of the Falkland Islands as follows—

## PART I INTRODUCTORY

### **Short title and commencement**

1. This Ordinance may be cited as the Criminal Procedure and Investigations Ordinance 2003 and shall come into force on the first day of the second month following its publication in the *Gazette*.

### **Interpretation**

2.—(1) Any reference in this Ordinance to “the 1996 Act” is a reference to the Criminal Procedure and Investigations Act 1996.

(2) Any reference in this Ordinance to a prosecutor deciding not to proceed with the case concerned shall be deemed to include a situation where a case is not proceeded with by reason of a *nolle prosequi* being entered by the Attorney General or the Attorney General in exercise of his powers under section 66 of the Constitution directing that the prosecution shall not proceed.

(3) Any power conferred by any provision of this Ordinance to make subsidiary legislation shall be construed as including power by that legislation made under that provision to apply, with or without modifications or exceptions, subordinate legislation made under the corresponding provision of the 1996 Act.

(4) For the purposes of this Ordinance an offence is a “serious summary offence” if —

(a) it is triable summarily; and

(b) the offence is punishable on summary conviction by a fine equal to or greater than the maximum level 5 on the standard scale or, if not so punishable on such conviction, by imprisonment for more than 12 months.

PART II  
DISCLOSURE  
*Introductory*

**Application of this Part**

**3.—(1)** This Part applies —

(a) where a person is charged with a summary offence, other than a serious summary offence, and in respect of which he pleads not guilty;

(b) where a person is charged with —

(i) an indictable offence and he is committed for trial for the offence concerned; or

(ii) a serious summary offence to which the accused has pleaded not guilty,

where no criminal investigation into the alleged offence was commenced before the commencement of this Part.

(2) For the purposes of this section a criminal investigation is an investigation which police officers or others have a duty to conduct with a view to it being ascertained —

(a) whether a person should be charged with an offence; or

(b) whether a person charged with an offence is guilty of it.

(3) Nothing in subsection (1)(a) shall have effect so as to require the prosecutor to make any disclosure under section 5 whether or not the accused has pleaded not guilty to the charge, but this subsection has effect without prejudice to any provisions of any rules under section 144 of the Magistrate's Courts Act 1980 for the time being having effect in the Falkland Islands.

**General interpretation of this Part**

**4.—(1)** References to the accused are to the person mentioned in section 3(1).

(2) Where there is more than one accused in any proceedings this Part applies separately in relation to each of the accused.

(3) References to the prosecutor are to any person acting as prosecutor, whether an individual or a body.

(4) References to material are to material of all kinds, and in particular include references to information, and objects of all descriptions.

(5) References to recording information are to putting it in a durable or retrievable form (such as writing or tape).

*The main provisions*

**Primary disclosure by the prosecutor**

5.—(1) Subject to section 3(3), the prosecutor must —

(a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which in the prosecutor's opinion might undermine the case for the prosecution against the accused, or

(b) give to the accused a written statement that there is no such material.

(2) For the purposes of this section prosecution material is material —

(a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or

(b) which, in pursuance of a code operative under Part III, he has inspected in connection with the case for the prosecution against the accused.

(3) Where material consists of information which has been recorded in any form the prosecutor discloses it for the purposes of this section —

(a) by securing that a copy is made of it and that the copy is given to the accused; or

(b) if in the prosecutor's opinion that it is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that he is allowed to do so;

and a copy may be in such a form as the prosecutor thinks fit and need not be in the same form as that in which the information has already been recorded.

(4) Where material consists of information which has not been recorded the prosecutor discloses it for the purposes of this section by securing that it is recorded in such form as he thinks fit and —

(a) by securing that a copy is made of it and that the copy is given to the accused, or

(b) if in the prosecutor's opinion that it is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking reasonable steps to secure that he is allowed to do so.

(5) Where material does not consist of information the prosecutor discloses it for the purposes of this section by allowing the accused to inspect it at a reasonable time and at a reasonable place or by taking steps to secure that he is allowed to do so.

(6) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(7) Material must not be disclosed under this section to the extent that—

(a) it has been intercepted in obedience to a warrant under any written law of the Falkland Islands that enables a warrant to be issued authorising the interception of communications and corresponds to section 2 of the Interception of Communications Act 1985 of the United Kingdom;

(b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

(8) The prosecutor must act under this section during the period which, by virtue of section 14, is the relevant period for this section.

#### **Primary disclosure: further provisions**

6.—(1) This section applies where —

(a) the prosecutor acts under section 5; and

(b) before so doing he was given a document included, by virtue of section 26(3), in a code operative under Part III;

(2) In such a case the prosecutor must give the document to the accused at the same time as the prosecutor acts under section 5.

#### **Compulsory disclosure by the accused**

7.—(1) Subject to subsections (2) to (4), this section applies where —

(a) this Part applies by virtue of section 3(1)(b); and

(b) the prosecutor complies with section 5 or purports to comply with it.

(2) Where this section applies, the accused must give a defence statement to the court and the prosecutor.

(3) For the purposes of this section a defence statement is a written statement —

(a) setting out in general terms the nature of the accused's defence;

(b) indicating the matters on which he takes issue with the prosecution; and

(c) setting out, in the case of each such matter, the reason why he takes issue with the prosecution.

(4) If the defence statement discloses an alibi the accused must give particulars of the alibi in the statement, including —

(a) the name and address of any witness the accused believes is able to give evidence in support of the alibi, if the name and address are known to the accused when the statement is given;

(b) any information in the accused's possession which might be of material assistance in finding any such witness, if his name and address is not known to the accused when the statement is given.

(5) For the purposes of this section evidence in support of an alibi is evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.

(6) The accused must give a defence statement under this section during the period which, by virtue of section 14, is the relevant period for this section.

#### **Voluntary disclosure by the accused**

**8.**—(1) This section applies where —

(a) this Part applies by virtue of section 3(1)(a), and

(b) the prosecutor complies with section 5 or purports to comply with it;

(2) The accused —

(a) may give a defence statement to the prosecutor; and

(b) if he does so, must also give such a statement to the court.

(3) Subsections (3) to (5) of section 7 apply for the purposes of this section as they apply for the purposes of that section.

(4) If the accused gives a defence statement under this section he must give it during the period which, by virtue of section 14, is the relevant period for this section.

#### **Secondary disclosure by prosecutor**

**9.**—(1) This section applies where the accused gives a defence statement under section 7 or 8.

(2) The prosecutor must—

(a) disclose to the accused any prosecution material which has not been previously disclosed to the accused and which might reasonably be expected to assist the accused's defence as disclosed by the defence statement given under section 7 or 8, or

(b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a).

(3) For the purposes of this section prosecution material is material —

(a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or

(b) which, in pursuance of a code operative under Part III, he has inspected in connection with the case for the prosecution against the accused.

(4) Subsections (3) to (5) of section 5 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that section.

(5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes that it is not in the public interest and orders accordingly.

(6) Material must not be disclosed under this section to the extent that —

(a) it has been intercepted in obedience to a warrant under any written law of the Falkland Islands that enables a warrant to be issued authorising the interception of communications and corresponds to section 2 of the Interception of Communications Act 1985 of the United Kingdom; or

(b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

(7) The prosecutor must act under this section during the period which, by virtue of section 14, is the relevant period for this section.

#### **Application by accused for disclosure**

**10.**—(1) This section applies where the accused gives a defence statement under section 7 or 8 and the prosecution complies with section 9 or purports to comply with it.

(2) If the accused has at any time reasonable cause to believe that there is prosecution material which might reasonably be expected to assist the accused's defence he may apply to the court for an order requiring the prosecutor to disclose such material to the accused.

(3) For the purposes of this section prosecution material is material —

(a) which is in the prosecutor's possession in connection with the case for the prosecution against the accused;

(b) which in accordance with a code operative under Part III, he has inspected in connection with the case for the prosecution against the accused, or

(c) which falls within subsection (4).

(4) Material falls within this subsection if in pursuance of a code operative under Part III the prosecutor must, if he asks for the material, be given a copy of it, or be allowed to inspect it in connection with the case for the prosecution against the accused.

(5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes that it is not in the public interest to disclose it and orders accordingly.

(6) Material must not be disclosed under this section to the extent that —

(a) it has been intercepted in obedience to a warrant under any written law of the Falkland Islands that enables a warrant to be issued authorising the interception of communications and corresponds to section 2 of the Interception of Communications Act 1985 of the United Kingdom; or

(b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

**Continuing duty of prosecutor to disclose**

**11.—(1)** Subsection (2) applies at all times —

(a) the prosecutor complies with section 5 or purports to comply with it; and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(2) The prosecutor must keep under review the question whether at any given time there is prosecution material which —

(a) in his opinion might undermine the case for the prosecution against the accused, and

(b) has not been disclosed to the accused;

and if there is such material at any time the prosecutor must disclose it to the accused as soon as is reasonably practicable.

(3) In applying subsection (2) by reference to any given time the state of affairs at that time (including the case for the prosecution as it stands at that time) must be taken into account.

(4) Subsection (5) applies at all times —

(a) the prosecutor complies with section 9 or purports to comply with it, and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(5) The prosecutor must keep under review the question whether at any given time there is prosecution material which —

(a) might reasonably be expected to assist the accused's defence as disclosed by the defence statement given under section 7 or 8, and

(b) has not been disclosed to the accused.

(6) For the purpose of this section prosecution material is material —

(a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused; or

(b) which, in pursuance of a code operative under Part III, he has inspected in connection with the case for the prosecution against the accused.

(7) Subsections (3) to (5) of section 5 (method by which prosecution discloses) apply for the purposes of this section as they apply for the purposes of that section.

(8) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(9) Material must not be disclosed under this section to the extent that—

(a) it has been intercepted in obedience to a warrant under any written law of the Falkland Islands that enables a warrant to be issued authorising the interception of communications and corresponds to section 2 of the Interception of Communications Act 1985 of the United Kingdom; or

(b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

#### **Prosecutor's failure to observe time limits**

**12.—**(1) This section applies if the prosecutor —

(a) purports to act under section 5 after the end of the period which, by virtue of section 14, is the relevant period for section 5, or

(b) purports to act under section 9 after the end of the period which, by virtue of section 14, is the relevant period for section 9.



(2) Subject to subsection (3), the failure to act during the period concerned does not on its own constitute grounds for staying the proceedings for abuse of process.

(3) Subsection (2) does not prevent the failure constituting such grounds if it involves such delay by the prosecutor that the accused is denied a fair trial.

#### **Faults in disclosure by the accused**

**13.—**(1) This section applies where section 7 applies and the accused —

(a) fails to give a defence statement under that section;

(b) gives a defence statement under that section but does so after the end of the period which, by virtue of section 14, is the relevant period for section 7;

(c) sets out inconsistent defences in a defence statement given under section 7;

(d) at his trial puts forward a defence which is different from any defence set out in a defence statement given under section 7;

(e) at his trial adduces evidence in support of an alibi without having given particulars of the alibi in a defence statement given under section 7; or

(f) at his trial calls a witness to give evidence in support of an alibi without having complied with subsection (4)(a) or (b) of section 7 as regards the witness in giving a defence statement under that section.

(2) This section also applies where section 8 applies, the accused gives a defence statement under that section, and the accused —

(a) gives the statement after the end of the period which, by virtue of section 14, is the relevant period for section 8;

(b) sets out inconsistent defences in the statement;

(c) at his trial puts forward a defence which is different from any defence put forward in his statement;

(d) at his trial adduces evidence in support of an alibi without having complied with subsection (4)(a) or (b) of section 7 (as applied by section 8) as regards the witness in giving the statement.

(3) Where this section applies —

(a) the court, or with the leave of the court, any other party may make such comment as appears appropriate;

(b) the court or jury may draw such inferences as appear proper in deciding whether the accused is guilty of the offence concerned.

(4) Where the accused puts forward a defence which is different from any defence set out in a defence statement given under section 7 or 8, in doing anything under subsection (3) or in deciding whether to do anything under it the court shall have regard —

(a) to the extent of the difference in the defences, and

(b) to whether there is any justification for it.

(5) A person shall not be convicted of an offence solely on an inference drawn under subsection (3).

(6) Any reference in this section to evidence in support of an alibi shall be construed in accordance with section 7.

#### *Time limits*

#### **Time limits**

**14.**—(1) This section has effect for the purpose of determining the relevant period for sections 5, 7, 8 and 9.

(2) Subject to subsection (3), the relevant period is a period beginning and ending with such days as the Governor prescribes by regulations for the purpose of the section concerned.

(3) The regulations may do any one or more of the following —

(a) prescribe that the relevant period for any section shall if the court orders be extended (or further extended) by so many days as the court specifies;

(b) provide that the court may only make such an order if an application is made by a prescribed person and if any other prescribed conditions are fulfilled;

(c) provide that an application may only be made if prescribed conditions are fulfilled;

(d) provide that the number of days by which a period may be extended shall be entirely at the court's discretion;

(e) provide that the number of days by which a period may be extended shall not exceed a prescribed number;

(f) provide that there shall be no limit on the number of applications that may be made to extend a period;

(g) provide that no more than a prescribed number of applications may be made to extend a period,

and references to the relevant period for a section shall be construed accordingly.

(4) Conditions mentioned in subsection (3) may be framed by reference to such factors as the Governor thinks fit.

(5) Without prejudice to the generality of subsection (4), so far as the relevant period for section 5 or 9 is concerned —

(a) conditions may be framed by reference to the nature or volume of the material concerned;

(b) the nature of the material may be defined by reference to the prosecutor's belief that the question of non-disclosure on grounds of the public interest may arise.

(6) In subsection (3) "prescribed" means prescribed by regulations under this section.

**Time limits: transitional**

15.—(1) As regards a case in relation to which no regulations under section 14 have come into force for the purposes of section 5, section 5(8) shall have effect as if it read —

"(8) The prosecutor must act under this section as soon as is reasonably practicable after —

(a) the accused pleads not guilty (where this Part applies by virtue of section 3(1)(a));

(b) the accused is committed for trial (where this Part applies by virtue of section 3(1)(b)(i));

(c) the accused is charged with an offence (where this part applies by virtue of section 3(1)(b)(ii))."

(2) As a regards a case in relation to which no regulations under section 14 have come into force for the purposes of section 9, section 9(7) shall have effect as if it read —

"(7) The prosecutor must act under this section as soon as is reasonably practicable after the accused gives a defence statement under section 7 or 8."

*Public interest*

**Public interest: review for summary trials**

16.—(1) This section applies where this Part applies by virtue of section 3(1)(a) or 3(1)(b)(ii).

(2) At any time —

(a) after a court makes an order under section 5(6), 9(5), 10(5) or 11(8), and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned,

the accused may apply to the court for a review of the question whether it is still not in the public interest to disclose material affected by its order.

(3) The court must hear any representations which the prosecutor may make in relation to the matter.

(4) In such a case the court must unless it believes that the application is frivolous or vexatious review that question, and if it concludes that it is in the public interest to disclose material to any extent —

(a) it shall so order, and

(b) it shall take such steps as are reasonable to inform the prosecutor of the order.

(5) Where the prosecutor is informed of an order under subsection (4) he must act accordingly having regard to the provisions of this Part (unless he decides not to proceed with the case concerned).

**Public interest: review in other cases**

17.—(1) This section applies where this Part applies by virtue of section 3(1)(b)(i).

(2) This section applies at all times —

(a) after a court makes an order under section 5(6), 9(5), 10(5) or 11(8), and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(3) The court must keep under review the question whether or not at any given time it is still not in the public interest to disclose material affected by its order.

(4) The court must keep the question mentioned in subsection (3) under review without the need for an application; but the accused may apply to the court for a review of that question.

(5) If the court at any time concludes that it is in the public interest to disclose material to any extent —

(a) it shall so order, and

(b) it shall take such steps as are reasonable to inform the prosecutor of its order.

(6) Where the prosecutor is informed of an order under subsection (5) he must act accordingly having regard to the provisions of this Part (unless he decides not to proceed with the case concerned).

**Applications: opportunity to be heard**

**18. Where —**

- (a) an application is made under section 5(6), 9(5), 10(5), 11(8), 16(2) or 17(4),
- (b) a person having an interest in the material applies to be heard by the court, and
- (c) he shows that he was involved (whether alone or with others and whether directly or indirectly) in the prosecutor's attention being drawn to the material,

the court must not make an order under section 5(6), 9(5), 10(5), 11(8), 16(4) or 17(5) (as the case may be) unless the party applying under paragraph (b) has been given an opportunity to be heard.

*Confidentiality*

**Confidentiality of disclosed information**

**19.—(1) If the accused is given or allowed to inspect a document or other object under —**

- (a) section 5, 6, 9, 11, 16 or 17, or
- (b) an order under section 10,

then, subject to subsections (2) to (4), he must not use or disclose it or any information recorded in it.

**(2) The accused may use or disclose the object or information —**

- (a) in connection with the proceedings for the purposes of which he was given the object or allowed to inspect it,
- (b) with a view to the taking of further criminal proceedings (for instance, by way of appeal) with regard to the matter giving rise to the proceedings mentioned in paragraph (a),
- (c) in connection with the proceedings first mentioned in paragraph (b).

**(3) The accused may use or disclose —**

- (a) the object to the extent that it has been displayed to the public in open court, or
- (b) the information to the extent that it has been communicated to the public in open court;

but the preceding provisions of this subsection do not apply if the object is displayed or the information is communicated in proceedings to deal with a contempt of court under section 20.

**(4) If —**

(a) the accused applies to the court for an order granting permission to use or disclose the object or information, and

(b) the court makes such an order,

the accused may use or disclose the object or information for the purposes and to the extent specified by the court.

(5) An application under subsection (4) may be made and dealt with at any time, and in particular after the accused has been acquitted or convicted or the prosecution has decided not to proceed with the case concerned, but this is subject to rules made by virtue of section 21(3) or having effect under section 21(1).

(6) Where —

(a) an application is made under subsection (4), and

(b) the prosecutor or a person claiming to have an interest in the object or information applies to be heard by the court,

the court must not make an order granting permission unless the person under paragraph (b) has been given an opportunity to be heard.

(7) References in this section to the court are to —

(a) a court of summary jurisdiction where this section applies by virtue of section 3(1)(a) or section 3(1)(b)(ii);

(b) the Supreme Court where this section applies by virtue of section 3(1)(b)(i).

(8) Nothing in this section affects any other restriction or prohibition on the use or disclosure of an object or information, whether the restriction or prohibition arises under an enactment (whenever passed) or otherwise.

### **Confidentiality: contravention**

**20.**—(1) It is a contempt of court for a person knowingly to use or disclose an object or information recorded in it if the use or disclosure is in contravention of section 19.

(2) The following courts have jurisdiction to deal with a person alleged to have committed a contempt under this section —

(a) a court of summary jurisdiction where this section applies by virtue of section 3(1)(a) or section 3(1)(b)(ii);

(b) the Supreme Court where this Part applies by virtue of section 3(1)(b)(i).

(3) A person who is found by a competent court to have committed a contempt under this section, may be dealt with as follows —

(a) a court of summary jurisdiction may commit him to custody for a specified period not exceeding six months or impose on him a fine not exceeding the maximum of level 6 on the standard scale or both;

(b) the Supreme Court may commit him to custody for a specified period not exceeding two years or impose on him a fine not exceeding the maximum of level 10 on the standard scale or both.

(4) If —

(a) a person is found by a competent court to have committed a contempt under this section, and

(b) the object concerned is in his possession,

the court so finding him may order that the object shall be forfeited and dealt with in such manner as the court may order.

(5) The power of the court under subsection (4) includes power to order the object to be destroyed or to be given to the prosecutor or to be placed in his custody for such period as the court may specify.

(6) If —

(a) the court proposes to make an order under subsection (4), and

(b) the person found guilty, or any other person claiming an interest in the object, applies to be heard by the court,

the court must not make the order unless the applicant has been given an opportunity to be heard.

(7) If —

(a) a person is found by a competent court to have committed a contempt under this section, and

(b) a copy of the object concerned is in his possession,

the court so finding him may order that the copy shall be forfeited and dealt with in such manner as the court may order.

(8) Subsections (5) and (6) apply for the purposes of subsection (7) as they apply for the purposes of subsection (4), but as if references to the object were references to the copy.

(9) An object or information shall be inadmissible as evidence in civil proceedings if to adduce it would in the opinion of the court be likely to constitute a contempt under this section; and "the court" here means the court before which the civil proceedings are taken.

(10) The powers of a court of summary jurisdiction under this section may be exercised either of the court's own motion or by order on complaint.

*Other provisions*

**Rules of court**

**21.—**(1) Unless rules made by the Chief Justice under subsection (3) are in force, the rules made in England —

- (a) under section 144 of the Magistrates' Courts Act 1980; and
- (b) section 84 of the Supreme Court Act 1981;

prescribing the practice and procedure to be followed in English courts in proceedings corresponding with proceedings or matters arising under the provisions of this Ordinance specified in subsection (2) of this section shall apply in the Falkland Islands with such modifications and exceptions —

- (i) as are specified by an Order made under subsection (4); and
- (ii) if no such Order has been made in respect of any rule or rules,

then with such modifications and exceptions as are required by section 76(4) to (6) of and the Schedule to the Interpretation and General Clauses Ordinance (Title 67.2).

(2) The proceedings under the provisions of this Ordinance referred to in subsection (1) are —

- (a) proceedings to deal with contempt of court under section 20;
- (b) an application under section 5(6), 9(5), 10(2) or (5), 11(8), 16(2), 17(4), 18(b), 19(4) or (6)(b) or 20(6);
- (c) an application under regulations made under section 14;
- (d) an order under section 5(6), 9(5), 10(2) or (5), 11(8), 16(4), 19(4) or 20(4) or (7);
- (e) an order under section 17(5) (whether or not an application is made under section 17(4));
- (f) an order under regulations made under section 14.

(3) The Chief Justice may make such rules in relation to the proceedings or matters mentioned in subsection (2) as may in England be made in relation to the corresponding proceedings or



matters under section 144 of the Magistrates' Courts Act 1980 or section 84 of the Supreme Court Act 1981 having regard to the provisions of section 19(1), (3), (4) and (5) of the 1996 Act.

(4) Unless rules have been made by the Chief Justice under subsection (3), the Governor may by Order under this subsection modify and provide exceptions to the application in the Falkland Islands by virtue of subsection (1) of the English rules mentioned in that subsection. Any Order made under this subsection shall cease to have effect, except in relation to proceedings already commenced or any matter arising in or in connection with those proceedings, on the coming into force of any rules made by the Chief Justice under subsection (3).

#### **Other rules as to statutory disclosure**

**22.—**(1) Subject to subsection (2), a duty under any of the disclosure provisions shall not affect or be affected by any duty arising under any other enactment with regard to the material to be provided to or by the accused or a person representing him.

(2) In making an order under section 9 of the Criminal Justice Act 1987 or section 33 of this Ordinance (preparatory hearings) the judge may take account of anything which —

- (a) has been done,
- (b) has been required to be done, or
- (c) will be required to be done,

in pursuance to any of the disclosure provisions.

(3) Without prejudice to the generality of section 144 of the Magistrate's Courts Act 1980 in the form it applies to the Falkland Islands, the power to make rules under that section includes power to make any rules which could be made under that section by virtue of section 20(3) and (4) of the 1996 Act.

(4) For the purposes of this section —

- (a) the disclosure provisions are sections 5 to 11;
- (b) "enactment" includes an enactment contained in subsidiary legislation of the Falkland Islands or subordinate legislation made in the United Kingdom having effect as written law of the Falkland Islands ("subordinate legislation" having the same meaning for the purposes of this paragraph as that expression has in the Interpretation Act 1978).

#### **Common law rules as to disclosure**

**23.—**(1) Where this Part applies as regards things requiring to be done after the relevant time in relation to an alleged offence, the rules of common law which —

- (a) were effective immediately before the commencement of this Part, and

(b) relate to the disclosure of material by the prosecutor,

do not apply as regards things falling to be done after that time in relation to the alleged offence.

(2) Subsection (1) does not affect the rules of common law as to whether disclosure is in the public interest.

(3) References in subsection (1) to the relevant time are to the time when —

(a) the accused pleads not guilty; or

(b) the accused is committed for trial.

### PART III CRIMINAL INVESTIGATIONS

#### **Introduction**

**24.**—(1) For the purposes of this Part, a criminal investigation is an investigation conducted by police officers with a view to it being ascertained —

(a) whether a person should be charged with an offence, or

(b) whether a person charged with an offence is guilty of it.

(2) In this Part references to material are to material of all kinds, and in particular include references to —

(a) information, and

(b) objects of all descriptions.

(3) In this Part references to recording information are references to putting it into a durable or retrievable form (such as writing or tape).

#### **Code of practice**

**25.**—(1) The Governor may by Order apply to the Falkland Islands from such date as is specified in that Order, with such modifications and exceptions as are specified in it any code of practice prepared pursuant to section 23 of the 1996 Act and any revisions to such a code. If he does so that code shall apply in relation to suspected or alleged offences into which no criminal investigation has begun before the date on which the Order comes into effect. Alternatively, the Governor may himself prepare a code containing provisions designed to secure —

(a) that where a criminal investigation is conducted all reasonable steps are taken for the purposes of the investigation and, in particular, all reasonable lines of enquiry are pursued;

(b) that information which is obtained in the course of a criminal investigation and may be relevant to the investigation is recorded;

(c) that any record of such information is retained;

(d) that any other material which is obtained in the course of a criminal investigation and may be relevant to the investigation is retained;

(e) that material falling within paragraph (b) and material falling within paragraph (d) is revealed to a person who is involved in the prosecution of criminal proceedings arising out of or relating to the investigation and who is identified in accordance with prescribed provisions;

(f) that where such a person inspects information or other material in pursuance of a requirement that it be revealed to him, and he requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;

(g) that where such a person is given a document indicating the nature of information or other material in pursuance of a requirement that it be revealed to him, and he requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;

(h) that the person who is to allow the accused to inspect information or other material or to give him a copy of it shall decide which of those (inspecting or giving a copy) is appropriate;

(i) that where the accused is allowed to inspect material as mentioned in paragraph (f) or (g) and he requests a copy, he is given one unless the person allowing the inspection of it is of the opinion that it is not practicable or not desirable to give him one;

(j) that a person mentioned in paragraph (e) is given a written statement that prescribed activities which the code requires have been carried out.

(2) The code prepared by the Governor may include provision —

(a) that a police officer identified in accordance with prescribed provisions must carry out a prescribed activity which the code requires;

(b) that a police officer so identified must take steps to secure the carrying out by a person (whether or not a police officer) of a prescribed activity that the code requires;

(c) that a duty must be discharged by different people in succession in prescribed circumstances (as where a person dies or retires).

(3) The code prepared by the Governor may include provision about the form in which the information is to be recorded.

(4) The code prepared by the Governor may include provision about the manner in which and the period for which —

(a) a record of information is to be retained, and

(b) any other material is to be retained;

and if a person is charged with an offence the period may extend beyond a conviction or an acquittal.

(5) The code prepared by the Governor may include provisions about the time when, the form in which, the way in which, and the extent to which information or any other material is to be revealed to the person mentioned in subsection (1)(e).

(6) The code prepared by the Governor must be so framed that it does not apply to material intercepted in obedience to any provision of the law of the Falkland Islands corresponding to section 2 of the Interception of Communications Ordinance 1985.

(7) The code prepared by the Governor may —

(a) make different provision in relation to different cases or descriptions of case;

(b) contain exceptions as regards prescribed cases or descriptions of case.

(8) In this section “prescribed” means prescribed by the code.

#### **Examples of disclosure provisions**

**26.—**(1) This section gives examples of the kinds of provision that may be included in the code prepared by the Governor by virtue of section 25(5).

(2) The code prepared by the Governor may provide that if the person required to reveal material has possession of material which he believes is sensitive he must give a document which —

(a) indicates the nature of that material, and

(b) states that he so believes.

(3) The code prepared by the Governor may provide that if the person required to reveal material has possession of material which is of a description prescribed under this subsection and which he does not believe is sensitive he must give a document which —

(a) indicates the nature of that material, and

(b) states that he does not so believe.

(4) The code prepared by the Governor may provide that if —

(a) a document is given in pursuance of provision contained in the code by virtue of subsection (2), and

(b) a person identified in accordance with prescribed provisions asks for any of the material,

the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.

(5) The code prepared by the Governor may provide that if —

- (a) a document is given in pursuance of provision contained in the code by virtue of subsection (3),
- (b) all or any of the material is of a description prescribed under this subsection, and
- (c) a person is identified in accordance with prescribed provisions as entitled to material of that description,

the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.

(6) The code prepared by the Governor may provide that if —

- (a) a document is given in pursuance of provision contained in the code by virtue of subsection (3),
- (b) all or any of the material is not of a description prescribed under subsection (5), and
- (c) a person identified in accordance with the prescribed provisions asks for any of the material not of that description,

the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.

(7) The code prepared by the Governor may provide that if the person required to reveal material has possession of material which he believes is sensitive and of such a nature that provision contained in the code by virtue of subsection (2) should not apply with regard to it—

- (a) that provision should not apply with regard to the material,
- (b) he must notify a person identified in accordance with prescribed provisions of the existence of the material, and
- (c) he must allow the person so notified to inspect the material.

(8) For the purposes of this section material is sensitive to the extent that disclosure under Part II would be contrary to the public interest.

(9) In this section “prescribed” means prescribed by the code prepared by the Governor.

### **Operation and revision of code**

27.—(1) When the Governor has prepared a code under section 25 —

- (a) he shall publish it in the form of a draft,
- (b) he shall consider any representations made to him about the draft, and
- (c) he may modify the draft accordingly.

(2) When the Governor has acted under subsection (1) he shall cause the code to be laid before the Legislative Council, and when he has done so he may bring it into operation on such date as he may appoint by notice published in the *Gazette*.

(3) A code brought into operation under this section shall apply in relation to suspected or alleged offences into which no criminal investigation has begun before the day so appointed.

(4) The Governor may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section shall apply to a revised code as they apply to the code as first prepared.

### **Effect of code**

28.—(1) In this section and in the next following section “a code” means —

- (a) a code prepared under section 23 of the 1996 Act and applied by an Order under section 25(1) of this Ordinance which is in operation, or
- (b) a code prepared by the Governor under section 25 of this Ordinance which is in operation,

whichever, in the circumstances, is appropriate.

(2) A person other than a police officer who is charged with the duty of conducting an investigation with a view to it being ascertained —

- (a) whether a person should be charged with an offence, or
- (b) whether a person charged with an offence is guilty of it,

shall in discharging that duty have regard to any relevant provision of a code which would apply if the investigation were conducted by police officers.

(3) A failure —

- (a) by a police officer to comply with any provision of a code for the time being in operation,  
or

(b) by a person to comply with subsection (2),

shall not in itself render him liable to any civil or criminal proceedings.

(4) In all criminal and civil proceedings a code in operation shall be admissible in evidence.

(5) If it appears to a court or tribunal conducting criminal or civil proceedings that—

(a) any provision of a code in operation at any time by virtue of an order under section 25(1) or, as the case may be, section 27, or

(b) any failure mentioned in subsection(3)(a) or (b),

is relevant to any question arising in the proceedings, the provision or failure shall be taken into account in deciding the question.

### **Common law rules as to criminal investigations**

**29.—**(1) Where a code which is in operation applies in relation to a suspected or alleged offence, the rules of common law which —

(a) were effective immediately before the appointed day, and

(b) relate to the matter mentioned in subsection (2),

shall not apply in relation to the suspected or alleged offence.

(2) The matter is the revealing of material —

(a) by a police officer or other person charged with the duty of conducting an investigation with a view to it being ascertained whether a person should be charged with an offence or whether a person charged with an offence is guilty of it;

(b) to a person involved in the prosecution of criminal proceedings.

(3) In subsection (1) “the appointed day” means the day appointed under section 25(1) for the commencement of the application of the code or, as the case may be, under section 27 for the commencement of the code as first prepared.

## PART IV PRELIMINARY HEARINGS *Introduction*

### **Introduction**

**30.—**(1) This Part applies —

(a) in relation to an offence triable on indictment if on or after the appointed day the accused is committed for trial for the offence concerned;

(b) in relation to a serious summary offence if on or after the appointed day the accused enters a plea of not guilty of the offence concerned.

(2) The reference in subsection (1) to the appointed day is to such day as is appointed for the purposes of this section by the Governor by notice published in the *Gazette*.

(3) References in this Part to the prosecutor are to any person acting as prosecutor, whether an individual or a body.

(4) References in this Part to a judge except where stated specifically to the contrary means —

(a) in relation to proceedings on indictment, a judge of the Supreme Court;

(b) in relation to a serious summary offence, if proceedings are in the Magistrate's Court, the Senior Magistrate, and if proceedings are in the Summary Court, the Senior Magistrate or such Justice of the Peace as may be nominated by the Senior Magistrate for the purpose but if no person has been so nominated and the Senior Magistrate is absent from the Falkland Islands or otherwise not available for the time being to make such a nomination, such Justice of the Peace as is nominated by the Governor acting in his discretion.

(5) Reference in this Part to a judge trying a case without a jury shall include a reference to the Senior Magistrate trying a case with or without assessors in the Magistrate's Court.

#### *Preparatory hearings*

#### **Power to order preparatory hearing**

**31.**—(1) Where it appears to a judge in a case where a person is charged with an indictable offence that it is desirable that there shall be a hearing (in this Part referred to as a preparatory hearing) —

(a) before the jury are sworn, and

(b) for any of the purposes mentioned in subsection (3),

he may order that such a hearing shall be held.

(2) Where it appears to a judge in a case where a person is charged with a serious summary offence that it is desirable that there shall be a hearing (in this Part referred to as a preparatory hearing) for any of the purposes mentioned in sub-section (3), he may order that such a hearing shall be held.

(3) The purposes are those of —

(a) identifying issues which are likely to be material to the verdict of the jury or, in the case of a trial before a judge sitting without a jury, the decision of the court;

(b) assisting their comprehension of such issues;



- (c) expediting the proceedings before the jury or the court;
  - (d) assisting the judge's or court's management of the trial.
- (4) A judge may make an order under subsection (1) or (2) —
- (a) on the application of the prosecutor;
  - (b) on the application of the accused or, if there is more than one, any of them; or
  - (c) of the judge's own motion.

**Timing of preparatory hearing etc**

**32.—**(1) A preparatory hearing may be held —

- (a) in relation to an indictable offence at any time after the accused is committed for trial at the Supreme Court;
  - (b) in relation to a serious summary offence at any time after the accused has pleaded not guilty.
- (2) A preparatory hearing may be ordered and conducted by a judge other than the trial judge or court.
- (3) More than one preparatory hearing may be ordered and conducted.

**The preparatory hearing**

**33.—**(1) At the preparatory hearing, subject to this section, the judge may exercise any of the powers specified in this section.

- (2) The judge may adjourn a preparatory hearing from time to time.
- (3) If he is the trial judge he may make a ruling as to —
- (a) any question as to the admissibility of evidence;
  - (b) any other question of law relating to the case,

but nothing in this subsection applies where the court which shall try the offence is the Summary Court.

(4) He may order the prosecutor —

- (a) to give the court and the accused or, if there is more than one, each of them, a written statement (a case statement) of the matters falling within subsection (5);

- (b) to prepare the prosecution evidence and any explanatory material in such a form as appears to the judge to be likely to aid comprehension by the jury (if any);
  - (c) to give the court and the accused or, if there is more than one, each of them written notice of documents the truth of which ought in the prosecutor's view to be admitted and of any other matters which ought in his view to be agreed;
  - (d) to make any amendments of any case statement given in pursuance of an order under paragraph (a) that appears to the judge to be appropriate, having regard to objections made by the accused or, if there is more than one, by any of them.
- (5) The matters referred to in subsection (4)(a) are —
- (a) the principal facts of the case for the prosecution;
  - (b) the witnesses who will speak to those facts;
  - (c) any exhibits relevant to those facts;
  - (d) any propositions of law on which the prosecutor proposes to rely;
  - (e) the consequences in relation to any of the counts in the indictment that appear to the prosecutor to flow from the matters falling within paragraphs (a) to (d).
- (6) Where a judge has ordered the prosecutor to give a case statement and the prosecutor has complied with the order, the judge may order the accused or, if there is more than one, each of them —
- (a) to give to the prosecutor and to the court and the prosecutor a written statement setting out in general terms the nature of his defence and indicating the principal matters on which he takes issue with the prosecution;
  - (b) to give to the court and to the prosecutor written notice of any objections that he has to the case statement;
  - (c) to give to the court and the prosecutor written notice of any point of law (including any point as to the admissibility of evidence) which he wishes to take, and any authority on which he intends to rely for that purpose.
- (7) Where a judge has ordered the prosecutor to give notice under subsection (4)(c) and the prosecutor has complied with the order, the judge may order the accused or, if there is more than one, each of them to give the court and the prosecutor a written notice stating —
- (a) the extent with which he agrees with the prosecutor as to documents and other matters to which the notice under subsection (4)(c) relates, and

(b) the reason for any disagreement.

(8) A judge making an order under subsection (6) or (7) shall warn the accused or, if there is more than one of them, each of them of the possible consequence under section 35 of not complying with it.

(9) If it appears to a judge that reasons given in pursuance of subsection (7) are inadequate, he shall so inform the person giving them and may require him to give further or better reason.

(10) An order under this section may specify the time within which any specified requirement contained in it is to be complied with.

(11) An order or ruling under this section shall have effect throughout the trial, unless it appears to the judge making the order or to the trial judge on application made to either of them that the interests of justice require him to vary or discharge it.

### **Court rules**

**34.—**(1) The Chief Justice may make rules providing that except to the extent that —

(a) such disclosure is required in relation to expert evidence by rules made under any other provision enabling the making of rules, or by rules having effect in the Falkland Islands; or

(b) such disclosure is required by section 7(4) of this Ordinance,

anything required to be given by an accused in pursuance of a requirement imposed under section 33 need not disclose who will give evidence.

(2) Rules made under subsection (1) may make provision as to the minimum or maximum time that may be specified under section 33(10).

(3) Until and unless the Chief Justice first makes rules under subsection (1), any rules for the time being in force in England and to which section 33(1) of the 1996 Act relates shall have effect in the Falkland Islands subject only to such modifications and exceptions as are required by section 76 of the Interpretation and General Clauses Ordinance (Title 62.2).

### **Later stages of trial**

**35.—**(1) Any party may depart from the case he disclosed in pursuance of a requirement imposed under section 33.

(2) Where —

(a) a party departs from the case he disclosed in pursuance of a requirement imposed under section 33, or

(b) a party fails to comply with such a requirement,

the judge or, with the leave of the judge, any other party, may make such comment as appears to the judge or the other party (as the case may be) to be appropriate and the jury (or, as the case may be, in the case of a trial before a judge sitting without a jury, the judge) may draw such inference as appears proper.

(3) In deciding whether to give leave (or, as the case may be, to draw such inference) the judge shall have regard —

(a) to the extent of the departure or failure, and

(b) to whether there is any justification for it.

(4) Except as provided by this section, no part —

(a) of a statement given under section 33(6)(a), or

(b) of any other information relating to the case for the accused or, if there is more than one, the case for any of them, which was given in pursuance of a requirement imposed under section 33,

may be disclosed at a stage in the trial after the jury have been sworn without the consent of the accused concerned.

(5) References in the foregoing provisions of this section to “the judge” shall in relation to proceedings in the Summary Court be read as references to the Justices trying the case.

### *Appeals*

#### **Appeals to Court of Appeal**

**36.**—(1) An appeal shall lie —

(a) to the Court of Appeal from any ruling of a judge under section 33(3) in relation to a case proceeding in the Supreme Court, but only with the leave of the judge or of the Court of Appeal;

(b) to the Supreme Court from any ruling of a judge under section 33(3) in relation to a case proceeding in the Magistrate’s Court, but only with the leave of the judge or the Supreme Court.

(2) The judge may continue a preparatory hearing notwithstanding that leave to appeal has been granted under subsection (1), but until the appeal has been determined or abandoned —

(a) no jury shall be sworn; and

(b) if the accused has elected to be tried before a judge sitting alone; or

(c) if the offence is a serious summary offence,

the judge or the court (as the case may be) shall not proceed to try the case.

(3) On the termination of the hearing of an appeal, the Court of Appeal or Supreme Court (where appropriate) may confirm, reverse or vary the decision appealed against.

*Reporting restrictions*

**Restrictions on reporting**

**37.—(1)** Except as provided by this section —

(a) no written report of proceedings falling within subsection (2) shall be published within the Falkland Islands;

(b) no report of proceedings within subsection (2) shall be included in a programme broadcast in the Falkland Islands by any radio or television station broadcasting any material intended for public reception in the Falkland Islands.

(2) The following proceedings fall within this subsection —

(a) a preparatory hearing;

(b) an application for leave to appeal in relation to such a hearing;

(c) an appeal in relation to such a hearing.

(3) The judge dealing with a preparatory hearing may order that subsection (1) shall not apply, or shall not apply to the specified extent, to a report of —

(a) the preparatory hearing, or

(b) an application for leave to the judge for leave to appeal to the Court of Appeal under section 36(1) in relation to the preparatory hearing.

(4) The Court of Appeal may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of —

(a) an appeal to the Court of Appeal under section 36(1) in relation to a preparatory hearing, or

(b) an application to that Court for leave to appeal to it under section 36(1) in relation to a preparatory hearing.

(5) Where there is only one accused and he objects to the making of an order under subsection (3) or (4) the judge or the Court of Appeal shall make the order if (and only if) satisfied after the hearing of the representations of the accused that it is in the interests of justice to do so; and if

the order is made it shall not apply to the extent that a report deals with any such objection or representations.

(6) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3) or (4) the judge or the Court of Appeal shall make the order if (and only if) satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objections or representations.

(7) Subsection (1) does not apply —

- (a) if the accused has elected to be tried before a judge sitting without a jury; or
- (b) at the conclusion of the trial of the accused or the last of the accused to be tried or;
- (c) if the accused is charged with a serious summary offence —
  - (i) to the publication of a report of the preparatory hearing;
  - (ii) to the publication of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing,
  - (iii) to the inclusion in a programme of a kind referred to in subsection (1)(b) of a report of a preparatory hearing, or
  - (iv) the inclusion in such a programme of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing.

(8) Subsection (1) does not apply to a report which contains only one or more of the following matters —

- (a) the identity of the court and the name of the judge;
- (b) the names, ages, home addresses and occupations of the accused and witnesses;
- (c) the offence or offences, or summary of them, with which the accused is or are charged;
- (d) the names of legal practitioners in the proceedings;
- (e) where the proceedings are adjourned the date and place to which they are adjourned;
- (f) any arrangements as to bail;
- (g) whether legal aid was granted to the accused or any of the accused.

(9) The addresses that may under subsection (8) be published or included in a programme of a kind referred to in subsection (1)(b) are addresses —

(a) at any relevant time, and

(b) at the time of their publication or inclusion in such a programme;

and “relevant time” here means a time when events giving rise to the charges to which the proceedings relate occurred.

(10) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(11) In this section —

(a) “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public; and

(b) expressions cognate with publish shall be construed accordingly.

#### **Offences in connection with reporting**

**38.—**(1) If a report is published or included in a programme in contravention of section 37 each of the following persons commits an offence —

(a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;

(c) in the case of the inclusion of a report in a programme, any body corporate which is engaged in providing the service in which the programme is included and any persons having functions in relation to the programme corresponding to those of an editor of a newspaper.

(2) A person convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

(3) In this section “programme” means a programme of a kind referred to in subsection (1)(b) of section 37.

(4) Subsection (11) of section 37 applies for the purposes of this section as it applies for the purposes of that section.

PART V  
RULINGS

**Application of this Part**

**39.** This Part applies in relation to pre-trial hearings beginning on or after commencement of this Ordinance.

**Meaning of pre-trial hearing**

**40.—**(1) For the purposes of this Part a hearing is a pre-trial hearing if it relates to a trial on indictment and it takes place —

- (a) after the accused has been committed for trial for the offence concerned; and
- (b) before the start of the trial.

(2) For the purposes of this section the start of a trial on indictment occurs —

- (a) in the case of a trial before a jury, when the jury is sworn to consider the issue of guilt or fitness to plead;
- (b) if the court accepts a plea of guilty before a jury is sworn, when that plea is accepted; and
- (c) in the case of a trial before a judge sitting without a jury, and where paragraph (b) does not apply, as soon as the accused makes his election to be tried by a judge sitting without a jury.

**Power to make rulings**

**41.—**(1) A judge may make at a pre-trial hearing a ruling as to —

- (a) any question as to the admissibility of evidence;
- (b) any other question of law as to the case concerned.

(2) A ruling may be made under this section —

- (a) on an application by a party to the case, or
- (b) of the judge's own motion.

(3) Subject to subsection (4), a ruling made under this section has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them, is disposed of; and the case against an accused is disposed of if —

- (a) he is acquitted or convicted;
- (b) the prosecutor decides not to proceed with the case against him.



(4) A judge may discharge (or further vary) a ruling made under this section if it appears to him that it is in the interests of justice to do so; and a judge may act under this subsection —

(a) on an application by a party to the case; or

(b) of the judge's own motion.

(5) No application may be made under subsection (4)(a) unless there has been a substantial change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.

(6) The judge referred to in subsection (4) need not be the judge who made the ruling or, if it has been varied, the judge (or any of the judges) who varied it.

(7) For the purposes of this section the prosecutor is the person acting as prosecutor, whether an individual or a body.

### **Restrictions on reporting**

**42.**—(1) Except as provided by this section —

(a) no written report of matters falling within subsection (2) shall be published in the Falkland Islands;

(b) no report of matters falling within subsection (2) shall be included in a programme.

(2) The following matters fall within this subsection —

(a) a ruling made under section 41;

(b) proceedings on an application for a ruling to be made under section 41;

(c) an order that a ruling made under section 41 be discharged or varied or further varied;

(d) proceedings on an application for a ruling under section 41 to be discharged or varied or further varied.

(3) The judge dealing with any matter falling within subsection (2) may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of the matter.

(4) Where there is only one accused and he objects to the making of an order under subsection (3) the judge may make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.

(5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3) the judge shall make the order if (and only if) satisfied after hearing

the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.

(6) Subsection (1) does not apply to —

- (a) the publication of a report of matters,
- (b) the inclusion in a programme of a report of matters,

at the conclusion of the trial of the accused or of the last of the accused to be tried.

(7) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(8) In this section —

- (a) “programme” means a programme of a kind referred to in subsection (1)(b) of section 37;
- (b) “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public; and
- (c) expressions cognate with “publish” shall be construed accordingly;

#### **Offences in connection with reporting**

**43.—**(1) If a report is published or included in a programme in contravention of section 42 each of the following persons commits an offence —

- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
- (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
- (c) in the case of the inclusion of a report in a programme, any body corporate which is engaged in providing the service in which the programme is included and any persons having functions in relation to the programme corresponding to those of an editor of a newspaper.

(2) A person convicted of an offence under this section is liable to fine not exceeding the maximum of level 5 on the standard scale.

(3) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Attorney General.

(4) Subsection (8) of section 42 applies for the purposes of this section as it does for the purposes of that section.

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### **OBJECTS AND REASONS**

As to Parts II and III of the Bill, it is highly desirable to reform the law in relation to prosecution and defence disclosure as recommended in England by the Royal Commission on Criminal Justice in its report published in July 1993 (Cmnd 2263) and to replace the common law so as to provide a reasonable balance between the duties of the prosecution and the defence. Parts IV and V of the Bill seek to encourage the better preparation of criminal cases and the better conduct of criminal trials.

## EXPLANATORY MEMORANDUM

### Criminal Procedure and Investigations Bill 2003

#### *Introductory*

1. The main purpose of the Bill is to reform the law on pre-trial disclosure in criminal trials. Part II of the Bill introduces a new statutory scheme for disclosure of prosecution material obtained in the course of a criminal investigation, and including material not used as part of the prosecution case; the scheme also requires the defence to make disclosure of its case.
2. Part II of the Bill contains provision for a code of practice to be introduced for the guidance of the police in relation to unused prosecution material and would also implement a number of other recommendations of the report of the Royal Commission on Criminal Justice (1993) in England.
3. Part IV gives statutory backing to the existing practice of holding preparatory hearings in relation to indictable offences and serious summary offences.
4. Part V permits a judge at the preparatory hearing of a trial to make a binding ruling as to the admissibility of evidence or any other question of law.
5. The provisions of the Bill are based on those of the Criminal Procedure and Investigations Act 1996 of England. There are however a number of significant variations from the provisions of that Act engendered by the fact that many, relatively serious, offences are triable before the Senior Magistrate in the Magistrate's Court instead of being tried upon indictment before a jury, as they would be in England. In general terms, these are the offences defined in clause 2(4) of the Bill as "serious summary offences".

#### *PART I*

6. Part I of the Bill is introductory. Under clause 1, the provisions of the Bill, if enacted, would come into force on the first day of the second month following its publication in the Gazette. Before the provisions of the Bill come into force it would be necessary to make an Order under clause 25 introducing the code of practice for guidance of the police. Clause 2 of the Bill contains a number of important interpretation provisions.

#### *PART II*

7. Part II of the Bill introduces a new scheme for disclosure of "unused material" by the prosecution. "Unused material" is material which has not been disclosed as part of the prosecution case. The new scheme would replace the existing common law rules relating to disclosure in trials on indictment. Those common law rules at present apply in the Falkland Islands as part of the English common law and applied in England before the Criminal Procedure and Investigations Act 1996 came into force. The Falkland Islands have also followed the English Attorney General's Guidelines to prosecuting authorities relating to the disclosure of information to the defence and which were issued in 1981.

8. The Guidelines called for the disclosure to the defence of all “unused material” (that is, material not disclosed as part of the prosecution case at the committal stage (the preliminary hearing before the Magistrate’s Court) in relation to a proposed trial on indictment) if it had some bearing on the offences charged or the surrounding circumstances. “Unused material” was defined in the Guidelines as including all witness statements and documents which had not been served as part of the prosecution case at the committal stage (and the unedited version of any such statements). The Guidelines permitted the prosecuting authority not to disclose material in circumstances —

(a) where it was not in the public interest to make disclosure (e.g. to protect the identity of an informant); or

(b) where it was feared that the witness might be persuaded to change his story or might give an untrue account and the statement could be used in cross examination.

9. Since 1946, the prosecution has been obliged at common law to disclose the name and address of any person from whom the prosecution has taken a statement and whom the prosecution has decided not to call as a witness. It has been the usual (and preferable) practice, since 1965, to disclose the statement taken.

10. In a notorious case (the “Guinness trial” in 1990) the trial judge ruled that the defence were also entitled to see all the preparatory notes and tape recordings which lead to the making of witness statements. In 1993 in another case decided on appeal, the Court of Appeal said that the defence should be given the opportunity to consider all the material evidence which the prosecution had gathered, and from which it had made its own selection of evidence to be lead. The result of those two cases was to broaden the scope of disclosure to include all material gathered by the prosecution including statements, documents and computer entries. The question of what material should be disclosed was further considered in 1994 in a case in which the Court of Appeal in England said that the test of whether material could be disclosed was a determine whether the material was relevant (or possibly relevant) to an issue in the case, or raised (or possibly raised) a new issue, the existence of which was not apparent from the prosecution evidence, or held out a real prospect of providing a lead on evidence relevant to those matters.

11. Following these cases, the requirements of disclosure place a substantial burden on the prosecution and provide the defence with opportunities for mounting “fishing expeditions”. As a result, the Royal Commission on Criminal Justice in England in 1993 devised a proposed new regime for disclosure with the aim of striking a fair balance between the duties of the prosecution and the rights of the defence in a situation where the common law as to disclosure (which still applies in the Falkland Islands) is to place heavy burdens on the investigating and prosecuting authorities which may not be in the interests of justice. Common law rules can result in an inordinate amount of material having to be prepared and copied by the police in order to meet defence requests.

12. Admittedly, in the Falkland Islands, no problems in relation to this became apparent until a prosecution in late 2001 when, on the advice of English counsel, the defence in a case exploited

the common law rules in such a way as to require disclosure of quantities of material some of which was held overseas, had not been seen by the prosecution at all and was in fact in no way helpful to the defence. It thus became apparent that unless something was done defence “fishing expeditions”, imposing an irrelevant and unnecessary burden (and incidentally increasing the cost of defences to the legal aid budget) might quite frequently occur.

13. It is believed that although the burden of proof must remain with the prosecution, the defence should also have a responsibility to help ensure that justice is done by narrowing the issues in dispute. The principles and framework of disclosure under Part II are —

(a) “primary prosecution disclosure” to be made to include any unused material which in the prosecutors opinion might undermine the prosecution case;

(b) “defence disclosure” (mandatory in trials on indictment and in serious summary cases, but voluntary in summary cases which are not serious summary cases) requiring the defence to set out the general nature of the defence case (failure to do so may allow inferences to be drawn), but not requiring (except in the case of alibi) the names and addresses of witnesses to be given;

(c) “secondary prosecution disclosure” requiring the prosecution (in response to disclosure by the defence) to disclose any additional unused material which might reasonably be expected to assist the defence as disclosed;

(d) any dispute about disclosure is to be resolved by the court. The current procedure for dealing with sensitive material is retained (where the court rules on whether the material should be retained or not); and

(e) detailed procedures for prosecution disclosures are to be contained in a Code of Practice.

14. Clause 1 applies the rules as to disclosure to indictable offences and serious summary offences. The effect of the clause is to make disclosure compulsory for trials on indictment and in relation to serious summary offences where the defendant pleads not guilty.

15. Clause 4 contains a number of important definitions for the purposes of Part II. The definition of “prosecutor” is in wide terms. The clause makes it clear that the provisions of Part II apply separately to each co-accused in the proceedings. The definition of “material” is such as to include witness statements, messages, notes, photographs, computer printouts and exhibits.

16. Clause 5 requires the prosecutor either to disclose undisclosed prosecution material to the defence if he thinks it might undermine the prosecution case or to give the defence a written statement that there is no such material. This is the “primary prosecution disclosure”. “Prosecution material” is defined in clause 5(2) as material connected to the case which is in the prosecutors possession or material in the possession of the police which the prosecutor has inspected. However, material must not be disclosed under clause 5 if there is an order of the court forbidding it on the grounds of public interest immunity. The prime responsibility for

disclosure is on the prosecutor. The whole scheme depends on the prosecution carrying out its responsibilities conscientiously and thoroughly. Material must be disclosed if it might "undermine" the case for the prosecution (that is to say weaken or injure it). In determining what material might "undermine" the prosecution case the prosecutor is expected to take a broad common sense approach, bearing in mind that clause 5(1) uses the words "might undermine".

17. The prosecutor makes disclosure of material by giving a copy of it to the defence or allowing the defence to inspect it.

18. It is believed that a failure by the prosecution to make disclosure in accordance with the clause is capable of amounting to a material irregularity in the trial, which will be an irregularity "in the course of the trial" (therefore leading to a right to appeal against a conviction) because the obligation to disclose is a continuing one. The time within which disclosure is made is intended to be prescribed by Regulations under clause 14. There will be power, if so desired, by virtue of clause 2(3) to adopt, with such modifications as may be necessary, the corresponding English Regulations. Alternatively quite separate provision can be made by local Regulations.

19. Clause 6 requires the prosecutor to serve on the defence as part of the primary prosecution disclosure a schedule of unused material which is not sensitive. The schedule to be disclosed is that prepared by the police referred to in clause 26(3) as part of the Code of Practice. If the prosecution has material which tends to prove the innocence of the accused, it is essential for the defence to be aware of it and the defence may be better able to appreciate the significance of a seemingly insignificant item of the schedule because only the defence have the necessary instructions and information to know what is relevant to their case.

20. Clause 7 requires the defendant in a trial on indictment or in relation to a serious summary offence and after primary prosecution disclosure has been made to serve on the court and the prosecution a written defence statement setting out the nature of the defence and indicating the matters on which he takes issue with the prosecution and the reasons why he does so. There is no discretion to waive the requirement under this section which is mandatory. The terms in which the statement by the defence is set out may be very general, for example, "alibi", "self-defence", "no intent", "consent", "identification".

21. Clause 7(5) and (6) introduce a new regime for the disclosure of alibi evidence.

22. Voluntary disclosure by the accused is dealt with by clause 8. It applies to summary offences other than serious summary offences and enables a defendant charged with a summary offence which is not a serious summary offence to give the prosecutor a defence statement. The clause does not apply unless the defendant has pleaded not guilty and the prosecutor has made disclosure. If a statement is served under the prosecutor under this section, it must also be served on the court. Clause 8(3) apply the same requirements as to a voluntary defence statement under the clause as apply to a mandatory defence statement under clause 7 that is that the statement must set out the nature of the defence and indicate the matters on which the defence takes issue with the prosecution and the reasons for doing so. Again the time limit referred to in clause 8(4) will be laid down by regulations made under clause 14.

23. Clause 9 requires the prosecutor to disclose additional prosecution material which might reasonably assist the defence disclosed by the defendant. This is called “secondary prosecution disclosure”. The clause casts a duty on the prosecutor to determine what undisclosed material might reasonably be expected to assist the accused defence, as disclosed by the defence statement. The time limit within which he must do so is to be prescribed by regulations made under clause 14.

24. Clause 10 permits the defendant to apply to the court for the disclosure of undisclosed material which he has reasonable cause to believe might reasonably be expected to assist the defence disclosed in the defence statement. The clause only applies where the defendant has given a defence statement and the prosecutor has made secondary disclosure under clause 9 or has failed to comply with that section (see clause 8(1)). The effect of this section is to give the court power to order disclosure in cases where there is dispute. It will be for the defence to establish why the material might be expected to assist them. The requirement that it might reasonably be expected to assist (see clause 8(2)(a)) means that “fishing expeditions” or fanciful possibilities will not suffice as reasons for an order for disclosure. On the other hand, if proper explanation of the relevance of the material and as to how it might assist is given, the court will be under a duty to order disclosure in the interests of a fair trial. Material must not be disclosed under this section if there is an order of the court forbidding it on the grounds of public interest immunity (clause 8(5)).

25. A continuing duty of the prosecutor to disclose is imposed by clause 11. This clause requires the prosecutor to keep under review the prosecution material and to disclose it as soon as is reasonably practicable if he thinks it might undermine the prosecution case or assist the defence disclosed by the defendant. The duty under the clause continues until the trial is over either result of acquittal or conviction or because the prosecutor abandons the case.

26. The purpose of clause 12 is to prevent the defendant having proceedings stayed simply because the prosecutor has failed to comply with the time limits in relation to disclosure. However failure to disclose within the time limits constitutes grounds for staying the proceedings if it involves such delay by the prosecutor that the accused is denied a fair trial.

27. Faults in disclosure by the accused are dealt with by clause 13 which provides that the court (or, with leave, any other party) may comment, and the court or jury may draw inferences, if the defendant fails to give a defence statement, gives a statement which contains inconsistent defences or, at trial, puts forward a defence which is different from that set out in the defence statement. Similar provisions apply to alibis. No doubt the defendant will usually give reasons for late production of a defence, or for any difference between the defence raised at trial and that disclosed before trial. It will then be for the court to decide and, if the trial is by jury aided by the judge in the summing up, whether or not those reasons are accepted and for the court to reach its verdict in the light of the evidence.

28. In cases where a defendant puts forward a defence different from that in the defence statement, clause 13(4) requires the court to have regard to the extent of the difference and the reason for it. Clause 13(4) would apply where the prosecution has changed its case or called new



evidence. In these circumstances it is unlikely that the court would allow an inference to be drawn. On the other hand, if no such reason existed, the court would probably permit an inference to be drawn and, on a trial on indictment before a jury, it will be for the jury to determine whether to draw an inference or not. Clause 14 permits the Governor to prescribe, by regulation, time limits for disclosure. Clause 2(3) would enable him to do so by adopting the corresponding regulations under section 12 of the Criminal Procedure and Investigations Act 1996, with such adaptations and modifications as might be necessary.

29. Transitional arrangements for the timing of disclosure by the prosecution are made by clause 15 which would modify clause 5(8) and clause 9(7) in cases which are in progress before time limits have been prescribed.

30. Under common law, a court which has ruled that material should not be disclosed on grounds of public interest immunity has a duty to keep the ruling under review. The purpose of clause 16 is to exempt the Summary Court and the Magistrate's Court in dealing with summary offences which are not serious summary offences from the duty to keep such public interest immunity under continuous review. The reason for this provision is that in a case decided in 1995 the Divisional Court of the Queen's Bench Division in England held that magistrates had a discretion to disqualify themselves if they had ruled evidence inadmissible and felt that as a result of hearing the evidence they would be biased in making a final decision. Accordingly, if magistrates hear such an application for non-disclosure and see material which they order should not be disclosed, they may conclude that the material is so prejudicial that they cannot come to an unbiased decision on the case. In these circumstances the magistrates should disqualify themselves and the case will be heard by another bench. The clause will not prevent the defendant from applying for a review of an earlier ruling, in which case the bench as constituted for the hearing will have to decide the application. Apart from this section, the rules in trials of summary offences which are not serious summary offences are the same as the rules in trials of serious summary offences and on trials on indictment.

31. Clause 17 requires the Court (having ordered that material should not be disclosed on public interest grounds) to keep under review until the end of the trial whether it is still not in the public interest to disclose the material. In so providing, the clause reflects the common law. The reason for the rule is that during the course of a trial circumstances may change, giving rise to a need for the reconsideration of the earlier ruling. Clause 17, however, only applies to trials on indictment. The position in other prosecutions is dealt with by clause 16. While the court when deciding to conduct a review, may act of its own motion, the defendant may himself apply for a review (clause 17 (4)). If the court comes to the conclusion that public interest immunity should no longer apply it must inform the prosecutor (clause 17 (5)). The effect of clause 18 is to permit a third party who has been the originator of sensitive material for which an application for public interest immunity has been made to make representations to the court relating to the material. The purpose is to allow parties to be heard to explain whether they object to disclosure or not and if they do, why they do. The reason for giving third parties the right to be heard is that they will usually know all about the material and will be better placed on the prosecution to make representations about it. Clause 18 preserves the practice at common law and makes it statutory. Clause 19 deals with the confidentiality of disclosed information. The purpose of the clause is

to prevent the misuse of prosecution material which has been disclosed to the defendant under Part II and, in particular, to prevent the circulation of pornographic material after the conclusion of the trial. Thus it aims to prevent the circulation of such material in prisons or its disclosure in the press or its use to blackmail witnesses or others. Clause 20 permits the courts to punish breaches of the confidentiality provisions in clause 19 as contempt of court. It makes it a contempt of court to use or disclose material in contravention of that section. The intention is that the court which hears the case in which the material is disclosed would deal with any contempt. The court on making a finding of contempt under this section has wide powers in relation to any protective material. It may order confiscation, destruction, or forfeiture or any disposal as it sees fit.

32. Clause 21 permits rules of court to be made in relation to the practice and procedure for applications to the court and orders of the court under Part II of the Ordinance and in relation to proceedings for contempt under section 18 but provides that until and unless such rules are made by the Chief Justice the rules in force in England in relation to such matters shall apply with such modifications and exceptions as are required under the Interpretation and General Clauses Ordinance.

33. The effect of clause 22(1) is to permit the disclosure scheme of Part II of the Bill to operate unaffected by the existing statutory rules as to disclosure. Clause 22(2) permits the Judge, when making an order at a preparatory hearing to take account of anything done or required to be done as a result of the disclosure provisions in Part II. Clause 22(3) permits similar rules relating to the disclosure of expert evidence as applied to trials on indictment to apply to summary trials also. The purpose of the provision is to lessen the opportunity for "trial by ambush" by springing expert evidence on the other party with the consequent unfairness and the potential for waste of time if an adjournment has to be granted for the other party to meet the evidence. Clause 23 provides that (with one exception) the common law rules as to disclosure would no longer apply after Part II comes into force. The exception is the common law rules relating to questions whether the disclosure is in the public interest. These rules require that if a prosecution makes a claim that material should be withheld on the ground of public interest immunity it is for the court to decide whether the material should be disclosed. The court must rule by performing a balancing exercise between the public interest in non-disclosure and fairness to the defendant. If a document is not relevant and material it need not be disclosed and public interest immunity will not arise. If a document is relevant and material then it must be disclosed unless it is confidential and unless a breach of confidentiality will cause harm to the public interest which outweighs harm to the interest of justice caused by non-disclosure. The holder of the document should voluntarily disclose it unless he is satisfied that the disclosure will cause substantial harm.

### *PART III*

34. Part III of the Bill deals with Criminal Investigations. Clause 24 is an introductory provision containing definitions of "criminal investigation", "material" and "recording information".

35. Clause 25(1) enables the Governor by Order to apply to the Falkland Islands from such date as is specified in the Order and with such modifications and exceptions as are specified in it any code of practice prepared pursuant to section 23 of the Criminal Procedure and Investigations Act

1996 and any revisions to such a code. Section 23 of the 1996 Act required the Home Secretary to prepare a Code of Practice to guide the police (and others conducting criminal investigations) in relation to unused material obtained in such investigations. Clause 25(1) alternatively enables the Governor himself to prepare a Code. The police are required to record and retain only relevant material. Material which has no bearing on the case which may have been seized by the police during a search does not have to be retained. Clause 25(1)(g) allows the police, at the request of the prosecutor, to disclose to the defence material which the prosecutor himself has not inspected. An example might be where there are a large number of similar documents, cursory inspection of which would allow the prosecutor to determine that all should be disclosed. Clause 25(1)(a) ensures that the code must require an investigator to take all reasonable steps for the purposes of the investigation and must pursue all reasonable lines of enquiry, whether these point towards or away from the suspect. What are "reasonable steps" and "reasonable lines of enquiry" will depend on the circumstances of each case and the subjective judgement of the officer in charge of the investigation.

36. Clause 26 gives examples of provisions which may be included in the Code about the way in which the police should make material available to the prosecutor under clause 25(5). The clause permits provision to be made in the Code for material to be made available by means of two types of schedule —

(a) a schedule of sensitive material (clause 26(2) defined by clause 26(8) as material the disclosure of which would be contrary to the public interest; and

(b) a schedule of non-sensitive material. Clause 26 (7) provides protection for exceptionally sensitive material such as a list of the names and addresses of police informants. It permits the Code to provide that the police will not be obliged to describe such information on the schedule of sensitive material, but must notify the prosecutor of it and allow him to inspect it.

37. Clause 27 provides that the Governor —

(a) must publish any draft Code prepared under Clause 25;

(b) must consider any representations made about it; and

(c) may modify the draft accordingly.

38. The code is to be laid before the Legislative Council and can only be brought into force after it this has been done. Clause 28 deals with the application of the Code to investigators other than police officers and with the admissibility of the Code in evidence and the effects of failure to observe it. Clause 28(1) requires persons other than police officers charged with the duty of conducting criminal investigations to have regard to the provisions of the Code of Practice. Clause 26(2) provides that failure by a police officer to comply with a relevant provision of the Code (or failure by any other investigator to have regard to such a provisions) will not render him or her liable to criminal or civil proceedings.

39. The effect of clause 28(3) is to make the provisions of the Code admissible in evidence, while under clause 28(4) a Court must take a breach of the Code into account in deciding any question to which it is relevant.

40. Clause 29 provides that the common law rules governing the duty of the police (or other investigators) to reveal material to the prosecutor shall no longer apply after the Code of Practice is brought into operation.

#### *Part IV*

41. The effect of clause 30 is to apply Part IV of the Bill to trial on indictment where the defendant was committed or the proceedings were transferred to the Supreme Court after the "appointed day" (the date fixed under clause 30(2)).

42. Clause 31 permits a judge to order and hold a preparatory hearing if it appears desirable. The purposes for which such a hearing may be held are to identify and clarify the issues in the trial, to expedite the trial and to assist the judge to manage it better.

43. A preparatory hearing may, under clause 32, be held, in relation to an indictable offence, at any time after the accused is committed for trial at the Supreme Court and in relation to a serious summary offence at any time after the accused has pleaded not guilty.

44. Clause 33 sets out the powers exercisable at a preparatory hearing. The judge may make rulings as to the admissibility of evidence and any question of law. These rulings may be the subject of appeal under clause 36. The judge may also exercise a range of powers with the purpose of identifying and clarifying the issues in the case. To this end, the judge may order either party to serve a written statement of its case. Departure from the statement may entitle the other party to comment and the jury to draw inferences (see clause 35).

45. Clause 34 enables the Chief Justice to make rules to provide that except in the case of alibi and expert evidence the defence need not disclose either the identity of defence witnesses or whether the defendant will himself give evidence. Clause 34(2) enables rules made under clause 34(2) to make provision as to the minimum or maximum time that may be specified in relation to a requirement made at a preliminary hearing. Clause 34(3) would apply the corresponding English rules subject to only such modifications and exceptions as are required by section 76 of the Interpretation and General Clauses Ordinance, until and unless the Chief Justice first makes rules under clause 34(1).

46. Departure by a party from the case disclosed as the result of an order at a preparatory hearing is permitted by clause 35(1). However clause 35(2) permits comments to be made by the opposing party, with leave, and inferences to be drawn by the jury if either prosecution or defence depart from the case disclosed at the preparatory hearing or fail to comply with a requirement imposed at the preparatory hearing. In deciding whether to give leave to a party to comment, the judge is to have regard to the extent of the departure and the reason for it (clause 35(3)).

47. Clause 36 makes limited provision for interlocutory appeals to the Court of Appeal on points of law and admissibility of evidence only, with the leave of the judge or of the Court of Appeal. This provision is exceptional since the normal rule is that no appeal lies against the ruling of a judge during the course of a trial, but must be made after the trial is over.

48. Clause 37 imposes restrictions on the reporting or preparatory hearings, applications for leave to appeal and appeals in relation to preparatory hearing. The matters which may be reported (mainly concerned with those participating in the hearing, the defendants and the offences charged) are set out in clause 37(9). The restrictions under this section apply unless the judge or appellate court orders otherwise. If the defendant (or if more than one defendant, any defendant) objects, the court must not make such an order until the defence representations have been heard and the court is satisfied that it is in the interests of justice that the reporting restrictions should not apply. Once the trial of all the defendants has been concluded, the reporting restrictions cease to have effect.

#### *Part V*

49. Clause 39 applies in relation to pre-trial hearings beginning on or after the commencement of the Bill. Clause 40 defines a "pre-trial hearing" and when the start of a trial on indictment occurs.

50. Clause 41 creates a power for a judge at a pre-trial hearing to make a ruling as to the admissibility of evidence or any other question of law relating to the case. At common law such a power does not exist with the result that a jury, having been sworn in, can be sent out of court while the point is decided for hours or even days, before returning. Clause 42 applies reporting restrictions to rulings under clause 41. The purpose is to prevent matter which might be prejudicial to the trial from being reported. However, the judge has a discretion to order that the restrictions do not apply or do not apply to a limited extent. In exercising this discretion the judge must have regard to the representations of the defendant (or each defendant) and be satisfied that it is in the interests of justice to make the Order. The restrictions apply until the end of the trial of all the defendants.

51. Clause 43 deals with offences in connection with reporting and creates an offence of contravening the reporting restrictions under clause 42 and (depending on the type of report) makes the proprietor, publisher, broadcasting company or editor liable. The offence is punishable on conviction with a maximum fine of level 5 on the standard scale. The consent of the Attorney General is required before proceedings may be brought.

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**THE  
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Supplement**

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The following are published in this Supplement -

**Museum and National Trust (Amendment) Bill 2003;**

**25 Eliza Crescent Direction 2003, (S. R. & O. No. 6 of 2003);**

**Fines (Alteration) Order 2003, (S. R. & O. No. 7 of 2003).**

**Museum and National Trust (Amendment) Bill 2003**

(No:            of 2003)

**ARRANGEMENT OF PROVISIONS**

Clause

1. Short title and commencement
2. Interpretation
3. Amendment of the Principal Ordinance

**MUSEUM AND NATIONAL TRUST (AMENDMENT) BILL 2003**

(No:            of 2003)

*(assented to: 2003)*

*(commencement: 2003)*

*(published: 2003)*

A BILL

for

AN ORDINANCE

To amend the Museum and National Trust Ordinance 1991

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1. This Ordinance may be cited as the Museum and National Trust (Amendment) Ordinance 2003 and shall come into force upon publication in the *Gazette*.

**Interpretation**

2. In this Ordinance “the principal Ordinance” means the Museum and National Trust Ordinance 1991(a).

**Amendment of the Principal Ordinance**

3. The Schedule to the Principal Ordinance is amended —

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(a) No 31 of 1991



(a) by deleting paragraph 1 and substituting the following new paragraph 1—

“Subject to paragraph 2, all cheques and other bills of exchange drawn by or on behalf of the Trust shall be signed by two members of the Trust, by one member and the Secretary or by one member and the Museum Manager.”

(b) by deleting paragraph 2 and substituting the following new paragraph 2—

“A cheque or other bill of exchange drawn by the Trust for a sum not exceeding £1,000 may be signed by one member of the Trust, by the Secretary or by the Museum Manager”.

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#### OBJECTS AND REASONS

The Bill provides for the person holding the position of Museum Manager to become a signatory on cheques and other bills of exchange drawn by or on behalf of the Trust.

The Bill also increases the threshold sum over which cheques or bills of exchange must be signed by more than one authorised signatory.

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**SUBSIDIARY LEGISLATION**

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**PLANNING AND BUILDING  
General Development Order 1991**

**25 Eliza Crescent Direction 2003**

S. R. & O. No. 6 of 2003

*Given: 17 March 2003*

*Published: 24 March 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under Article 6 of the General Development Order 1991(a), I give the following Direction —

**Citation and commencement**

1. This Direction may be cited as the 25 Eliza Crescent Direction 2003 and shall come into force on publication.

**Requirement to obtain planning permission**

2.—(1) The planning permission granted by Article 5 of and Part 1 of Schedule 2 to the General Development Order 1991 does not apply to all or any development (except such as may fall within Class N in the said Part 1) within the curtilage of 25 Eliza Crescent, Stanley.

(2) For the purposes of this Direction the curtilage of 25 Eliza Crescent is the piece of land on the south side of Eliza Crescent, Stanley shown outlined in yellow on the plan attached to the planning application reference 63/02/P.

Given this 17<sup>th</sup> day of March 2003

H J S Pearce  
Governor

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EXPLANATORY NOTE

*(not forming part of the above Direction)*

The effect of a Direction under Article 6 of the General Development Order 1991 is to require the specific grant of planning permission for a number of categories of development which would otherwise have been granted planning permission under Article 5 of the Order.

The reason for this Direction is that 25 Eliza Crescent are smaller pieces of land than a house would otherwise have been permitted to be built upon and further development of the plots might result in over-intensive site coverage.

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**SUBSIDIARY LEGISLATION**

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**CRIMINAL PROCEDURE**

**Fines (Alteration) Order 2003**

S. R. & O. No: 7 of 2003

*Made: 18 March 2003*

*Published: 24 March 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 12 of the Criminal Justice Ordinance (Title 24.1) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Fines (Alteration) Order 2003 and comes into force upon publication in the *Gazette*.

**Increase in fines**

2. The Schedule to this Order shall have effect so as to alter the maximum fines at present applicable under the provisions of the various enactments mentioned in the first column of that Schedule to the maximum level of the Standard Scale mentioned in the fourth column of that Schedule.

Made this 18<sup>th</sup> day of March 2003

H J S Pearce  
*Governor*

## SCHEDULE

Provisions of enactments	Brief description	Current Maximum Fine	New Maximum Fine
1. Dairy Produce Ordinance (Title 5.1) —			
(a) s.14(1)	General penalty	£25	Level 3
(b) s.14(2)	Selling dairy produce without being registered or licensed etc	£100	Level 5
(c) s.14(3)	Obstructing or hindering an inspector	£5	Level 2
2. Dogs Ordinance (Title 5.2) —			
(a) s.3(1)	Keeping a dog without licence etc	£5	Level 2
(b) s.5	Failing to produce dog licence	£5	Level 2
(c) s.7	Failure to return stray dog or notify police	£2	Level 1
(c) s.9	Unauthorised taking of dog through sheep station during lambing	£10	Level 2
(d) s.10	Failure to keep dangerous dog under proper control after order that it be kept under proper control	£1 per day	Level 1 for each day the dog is not kept under proper control
(e) s.11	Failure in Stanley or other town to keep bitch on heat under control	£2	Level 1
3. Hydatid Eradication (Dogs) Order (Title 5.2.2) —			
art.15	Obstructing police officer or	£500	Level 4

inspector or contravening any of the provisions of the Order

4. Livestock Ordinance  
(Title 5.3) —

(a) s.4	Impeding or hindering inspector	£50	Level 1
(b) s.6	Refusing to give, failing to give or giving false information to inspector	£25	Level 1
(c) s.10	Wrongful marking, defacing marks, mutilating sheep's ear or using another's mark	£100	Level 3
(d) s.25(2)	Leaving a travelling or disabled sheep on a sheep station which that sheep is crossing	£10	Level 1
(e) s.26(2)	Preventing infected and suspected sheep from being detained and examined etc	£100	Level 3
(f) s.28	Concealing cases of infection	£100	Level 3
(g) s.29	Leaving infected sheep in stream	£100	Level 3
(h) s.37	Failing to give notice or make return where no specific penalty provided	£5	Level 1
(i) s.38	Breach of provision of Ordinance or of proclamation or regulation where no other penalty provided	£100	Level 3

5. Marine Mammals  
Ordinance  
(Title 5.4) —

section 3(3)	Prohibited taking, killing etc of marine mammal —		
	(i) by individual	£10,000	Level 7
	(ii) by corporation	£250,000	Level 12

6. Slaughtering and  
Inspection Ordinance  
(Title 5.5) —

(a) s.19	General penalty for breach of provision of Ordinance	£25	Level 3
(b) s.22(n)	Breach of regulation	£5	Level 1

7. Trespass Ordinance  
(Title 5.6)

sections 4, 6, 8, 9	Various offences	Ranging £2-£10	Level 2
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8. Wild Animals and  
Birds Sanctuaries  
Orders  
(Title 5.7.2): the  
Orders in respect of  
The Twins, Low  
Island, Middle Island  
and Cape Dolphin,  
Volunteer and Cow  
Bay Sanctuary and  
Bleaker Island  
Sanctuary

Various Offences	£40	Level 2
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*(Note: The various Orders provide that a person committing an offence under them is liable to "the penalty prescribed in section 4 of the said Ordinance"(the Wild Animals and Birds Protection Ordinance, now repealed by the Conservation of Nature and Wildlife Ordinance which, however, saved these Orders until they are replaced by Orders under that Ordinance)*

9. Falkland Islands  
Defence Force  
Ordinance (Title  
7.1)–

(a) s 42(3)(e)	Certain offences under Army Act 1955 when dealt with as an offence under the law of the Falkland Islands in circumstances mentioned by s.42(1)	£5,000	Level 6
(b)s.42(3)(proviso) paragraph (ii)	Certain offences under Army Act 1955 when dealt with as an offence under the law of the Falkland Islands in circumstances mentioned by s.42(1) where conviction by court inferior to Supreme Court	£500	Level 4

(c) s.43(5)	Miscellaneous offences	£1,000	Level 4
(d) s.44(3)	Failure to deliver up equipment etc	£1,000	Level 4
10. Stanley Airport (Regulations) Ordinance (Title 9.1) —			
(a) s.4	Maximum amount regulations made under Ordinance may prescribe as penalty for an offence	£200	Level 3
(b)s.6(2)	Failure to provide information as to identity of driver of vehicle	£200	Level 3
11. Stanley Airport Regulations (Title 9.1.1) —			
reg. 55	Contravention of regulations	£200	Level 3
12. Banking Ordinance (Title 10) —			
(a) s.3(2)	Daily penalty for carrying on banking business without a licence	£2,500	Level 6
(b) s.7(3)	Daily penalty for failure to comply with s.5(5), 6(1)(a) to (c) or 7(1) or (2)	£2,500	Level 6
(c) s.11(2)	Person debarred from management acting as controller, director, manager, secretary or other employee of a financial institution	£100,000	Level 11
(d) s.12(3)	Daily penalty for contravention of restrictions on use of title "bank"	£2,500	Level 6
(e) s.18(5)	Daily penalty for failure to submit return or supply information in	£2,500	Level 6



	accordance with s.11(1) and (2)		
(f) s.21(2)	Daily penalty for failure to produce book, account, document or information in accordance with section 21(1)	£2,500	Level 6
(g) s. 22(a)	Daily penalty for failure to comply with notice and penalty for officer or officers responsible	£2,500	Level 6
(h) s.23(2)	Failure to send report of approved auditor together with copies of balance sheet and profit and loss account to the Financial Secretary	£100,000	Level 11
13. Commissions of Inquiry Ordinance (Title 19.1) —			
s.12	Contempt by witness or person attending inquiry	£50	Level 3





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The following are published in this Supplement -

**Fishery Products (Hygiene) (Designated Vessels) Order 2003, (S. R. & O. No. 8 of 2003);**

**Building (Amendment) Regulations 2003, (S. R. & O. No. 9 of 2003);**

**Registration of Charities (Exemption) Order 2003, (S. R. & O. No. 10 of 2003);**

**Fishing Licences (Application and Fees) Regulations Order 2003, (S. R. & O. No. 11 of 2003);**

**Ross Road (Temporary Clearway) Regulations Order 2003, (S. R. & O. No. 12 of 2003).**

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**SUBSIDIARY LEGISLATION**

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**FISHERIES**

**Fishery Products (Hygiene) (Designated Vessels) Order 2003**

(S. R. & O. No. 8 of 2003)

*Made: .....19 March 2003*

*Published: .....17 April 2003*

*Coming into force: upon publication*

IN EXERCISE of my powers under section 3(1) of the Fishery Products (Hygiene) Ordinance 1998(a) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Fishery Products (Hygiene)(Designated Vessels) Order 2003 and comes into force on publication in the *Gazette*.

**Designation of approved factory fishing vessels**

2. The vessels named in the first column of the schedule to this Order are designated as vessels to which the provisions of the Fishery Products (Hygiene) Ordinance 1998 and all regulations thereunder apply and are assigned the approval number in the second column of that Schedule appearing against their respective names.

Made this 19<sup>th</sup> day of March 2003

H J S Pearce CVO  
*Governor*

## SCHEDULE

<i>Vessel Name</i>	<i>Approval Number</i>
Ferralemes	1027
Kalatxori	1028

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### EXPLANATORY NOTE

*(not forming part of the above Order)*

The Fishery Product (Hygiene) Ordinance 1998, coupled with the regulations made under it, enables the operators of factory fishing vessels to obtain confirmation that their vessel meets the standards of hygiene prescribed in the European Commission. The vessel specified in the Schedule to the Order are ones which have been inspected and which are now, by this Order, designated as vessels to which the provisions of the legislation apply.

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## SUBSIDIARY LEGISLATION

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### PLANNING AND BUILDING

#### Building (Amendment) Regulations 2003

S. R. & O. No: 9 of 2003

*Made: ..... 25 March 2003*

*Published: .....17 April 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 3(1) of the Building Control Ordinance 1994(a) I make the following Regulations —

#### Short Title

1. These Regulations may be cited as the Building (Amendment) Regulations 2003.

#### Interpretation

2. In these Regulations “the Principal Regulations” mean the Building Regulations 1999(b).

#### Amendment of principal Regulations

3. The principal Regulations are amended —

(a) by replacing the word “Committee” in regulation 6(2) with the words “Building Control Surveyor”; and

(b) by inserting the words “Building Control Surveyor or” before the words “the Committee” in regulation 8(1); and

(c) by inserting the following regulation after regulation 8 —

#### “Appeal to the Governor

**8A.—**(1) Any person who is aggrieved by the decision of the Building Control Surveyor under regulation 6 of the principal Regulations or of the Committee under Regulation 7 of the principal Regulations to refuse a building permit may within 28 days of notification of that decision appeal in writing to the Governor specifying the grounds on which he appeals.

---

(a) No 3 of 1994

(b) SR&O No 26 of 1999

(2) The Governor if satisfied that having regard to the provision of the principal Regulations the building permit should be granted shall direct the Building Control Surveyor, or as the case may be, the Committee to grant it but otherwise shall dismiss the appeal.

(3) The Governor shall in writing notify his decision on an appeal under paragraph (1) to the appellant and, as the case may be, the Building Control Surveyor or the Committee"; and

(d) in regulation 8(1) —

(i) by replacing the word "Committee" in the first line by the words "Building Control Surveyor";

(ii) by inserting, at the end of the fourth line, the words "the Building Control Surveyor" before the word "Committee" where it first appears in the fifth line; and

(iii) by deleting the words "Committee's" before the words "reference number" in the fifth line.

Made this 25<sup>th</sup> day of March 2003

H J S Pearce  
Governor

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#### EXPLANATORY NOTE

*(not forming part of the above Order)*

The Building Regulations 1999 impose in Parts III to XXI a number of requirements in relation to new buildings and to existing buildings the use of which is changed. The requirements of those regulations are mandatory, and the approval or disapproval of an application leaves no room for the exercise of discretion. The effect of the Regulations is to confer upon the Building Control Surveyor, (instead of, at present, the Planning and Building Committee) power to decide Building Regulations applications in Stanley and within 10 kilometres of Stanley. The Committee remains responsible for deciding applications for sites more distant from Stanley.

A right of appeal to Executive Council not before existing, is conferred by a new regulation 8A inserted in the principal Regulations by regulation 3(c) of the above Regulations.

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**SUBSIDIARY LEGISLATION**

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**CHARITIES**

**Registration of Charities (Exemption) Order 2003**

(S. R. & O. No: 10 of 2003)

*Made: ..... 28 March 2003*

*Published: ..... 17 April 2003*

*Coming into force: 1 January 2003*

IN EXERCISE of my powers under section 4(4) of the Charities Act 1960(a) in its application to the Falkland Islands, and of all other powers enabling me in that behalf, I make the following Order —

**Citation and Commencement**

1. This Order may be cited as the Registration of Charities (Exemption) Order 2002 and shall come into force on 1<sup>st</sup> January 2003.

**Charities Exempt from the Requirement to Register**

2. The charities mentioned in the Schedule to the Order are exempt from the requirement to be registered in the Register of Charities established and maintained in the Falkland Islands pursuant to the Charities Act 1960 in its application to the Falkland Islands but only until 31 December 2003 or such later date as may be specified by the Governor by Notice published in the Gazette.

Made this 28<sup>th</sup> day of March 2003

H J S Pearce  
Governor



## SCHEDULE

Flying Santa Appeal  
KEMH Colonic Cancer Screening Fund  
KEMH Day Centre Fund  
KEMH Eye Fund  
King Edward Memorial Hospital Fund.

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### EXPLANATORY NOTE

*(not forming part of the above Order)*

This Order temporarily exempts from registration, under section 4 of the Charities Act 1960 in its application to the Falkland Islands, charitable bodies established in the Falkland Islands.

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## SUBSIDIARY LEGISLATION

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### FISHERIES

#### **Fishing Licences (Applications and Fees) Regulations Order 2003**

S.R.& O. No: 11 of 2003

*Made:* 28 March 2003  
*Published:* 17 April 2003  
*Coming into force:* on publication

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986(a) I make the following Order —

#### **Commencement and citation**

1.—(1) This Order may be cited as the Fishing Licences (Applications and Fees) Regulations Order 2003 and comes into operation on the date it is first published in the Gazette and ceases to have effect on 31st December 2003.

(2) This Order is hereinafter called “these Regulations” and any paragraph of this Order may be cited as (and is hereafter described as) a regulation bearing the same number as that paragraph and every subparagraph of a paragraph of this Order may be cited as (and is hereafter described as) a paragraph of the same number of the regulation in which it appears.

#### **Application**

2. Nothing in these Regulations applies to licences for exploratory or scientific purposes or to fishing within the territorial sea or internal waters.

#### **Interpretation**

3. In these Regulations —

“exploratory or scientific purposes” means purposes related to the assessment of the commercial or practical viability of fishing for fish generally or for a particular species of fish or to the assessment or quantification of stocks of any species of fish or fish of any age, stage of maturity or size of a species of fish or the locations in which they or any species of fish or fish of any age, stage of maturity or size may be found;

“FICZ” means the interim conservation and management zone as defined in section 2 of the Fisheries (Conservation and Management) Ordinance 1986;

---

(a) No 11 of 1986

“FOCZ” means the outer conservation zone as defined in Proclamation 2 of 1990 as varied by Proclamation 1 of 1994;

“fishing licence” means a licence to catch or take fish within the fishing waters;

“the fishing season” means —

(a) in relation to an “L” licence the period commencing on 1st July 2003 and ending 31st December 2003;

(b) in relation to an “R” licence the period commencing on 1st July 2003 and ending on 31st December 2003;

(c) in relation to an “S” licence the period commencing on 1st July 2003 and ending 31st December 2003;

(d) in relation to an “X” licence the period commencing on 1st August 2003 and ending on 31st October 2003;

(e) in relation to a “Y” licence the period commencing on 1st July 2003 and ending on 31st December 2003;

(f) in relation to a “Z” licence the period commencing on 1st July 2003 and ending on 31st December 2003;

“the principal regulations” means the Fishing Regulations Order 1987.

#### **Relationship with principal Regulations**

4. For so long as these Regulations are in force such of the provisions of the principal Regulations as are inconsistent with these Regulations shall not be in force, but except as aforesaid the provisions of the principal Regulations remain in force and shall be complied with in addition to those of these Regulations.

#### **Types of Licence**

5.—(1) For the purpose of these Regulations there shall be the following categories of licence —

(a) an ‘L’ licence;

(b) an ‘R’ licence;

(c) an ‘S’ licence;

(d) an ‘X’ licence ;

(e) a ‘Y’ licence; and

(f) a 'Z' licence.

(2) An 'L' licence issued under these Regulations shall permit the catching of Toothfish (*Dissostichus eleginoides*).

(3) An 'R' licence issued under these Regulations shall permit the catching or taking of all species of the family Skate (*Rajidae*) and shall not permit the taking of other species of finfish or squid of any kind.

(4) An 'S' licence issued under these Regulations shall permit the catching or taking of Blue Whiting (*Micromesistius australis*) and Hoki (*Macruronus magellanicus*).

(5) An 'X' licence issued under these Regulations shall authorise the catching or taking of squid of the species *Loligo gahi*.

(6) A 'Y' licence issued under these Regulations shall permit the catching or taking of any finfish, that is to say vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case include Toothfish (*Dissostichus eleginoides*) or Skate (*Rajidae*) or squid of any kind.

(7) A 'Z' licence issued under these Regulations shall permit the catching or taking of any finfish except Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) or Skate (*Rajidae*) that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*), Skate (*Rajidae*) or squid of any kind:

Provided that a "by-catch" which, in the reasonable opinion of the Director of Fisheries could not reasonably be avoided, shall not be deemed to have been caught or taken without the authority of a licence.

### **Applications for Licences**

6.—(1) Applications for licences in respect of the whole or any part of any fishing season shall be made to the Director of Fisheries at the Falkland Islands Fisheries Department, P.O. Box 598, Stanley, Falkland Islands.

(2) Any application to which paragraph (1) of this regulation relates shall be made so as to be received there by Monday 14<sup>th</sup> April 2003.

(3) The Director of Fisheries in his discretion may consider an application lodged after the date mentioned in paragraph (2) of this regulation but shall not be bound to do so.

### **The Schedule and its Tables**

7.—(1) Table 1 of the Schedule to these Regulations applies in respect of the fees payable for type 'L' licences.

- (2) Table 2 of the Schedule to these Regulations applies in respect of the fees payable for type 'R' licences.
- (3) Table 3 of the Schedule to these Regulations applies in respect of the fees payable for type 'S' licences.
- (4) Table 4 of the Schedule to these Regulations applies in respect of the fees payable for type 'X' licences.
- (5) Table 5 of the Schedule to these Regulations applies in respect of the fees payable for type 'Y' licences.
- (6) Table 6 of the Schedule to these Regulations applies in respect of the fees payable for type 'Z' licences.
- (7) All fees payable under this regulation shall be paid in pounds Sterling and in accordance with the principal Regulations.
- (8) The explanatory notes at the commencement of each Table in the Schedule to these Regulations are for guidance only and shall not have legislative effect.
- (9) Transhipping Licences: all fishing vessels licences will be endorsed as valid for transhipment operations on Berkeley Sound, i.e vessels licensed to fish will also be permitted to tranship without further charge. Vessels not licensed to fish, including refrigerated cargo vessels, which wish to tranship (and vessels wishing to tranship before or after their allocated licence period) must obtain a Transhipment or Transport licence. Transhipment licences once issued will be strictly non-refundable even if the vessel requesting a licence does not arrive to use it. Where a fishing vessel is licensed to fish for 3 months or longer within the six-month season, the transhipment licence will be extended to apply to the full six months season. The fee for transhipment and export licences for the period 1<sup>st</sup> July 2003 to the 31<sup>st</sup> December 2003 shall be £150 per transhipment operation.

Made this 28<sup>th</sup> day of March 2003

H J S Pearce,  
*Governor.*

## THE SCHEDULE

### PROVISION AS TO FISHING LICENCES IN RESPECT OF THE FISHING SEASON

#### TABLE 1

##### Toothfish - Type "L" Licences

(Explanatory notes:

1. These notes are not of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to longliners licensed to take Toothfish (*Dissostichus eleginoides*) only.
3. The season for this type of licence commences on 1st July 2003 and ends on 31st December 2003.
4. Fees set out in this Table are payable in respect of the number of months for which the licence is valid.)

#### **Effective text (of legislative effect)**

- A. A licence is not transferable.

#### **FEE**

Fee payable per licensed month is:

£24,244

#### TABLE 2

##### Skate - Type "R" Licences

(Explanatory notes :

1. These notes are not of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take Skate (*Rajidae*) only.
3. The season for this type of licence commences on 1st July 2003 and ends on 31st December 2003 and will be subject to a closed area and provisions of the Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990.
4. Fees calculated by the Formula set out in this Table are payable in respect of the number of months for which the licence is valid.)

#### **Effective text (of legislative effect)**

- A. In the following Formula, "GT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

- B. A licence is not transferable.

### FORMULA

Fee payable per licence month is the result of:

$$£(2.42 * GT) + 19554$$

### TABLE 3

Finfish only -Species restricted - Type "S" Licence

(Explanatory notes:

1. These notes are not of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to trawlers equipped with Surimi factories, licensed to take Blue Whiting (*Micromesistius australis*) and Hoki (*Macruronus magellanicus*).
3. The season for this type of licence commences on 1st July 2003 and ends on 31st December 2003 and will be subject to the Fishing (Nets and Supplementary Equipment) Regulations Order 1990.
4. Fees calculated by the Formula set out in this Table are payable in respect of the number of months for which the licence is valid.)

#### Effective text (of legislative effect)

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

### FORMULA

Fee payable per licensed month is the result of:

$$£(18.189 * GT) + 48416$$

### TABLE 4

Squid - Type "X" Licences

(Explanatory notes:

1. These notes are not of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take squid of the species *Loligo gahi*.
3. The season for this type of licence commences on 1st August 2003 and ends on 31st October 2003 and is exempt from the Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990.
4. Fees calculated by the Formula set out in this Table are for the full season.)

**Effective text (of legislative effect)**

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

**FORMULA**

Fee payable is the result of:

$$£(33.34 * GT) + 59088$$

**TABLE 5**

Finish only - Type "Y" Licences

(Explanatory notes:

1. These notes are not of legislative effect but are for guidance only.
2. Fees calculated by the formula set out in this Table apply to trawlers licensed to take finfish species with the exception of Toothfish (*Dissostichus eleginoides*), Skate (*Rajidae*) or squid.
3. The season for this type of licence commences on the 1st July 2003 and ends on 31st December 2003 and will be subject to a closed area and the Fishing (Nets and Supplementary Equipment) Regulations Order 1990.
4. Fees calculated by the Formula set out in this table are payable in respect of the number of months for which the licence is valid.)

**Effective text (of legislative effect)**

A. In the following Formula, "GT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

**FORMULA**

The fee payable per licensed month of fishing is calculated by adding £5,000 to the relevant Finfish (Species Restricted) type "Z" licence fee, taking account of the GT of the vessel.

**TABLE 6**

Finfish Only - Species Restricted - Type "Z" Licences

(Explanatory notes:

1. These notes are not of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to Trawlers licensed to take all finfish species with the exception of Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) and Skate (*Rajidae*) or squid.



3. The season for this type of licence commences on 1st July 2003 and ends on the 31st December 2003 and will be subject to a closed area and the Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990.

4. Fees calculated by the Formula set out in this Table are payable in respect of the number of months for which the licence is valid.)

**Effective text (of legislative effect)**

A. In the following Formula, "GT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed;

B. A licence is not transferable.

**FORMULA**

Fee payable per licensed month is the result of:

$$£(5.882 * GT) + 10333$$

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## SUBSIDIARY LEGISLATION

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### ROAD TRAFFIC

#### Ross Road (Temporary Clearway) Regulations Order 2003

S. R. & O. No: 12 of 2003

*Made: .....8 April 2003*

*Published: .....17 April 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 59 of the Road Traffic Ordinance (Title 63.1) and of all other powers enabling me in that behalf, I make the following Order —

#### **Citation and commencement**

1. This Order may be cited as the Ross Road (Temporary Clearway) Regulations Order 2003.

#### **Interpretation**

2. In this Order —

“a no waiting day” means any day, except Saturdays and Sundays, in the period 28<sup>th</sup> April 2003 to 23<sup>rd</sup> May 2003 inclusive of both of those dates;

“Ross Road” means the length of Ross Road from the eastern side of the junction of that road with Reservoir Road to the west side of its junction with Philomel Street; and

“wait” in relation to motor vehicle means cause or permit that motor vehicle to come to a halt or stop, park, station or leave in position.

#### **Clearway**

- 3.—(1) Except as —

- (a) is necessary so as to permit a passenger or passengers to alight;
- (b) is necessary so as to permit goods to be loaded or unloaded;
- (c) may be permitted or required by a police officer in uniform;
- (d) is not reasonably avoidable having regard to the exigencies of traffic; or
- (e) is occasioned by —

- (i) a mechanical failure of the motor vehicle in question;
- (ii) a road traffic accident;
- (iii) the need to avoid damage to some other property or injury or death to some other person,

the driver of a motor vehicle shall not cause it to wait in Ross Road between the hours of 8 in the morning and 5 in the afternoon on no waiting days.

(2) A person who contravenes paragraph (1) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

Made this 8<sup>th</sup> day of April 2003

R T Jarvis  
*Acting Governor*

---

EXPLANATORY NOTE

*(not forming part of the above Order)*

This Order provides for a temporary clearway in Ross Road operative between 8am and 5pm on Mondays to Fridays on and between 28<sup>th</sup> April 2003 and 23<sup>rd</sup> May 2003.

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**THE  
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*12th May 2003*

*No. 9*

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The following are published in this Supplement -

**Education (Amendment) Bill 2003;**

**Road Traffic (Amendment) Bill 2003.**

**Education (Amendment) Bill 2003**

(No: of 2003)

ARRANGEMENT OF PROVISIONS

Clause

1. Short title and commencement
2. Amendment of section 9 of the Education Ordinance
3. Amendment of section 57 of the Education Ordinance

**EDUCATION (AMENDMENT) BILL 2003**

(No: of 2003)

*(assented to: 2003)*  
*(commencement: in accordance with section 1)*  
*(published: 2003)*

A BILL

for

AN ORDINANCE

To amend the Education Ordinance (Title 29.1)

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1. This Ordinance may be cited as the Education (Amendment) Ordinance 2003 and comes into force on such date as may be notified by the Governor by Notice published in the *Gazette*.

**Amendment of section 9 of the Education Ordinance**

2. Section 9 of the Education is amended —

(a) in subsection (2) by replacing the words “14<sup>th</sup> March” with the words “14<sup>th</sup> October”; and

(b) by repealing subsection (3).

**Amendment of section 57 of the Education Ordinance**

3. Section 57 of the Education Ordinance is amended —

(a) by replacing subsections (2), (3) and (4) with the following subsections —

“(2) Each academic year shall be divided into three terms, the date of the beginning and ending of which shall be appointed by Notice published in the *Gazette*. Each of those terms shall be divided into two portions by a half term holiday (during which pupils shall not be obliged to attend school) beginning and ending on such dates as shall be so appointed. Each term shall begin on a Tuesday, the first term of the academic year shall end on such date before 8<sup>th</sup> December as shall be appointed by the Notice and the second and third terms of the academic year shall each end on a Friday appointed by the Notice. The effect of any Notice published in accordance with this subsection in respect of any academic year shall be that they shall be not less than 190 days in that academic year on which pupils of compulsory education age are required to attend school.

(3) In respect of the first term of an academic year, the half term holiday shall include three days which are not a Saturday or a Sunday and in the second and third terms of an academic year, the half term holiday shall include six days which are not a Saturday or a Sunday.

(4) There shall be a vacation of not less than 38 days in length between the end of the first term of an academic year and the beginning of the second term of that academic year, a vacation of not less than 14 days in length between the end of the second term of an academic year and the beginning of the third term of that academic year and a vacation of not less than 21 days in length between the end of the third term of an academic year and the beginning of the first term of the next following academic year. Public holidays falling within a vacation shall be counted as forming part of that vacation.”; and

(b) in subsection (6) the words “during the December of the preceding year” shall be replaced by the words “during the month of July preceding the commencement of the academic year”.

---

#### OBJECTS AND REASONS

To make further minor changes to the Education Ordinance consequent upon the change in the commencement date of the academic year due to take place on 1<sup>st</sup> September 2003.

**Road Traffic (Amendment) Bill 2003**

(No: of 2003)

**ARRANGEMENT OF PROVISIONS**

Clause

1. Short title
2. Amendment of Road Traffic Ordinance

**ROAD TRAFFIC (AMENDMENT) BILL 2003**

(No: of 2003)

*(assented to: 2003)*  
*(commencement: upon publication)*  
*(published: 2003)*

**A BILL**

for

**AN ORDINANCE**

To amend the Road Traffic Ordinance (Title 63.1) so as to permit certain places which would otherwise be roads to which the Road Traffic Ordinance applies to be excluded from the operation of that Ordinance either wholly or to a limited extent.

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance 2003.

**Amendment of Road Traffic Ordinance**

2. The Road Traffic Ordinance (Title 63.1) is amended —

(a) in the definition of “road” in section 2(1) by inserting after the word “road” in the first line of that definition the words “except as otherwise provided by Order under subsection (3) of this section”; and

(b) by adding the following subsections to section 2 —

“(3) The Governor may by Order provide that any street, thoroughfare, highway, lane, court, alley, passage or open place within Stanley or within a radius of 4 miles of the



boundary thereof and specified by that Order shall be excluded from the operation of the subsequent provisions of this Ordinance.

(4) An Order under subsection (3) may be made so as to apply only in respect of —

(a) vehicles of a class or type or classes or types specified in the Order; and

(b) to use of such vehicles by persons under a specified age.”

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#### OBJECTS AND REASONS

As per the Long Title of this Bill.

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The following is published in this Supplement -

**Ross Road (Temporary Clearway) Regulations Order (Extension of operation) Regulations Order 2003, (S. R. & O. No. 13 of 2003).**

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**SUBSIDIARY LEGISLATION**

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**ROAD TRAFFIC**

**Ross Road (Temporary Clearway) Regulations Order (Extension of operation)  
Regulations Order 2003**

S. R. & O. No: 13 of 2003

*Made: 20<sup>th</sup> May 2003*

*Published: 22<sup>nd</sup> May 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 59 of the Road Traffic Ordinance (Title 63.1) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Ross Road (Temporary Clearway) Regulations Order (Extension of operation) Regulations Order 2003.

**Interpretation**

2. In this Order, “the principal Order” means the Ross Road (Temporary Clearway) Regulations Order 2003(a).

**Amendment of principal Order**

3. The definition of “no waiting day” in article 2 of the principal Order is amended by replacing the words “23<sup>rd</sup> May 2003” with the words “30<sup>th</sup> May 2003”.

Made this twentieth day of May 2003

H J S Pearce  
Governor

---

**EXPLANATORY NOTE**  
*(not forming part of the above Order)*

This Order extends the temporary clearway in Ross Road so that it will now expire on 30<sup>th</sup> May 2003.

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**(a) SR& O No 12 of 2003**



**THE  
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*Vol. 14*

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*No. 11*

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The following is published in this Supplement -

**Ross Road (Temporary Clearway) Regulations Order (Extension of Operation)  
(No 2) Regulations Order 2003, (S. R. & O. No: 14 of 2003).**

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## SUBSIDIARY LEGISLATION

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### ROAD TRAFFIC

#### **Ross Road (Temporary Clearway) Regulations Order (Extension of Operation) (No 2) Regulations Order 2003**

S. R. & O. No: 14 of 2003

*Made: 29<sup>th</sup> May 2003*

*Published 30<sup>th</sup> May 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 59 of the Road Traffic Ordinance (Title 63.1) and of all other powers enabling me in that behalf, I make the following Order —

#### **Citation**

1. This Order may be cited as the Ross Road (Temporary Clearway) Regulations Order (Extension of Operation) (No 2) Regulations Order 2003.

#### **Further amendment of Ross Road (Temporary Clearway) Regulations Order 2003**

2. The Ross Road (Temporary Clearway) Regulations Order 2003(a), as amended by the Ross Road (Temporary Clearway) Regulations Order (Extension of Operation) Regulations Order 2003(b), is further amended in the definition of “no waiting day” in article 2 by replacing the words “30<sup>th</sup> May 2003” with the words “26<sup>th</sup> March 2004”.

Made this twenty-ninth day of May 2003

H J S Pearce  
Governor

---

#### EXPLANATORY NOTE

*(not forming part of the above Order)*

This Order further extends the period of operation of the temporary clearway in Ross Road to 26<sup>th</sup> March 2004.

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(a) SR&O No 12 of 2003

(b) SR&O No 13 of 2003

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The following are published in this Supplement -

**Appropriation Ordinance 2003, (No: 6 of 2003);**

**Finance Ordinance 2003, (No: 7 of 2003);**

**Supplementary Appropriation (2002-2003) (No 2) Ordinance 2003, (No: 8 of 2003);**

**Licensing (Amendment) (No 2) Ordinance 2003, (No: 11 of 2003);**

**Education (Amendment) Ordinance 2003, (No: 14 of 2003);**

**Road Traffic (Amendment) Ordinance 2003, (No: 15 of 2003);**

**Customs Resolution of the Legislative Council, (No: 1 of 2003).**

**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Appropriation Ordinance 2003**

(No: 6 of 2003)

ARRANGEMENT OF PROVISIONS

**Section**

1. Short title
2. Appropriation of £43,280,790 for the service of the year 2003/04

**Schedule**



**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**APPROPRIATION ORDINANCE 2003**

(No: 6 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: on publication)*  
*(published: 10 June 2003)*

**AN ORDINANCE**

To provide for the service of the Financial Year commencing on 1 July 2003 and ending on 30 June 2004.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Appropriation Ordinance 2003.

**Appropriation of £43,280,790 for the service of the year 2003/2004**

2. The Financial Secretary may cause to be issued out of the Consolidated Fund and applied to the service of the year commencing on 1 July 2003 and ending on 30 June 2004 (“the financial year”), sums not exceeding in aggregate the sum of Forty-three million, Two hundred and Eighty thousand, Seven hundred and Ninety pounds (£43,280,790) which sum is granted and shall be appropriated for the purposes and to defray the charges of the several services expressed and particularly mentioned in the Schedule hereto and which will come in course of payment during the financial year.

## SCHEDULE

NUMBER	HEAD OF SERVICE	Total Operating Budget £	Less Internal Charges £	Less Capital Charges £	Net Operating Budget £
<b>OPERATING BUDGET</b>					
100	Aviation	2,110,370	29,640	282,990	1,797,740
150	Posts and Telecommunications	425,130	14,400	1,680	409,050
200	Health and Social Services	5,378,390	138,700	385,900	4,853,790
250	Education and Training	4,463,120	131,530	397,070	3,934,520
300	Customs and Immigration	240,600	1,140	2,550	236,910
320	Fisheries	6,662,910	554,830	191,470	5,916,610
350	Public Works Department	8,598,230	295,410	1,686,550	6,616,270
390	Fox Bay Village	143,360	500	22,360	120,500
400	Agriculture	1,262,000	21,500	115,950	1,124,550
451	AG's Chambers	500,240	1,400	2,740	496,100
452	Registry	51,220	1,150	200	49,870
453	Court Services	198,100	500	440	197,160
500	Falkland Islands Defence Force	373,710	7,000	44,710	322,000
551	Police & Prisons	594,060	10,800	11,890	571,370
552	Fire & Rescue Service	396,350	17,400	71,730	307,220
600	Central Administration & Current Reserves	3,824,160	68,270	123,820	3,632,070
603	Investment Income & Public Debt	215,500	0	0	215,500
609	Taxation	248,220	2,830	2,780	242,610
610	Falkland Islands Training & Enterprise Cttee	509,400	1,000	0	508,400
620	Department of Mineral Resources	380,380	3,200	3,020	374,160
750	The Governor	171,650	4,600	5,800	161,250
800	Legislature	330,900	3,800	1,500	325,600
850	Falkland Islands Government Office - London	542,220	0	30,060	512,160
<b>TOTAL OPERATING BUDGET</b>		<b>37,620,220</b>	<b>1,309,600</b>	<b>3,385,210</b>	<b>32,925,410</b>
<b>CAPITAL BUDGET</b>					
950	Programmed Expenditure for 2003/04	5,769,000	502,900	-	5,266,100
<b>TRANSFERS</b>					
990	Programmed Expenditure for 2003/04	5,089,280	-	-	5,089,280
<b>TOTAL EXPENDITURE</b>		<b>48,478,500</b>	<b>1,812,500</b>	<b>3,385,210</b>	<b>43,280,790</b>

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
Clerk of Councils.

**ELIZABETH II**



**FALKLAND ISLANDS**

---

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Finance Ordinance 2003**

(No: 7 of 2003)

**ARRANGEMENT OF PROVISIONS**

Section

1. Short title and commencement
2. Amendment of vehicle licence fees
3. Increase in Customs services fees
4. Increase in Retirement Pensions and Contributions
5. Reduction in gross annual earnings limit under the Camp Retirement Pensions Contributions Assistance Scheme
6. Increase in Harbour Dues

**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**FINANCE ORDINANCE 2003**

(No: 7 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: in accordance with section 1)*  
*(published: 10 June 2003)*

**AN ORDINANCE**

To amend various laws so as to increase fees, charges, contributions and benefits.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1.—(1) This Ordinance may be cited as the Finance Ordinance 2003.

(2) This Ordinance shall come into force as follows —

- (a) section 1 shall come into force on publication of this Ordinance in the *Gazette*;
- (b) sections 2 and 3 shall come into force on 1 July 2003, and
- (c) sections 4, 5 and 6 shall come into force on 1 January 2004.

**Amendment of vehicle licence fees**

2. Section 4(1) of the Road Traffic Ordinance(a) (Title 63) is amended —

---

(a) (Cap 60)

- (a) in subparagraph (a), by replacing the sum “£33” with the sum “£35”;
- (b) in subparagraph (b), by replacing the sum “£77” with the sum “£80”;
- (c) in subparagraph (c), by replacing the sum “£121” with the sum “£127”; and
- (d) in subparagraph (d) by replacing the sum “£27.50” with the sum “£29”.

#### **Increase in Customs services fees**

**3.** The Customs (Fees) Regulations 1999**(b)** (Title 26.1.1) are amended —

- (a) in regulation 3(a)(i), by replacing the sum “£58.60” with the sum “£60.60”;
- (b) in regulation 3(a)(ii), by replacing the sum “£29.30” with the sum “£30.30”;
- (c) in regulation 3(b)(ii), by replacing the sum “£87.90” with the sum “£90.90”;
- (d) in regulation 3(c)(i), by replacing the sum “£87.90” with the sum “£90.90”;
- (e) in regulation 3(c)(ii), by replacing the sum “£43.95” with the sum “£45.45”;
- (f) in regulation 4(1), by replacing the sum “£33” with the sum “£36” and the sum “£165” with the sum “£181”; and
- (g) in regulation 4(2), by replacing the sum “£16.50” with the sum “£18” and the sum “£82.50” with the sum “£91”.

#### **Increase in Retirement Pensions and Contributions**

**4.** The Retirement Pensions (Prescribed Rates) Regulations 1996**(c)** are amended —

- (a) in regulation 3 —
  - (i) in subparagraph (a) by replacing the sum “£100” with the sum “£102”; and
  - (ii) in subparagraph (b) by replacing the sum “£56” with the sum “£57”.
- (b) in regulation 5 —
  - (i) in subparagraph (1)(a) by replacing the sum “£8.50” with the sum “£9.50”;
  - (ii) in subparagraph (1)(b) by replacing the sum “£17” with the sum “£19”;
  - (iii) in subparagraph (2) by replacing the sum “£8.50” with the sum “£9.50”;

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**(b)** SR&O No 10 of 1999

**(c)** SR&O No 39 of 1996

- (iv) in subparagraph (3)(a) by replacing the sum “£17” with the sum “£19”;
- (v) in subparagraph (3)(b) by replacing the sum “£21.40” with the sum “£22.40”; and
- (vi) in subparagraph (4) by replacing the sum “£17” with the sum “£19”.

**Reduction in gross annual earnings limit under the Camp Retirement Pensions Contributions Assistance Scheme**

5. The Retirement Pensions Contributions (Exemptions) Order 2001(d) is amended in article 3(2)(c) by replacing the sum “£15,000” with the sum “£8,320” and deleting the remainder of that subparagraph.

**Increase in Harbour Dues**

6. The table of dues in paragraph 1 of Schedule III of the Harbour Regulations(e) (Title 57.3.1) is replaced by the following —

Yachts		£50
Vessels	under 15 tons	£55
	over 15 tons and under 30 tons	£100
	over 30 tons and under 50 tons	£185
	over 50 tons and under 800 tons	£280
	over 800 tons and under 1,000 tons	£360
	over 1,000 tons and under 1,500 tons	£410
	over 1,500 tons and under 2,000 tons	£500
	over 2,000 tons and under 5,000 tons	£610
	over 5,000 tons and under 7,000 tons	£740
	over 7,000 tons and under 10,000 tons	£1,090
	over 10,000 tons and under 15,000 tons	£1,370
	over 15,000 tons and under 20,000 tons	£1,590
	Vessels of 20,000 tons and more	£1,850

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

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(d) SR&O No 4 of 2001  
(e) (Cap 30)

**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Supplementary Appropriation (2002-2003)(No 2) Ordinance 2003**

(No: 8 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Appropriation of further sum
3. Replenishment of Contingencies Fund

Schedule

**ELIZABETH II**



**FALKLAND ISLANDS**

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**SUPPLEMENTARY APPROPRIATION (2002-2003) (No 2) ORDINANCE 2003**

(No: 8 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: on publication)*  
*(published: 10 June 2003)*

**AN ORDINANCE**

To appropriate and authorise the withdrawal from the Consolidated Fund of the additional sum of £623,970 for the service of the financial year ending 30 June 2003.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short Title**

1. This Ordinance may be cited as the Supplementary Appropriation (2002-2003)(No 2) Ordinance 2003.

**Appropriation of further sum**

2. The Financial Secretary may for the purposes specified in the Schedule cause to be withdrawn from the Consolidated Fund and applied to the service of the year commencing on 1 July 2002 and ending on 30 June 2003 ("the financial year") the further sum of £623,970 in addition to sums already appropriated by Ordinance.

**Replenishment of Contingencies Fund**

3. The Financial Secretary shall out of the sum appropriated by Section 2 replenish the Contingencies Fund to the extent that sums specified in the Schedule, prior to the commencement of this Ordinance, have been withdrawn from the Contingencies Fund by the



authority of Contingencies Warrant Numbers 6 to 11 of 2002-2003 (the authority of which lapses on the commencement of this Ordinance).

## SCHEDULE

<b>PART I OPERATING EXPENDITURE</b>		£
0200	Health & Social Services	93,300
0250	Education & Training	32,610
0300	Customs & Immigration	7,000
0320	Fisheries	6,060
0450	Justice	10,000
0609	Taxation	300,000
0750	The Governor	2,500
<b>TOTAL OPERATING EXPENDITURE</b>		<b>451,470</b>
<b>PART II CAPITAL EXPENDITURE</b>		
0950	Capital	172,500
<b>TOTAL SUPPLEMENTARY EXPENDITURE</b>		<b>623,970</b>

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

**ELIZABETH II**



**FALKLAND ISLANDS**

---

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Licensing (Amendment) (No 2) Ordinance 2003**

(No: 11 of 2003)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Short title
2. Amendment of section 74(1) of the Licensing Ordinance 1994

**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**LICENSING (AMENDMENT) (NO 2) ORDINANCE 2003**

(No: 11 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: upon publication)*  
*(published: 10 June 2003)*

**AN ORDINANCE**

To amend the Licensing Ordinance 1994.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Licensing (Amendment) (No 2) Ordinance 2003.

**Amendment of section 74(1) of the Licensing Ordinance 1994**

2. Section 74(1) of the Licensing Ordinance 1994(a) is amended by omitting therefrom the words “without the express consent of the licensee of the premises or his servant or agent”.

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(a) No 18 of 1994

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Education (Amendment) Ordinance 2003**

(No: 14 of 2003)

**ARRANGEMENT OF PROVISIONS**

Section

1. Short title and commencement
2. Amendment of section 9 of the Education Ordinance
3. Amendment of section 57 of the Education Ordinance

**ELIZABETH II**



**FALKLAND ISLANDS**

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**EDUCATION (AMENDMENT) ORDINANCE 2003**

(No: 14 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: in accordance with section 1)*  
*(published: 10 June 2003)*

**AN ORDINANCE**

To amend the Education Ordinance (Title 29.1)

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1. This Ordinance may be cited as the Education (Amendment) Ordinance 2003 and comes into force on such date as may be notified by the Governor by Notice published in the *Gazette*.

**Amendment of section 9 of the Education Ordinance**

2. Section 9 of the Education is amended —

(a) in subsection (2) by replacing the words “14<sup>th</sup> March” with the words “14<sup>th</sup> October”; and

(b) by repealing subsection (3).

**Amendment of section 57 of the Education Ordinance**

3. Section 57 of the Education Ordinance is amended —

(a) by replacing subsections (2), (3) and (4) with the following subsections —

“(2) Each academic year shall be divided into three terms, the date of the beginning and ending of which shall be appointed by Notice published in the *Gazette*. Each of those terms shall be divided into two portions by a half term holiday (during which pupils shall not be obliged to attend school) beginning and ending on such dates as shall be so appointed. Each term shall begin on a Tuesday, the first term of the academic year shall end on such date before 8<sup>th</sup> December as shall be appointed by the Notice and the second and third terms of the academic year shall each end on a Friday appointed by the Notice. The effect of any Notice published in accordance with this subsection in respect of any academic year shall be that they shall be not less than 190 days in that academic year on which pupils of compulsory education age are required to attend school.

(3) In respect of the first term of an academic year, the half term holiday shall include three days which are not a Saturday or a Sunday and in the second and third terms of an academic year, the half term holiday shall include six days which are not a Saturday or a Sunday.

(4) There shall be a vacation of not less than 38 days in length between the end of the first term of an academic year and the beginning of the second term of that academic year, a vacation of not less than 14 days in length between the end of the second term of an academic year and the beginning of the third term of that academic year and a vacation of not less than 21 days in length between the end of the third term of an academic year and the beginning of the first term of the next following academic year. Public holidays falling within a vacation shall be counted as forming part of that vacation.”; and

(b) in subsection (6) the words “during the December of the preceding year” shall be replaced by the words “during the month of July preceding the commencement of the academic year”.

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

**ELIZABETH II**



**FALKLAND ISLANDS**

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**HOWARD JOHN STREDDER PEARCE C.V.O.,**  
*Governor.*

**Road Traffic (Amendment) Ordinance 2003**

(No: 15 of 2003)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Short title
2. Amendment of Road Traffic Ordinance



**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**ROAD TRAFFIC (AMENDMENT) ORDINANCE 2003**

(No: 15 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: upon publication)*  
*(published: 10 June 2003)*

**AN ORDINANCE**

To amend the Road Traffic Ordinance (Title 63.1) so as to permit certain places which would otherwise be roads to which the Road Traffic Ordinance applies to be excluded from the operation of that Ordinance either wholly or to a limited extent.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance 2003.

**Amendment of Road Traffic Ordinance**

2. The Road Traffic Ordinance (Title 63.1) is amended —

(a) in the definition of “road” in section 2(1) by inserting after the word “road” in the first line of that definition the words “except as otherwise provided by Order under subsection (3) of this section”; and

(b) by adding the following subsections to section 2 —

“(3) The Governor may by Order provide that any street, thoroughfare, highway, lane, court, alley, passage or open place within Stanley or within a radius of 4 miles of the

boundary thereof and specified by that Order shall be excluded from the operation of the subsequent provisions of this Ordinance.

(4) An Order under subsection (3) may be made so as to apply only in respect of —

- (a) vehicles of a class or type or classes or types specified in the Order; and
- (b) to use of such vehicles by persons under a specified age.”

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

**LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS**

**Customs Ordinance (Title 26)  
(section 5)**

**CUSTOMS RESOLUTION OF THE LEGISLATIVE COUNCIL**

No: 1 of 2003

RESOLVED by the Legislative Council, under section 5 of the Customs Ordinance (Title 26), on the 28<sup>th</sup> day of May 2003, as follows —

1. That the Customs Order No. 6 of 1948 is amended by the substitution for paragraph 2 thereof the following —

“2. The following import duties of customs shall be payable —

Item	Article	Rate of Duty
1.	Beer per litre	£0.23
2.	Wines per litre	£0.60
3.	Fortified Wines per litre	£0.71
4.	Spirituous Beverages per litre.	£4.84
5.	Spirits per litre	£8.83
6.	Tobacco per kilo:	
	(a) Cigars	£166.14
	(b) Cigarettes	£120.18
	(c) Tobacco	£109.20”

2. This resolution may be cited as the Customs (Amendment of Import Duties) Resolution 2003 and comes into force on the 29<sup>th</sup> day of May 2003.

C Anderson MBE  
*Clerk of Councils*

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**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*19th June 2003*

*No. 13*

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The following are published in this Supplement -

**Museum and National Trust (Amendment) Ordinance 2003, (No: 10 of 2003);**

**Misuse of Drugs (Penalties Alteration) Ordinance 2003, (No: 12 of 2003);**

**Criminal Procedure and Investigations Ordinance 2003, (No: 13 of 2003).**

**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Museum and National Trust (Amendment) Ordinance 2003**

(No: 10 of 2003)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Short title and commencement
2. Interpretation
3. Amendment of the Principal Ordinance

ELIZABETH II



FALKLAND ISLANDS

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**MUSEUM AND NATIONAL TRUST (AMENDMENT) ORDINANCE 2003**

(No: 10 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: upon publication)*  
*(published: 19 June 2003)*

**AN ORDINANCE**

To amend the Museum and National Trust Ordinance 1991.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1. This Ordinance may be cited as the Museum and National Trust (Amendment) Ordinance 2003 and shall come into force upon publication in the *Gazette*.

**Interpretation**

2. In this Ordinance “the principal Ordinance” means the Museum and National Trust Ordinance 1991(a).

**Amendment of the Principal Ordinance**

3. The Schedule to the Principal Ordinance is amended —

---

(a) No 31 of 1991

(a) by deleting paragraph 1 and substituting the following new paragraph 1—

“Subject to paragraph 2, all cheques and other bills of exchange drawn by or on behalf of the Trust shall be signed by two members of the Trust, by one member and the Secretary or by one member and the Museum Manager.”

(b) by deleting paragraph 2 and substituting the following new paragraph 2 —

“A cheque or other bill of exchange drawn by the Trust for a sum not exceeding £1,000 may be signed by one member of the Trust, by the Secretary or by the Museum Manager”.

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*



**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Misuse of Drugs (Penalties Alteration) Ordinance 2003**

(No: 12 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Citation and commencement
2. Increase in penalties

Schedule

ELIZABETH II



FALKLAND ISLANDS

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**MISUSE OF DRUGS (PENALTIES ALTERATION) ORDINANCE 2003**

(No: 12 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: upon publication)*  
*(published: 19 June 2003)*

AN ORDINANCE

To amend the Misuse of Drugs Ordinance (Title 49.3)

ENACTED by the Legislature of the Falkland Islands as follows —

**Citation and Commencement**

1. This Ordinance may be cited as the Misuse of Drugs (Penalties Alteration) Ordinance 2003 and shall come into force upon publication in the *Gazette*.

**Increase in penalties**

2.—(1) Subject to subsection (2), the Schedule to this Order shall have effect so as to alter the maximum penalties (imprisonment and fine) at present applicable under the provisions of the Misuse of Drugs Ordinance mentioned in the first column of that Schedule to the maximum period of imprisonment mentioned in the fourth column of that Schedule and the maximum level of the Standard Scale mentioned in the sixth column of that Schedule.

2.—(2) Nothing in subsection (1) or the Schedule to Order shall have effect in relation to any offence committed before this Ordinance comes into force.

SCHEDULE

<b>Section</b>	<b>Brief Description</b>	<b>Current Maximum Imprisonment</b>	<b>New Maximum Imprisonment</b>	<b>Current Maximum Fine</b>	<b>New Maximum Fine</b>
(a) s.3(1)	Importation of controlled drug – Class A and B	10 years	14 years except if the drug concerned is cannabis when it shall be 7 years	£1000	Level 10 except if the drug concerned is cannabis when it shall be Level 8
(b) s.3(1)	Importation of controlled drug – Class C	5 years	unchanged	£500	Level 6
(c) s.4	Production and supply of controlled drug – Class A and B	10 years	14 years, except if the drug concerned is cannabis when it shall be 7 years	£1000	Level 10 except if the drug concerned is cannabis when it shall be Level 8
(d) s.4	Production and supply of controlled drug – Class C	5 years	unchanged	£500	Level 6
(e) s.5(1)	Possession of controlled drug – Class A	7 years	unchanged	£700	Level 8
(f) s.5(1)	Possession of controlled drug – Class B	5 years	unchanged	£500	Level 6 except when the drug concerned is cannabis when it shall be Level 5
(g) s.5(1)	Possession of controlled drug – Class C	2 years	unchanged	£200	Level 4
(h) s.5(2)	Possession of controlled drug with intent to supply – Class A and B	10 years	14 years	£1000	Level 10 except when the drug concerned is cannabis when it shall be Level 8
(i) s.5(2)	Possession of controlled drug with intent to supply – Class C	5 years	unchanged	£500	Level 6

(j) s.6	Cultivation of cannabis	5 years	7 years	£500	Level 8
(k) s.8	Permitting the use of premises – Class A and B	10 years	14 years	£1000	Level 10 except if the drug concerned is cannabis when it shall be Level 8
(l) s.8	Permitting the use of premises – Class C	5 years	unchanged	£500	Level 6
(m) s.9	Offences relating to Opium	10 years	14 years	£1000	Level 10
(n) s.10(1) & (3)	Supply of drug related articles	6 months	unchanged	£200	Level 3
(o) s.12(2)	Contravention of directions	2 years	unchanged	£200	Level 4
(p) s.13(6)	Contravention of directions to pharmacists etc – Class A and B	10 years	14 years	£1000	Level 10
(q) s.13(6)	Contravention of directions to pharmacists etc – Class C	5 years	unchanged	£500	Level 6
(r) s.14(3)	Contravention of directions – Class A and B	10 years	14 years	£1000	Level 10
(s) s.14(3)	Contravention of directions – Class C	5 years	unchanged	£500	Level 6
(t) s.15(3)	Failure to comply with notice	—	unchanged	£200	Level 2
(u) s.15(4)	Providing false information	2 years	unchanged	£500	Level 4
(v) s.16	Miscellaneous offences	2 years	unchanged	£1000	Level 4
(w) s.18(1)	Commission of offences outside Falkland Islands	10 years	14 years	£1000	Level 10

(x) s.21(5) Obstruction of investigation                      2 years                      unchanged                      £500                      Level 4

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Criminal Procedure and Investigations Ordinance 2003**

(No: 13 of 2003)

ARRANGEMENT OF PROVISIONS

PART I  
INTRODUCTORY

Section

1. Short title and commencement
2. Interpretation

PART II  
DISCLOSURE  
*Introductory*

3. Application of this Part
4. General interpretation of this Part

*The main provisions*

5. Primary disclosure by the prosecutor
6. Primary disclosure: further provisions
7. Compulsory disclosure by the accused
8. Voluntary disclosure by the accused
9. Secondary disclosure by prosecutor
10. Application by accused for disclosure
11. Continuing duty of prosecutor to disclose
12. Prosecutor's failure to observe time limits
13. Faults in disclosure by the accused

*Time limits*

- 14. Time limits
- 15. Time limits: transitional

*Public interest*

- 16. Public interest: review for summary trials
- 17. Public interest: review in other cases
- 18. Applications: opportunity to be heard

*Confidentiality*

- 19. Confidentiality of disclosed information
- 20. Confidentiality: contravention

*Other provisions*

- 21. Rules of court
- 22. Other rules as to statutory disclosure
- 23. Common law rules as to disclosure

PART III  
CRIMINAL INVESTIGATIONS

- 24. Introduction
- 25. Code of Practice
- 26. Examples of disclosure provisions
- 27. Operation and revision of code
- 28. Effect of code
- 29. Common law rules as to criminal investigations

PART IV  
PRELIMINARY HEARINGS

*Introduction*

- 30. Introduction

*Preparatory hearings*

- 31. Power to order preparatory hearing
- 32. Timing of preparatory hearing etc
- 33. The preparatory hearing
- 34. Court rules
- 35. Later stages of trial

*Appeals*

- 36. Appeals to Court of Appeal

*Reporting restrictions*

- 37. Restrictions on reporting
- 38. Offences in connection with reporting

PART V  
RULINGS

- 39. Application of this Part
- 40. Meaning of pre-trial hearing
- 41. Power to make rulings
- 42. Restrictions on reporting
- 43. Offences in connection with reporting



**ELIZABETH II**



**FALKLAND ISLANDS**

---

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**CRIMINAL PROCEDURE AND INVESTIGATIONS ORDINANCE 2003**

(No: 13 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: in accordance with section 1)*  
*(published: 19 June 2003)*

**AN ORDINANCE**

To make provision about criminal procedure and criminal investigations.

ENACTED by the Legislature of the Falkland Islands as follows—

**PART I**  
**INTRODUCTORY**

**Short title and commencement**

1. This Ordinance may be cited as the Criminal Procedure and Investigations Ordinance 2003 and shall come into force on the first day of the second month following its publication in the *Gazette*.

**Interpretation**

2.—(1) Any reference in this Ordinance to “the 1996 Act” is a reference to the Criminal Procedure and Investigations Act 1996.

(2) Any reference in this Ordinance to a prosecutor deciding not to proceed with the case concerned shall be deemed to include a situation where a case is not proceeded with by reason of a *nolle prosequi* being entered by the Attorney General or the Attorney General in exercise of his powers under section 66 of the Constitution directing that the prosecution shall not proceed.

(3) Any power conferred by any provision of this Ordinance to make subsidiary legislation shall be construed as including power by that legislation made under that provision to apply, with or without modifications or exceptions, subordinate legislation made under the corresponding provision of the 1996 Act.

(4) For the purposes of this Ordinance an offence is a "serious summary offence" if —

(a) it is triable summarily; and

(b) the offence is punishable on summary conviction by a fine equal to or greater than the maximum level 5 on the standard scale or, if not so punishable on such conviction, by imprisonment for more than 12 months.

**PART II**  
**DISCLOSURE**  
*Introductory*

**Application of this Part**

**3.—**(1) This Part applies —

(a) where a person is charged with a summary offence, other than a serious summary offence, and in respect of which he pleads not guilty;

(b) where a person is charged with —

(i) an indictable offence and he is committed for trial for the offence concerned; or

(ii) a serious summary offence to which the accused has pleaded not guilty,

where no criminal investigation into the alleged offence was commenced before the commencement of this Part.

(2) For the purposes of this section a criminal investigation is an investigation which police officers or others have a duty to conduct with a view to it being ascertained —

(a) whether a person should be charged with an offence; or

(b) whether a person charged with an offence is guilty of it.

(3) Nothing in subsection (1)(a) shall have effect so as to require the prosecutor to make any disclosure under section 5 whether or not the accused has pleaded not guilty to the charge, but this subsection has effect without prejudice to any provisions of any rules under section 144 of the Magistrate's Courts Act 1980 for the time being having effect in the Falkland Islands.

**General interpretation of this Part**

**4.—**(1) References to the accused are to the person mentioned in section 3(1).

(2) Where there is more than one accused in any proceedings this Part applies separately in relation to each of the accused.

(3) References to the prosecutor are to any person acting as prosecutor, whether an individual or a body.

(4) References to material are to material of all kinds, and in particular include references to information, and objects of all descriptions.

(5) References to recording information are to putting it in a durable or retrievable form (such as writing or tape).

*The main provisions*

**Primary disclosure by the prosecutor**

5.—(1) Subject to section 3(3), the prosecutor must —

(a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which in the prosecutor's opinion might undermine the case for the prosecution against the accused, or

(b) give to the accused a written statement that there is no such material.

(2) For the purposes of this section prosecution material is material —

(a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or

(b) which, in pursuance of a code operative under Part III, he has inspected in connection with the case for the prosecution against the accused.

(3) Where material consists of information which has been recorded in any form the prosecutor discloses it for the purposes of this section —

(a) by securing that a copy is made of it and that the copy is given to the accused; or

(b) if in the prosecutor's opinion that it is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking steps to secure that he is allowed to do so;

and a copy may be in such a form as the prosecutor thinks fit and need not be in the same form as that in which the information has already been recorded.

(4) Where material consists of information which has not been recorded the prosecutor discloses it for the purposes of this section by securing that it is recorded in such form as he thinks fit and —

(a) by securing that a copy is made of it and that the copy is given to the accused, or

(b) if in the prosecutor's opinion that it is not practicable or not desirable, by allowing the accused to inspect it at a reasonable time and a reasonable place or by taking reasonable steps to secure that he is allowed to do so.

(5) Where material does not consist of information the prosecutor discloses it for the purposes of this section by allowing the accused to inspect it at a reasonable time and at a reasonable place or by taking steps to secure that he is allowed to do so.

(6) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(7) Material must not be disclosed under this section to the extent that—

(a) it has been intercepted in obedience to a warrant under any written law of the Falkland Islands that enables a warrant to be issued authorising the interception of communications and corresponds to section 2 of the Interception of Communications Act 1985 of the United Kingdom;

(b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

(8) The prosecutor must act under this section during the period which, by virtue of section 14, is the relevant period for this section.

### **Primary disclosure: further provisions**

**6.**—(1) This section applies where —

(a) the prosecutor acts under section 5; and

(b) before so doing he was given a document included, by virtue of section 26(3), in a code operative under Part III;

(2) In such a case the prosecutor must give the document to the accused at the same time as the prosecutor acts under section 5.

### **Compulsory disclosure by the accused**

**7.**—(1) Subject to subsections (2) to (4), this section applies where —

(a) this Part applies by virtue of section 3(1)(b); and

(b) the prosecutor complies with section 5 or purports to comply with it.

(2) Where this section applies, the accused must give a defence statement to the court and the prosecutor.

(3) For the purposes of this section a defence statement is a written statement —

- (a) setting out in general terms the nature of the accused's defence;
- (b) indicating the matters on which he takes issue with the prosecution; and
- (c) setting out, in the case of each such matter, the reason why he takes issue with the prosecution.

(4) If the defence statement discloses an alibi the accused must give particulars of the alibi in the statement, including —

- (a) the name and address of any witness the accused believes is able to give evidence in support of the alibi, if the name and address are known to the accused when the statement is given;
- (b) any information in the accused's possession which might be of material assistance in finding any such witness, if his name and address is not known to the accused when the statement is given.

(5) For the purposes of this section evidence in support of an alibi is evidence tending to show that by reason of the presence of the accused at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.

(6) The accused must give a defence statement under this section during the period which, by virtue of section 14, is the relevant period for this section.

### **Voluntary disclosure by the accused**

**8.—**(1) This section applies where —

- (a) this Part applies by virtue of section 3(1)(a), and
- (b) the prosecutor complies with section 5 or purports to comply with it;

(2) The accused —

- (a) may give a defence statement to the prosecutor; and
- (b) if he does so, must also give such a statement to the court.

(3) Subsections (3) to (5) of section 7 apply for the purposes of this section as they apply for the purposes of that section.

(4) If the accused gives a defence statement under this section he must give it during the period which, by virtue of section 14, is the relevant period for this section.

### **Secondary disclosure by prosecutor**

**9.—**(1) This section applies where the accused gives a defence statement under section 7 or 8.

(2) The prosecutor must—

(a) disclose to the accused any prosecution material which has not been previously disclosed to the accused and which might reasonably be expected to assist the accused's defence as disclosed by the defence statement given under section 7 or 8, or

(b) give to the accused a written statement that there is no material of a description mentioned in paragraph (a).

(3) For the purposes of this section prosecution material is material —

(a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused, or

(b) which, in pursuance of a code operative under Part III, he has inspected in connection with the case for the prosecution against the accused.

(4) Subsections (3) to (5) of section 5 (method by which prosecutor discloses) apply for the purposes of this section as they apply for the purposes of that section.

(5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes that it is not in the public interest and orders accordingly.

(6) Material must not be disclosed under this section to the extent that —

(a) it has been intercepted in obedience to a warrant under any written law of the Falkland Islands that enables a warrant to be issued authorising the interception of communications and corresponds to section 2 of the Interception of Communications Act 1985 of the United Kingdom; or

(b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

(7) The prosecutor must act under this section during the period which, by virtue of section 14, is the relevant period for this section.

### **Application by accused for disclosure**

**10.—**(1) This section applies where the accused gives a defence statement under section 7 or 8 and the prosecution complies with section 9 or purports to comply with it.

(2) If the accused has at any time reasonable cause to believe that there is prosecution material which might reasonably be expected to assist the accused's defence he may apply to the court for an order requiring the prosecutor to disclose such material to the accused.

(3) For the purposes of this section prosecution material is material —

(a) which is in the prosecutor's possession in connection with the case for the prosecution against the accused;

(b) which in accordance with a code operative under Part III, he has inspected in connection with the case for the prosecution against the accused, or

(c) which falls within subsection (4).

(4) Material falls within this subsection if in pursuance of a code operative under Part III the prosecutor must, if he asks for the material, be given a copy of it, or be allowed to inspect it in connection with the case for the prosecution against the accused.

(5) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes that it is not in the public interest to disclose it and orders accordingly.

(6) Material must not be disclosed under this section to the extent that —

(a) it has been intercepted in obedience to a warrant under any written law of the Falkland Islands that enables a warrant to be issued authorising the interception of communications and corresponds to section 2 of the Interception of Communications Act 1985 of the United Kingdom; or

(b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.

### **Continuing duty of prosecutor to disclose**

**11.—**(1) Subsection (2) applies at all times —

(a) the prosecutor complies with section 5 or purports to comply with it; and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(2) The prosecutor must keep under review the question whether at any given time there is prosecution material which —

(a) in his opinion might undermine the case for the prosecution against the accused, and

(b) has not been disclosed to the accused;

and if there is such material at any time the prosecutor must disclose it to the accused as soon as is reasonably practicable.

(3) In applying subsection (2) by reference to any given time the state of affairs at that time (including the case for the prosecution as it stands at that time) must be taken into account.

(4) Subsection (5) applies at all times —

(a) the prosecutor complies with section 9 or purports to comply with it, and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(5) The prosecutor must keep under review the question whether at any given time there is prosecution material which —

(a) might reasonably be expected to assist the accused's defence as disclosed by the defence statement given under section 7 or 8, and

(b) has not been disclosed to the accused.

(6) For the purpose of this section prosecution material is material —

(a) which is in the prosecutor's possession and came into his possession in connection with the case for the prosecution against the accused; or

(b) which, in pursuance of a code operative under Part III, he has inspected in connection with the case for the prosecution against the accused.

(7) Subsections (3) to (5) of section 5 (method by which prosecution discloses) apply for the purposes of this section as they apply for the purposes of that section.

(8) Material must not be disclosed under this section to the extent that the court, on an application by the prosecutor, concludes it is not in the public interest to disclose it and orders accordingly.

(9) Material must not be disclosed under this section to the extent that—

(a) it has been intercepted in obedience to a warrant under any written law of the Falkland Islands that enables a warrant to be issued authorising the interception of communications and corresponds to section 2 of the Interception of Communications Act 1985 of the United Kingdom; or

(b) it indicates that such a warrant has been issued or that material has been intercepted in obedience to such a warrant.



### **Prosecutor's failure to observe time limits**

**12.**—(1) This section applies if the prosecutor —

(a) purports to act under section 5 after the end of the period which, by virtue of section 14, is the relevant period for section 5, or

(b) purports to act under section 9 after the end of the period which, by virtue of section 14, is the relevant period for section 9.

(2) Subject to subsection (3), the failure to act during the period concerned does not on its own constitute grounds for staying the proceedings for abuse of process.

(3) Subsection (2) does not prevent the failure constituting such grounds if it involves such delay by the prosecutor that the accused is denied a fair trial.

### **Faults in disclosure by the accused**

**13.**—(1) This section applies where section 7 applies and the accused —

(a) fails to give a defence statement under that section;

(b) gives a defence statement under that section but does so after the end of the period which, by virtue of section 14, is the relevant period for section 7;

(c) sets out inconsistent defences in a defence statement given under section 7;

(d) at his trial puts forward a defence which is different from any defence set out in a defence statement given under section 7;

(e) at his trial adduces evidence in support of an alibi without having given particulars of the alibi in a defence statement given under section 7; or

(f) at his trial calls a witness to give evidence in support of an alibi without having complied with subsection (4)(a) or (b) of section 7 as regards the witness in giving a defence statement under that section.

(2) This section also applies where section 8 applies, the accused gives a defence statement under that section, and the accused —

(a) gives the statement after the end of the period which, by virtue of section 14, is the relevant period for section 8;

(b) sets out inconsistent defences in the statement;

(c) at his trial puts forward a defence which is different from any defence put forward in his statement;

(d) at his trial adduces evidence in support of an alibi without having complied with subsection (4)(a) or (b) of section 7 (as applied by section 8) as regards the witness in giving the statement.

(3) Where this section applies —

(a) the court, or with the leave of the court, any other party may make such comment as appears appropriate;

(b) the court or jury may draw such inferences as appear proper in deciding whether the accused is guilty of the offence concerned.

(4) Where the accused puts forward a defence which is different from any defence set out in a defence statement given under section 7 or 8, in doing anything under subsection (3) or in deciding whether to do anything under it the court shall have regard —

(a) to the extent of the difference in the defences, and

(b) to whether there is any justification for it.

(5) A person shall not be convicted of an offence solely on an inference drawn under subsection (3).

(6) Any reference in this section to evidence in support of an alibi shall be construed in accordance with section 7.

#### *Time limits*

#### **Time limits**

**14.—**(1) This section has effect for the purpose of determining the relevant period for sections 5, 7, 8 and 9.

(2) Subject to subsection (3), the relevant period is a period beginning and ending with such days as the Governor prescribes by regulations for the purpose of the section concerned.

(3) The regulations may do any one or more of the following —

(a) prescribe that the relevant period for any section shall if the court orders be extended (or further extended) by so many days as the court specifies;

(b) provide that the court may only make such an order if an application is made by a prescribed person and if any other prescribed conditions are fulfilled;

(c) provide that an application may only be made if prescribed conditions are fulfilled;

(d) provide that the number of days by which a period may be extended shall be entirely at the court's discretion;

(e) provide that the number of days by which a period may be extended shall not exceed a prescribed number;

(f) provide that there shall be no limit on the number of applications that may be made to extend a period;

(g) provide that no more than a prescribed number of applications may be made to extend a period,

and references to the relevant period for a section shall be construed accordingly.

(4) Conditions mentioned in subsection (3) may be framed by reference to such factors as the Governor thinks fit.

(5) Without prejudice to the generality of subsection (4), so far as the relevant period for section 5 or 9 is concerned —

(a) conditions may be framed by reference to the nature or volume of the material concerned;

(b) the nature of the material may be defined by reference to the prosecutor's belief that the question of non-disclosure on grounds of the public interest may arise.

(6) In subsection (3) "prescribed" means prescribed by regulations under this section.

**Time limits: transitional**

**15.—**(1) As regards a case in relation to which no regulations under section 14 have come into force for the purposes of section 5, section 5(8) shall have effect as if it read —

"(8) The prosecutor must act under this section as soon as is reasonably practicable after —

(a) the accused pleads not guilty (where this Part applies by virtue of section 3(1)(a));

(b) the accused is committed for trial (where this Part applies by virtue of section 3(1)(b)(i));

(c) the accused is charged with an offence (where this part applies by virtue of section 3(1)(b)(ii))."

(2) As a regards a case in relation to which no regulations under section 14 have come into force for the purposes of section 9, section 9(7) shall have effect as if it read —

"(7) The prosecutor must act under this section as soon as is reasonably practicable after the accused gives a defence statement under section 7 or 8."

*Public interest*

**Public interest: review for summary trials**

16.—(1) This section applies where this Part applies by virtue of section 3(1)(a) or 3(1)(b)(ii).

(2) At any time —

(a) after a court makes an order under section 5(6), 9(5), 10(5) or 11(8), and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned,

the accused may apply to the court for a review of the question whether it is still not in the public interest to disclose material affected by its order.

(3) The court must hear any representations which the prosecutor may make in relation to the matter.

(4) In such a case the court must unless it believes that the application is frivolous or vexatious review that question, and if it concludes that it is in the public interest to disclose material to any extent —

(a) it shall so order, and

(b) it shall take such steps as are reasonable to inform the prosecutor of the order.

(5) Where the prosecutor is informed of an order under subsection (4) he must act accordingly having regard to the provisions of this Part (unless he decides not to proceed with the case concerned).

**Public interest: review in other cases**

17.—(1) This section applies where this Part applies by virtue of section 3(1)(b)(i).

(2) This section applies at all times —

(a) after a court makes an order under section 5(6), 9(5), 10(5) or 11(8), and

(b) before the accused is acquitted or convicted or the prosecutor decides not to proceed with the case concerned.

(3) The court must keep under review the question whether or not at any given time it is still not in the public interest to disclose material affected by its order.

(4) The court must keep the question mentioned in subsection (3) under review without the need for an application; but the accused may apply to the court for a review of that question.

(5) If the court at any time concludes that it is in the public interest to disclose material to any extent —

(a) it shall so order, and

(b) it shall take such steps as are reasonable to inform the prosecutor of its order.

(6) Where the prosecutor is informed of an order under subsection (5) he must act accordingly having regard to the provisions of this Part (unless he decides not to proceed with the case concerned).

### **Applications: opportunity to be heard**

**18.** Where —

(a) an application is made under section 5(6), 9(5), 10(5), 11(8), 16(2) or 17(4),

(b) a person having an interest in the material applies to be heard by the court, and

(c) he shows that he was involved (whether alone or with others and whether directly or indirectly) in the prosecutor's attention being drawn to the material,

the court must not make an order under section 5(6), 9(5), 10(5), 11(8), 16(4) or 17(5) (as the case may be) unless the party applying under paragraph (b) has been given an opportunity to be heard.

### *Confidentiality*

### **Confidentiality of disclosed information**

**19.—**(1) If the accused is given or allowed to inspect a document or other object under —

(a) section 5, 6, 9, 11, 16 or 17, or

(b) an order under section 10,

then, subject to subsections (2) to (4), he must not use or disclose it or any information recorded in it.

(2) The accused may use or disclose the object or information —

(a) in connection with the proceedings for the purposes of which he was given the object or allowed to inspect it,

(b) with a view to the taking of further criminal proceedings (for instance, by way of appeal) with regard to the matter giving rise to the proceedings mentioned in paragraph (a),

(c) in connection with the proceedings first mentioned in paragraph (b).

(3) The accused may use or disclose —

(a) the object to the extent that it has been displayed to the public in open court, or

(b) the information to the extent that it has been communicated to the public in open court;

but the preceding provisions of this subsection do not apply if the object is displayed or the information is communicated in proceedings to deal with a contempt of court under section 20.

(4) If —

(a) the accused applies to the court for an order granting permission to use or disclose the object or information, and

(b) the court makes such an order,

the accused may use or disclose the object or information for the purposes and to the extent specified by the court.

(5) An application under subsection (4) may be made and dealt with at any time, and in particular after the accused has been acquitted or convicted or the prosecution has decided not to proceed with the case concerned, but this is subject to rules made by virtue of section 21(3) or having effect under section 21(1).

(6) Where —

(a) an application is made under subsection (4), and

(b) the prosecutor or a person claiming to have an interest in the object or information applies to be heard by the court,

the court must not make an order granting permission unless the person under paragraph (b) has been given an opportunity to be heard.

(7) References in this section to the court are to —

(a) a court of summary jurisdiction where this section applies by virtue of section 3(1)(a) or section 3(1)(b)(ii);

(b) the Supreme Court where this section applies by virtue of section 3(1)(b)(i).

(8) Nothing in this section affects any other restriction or prohibition on the use or disclosure of an object or information, whether the restriction or prohibition arises under an enactment (whenever passed) or otherwise.

**Confidentiality: contravention**

**20.—(1)** It is a contempt of court for a person knowingly to use or disclose an object or information recorded in it if the use or disclosure is in contravention of section 19.

(2) The following courts have jurisdiction to deal with a person alleged to have committed a contempt under this section —

(a) a court of summary jurisdiction where this section applies by virtue of section 3(1)(a) or section 3(1)(b)(ii);

(b) the Supreme Court where this Part applies by virtue of section 3(1)(b)(i).

(3) A person who is found by a competent court to have committed a contempt under this section, may be dealt with as follows —

(a) a court of summary jurisdiction may commit him to custody for a specified period not exceeding six months or impose on him a fine not exceeding the maximum of level 6 on the standard scale or both;

(b) the Supreme Court may commit him to custody for a specified period not exceeding two years or impose on him a fine not exceeding the maximum of level 10 on the standard scale or both.

(4) If —

(a) a person is found by a competent court to have committed a contempt under this section, and

(b) the object concerned is in his possession,

the court so finding him may order that the object shall be forfeited and dealt with in such manner as the court may order.

(5) The power of the court under subsection (4) includes power to order the object to be destroyed or to be given to the prosecutor or to be placed in his custody for such period as the court may specify.

(6) If —

(a) the court proposes to make an order under subsection (4), and

(b) the person found guilty, or any other person claiming an interest in the object, applies to be heard by the court,

the court must not make the order unless the applicant has been given an opportunity to be heard.

(7) If —

(a) a person is found by a competent court to have committed a contempt under this section, and

(b) a copy of the object concerned is in his possession,

the court so finding him may order that the copy shall be forfeited and dealt with in such manner as the court may order.

(8) Subsections (5) and (6) apply for the purposes of subsection (7) as they apply for the purposes of subsection (4), but as if references to the object were references to the copy.

(9) An object or information shall be inadmissible as evidence in civil proceedings if to adduce it would in the opinion of the court be likely to constitute a contempt under this section; and “the court” here means the court before which the civil proceedings are taken.

(10) The powers of a court of summary jurisdiction under this section may be exercised either of the court’s own motion or by order on complaint.

#### *Other provisions*

#### **Rules of court**

**21.—**(1) Unless rules made by the Chief Justice under subsection (3) are in force, the rules made in England —

(a) under section 144 of the Magistrates’ Courts Act 1980; and

(b) section 84 of the Supreme Court Act 1981;

prescribing the practice and procedure to be followed in English courts in proceedings corresponding with proceedings or matters arising under the provisions of this Ordinance specified in subsection (2) of this section shall apply in the Falkland Islands with such modifications and exceptions —

(i) as are specified by an Order made under subsection (4); and

(ii) if no such Order has been made in respect of any rule or rules,

then with such modifications and exceptions as are required by section 76(4) to (6) of and the Schedule to the Interpretation and General Clauses Ordinance (Title 67.2).

(2) The proceedings under the provisions of this Ordinance referred to in subsection (1) are —

(a) proceedings to deal with contempt of court under section 20;



- (b) an application under section 5(6), 9(5), 10(2) or (5), 11(8), 16(2), 17(4), 18(b), 19(4) or (6)(b) or 20(6);
- (c) an application under regulations made under section 14;
- (d) an order under section 5(6), 9(5), 10(2) or (5), 11(8), 16(4), 19(4) or 20(4) or (7);
- (e) an order under section 17(5) (whether or not an application is made under section 17(4));
- (f) an order under regulations made under section 14.

(3) The Chief Justice may make such rules in relation to the proceedings or matters mentioned in subsection (2) as may in England be made in relation to the corresponding proceedings or matters under section 144 of the Magistrates' Courts Act 1980 or section 84 of the Supreme Court Act 1981 having regard to the provisions of section 19(1), (3), (4) and (5) of the 1996 Act.

(4) Unless rules have been made by the Chief Justice under subsection (3), the Governor may by Order under this subsection modify and provide exceptions to the application in the Falkland Islands by virtue of subsection (1) of the English rules mentioned in that subsection. Any Order made under this subsection shall cease to have effect, except in relation to proceedings already commenced or any matter arising in or in connection with those proceedings, on the coming into force of any rules made by the Chief Justice under subsection (3).

#### **Other rules as to statutory disclosure**

**22.**—(1) Subject to subsection (2), a duty under any of the disclosure provisions shall not affect or be affected by any duty arising under any other enactment with regard to the material to be provided to or by the accused or a person representing him.

(2) In making an order under section 9 of the Criminal Justice Act 1987 or section 33 of this Ordinance (preparatory hearings) the judge may take account of anything which —

- (a) has been done,
- (b) has been required to be done, or
- (c) will be required to be done,

in pursuance to any of the disclosure provisions.

(3) Without prejudice to the generality of section 144 of the Magistrate's Courts Act 1980 in the form it applies to the Falkland Islands, the power to make rules under that section includes power to make any rules which could be made under that section by virtue of section 20(3) and (4) of the 1996 Act.

(4) For the purposes of this section —

(a) the disclosure provisions are sections 5 to 11;

(b) “enactment” includes an enactment contained in subsidiary legislation of the Falkland Islands or subordinate legislation made in the United Kingdom having effect as written law of the Falkland Islands (“subordinate legislation” having the same meaning for the purposes of this paragraph as that expression has in the Interpretation Act 1978).

#### **Common law rules as to disclosure**

**23.—**(1) Where this Part applies as regards things requiring to be done after the relevant time in relation to an alleged offence, the rules of common law which —

(a) were effective immediately before the commencement of this Part, and

(b) relate to the disclosure of material by the prosecutor,

do not apply as regards things falling to be done after that time in relation to the alleged offence.

(2) Subsection (1) does not affect the rules of common law as to whether disclosure is in the public interest.

(3) References in subsection (1) to the relevant time are to the time when —

(a) the accused pleads not guilty; or

(b) the accused is committed for trial.

### PART III CRIMINAL INVESTIGATIONS

#### **Introduction**

**24.—**(1) For the purposes of this Part, a criminal investigation is an investigation conducted by police officers with a view to it being ascertained —

(a) whether a person should be charged with an offence, or

(b) whether a person charged with an offence is guilty of it.

(2) In this Part references to material are to material of all kinds, and in particular include references to —

(a) information, and

(b) objects of all descriptions.

(3) In this Part references to recording information are references to putting it into a durable or retrievable form (such as writing or tape).

### **Code of practice**

**25.**—(1) The Governor may by Order apply to the Falkland Islands from such date as is specified in that Order, with such modifications and exceptions as are specified in it any code of practice prepared pursuant to section 23 of the 1996 Act and any revisions to such a code. If he does so that code shall apply in relation to suspected or alleged offences into which no criminal investigation has begun before the date on which the Order comes into effect. Alternatively, the Governor may himself prepare a code containing provisions designed to secure —

(a) that where a criminal investigation is conducted all reasonable steps are taken for the purposes of the investigation and, in particular, all reasonable lines of enquiry are pursued;

(b) that information which is obtained in the course of a criminal investigation and may be relevant to the investigation is recorded;

(c) that any record of such information is retained;

(d) that any other material which is obtained in the course of a criminal investigation and may be relevant to the investigation is retained;

(e) that material falling within paragraph (b) and material falling within paragraph (d) is revealed to a person who is involved in the prosecution of criminal proceedings arising out of or relating to the investigation and who is identified in accordance with prescribed provisions;

(f) that where such a person inspects information or other material in pursuance of a requirement that it be revealed to him, and he requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;

(g) that where such a person is given a document indicating the nature of information or other material in pursuance of a requirement that it be revealed to him, and he requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;

(h) that the person who is to allow the accused to inspect information or other material or to give him a copy of it shall decide which of those (inspecting or giving a copy) is appropriate;

(i) that where the accused is allowed to inspect material as mentioned in paragraph (f) or (g) and he requests a copy, he is given one unless the person allowing the inspection of it is of the opinion that it is not practicable or not desirable to give him one;

(j) that a person mentioned in paragraph (e) is given a written statement that prescribed activities which the code requires have been carried out.

(2) The code prepared by the Governor may include provision —

(a) that a police officer identified in accordance with prescribed provisions must carry out a prescribed activity which the code requires;

(b) that a police officer so identified must take steps to secure the carrying out by a person (whether or not a police officer) of a prescribed activity that the code requires;

(c) that a duty must be discharged by different people in succession in prescribed circumstances (as where a person dies or retires).

(3) The code prepared by the Governor may include provision about the form in which the information is to be recorded.

(4) The code prepared by the Governor may include provision about the manner in which and the period for which —

(a) a record of information is to be retained, and

(b) any other material is to be retained;

and if a person is charged with an offence the period may extend beyond a conviction or an acquittal.

(5) The code prepared by the Governor may include provisions about the time when, the form in which, the way in which, and the extent to which information or any other material is to be revealed to the person mentioned in subsection (1)(e).

(6) The code prepared by the Governor must be so framed that it does not apply to material intercepted in obedience to any provision of the law of the Falkland Islands corresponding to section 2 of the Interception of Communications Ordinance 1985.

(7) The code prepared by the Governor may —

(a) make different provision in relation to different cases or descriptions of case;

(b) contain exceptions as regards prescribed cases or descriptions of case.

(8) In this section “prescribed” means prescribed by the code.

### **Examples of disclosure provisions**

**26.—**(1) This section gives examples of the kinds of provision that may be included in the code prepared by the Governor by virtue of section 25(5).

(2) The code prepared by the Governor may provide that if the person required to reveal material has possession of material which he believes is sensitive he must give a document which —

(a) indicates the nature of that material, and

(b) states that he so believes.

(3) The code prepared by the Governor may provide that if the person required to reveal material has possession of material which is of a description prescribed under this subsection and which he does not believe is sensitive he must give a document which —

(a) indicates the nature of that material, and

(b) states that he does not so believe.

(4) The code prepared by the Governor may provide that if —

(a) a document is given in pursuance of provision contained in the code by virtue of subsection (2), and

(b) a person identified in accordance with prescribed provisions asks for any of the material,

the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.

(5) The code prepared by the Governor may provide that if —

(a) a document is given in pursuance of provision contained in the code by virtue of subsection (3),

(b) all or any of the material is of a description prescribed under this subsection, and

(c) a person is identified in accordance with prescribed provisions as entitled to material of that description,

the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.

(6) The code prepared by the Governor may provide that if —

(a) a document is given in pursuance of provision contained in the code by virtue of subsection (3),

(b) all or any of the material is not of a description prescribed under subsection (5), and

(c) a person identified in accordance with the prescribed provisions asks for any of the material not of that description,

the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.

(7) The code prepared by the Governor may provide that if the person required to reveal material has possession of material which he believes is sensitive and of such a nature that provision contained in the code by virtue of subsection (2) should not apply with regard to it—

(a) that provision should not apply with regard to the material,

(b) he must notify a person identified in accordance with prescribed provisions of the existence of the material, and

(c) he must allow the person so notified to inspect the material.

(8) For the purposes of this section material is sensitive to the extent that disclosure under Part II would be contrary to the public interest.

(9) In this section “prescribed” means prescribed by the code prepared by the Governor.

### **Operation and revision of code**

**27.**—(1) When the Governor has prepared a code under section 25 —

(a) he shall publish it in the form of a draft,

(b) he shall consider any representations made to him about the draft, and

(c) he may modify the draft accordingly.

(2) When the Governor has acted under subsection (1) he shall cause the code to be laid before the Legislative Council, and when he has done so he may bring it into operation on such date as he may appoint by notice published in the *Gazette*.

(3) A code brought into operation under this section shall apply in relation to suspected or alleged offences into which no criminal investigation has begun before the day so appointed.

(4) The Governor may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section shall apply to a revised code as they apply to the code as first prepared.

### **Effect of code**

**28.**—(1) In this section and in the next following section “a code” means —

(a) a code prepared under section 23 of the 1996 Act and applied by an Order under section 25(1) of this Ordinance which is in operation, or

(b) a code prepared by the Governor under section 25 of this Ordinance which is in operation,

whichever, in the circumstances, is appropriate.

(2) A person other than a police officer who is charged with the duty of conducting an investigation with a view to it being ascertained —

(a) whether a person should be charged with an offence, or

(b) whether a person charged with an offence is guilty of it,

shall in discharging that duty have regard to any relevant provision of a code which would apply if the investigation were conducted by police officers.

(3) A failure —

(a) by a police officer to comply with any provision of a code for the time being in operation, or

(b) by a person to comply with subsection (2),

shall not in itself render him liable to any civil or criminal proceedings.

(4) In all criminal and civil proceedings a code in operation shall be admissible in evidence.

(5) If it appears to a court or tribunal conducting criminal or civil proceedings that—

(a) any provision of a code in operation at any time by virtue of an order under section 25(1) or, as the case may be, section 27, or

(b) any failure mentioned in subsection(3)(a) or (b),

is relevant to any question arising in the proceedings, the provision or failure shall be taken into account in deciding the question.

### **Common law rules as to criminal investigations**

**29.—**(1) Where a code which is in operation applies in relation to a suspected or alleged offence, the rules of common law which —

(a) were effective immediately before the appointed day, and

(b) relate to the matter mentioned in subsection (2),

shall not apply in relation to the suspected or alleged offence.

(2) The matter is the revealing of material —

(a) by a police officer or other person charged with the duty of conducting an investigation with a view to it being ascertained whether a person should be charged with an offence or whether a person charged with an offence is guilty of it;

(b) to a person involved in the prosecution of criminal proceedings.

(3) In subsection (1) “the appointed day” means the day appointed under section 25(1) for the commencement of the application of the code or, as the case may be, under section 27 for the commencement of the code as first prepared.

PART IV  
PRELIMINARY HEARINGS  
*Introduction*

**Introduction**

**30.—**(1) This Part applies —

(a) in relation to an offence triable on indictment if on or after the appointed day the accused is committed for trial for the offence concerned;

(b) in relation to a serious summary offence if on or after the appointed day the accused enters a plea of not guilty of the offence concerned.

(2) The reference in subsection (1) to the appointed day is to such day as is appointed for the purposes of this section by the Governor by notice published in the *Gazette*.

(3) References in this Part to the prosecutor are to any person acting as prosecutor, whether an individual or a body.

(4) References in this Part to a judge except where stated specifically to the contrary means —

(a) in relation to proceedings on indictment, a judge of the Supreme Court;

(b) in relation to a serious summary offence, if proceedings are in the Magistrate’s Court, the Senior Magistrate, and if proceedings are in the Summary Court, the Senior Magistrate or such Justice of the Peace as may be nominated by the Senior Magistrate for the purpose but if no person has been so nominated and the Senior Magistrate is absent from the Falkland Islands or otherwise not available for the time being to make such a nomination, such Justice of the Peace as is nominated by the Governor acting in his discretion.

(5) Reference in this Part to a judge trying a case without a jury shall include a reference to the Senior Magistrate trying a case with or without assessors in the Magistrate’s Court.

*Preparatory hearings*

**Power to order preparatory hearing**

**31.—**(1) Where it appears to a judge in a case where a person is charged with an indictable offence that it is desirable that there shall be a hearing (in this Part referred to as a preparatory hearing) —

(a) before the jury are sworn, and



(b) for any of the purposes mentioned in subsection (3),

he may order that such a hearing shall be held.

(2) Where it appears to a judge in a case where a person is charged with a serious summary offence that it is desirable that there shall be a hearing (in this Part referred to as a preparatory hearing) for any of the purposes mentioned in sub-section (3), he may order that such a hearing shall be held.

(3) The purposes are those of —

(a) identifying issues which are likely to be material to the verdict of the jury or, in the case of a trial before a judge sitting without a jury, the decision of the court;

(b) assisting their comprehension of such issues;

(c) expediting the proceedings before the jury or the court;

(d) assisting the judge's or court's management of the trial.

(4) A judge may make an order under subsection (1) or (2) —

(a) on the application of the prosecutor;

(b) on the application of the accused or, if there is more than one, any of them; or

(c) of the judge's own motion.

#### **Timing of preparatory hearing etc**

**32.—**(1) A preparatory hearing may be held —

(a) in relation to an indictable offence at any time after the accused is committed for trial at the Supreme Court;

(b) in relation to a serious summary offence at any time after the accused has pleaded not guilty.

(2) A preparatory hearing may be ordered and conducted by a judge other than the trial judge or court.

(3) More than one preparatory hearing may be ordered and conducted.

#### **The preparatory hearing**

**33.—**(1) At the preparatory hearing, subject to this section, the judge may exercise any of the powers specified in this section.

(2) The judge may adjourn a preparatory hearing from time to time.

(3) If he is the trial judge he may make a ruling as to —

(a) any question as to the admissibility of evidence;

(b) any other question of law relating to the case,

but nothing in this subsection applies where the court which shall try the offence is the Summary Court.

(4) He may order the prosecutor —

(a) to give the court and the accused or, if there is more than one, each of them, a written statement (a case statement) of the matters falling within subsection (5);

(b) to prepare the prosecution evidence and any explanatory material in such a form as appears to the judge to be likely to aid comprehension by the jury (if any);

(c) to give the court and the accused or, if there is more than one, each of them written notice of documents the truth of which ought in the prosecutor's view to be admitted and of any other matters which ought in his view to be agreed;

(d) to make any amendments of any case statement given in pursuance of an order under paragraph (a) that appears to the judge to be appropriate, having regard to objections made by the accused or, if there is more than one, by any of them.

(5) The matters referred to in subsection (4)(a) are —

(a) the principal facts of the case for the prosecution;

(b) the witnesses who will speak to those facts;

(c) any exhibits relevant to those facts;

(d) any propositions of law on which the prosecutor proposes to rely;

(e) the consequences in relation to any of the counts in the indictment that appear to the prosecutor to flow from the matters falling within paragraphs (a) to (d).

(6) Where a judge has ordered the prosecutor to give a case statement and the prosecutor has complied with the order, the judge may order the accused or, if there is more than one, each of them —

(a) to give to the prosecutor and to the court and the prosecutor a written statement setting out in general terms the nature of his defence and indicating the principal matters on which he takes issue with the prosecution;

(b) to give to the court and to the prosecutor written notice of any objections that he has to the case statement;

(c) to give to the court and the prosecutor written notice of any point of law (including any point as to the admissibility of evidence) which he wishes to take, and any authority on which he intends to rely for that purpose.

(7) Where a judge has ordered the prosecutor to give notice under subsection (4)(c) and the prosecutor has complied with the order, the judge may order the accused or, if there is more than one, each of them to give the court and the prosecutor a written notice stating —

(a) the extent with which he agrees with the prosecutor as to documents and other matters to which the notice under subsection (4)(c) relates, and

(b) the reason for any disagreement.

(8) A judge making an order under subsection (6) or (7) shall warn the accused or, if there is more than one of them, each of them of the possible consequence under section 35 of not complying with it.

(9) If it appears to a judge that reasons given in pursuance of subsection (7) are inadequate, he shall so inform the person giving them and may require him to give further or better reason.

(10) An order under this section may specify the time within which any specified requirement contained in it is to be complied with.

(11) An order or ruling under this section shall have effect throughout the trial, unless it appears to the judge making the order or to the trial judge on application made to either of them that the interests of justice require him to vary or discharge it.

### **Court rules**

**34.—**(1) The Chief Justice may make rules providing that except to the extent that —

(a) such disclosure is required in relation to expert evidence by rules made under any other provision enabling the making of rules, or by rules having effect in the Falkland Islands; or

(b) such disclosure is required by section 7(4) of this Ordinance,

anything required to be given by an accused in pursuance of a requirement imposed under section 33 need not disclose who will give evidence.

(2) Rules made under subsection (1) may make provision as to the minimum or maximum time that may be specified under section 33(10).

(3) Until and unless the Chief Justice first makes rules under subsection (1), any rules for the time being in force in England and to which section 33(1) of the 1996 Act relates shall have effect in the Falkland Islands subject only to such modifications and exceptions as are required by section 76 of the Interpretation and General Clauses Ordinance (Title 62.2).

#### **Later stages of trial**

**35.—(1)** Any party may depart from the case he disclosed in pursuance of a requirement imposed under section 33.

(2) Where —

(a) a party departs from the case he disclosed in pursuance of a requirement imposed under section 33, or

(b) a party fails to comply with such a requirement,

the judge or, with the leave of the judge, any other party, may make such comment as appears to the judge or the other party (as the case may be) to be appropriate and the jury (or, as the case may be, in the case of a trial before a judge sitting without a jury, the judge) may draw such inference as appears proper.

(3) In deciding whether to give leave (or, as the case may be, to draw such inference) the judge shall have regard —

(a) to the extent of the departure or failure, and

(b) to whether there is any justification for it.

(4) Except as provided by this section, no part —

(a) of a statement given under section 33(6)(a), or

(b) of any other information relating to the case for the accused or, if there is more than one, the case for any of them, which was given in pursuance of a requirement imposed under section 33,

may be disclosed at a stage in the trial after the jury have been sworn without the consent of the accused concerned.

(5) References in the foregoing provisions of this section to “the judge” shall in relation to proceedings in the Summary Court be read as references to the Justices trying the case.

## *Appeals*

### **Appeals to Court of Appeal**

**36.**—(1) An appeal shall lie —

- (a) to the Court of Appeal from any ruling of a judge under section 33(3) in relation to a case proceeding in the Supreme Court, but only with the leave of the judge or of the Court of Appeal;
- (b) to the Supreme Court from any ruling of a judge under section 33(3) in relation to a case proceeding in the Magistrate's Court, but only with the leave of the judge or the Supreme Court.

(2) The judge may continue a preparatory hearing notwithstanding that leave to appeal has been granted under subsection (1), but until the appeal has been determined or abandoned —

- (a) no jury shall be sworn; and
- (b) if the accused has elected to be tried before a judge sitting alone; or
- (c) if the offence is a serious summary offence,

the judge or the court (as the case may be) shall not proceed to try the case.

(3) On the termination of the hearing of an appeal, the Court of Appeal or Supreme Court (where appropriate) may confirm, reverse or vary the decision appealed against.

## *Reporting restrictions*

### **Restrictions on reporting**

**37.**—(1) Except as provided by this section —

- (a) no written report of proceedings falling within subsection (2) shall be published within the Falkland Islands;
- (b) no report of proceedings within subsection (2) shall be included in a programme broadcast in the Falkland Islands by any radio or television station broadcasting any material intended for public reception in the Falkland Islands.

(2) The following proceedings fall within this subsection —

- (a) a preparatory hearing;
- (b) an application for leave to appeal in relation to such a hearing;
- (c) an appeal in relation to such a hearing.

(3) The judge dealing with a preparatory hearing may order that subsection (1) shall not apply, or shall not apply to the specified extent, to a report of —

(a) the preparatory hearing, or

(b) an application for leave to the judge for leave to appeal to the Court of Appeal under section 36(1) in relation to the preparatory hearing.

(4) The Court of Appeal may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of —

(a) an appeal to the Court of Appeal under section 36(1) in relation to a preparatory hearing, or

(b) an application to that Court for leave to appeal to it under section 36(1) in relation to a preparatory hearing.

(5) Where there is only one accused and he objects to the making of an order under subsection (3) or (4) the judge or the Court of Appeal shall make the order if (and only if) satisfied after the hearing of the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.

(6) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3) or (4) the judge or the Court of Appeal shall make the order if (and only if) satisfied after hearing the representations of each of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objections or representations.

(7) Subsection (1) does not apply —

(a) if the accused has elected to be tried before a judge sitting without a jury; or

(b) at the conclusion of the trial of the accused or the last of the accused to be tried or;

(c) if the accused is charged with a serious summary offence —

(i) to the publication of a report of the preparatory hearing;

(ii) to the publication of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing,

(iii) to the inclusion in a programme of a kind referred to in subsection (1)(b) of a report of a preparatory hearing, or

(iv) the inclusion in such a programme of a report of an appeal in relation to a preparatory hearing or of an application for leave to appeal in relation to such a hearing.

(8) Subsection (1) does not apply to a report which contains only one or more of the following matters —

- (a) the identity of the court and the name of the judge;
- (b) the names, ages, home addresses and occupations of the accused and witnesses;
- (c) the offence or offences, or summary of them, with which the accused is or are charged;
- (d) the names of legal practitioners in the proceedings;
- (e) where the proceedings are adjourned the date and place to which they are adjourned;
- (f) any arrangements as to bail;
- (g) whether legal aid was granted to the accused or any of the accused.

(9) The addresses that may under subsection (8) be published or included in a programme of a kind referred to in subsection (1)(b) are addresses —

- (a) at any relevant time, and
- (b) at the time of their publication or inclusion in such a programme;

and “relevant time” here means a time when events giving rise to the charges to which the proceedings relate occurred.

(10) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(11) In this section —

- (a) “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public; and
- (b) expressions cognate with publish shall be construed accordingly.

### **Offences in connection with reporting**

**38.**—(1) If a report is published or included in a programme in contravention of section 37 each of the following persons commits an offence —

- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;

(c) in the case of the inclusion of a report in a programme, any body corporate which is engaged in providing the service in which the programme is included and any persons having functions in relation to the programme corresponding to those of an editor of a newspaper.

(2) A person convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

(3) In this section “programme” means a programme of a kind referred to in subsection (1)(b) of section 37.

(4) Subsection (11) of section 37 applies for the purposes of this section as it applies for the purposes of that section.

## PART V RULINGS

### **Application of this Part**

**39.** This Part applies in relation to pre-trial hearings beginning on or after commencement of this Ordinance.

### **Meaning of pre-trial hearing**

**40.—**(1) For the purposes of this Part a hearing is a pre-trial hearing if it relates to a trial on indictment and it takes place —

- (a) after the accused has been committed for trial for the offence concerned; and
- (b) before the start of the trial.

(2) For the purposes of this section the start of a trial on indictment occurs —

- (a) in the case of a trial before a jury, when the jury is sworn to consider the issue of guilt or fitness to plead;
- (b) if the court accepts a plea of guilty before a jury is sworn, when that plea is accepted; and
- (c) in the case of a trial before a judge sitting without a jury, and where paragraph (b) does not apply, as soon as the accused makes his election to be tried by a judge sitting without a jury.

### **Power to make rulings**

**41.—**(1) A judge may make at a pre-trial hearing a ruling as to —

- (a) any question as to the admissibility of evidence;



(b) any other question of law as to the case concerned.

(2) A ruling may be made under this section —

(a) on an application by a party to the case, or

(b) of the judge's own motion.

(3) Subject to subsection (4), a ruling made under this section has binding effect from the time it is made until the case against the accused or, if there is more than one, against each of them, is disposed of; and the case against an accused is disposed of if —

(a) he is acquitted or convicted;

(b) the prosecutor decides not to proceed with the case against him.

(4) A judge may discharge (or further vary) a ruling made under this section if it appears to him that it is in the interests of justice to do so; and a judge may act under this subsection —

(a) on an application by a party to the case; or

(b) of the judge's own motion.

(5) No application may be made under subsection (4)(a) unless there has been a substantial change of circumstances since the ruling was made or, if a previous application has been made, since the application (or last application) was made.

(6) The judge referred to in subsection (4) need not be the judge who made the ruling or, if it has been varied, the judge (or any of the judges) who varied it.

(7) For the purposes of this section the prosecutor is the person acting as prosecutor, whether an individual or a body.

### **Restrictions on reporting**

**42.—**(1) Except as provided by this section —

(a) no written report of matters falling within subsection (2) shall be published in the Falkland Islands;

(b) no report of matters falling within subsection (2) shall be included in a programme.

(2) The following matters fall within this subsection —

(a) a ruling made under section 41;

(b) proceedings on an application for a ruling to be made under section 41;

(c) an order that a ruling made under section 41 be discharged or varied or further varied;

(d) proceedings on an application for a ruling under section 41 to be discharged or varied or further varied.

(3) The judge dealing with any matter falling within subsection (2) may order that subsection (1) shall not apply, or shall not apply to a specified extent, to a report of the matter.

(4) Where there is only one accused and he objects to the making of an order under subsection (3) the judge may make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.

(5) Where there are two or more accused and one or more of them objects to the making of an order under subsection (3) the judge shall make the order if (and only if) satisfied after hearing the representations of the accused that it is in the interests of justice to do so; and if the order is made it shall not apply to the extent that a report deals with any such objection or representations.

(6) Subsection (1) does not apply to —

(a) the publication of a report of matters,

(b) the inclusion in a programme of a report of matters,

at the conclusion of the trial of the accused or of the last of the accused to be tried.

(7) Nothing in this section affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

(8) In this section —

(a) “programme” means a programme of a kind referred to in subsection (1)(b) of section 37;

(b) “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public; and

(c) expressions cognate with “publish” shall be construed accordingly;

#### **Offences in connection with reporting**

**43.—**(1) If a report is published or included in a programme in contravention of section 42 each of the following persons commits an offence —

(a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;

(b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;

(c) in the case of the inclusion of a report in a programme, any body corporate which is engaged in providing the service in which the programme is included and any persons having functions in relation to the programme corresponding to those of an editor of a newspaper.

(2) A person convicted of an offence under this section is liable to fine not exceeding the maximum of level 5 on the standard scale.

(3) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Attorney General.

(4) Subsection (8) of section 42 applies for the purposes of this section as it does for the purposes of that section.

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*





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**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Customs Ordinance 2003**

(No: 9 of 2003)

**ARRANGEMENT OF PROVISIONS**

**Section**

**PART I  
PRELIMINARY**

1. Short title and commencement
2. Interpretation
3. Treatment of goods for use in ship or aircraft
4. Application to certain Crown aircraft
5. Time of importation, exportation, etc

**PART II  
ADMINISTRATION**

*Appointment and duties of Collector of Customs, Customs Officers, etc.*

6. Appointment of Collector of Customs and Deputy Collector of Customs
7. Appointment of Customs Officers
8. Duties of Collector
9. Disclosure by the Collector of certain information as to imported goods

*Offences in connection with Collector, Deputy Collectors, customs officers, etc*

10. Unlawful assumption of character of officer
11. Bribery and collusion
12. Obstruction of officers, etc

PART III  
CUSTOMS CONTROL AREAS

13. Appointment of ports, etc
14. Approval of wharves
15. Control of movement of aircraft, etc into and out of the Falkland Islands
16. Approval of examination stations at customs airports
17. Control of movement of goods by pipe-line
18. Transit sheds
19. Hovercraft and Hydrofoils
20. Customs officers' powers of boarding
21. Customs officers' powers of access, etc
22. Customs officers' powers of detention of ships, etc
23. Control of movement of uncleared goods within or between port or airport and other places
24. Control of movement of goods to and from inland clearance depot, etc
25. Penalty for carrying away officers
26. Power to inspect aircraft, aerodromes, records, etc
27. Power to prevent flight of aircraft

PART IV  
CONTROL OF IMPORTATION  
*Inward entry and clearance*

28. Report inwards
29. Provisions as to Her Majesty's ships, etc
30. Entry of goods on importation
31. Entry by Bill of sight
32. Entry of surplus stores
33. Removal of uncleared goods to Queen's warehouse
34. Failure to comply with provisions as to entry
35. Power to regulate unloading, removal, etc. of imported goods

*Provisions as to duty on imported goods*

36. Duty on imported goods
37. Exclusion of section 36(1) for importers etc. keeping standing deposits
38. Deferred payment of customs duty
39. Goods to be warehoused without payment of duty
40. Relief from payment of duty of goods entered for transit or transshipment
41. Relief from payment of duty of goods temporarily imported

*Forfeiture, offences, etc. in connection with importation*

42. Forfeiture of goods improperly imported
43. Penalty for improper importation of goods

PART V  
CONTROL OF EXPORTATION  
*Outward entry and clearance of goods*

44. Meaning for this Part of "dutiable or restricted goods"
45. Entry outwards of dutiable or restricted goods

- 46. Entry outwards of goods which are not dutiable or restricted goods
- 47. Acceptance of incomplete entry
- 48. Correction and cancellation of entry
- 49. Failure to export
- 50. Simplified clearance procedure
- 51. Provisions supplementary to section 50
- 52. Pipe-lines
- 53. Provisions as to stores
- 54. Information, documentation, etc. as to export goods

*Outward entry and clearance of ships, etc.*

- 55. Entry outwards of exporting ships
- 56. Clearance outwards of ships and aircraft
- 57. Power to refuse or cancel clearance of ship or aircraft

*General regulation of exportation, etc*

- 58. Power to make regulations as to exportation, etc

*Offences in relation to exportation*

- 59. Offences in relation to the exportation of goods
- 60. Offences in relation to the exportation of prohibited or restricted goods

PART VI

CONTROL OF COASTWISE TRAFFIC

- 61. Coasting trade
- 62. Coasting trade: exceptional provisions
- 63. Clearance of coasting ship and transire
- 64. Additional powers of customs officers in relation to coasting ships
- 65. Power to make regulations as to the carriage of goods coastwise, etc
- 66. Offences in connection with carriage of goods coastwise

PART VII

CUSTOMS CONTROL: SUPPLEMENTARY PROVISIONS

*Special requirements as to movement of certain goods*

- 67. Explosives

*Keeping and preservation of records*

- 68. Records relating to importation and exportation

*Additional provisions as to information*

- 69. Information in relation to goods imported or exported
- 70. Information powers
- 71. Customs control of persons entering or leaving the Falkland Islands
- 72. Power to require evidence in support of information

*Prevention of smuggling*

- 73. Power to regulate small craft



- 74. Power to haul up revenue vessels, patrol coasts, etc
- 75. Penalty for removing seals, etc
- 76. Penalty for signalling to smugglers
- 77. Penalty for interfering with revenue vessels, etc
- 78. Special penalty where offender armed or disguised
- 79. Penalty for offering goods for sale as smuggled goods

*Forfeiture of ships, etc. for certain offences*

- 80. Forfeiture of ship, aircraft or vehicle constructed, etc. for concealing goods
- 81. Forfeiture of ship jettisoning cargo, etc
- 82. Forfeiture of ship or aircraft unable to account for missing cargo
- 83. Ships failing to bring to

PART VIII

WAREHOUSES AND QUEEN'S WAREHOUSES  
AND RELATED PROVISIONS ABOUT PIPE-LINES

- 84. Approval of warehouses
- 85. Regulation of warehouses and warehoused goods
- 86. Deficiency in warehoused goods
- 87. Deficiency in goods occurring in course of removal from warehouse without payment of duty
- 88. Deficiency in certain goods moved by pipe-line
- 89. Restriction on compensation for loss or damage to goods in, or for removal of goods from, warehouse or pipe-line
- 90. Procedure on warehouse ceasing to be approved
- 91. Provisions as to deposit in Queen's warehouse
- 92. General offences relating to warehouses and warehoused goods

PART IX

DUTIES AND DRAWBACKS: GENERAL PROVISIONS

*General provisions relating to imported goods*

- 93. Delivery of imported goods on giving security
- 94. Regulations for determining origin of goods
- 95. Power to impose restrictions where duty depends on certain matters other than use
- 96. Regulations where duty depends on use
- 97. Repayment of duty where goods returned or destroyed by importer
- 98. Forfeiture for breach of certain conditions
- 99. Valuation of goods for purpose of ad valorem duties
- 100. Charge of duty on manufactured or composite imported articles

*Deferred payment of duty on goods*

- 101. Deferred payment of duty on goods

*General provision relating to charge of duty on and delivery of goods*

- 102. Restriction on delivery of goods
- 103. Power to remit or repay duty on denatured goods
- 104. Power to remit or repay duty on goods lost or destroyed, etc
- 105. Enforcement of bond in respect of goods removed without payment of duty

*Drawback, allowances, duties, etc: general*

- 106. Extension of drawback
- 107. General provisions as to claims for drawback
- 108. Drawback and allowance on goods damaged or destroyed after shipment
- 109. Time limit on payment of drawback or allowance
- 110. Offences in connection with claims for drawback, etc
- 111. Recovery of duties and calculation of duties, drawbacks, etc
- 112. Repayment of overpaid duty

PART X

IMPOSITION OF DUTY AND RELIEF AND EXEMPTION FROM DUTY

*Imposition of duty and exemptions from payment of duty*

- 113. Imposition of duties by the Legislative Council
- 114. Persons exempted from liability to pay duty
- 115. Entitlement to drawback on supply to an exempted person
- 116. Power to provide for reliefs from duty in respect of imported legacies
- 117. Relief from duty on trade samples, labels, etc
- 118. Relief from duty on certain foreign goods re-imported

*Relief for goods for Her Majesty's ships*

- 119. Supply of duty-free goods to Her Majesty's ships

*Personal reliefs*

- 120. Power to provide, in relation to persons entering the Falkland Islands, for reliefs from duty

*Produce of the sea or of the continental shelf*

- 121. Produce of the sea or the continental shelf

*Provisions in relation to duty on alcoholic liquors: introductory*

- 122. Ascertainment of strength, volume and weight of alcoholic liquors
- 123. Meaning of and method of ascertaining gravity of liquids

*Charge of duty upon alcohol*

- 124. Spirits: charge of duty
- 125. Importation and exportation of spirits
- 126. Restrictions on use of certain goods relieved from spirits duty
- 127. Beer: charge of duty
- 128. Wine: charge of duty
- 129. Spirituous beverage: charge of duty
- 130. Fortified wine: charge of duty
- 131. Other strong liquor: charge of duty

*Stills*

- 132. Power to make regulations in relation to stills

PART XI  
DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

*Detention*

133. Provisions as to arrest of persons

*Forfeiture*

134. Provisions as to detention, seizure and condemnation of goods, etc  
135. Forfeiture of spirits  
136. Forfeiture of ships, etc. used in connection with goods liable to forfeiture  
137. Special provisions as to forfeiture of larger ships  
138. Penalty in lieu of forfeiture of larger ship where responsible officer implicated in offence  
139. Protection of customs officers etc. in relation to seizure and detention of goods etc

*General provisions*

140. Institution of proceedings, service of process and time limit for proceedings  
141. Proof of certain documents  
142. Proof of certain other matters

PART XII  
GENERAL AND MISCELLANEOUS

*Prohibition of imports and exports*

143. Prohibition of imports and exports  
144. Provisions as to ultimate destination of goods

*General powers etc*

145. Bonds and security  
146. Power to require provision of facilities  
147. Power to examine and take account of goods  
148. Application of customs and excise enactments to certain postal packets  
149. Power to detain postal packets containing contraband  
150. Power to take samples  
151. Power to search premises  
152. Power to enter land for or in connection with access to pipe-lines  
153. Power to search vehicles or vessels or aircraft  
154. Power to search persons  
155. Agents

*General offences*

156. Untrue declarations, etc  
157. Counterfeiting documents, etc  
158. False scales, etc  
159. Penalty for fraudulent evasion of duty  
160. General provisions as to offences and penalties

*Miscellaneous*

- 161. Directions
- 162. Regulations
- 163. Repeals, savings and amendments

SCHEDULE  
AMENDMENT OF PROHIBITED GOODS ORDINANCE (TITLE 26.2)

ELIZABETH II



FALKLAND ISLANDS

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

CUSTOMS ORDINANCE 2003

(No: 9 of 2003)

*(assented to: 4 June 2003)*  
*(commencement: in accordance with section 1)*  
*(published: 19 June 2003)*

AN ORDINANCE

To repeal and replace the Customs Ordinance (Title 26.1).

ENACTED by the Legislature of the Falkland Islands as follows —

PART I  
PRELIMINARY

**Short title and commencement**

1. This Ordinance may be cited as the Customs Ordinance 2003 and shall come into force on such date as the Governor may appoint by notice published in the *Gazette*.

**Interpretation**

2.—(1) In this Ordinance and for the purposes of any relevant enactment —

“alcohol”, except in relation to perfume, means ethyl alcohol;

“approved wharf” means a wharf approved pursuant to section 14;

“armed forces” means the Royal Navy, the Royal Marines, the regular army and the regular air force, and any reserve or auxiliary force of any of those services which has been called out on permanent service, or called into actual service, or embodied;

“assigned matter” means any matter in relation to which the Collector of Customs is for the time being required in pursuance of any enactment to perform any duties;

“beer” includes ale, spruce, porter, stout and any liquor which is made or sold as a description of beer or as cider and any other description of beer including worts of beer or of any of the foregoing, and which in any of the foregoing cases does not contain more than 12% alcohol by volume;

“British Ship” has the same meaning as it has for the purposes of the Merchant Shipping Act 1995 in its application to the Falkland Islands;

“case”, in relation to dutiable alcoholic liquor, means one dozen units each consisting of a container holding not less than 65 centilitres nor more than 1 litre, or the equivalent of that number of such units made up wholly or partly of containers of a larger or smaller size;

“cider” means cider or perry obtained from the fermentation of apple or pear juice without the addition at any time of any alcoholic liquor or of any liquor or substance which communicates colour or flavour other than such as the Collector allows as appearing to him to be necessary to make cider (or perry);

“claimant”, in relation to proceedings for the condemnation of any thing as being forfeited, means a person claiming that that thing is not liable to forfeiture;

“cleared out of charge”, in relation to any goods, means any goods which are no longer subject to customs control by reason of customs formalities having been completed in respect of them and the duty payable in respect thereof (if any) having been paid or secured to the satisfaction of the Collector;

“coasting ship” has the meaning given by section 61;

“Collector” means the person holding office under section 6 as the Collector of Customs, and any Deputy Collector of Customs or customs officer exercising, in accordance with this Ordinance, the powers and duties of the Collector;

“commander”, in relation to an aircraft, includes any person having or taking the charge or command of the aircraft;

“container” includes any bundle or package and any box, cask or other receptacle whatsoever;

“contravenes” includes fails to comply with;

“customs airport” has the meaning given by section 15(7) ;

“customs” includes excise;

“customs officer” means any person holding office under section 7 as a customs officer and every police officer and includes the Collector and any Deputy Collector;

“customs resolution” means a resolution of the Legislative Council pursuant to section 113 for the time being in force;

“customs station” has the meaning given by section 15(7);

“drawback” means a refund of all or part of any duty authorised by law;

“drawback goods” means goods in the case of which a claim for drawback has been or is to be made;

“dutiable goods”, except in the expression “dutiable or restricted goods” means goods of a class or description subject to any duty of customs or excise, whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid thereon;

“dutiable or restricted goods” has the meaning given by section 44;

“duty” includes both a duty of customs and a duty of excise;

“examination station” has the meaning given by section 16(1);

“exporter”, in relation to goods for exportation of for use as stores, includes the shipper of the goods and any person performing in relation to an aircraft functions corresponding to those of a shipper;

“fortified wine” means any liquor —

(a) which is not within the definitions contained in this subsection of beer, wine, strong liquor or spirituous beverage, and

(b) which contains more than 15% alcohol by volume but does not contain more than 22% alcohol by volume,

“goods” includes stores and baggage and all kinds of goods, wares, merchandise and live stock;

“gravity”, in relation to any liquid, (and unless otherwise provided) means the ratio of the weight of a volume of the liquid to the weight of an equal volume of distilled water, the volume of each liquid being computed at 20° Centigrade, and where the gravity of any liquid is expressed as a number of degrees that number is the said ratio multiplied by 1000;

“importer”, in relation to any goods at any time between their importation and the time when they are delivered out of charge, includes any owner or other person for the time being possessed of or beneficially interested in the goods and, in relation to goods imported by means of a pipe-line, includes the owner of the pipe-line;

“land” and “landing”, in relation to an aircraft, include alighting on water;

“liquor” means any liquor containing more than 2% alcohol by volume and which has not been rendered impotable by denaturing (that is to say, by the addition thereto of methanol or any other nauseous substance);

“master”, in relation to a ship, includes any person having or taking the charge or command of the ship;

“methylated spirits”, in the case of methylated spirits imported from the United Kingdom or spirits mixed in the Falkland Islands means spirits mixed with some other substance in accordance with the law for the time being in force in the United Kingdom in relation to the methylation of spirits;

“night” means the period between 10 p.m. and 6.00 a.m.;

“occupier” in respect of bonded premises, includes any person who has given security to the Crown in respect of those premises;

“original gravity”, in relation to any liquid in which fermentation has taken place, means its gravity before fermentation;

“other strong liquor” means any liquor —

(a) which is not beer, wine or fortified wine, spirituous beverage or spirits (each as defined in this subsection),

(b) which, if did not contain more than 12% alcohol by volume would be beer as defined in this subsection, and

(c) which contains less than 22% alcohol by volume;

“perfume” means any mixture of alcohol and essential oils or alcohol and synthetic materials intended, in either case, to be applied to a person, animal or thing to impart a pleasant fragrance to that person, animal or thing;

“port” without prejudice to subsection (2) means a port appointed under section 13;

“proper”, in relation to the person by, with or to whom, or the place at which, anything is to be done, means the person or place appointed or authorised in that behalf by the Collector;

“proprietor”, in relation to any goods, includes any owner, importer, exporter, shipper or other person for the time being possessed of or beneficially interested in those goods;

“Queen’s warehouse” means any place provided by the Crown or appointed by the Collector for the deposit of goods for security thereof and of the duties chargeable thereon;

“relevant enactment” means this Ordinance, any provision of this Ordinance and any other enactment relating to customs and any proclamation or subsidiary legislation, and any resolution made under the authority of any such enactment;

“revenue trader” means —

(a) any person carrying on a trade or business which consists of or includes —

(i) the buying, selling, importation, exportation, dealing in or handling of any goods of a class or description which is subject to duty;



(ii) the financing or facilitation of any such transaction or activities; and

(b) any person who is a wholesaler or an occupier of a warehouse and who is not a revenue trader by virtue of paragraph (a) of this definition;

“ship” and “vessel” includes any boat or other vessel whatsoever;

“shipment” includes loading into an aircraft, and “shipped” and cognate expressions shall be construed accordingly;

“spirit”, except in relation to methylated spirits, means any liquor containing more than 22% alcohol by volume;

“spirituous beverage” means any liquor —

(a) in which the majority of the alcohol contained therein is distilled alcohol, and

(b) which does not contain more than 22% alcohol by volume;

“stiffening order” means permission granted by a customs officer to load goods by way of ballast to steady a ship;

“stores” means goods for use in a ship or aircraft, including merchandise for sale by retail to persons carried therein, fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

“strength” in relation to any liquor, means its alcoholic strength computed in accordance with section 122, with the ratio referred to in section 122(2)(c) being computed as a percentage;

“tobacco” includes manufactured and unmanufactured tobacco of every description, including snuff, tobacco stalks and tobacco refuse;

“tons register” means the tons of a ship’s net tonnage as ascertained and registered according to the tonnage regulations for the time being in force in relation to ships registered in the Falkland Islands and, in relation to ships not so registered, ascertained in like manner as if it were to be so registered;

“transit goods” means imported goods entered on importation for transit or transshipment;

“transit or transshipment”, in relation to the entry of goods, means transit through the Falkland Islands or transshipment with a view to the re-exportation of the goods in question or transshipment of those goods for use as stores;

“transit shed” means a transit shed for the time being approved under section 18(1);

“warehouse”, except in the expression “Queen’s warehouse” means a place of security approved by the Collector under section 84(1) and “warehoused” and cognate expressions shall, subject to any

regulations made by virtue of section 85(2)(e)(i) or (h) or (5) of this Ordinance be construed accordingly;

“warehousing regulations” has the meaning given by section 85(1);

“wine” means any liquor —

(a) which is not beer as defined by this subsection and which (but for the limitation by that definition of the percentage of alcohol by volume which a liquor may contain if it is to be beer) would not otherwise be beer as so defined, and

(b) which does not contain more than 15% alcohol by volume;

“worts”, in relation to any liquid or liquor, means a liquid or liquor which is unfermented or in the course of fermentation;

(2) Wherever the context so admits, “port” in any provision of this Ordinance includes any place within the Falkland Islands or its territorial sea at which the Collector may permit any ship to load or discharge goods or embark or disembark any person;

(3) Methyl alcohol, notwithstanding that it is so purified or prepared as to be drinkable, shall be deemed not to be spirits neither shall naphtha or any mixture or preparation containing naphtha or methyl alcohol not containing an admixture of ethyl alcohol.

(4) The gravity of any liquid at any time shall be ascertained by such means as the Collector may approve, and the gravity so ascertained shall be deemed to be the true gravity of the liquid.

(5) Where for any purposes of a relevant enactment it is necessary to ascertain the original gravity of worts in which fermentation has commenced or of any liquid produced from such worts, that gravity shall be determined in such a manner as the Governor may by regulations prescribe.

(6) Different regulations may be made under subsection (5) in relation to different liquids.

(7) Wherever it is provided in this Ordinance that a person commits an offence if he contravenes a provision of this Ordinance, any Order or regulation made thereunder or any condition, limitation, or restriction subject to which any approval or authorisation is given under any provision of this Ordinance or any other relevant enactment, as the case may be (“the requirement”), that person commits the same offence if he fails to comply with the requirement.

(8) Where by any provision of this Ordinance it is provided that a person convicted of an offence specified in that provision is liable to a fine of, or not exceeding, the amount specified in the first-mentioned provision or to imprisonment for a term not exceeding that specified therein, a person convicted of such an offence may, if the court sees fit, in respect of one and the same offence be ordered both to pay a fine not exceeding that amount and to a term of imprisonment not exceeding that term.

### **Treatment of goods for use in a ship or aircraft**

3. Subject to section 119 (by which goods for use in naval ships or establishments may be required to be treated as exported), any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein shall be treated for the purposes of the relevant enactments as stores, and any reference in those enactments to the consumption of stores shall, in relation to goods so treated, be construed as referring to the sale thereof as aforesaid.

### **Application to certain Crown aircraft**

4.—(1) The provisions of this Ordinance relating to aircraft shall apply to any aircraft belonging to or employed in the service of Her Majesty other than a military aircraft.

(2) In this section “military aircraft” includes naval and air force aircraft and any aircraft commanded by a person in naval, military or air force service detailed for the purpose of such command.

### **Time of importation, exportation, etc**

5.—(1) The time of importation of any goods shall be deemed to be —

(a) where the goods are brought in by sea, the time when the ship carrying them comes within the limits of a port or unloads the goods, whichever is the earlier; or

(b) where the goods are brought in by air, the time when the aircraft carrying them lands in the Falkland Islands or the time when the goods are unloaded in the Falkland Islands, whichever is the earlier.

(2) Subject to subsection (3), the time of exportation of any goods, whether the goods are exported by sea or by air, shall be deemed to be the time when the goods are shipped for exportation.

(3) In the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under or virtue of any enactment which are exported by sea or air, the time of exportation shall be deemed to be the time when the exporting ship or aircraft departs from the last port or customs or excise airport at which it is cleared before departing for a destination outside the Falkland Islands.

(4) A ship shall be deemed to have arrived at or departed from a port at the time when the ship comes within, or as the case may be, leaves the limit of that port.

## **PART II ADMINISTRATION**

### *Appointment and duties of Collector of Customs, Customs Officers etc*

#### **Appointment of Collector of Customs and Deputy Collectors of Customs**

6.—(1) The Governor may appoint a person to be the Collector of Customs, who shall have such powers and duties as are conferred upon him by this Ordinance and any other relevant enactment.

(2) Until such time as an appointment is made pursuant to subsection (1) or he ceases for any reason to be a public officer, the person who held office as Collector of Customs at the commencement of this Ordinance shall be the Collector of Customs.

(3) The Governor may appoint a person or persons to be a Deputy Collector of Customs, and except as may otherwise be provided by or under this Ordinance or any other enactment, a Deputy Collector of Customs may exercise any of the powers and duties of the Collector.

### **Appointment of Customs Officers**

7.—(1) The Governor may appoint any person to be a customs officer.

(2) Every police officer and every person at the commencement of this Ordinance holding office as a customs officer under the provisions of the repealed Ordinance shall be deemed to have been appointed to be a customs officer under the provisions of subsection (1).

(3) The Collector may in writing authorise any person in the service of Her Majesty, whether in right of Her government of the Falkland Islands or in right of Her government of the United Kingdom, to exercise the powers and duties of a customs officer for such period, and subject to such conditions and limitations, as may be specified by him in writing. A person authorised under this section shall not be entitled, either by reason of that authorisation or by the exercise in accordance therewith of any powers or duties of a customs officer, to remuneration payable out of the public funds of the Falkland Islands.

### **Duties of Collector**

8.—(1) The Collector shall —

(a) subject to the general control of the Financial Secretary under the provisions of the Finance and Audit Ordinance 1988, collect and account for all revenues of the Falkland Islands by way of customs;

(b) administer, subject to such general or special directions not inconsistent with the provisions of this Ordinance as the Governor may give to him, the provisions of this Ordinance and of every other enactment relating to customs.

(2) All revenues collected pursuant to subsection (1) shall be paid into, and form part of, the Consolidated Fund.

(3) In subsection (1), “revenues of the Falkland Islands by way of customs” includes any sum received under a relevant enactment, including any sum so received by way of excise and any pecuniary penalties or the pecuniary proceeds of any forfeiture, costs, fees or otherwise howsoever.

(4) Any security for money taken by or under the authority of the Collector shall be taken and shall be held for and on behalf of Her Majesty in right of Her government of the Falkland Islands and in accordance with the general or special directions of the Financial Secretary.

(5) Every Deputy Collector and every customs officer (including every police officer) shall assist the Collector with the performance of his duties under every relevant enactment.

### **Disclosure by the Collector of certain information as to imported goods**

9.—(1) The Collector may, if so authorised by the Governor, disclose through such person or persons as the Governor may specify, such information as to which this section applies in respect of imported goods, in respect of imported goods of such descriptions, as may be so specified.

(2) The information to which this section applies is information contained in any document with which the Collector has been provided in pursuance of any relevant enactment, being information of the following descriptions —

(a) the description of the goods, including any maker's catalogue number;

(b) the quantity of the goods imported in a particular period, so however, that if any quantity is given by value it shall not also be given in any other form;

(c) the name of the maker of the goods;

(d) the country of origin of the goods;

(e) the country from which the goods were consigned.

(3) The Governor may by Order add to the descriptions of information to which this section applies any further description of information contained in any document such as is mentioned in subsection

(2) other than the price of the goods or the name of the importer of the goods.

*Offences in connection with Collector, Deputy Collectors, customs officers, etc*

**Unlawful assumption of character of officer**

10. If, for the purpose of obtaining admission to any house or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done on his own authority, or for any other unlawful purpose, any person falsely assumes the name, designation or character of the Collector, any Deputy Collector or customs officer he commits an offence in respect of which he may be arrested without warrant and is liable on conviction of the offence to a fine not exceeding the maximum of level 10 on the standard scale and to imprisonment for 2 years.

**Bribery and collusion**

11.—(1) A customs officer commits an offence under this section who —

(a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or

(b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby Her Majesty is or may be defrauded or which is otherwise unlawful being a thing related to customs,

and a person reasonably suspected of having committed an offence under this subsection may be arrested without warrant.

(2) A person who commits an offence under this section who —

(a) directly or indirectly offers or gives to any customs officer any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward;  
or

(b) proposes or enters into any agreement with any customs officer,

in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby Her Majesty is or may be defrauded or which is otherwise unlawful, being an act or thing relating to customs, or otherwise to take any course contrary to his duty, and a person reasonably suspected of having committed an offence under this section may be arrested without warrant.

(3) A person convicted of an offence under this section shall be liable to a fine not exceeding the maximum of level 5 on the standard scale.

### **Obstruction of customs officers, etc**

**12.—**(1) A person commits an offence who —

(a) obstructs, hinders, molests or assaults any person engaged in the performance of any duty or the exercise of any power imposed or conferred on him by any relevant enactment, or any person acting in his aid;

(b) does anything which impedes or is calculated to impede the carrying out of any search for anything liable to forfeiture under any such enactment or the detention, seizure or removal of any such thing;

(c) rescues damages or destroys any thing so liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not any thing is so liable to forfeiture; or

(d) prevents the arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested,

or who attempts to do any of the aforementioned things.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for 2 years.

(3) A customs officer may arrest without a warrant any person whom he reasonably suspects to have committed or be committing an offence under subsection (1).

## PART III CUSTOMS CONTROL AREAS

### **Appointment of ports, etc**

**13.—**(1) The Governor may by Order appoint and name as a port for the purpose of customs any area in the Falkland Islands specified in the Order.

(2) The Governor may in any port from time to time appoint boarding stations for the purpose of the boarding of or disembarkation from ships by customs officers.

(3) Any port which was a port named or appointed as such, and any boarding station appointed, under the provisions of the repealed Ordinance and, in either case, remaining so named or appointed

immediately before the commencement of this Ordinance, shall be deemed to have been appointed and named, or as the case may be appointed, under the provisions of this section.

(4) Save as permitted by the Collector, the master of a ship arriving in the Falkland Islands from a place outside the Falkland Islands or departing from the Falkland Islands shall not cause or permit the ship to load or discharge any goods or embark or disembark any person after its arrival in Falkland Islands waters or before its departure therefrom except at a port.

(5) Save as permitted by the Collector, no person shall depart on a voyage to a destination outside the Falkland Islands from any place in the Falkland Islands other than a port.

(6) Subsection (3) shall not apply in relation to any ship voyaging from or to any place outside the Falkland Islands which is compelled by accident, stress of weather or other unavoidable cause to discharge goods or disembark any person at a place other than a port; but the master of the ship —

(a) shall take all steps within his power to report the landing or disembarkation to a customs officer or police officer at the earliest possible moment; and

(b) shall comply with any directions given by a customs officer with respect to any goods which have been discharged.

#### **Approval of wharves**

14.—(1) The Collector may approve, for such periods and subject to such reservations and conditions as he thinks fit, places for the loading or unloading of goods of any class or description and the embarkation or disembarkation of passengers and may from time to time revoke or vary the terms and conditions of any such approval.

(2) Any approval, reservation or condition, revocation or variation made under subsection (1) shall be notified in the *Gazette*.

(3) A person who contravenes any condition or restriction attaching to an approval by virtue of which a place is an approved wharf commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(4) A customs officer may at any time enter an approved wharf and inspect it and any goods for the time being at the wharf.

#### **Control of movement of aircraft, etc. into and out of the Falkland Islands**

15.—(1) Save as permitted by the Collector, the commander of an aircraft entering the Falkland Islands from a place outside the Falkland Islands shall not cause or permit the aircraft to land —

(a) for the first time after its arrival in the Falkland Islands; or

(b) at any time while it is carrying passengers or goods brought in that aircraft from a place outside the Falkland Islands and not yet cleared,

at any place other than a customs airport.

(2) Save as permitted by the Collector, no person importing or concerned in importing any goods in any aircraft shall bring the goods into the Falkland Islands at any place other than a customs airport.

(3) Save as permitted by the Collector —

(a) no person shall depart on a flight to a place or area outside the Falkland Islands from any place in the Falkland Islands other than a customs airport;

(b) the commander of any aircraft engaged in a flight from a customs airport to a place or area outside the Falkland Islands shall not cause or permit it to land at any place in the Falkland Islands other than a customs airport specified in the application for a clearance for that flight.

(4) Subsections (1) to (3) shall not apply in relation to any aircraft flying from or to any place or area outside the Falkland Islands to or from any place in the Falkland Islands which is required by or under any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at a place other than a customs airport; but, subject to subsection (5) —

(a) the commander of any such aircraft —

(i) shall immediately report the landing to a customs officer or to a police officer and shall on demand produce to him the journey log book belonging to the aircraft;

(ii) shall not without the consent of a customs officer permit any goods carried in the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the aircraft,

(iii) shall comply with any directions given by a customs officer in relation to such goods; and

(b) no passenger or member of the crew shall without the consent of a customs officer or police officer leave the immediate vicinity of the aircraft.

(5) Nothing in subsection (4) shall prohibit —

(a) the departure of passengers or crew from the vicinity of an aircraft; or

(b) the removal of goods from an aircraft,

where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.

(6) A person who contravenes any provision commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding 3 months.

(7) In this Ordinance “customs airport” means Mount Pleasant Airport and Stanley Airport and any other airport designated by the Governor as a customs airport by Order made under this subsection.



### **Approval of examination stations at customs airports**

**16.**—(1) The Collector may approve, for such periods and subject to such conditions as he thinks fit, a part of, or a place at, any customs airport for the loading or unloading of goods and the embarkation and disembarkation of passengers and may at any time revoke or vary the terms of any approval given under this section.

(2) A person who contravenes any condition or restriction attaching to an approval by virtue of which a part of, or place at, a customs airport is an examination station commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

### **Control of movement of goods by pipe-line**

**17.**—(1) Goods shall not be imported by means of a pipe-line that is not for the time being approved by the Governor for the purposes.

(2) Uncleared goods, that is to say —

(a) imported goods, whether or not chargeable with duty, which have not been cleared out of charge, and in particular goods which are, or are to be, moved under section 23; or

(b) dutiable goods moved from the warehouse without payment of duty,

shall not be moved by means of a pipe-line that is not for the time being approved by the Governor for the purposes of this section.

(3) The Governor may give his approval under this section for such period and subject to such conditions as he thinks fit, and may at any time —

(a) vary the terms of his approval; and

(b) after having given to the owner of the pipe-line not less than 3 months' notice of his intention to do so, revoke his approval.

(4) Section 79 of the Offshore Minerals Ordinance 1994 applies in relation to the service of notices under subsection (3)(b).

(5) A person commits an offence who —

(a) contravenes subsection (1) or (2), or contravenes a condition imposed by the Governor under subsection (3);

(b) except with the authority of the Collector or for just and sufficient cause, obtains access to goods which are in, or are in the course of conveyance by, a pipe-line approved under this section,

and —

(i) may be arrested without warrant in respect of that offence;

(ii) any goods in respect of which the offence was committed are liable to forfeiture.

(6) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for 2 years.

#### **Transit sheds**

**18.—**(1) The Collector may approve, for such periods and subject to such conditions and restrictions as he thinks fit, places for the deposit of goods imported and not yet cleared out of charge, including goods not yet reported and entered and may from time to time revoke or vary the terms of any approval given under this section.

(2) A person who contravenes with any conditions or restriction attaching to an approval by virtue of which a place is a transit shed commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(3) A customs officer may at any time enter a transit shed and inspect it and any goods for the time being in the transit shed.

#### **Hovercraft and Hydrofoils**

**19.—**(1) If it shall at any time appear to the Governor necessary or expedient to do so, he may by regulations under this section —

(a) impose conditions and restrictions as respects the movement of hovercraft and hydrofoils and the carriage of goods by them;

(b) make such additional or consequential provision as he may consider necessary in relation to the foregoing or the application of the provisions of this Ordinance to or in relation to hovercraft and hydrofoils

(2) If any person contravenes any provision of any regulations made under subsection (1), he creates an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

#### **Customs officers' powers of boarding**

**20.—**(1) At any time a ship is within the limits of a port, or an aircraft is at an aerodrome or a vehicle is —

(a) entering, leaving or about to leave the Falkland Islands;

(b) at, entering or leaving an aerodrome; or

(c) at, entering or leaving an approved wharf, transit shed or customs warehouse;

any customs officer and any person duly engaged in the prevention of smuggling may board the ship or aircraft and remain there and rummage and search any part thereof.

(2) The Collector may station officers in any ship at any time while it is within the limits of a port, and if the master of any ship neglects or refuses to provide —

(a) reasonable accommodation below decks for any customs officer stationed therein; or

(b) means of safe access to and egress from the ship in accordance with the requirements of any such officer,

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

#### **Customs officers' powers of access, etc**

21.—(1) Without prejudice to section 20, the proper officer shall have free access to every part of any ship or aircraft at a port or aerodrome, and of any vehicle which is brought to a customs station, and may —

(a) cause any goods to be marked before they are unloaded from that ship, aircraft or vehicle;

(b) lock up, seal mark or otherwise secure any goods carried on the ship, aircraft or vehicle or any place or container in which they are so carried; and

(c) break open any place or container which is locked and of which the keys are withheld.

(2) Any goods found concealed on board any such ship, aircraft or vehicle are liable to forfeiture.

#### **Customs officers' power of detention of ships, etc**

22.—(1) Where, in the case of any ship or aircraft of which due report has been made under section 28, any goods are still on board that ship or aircraft at the expiration of the relevant period, the proper officer may detain that ship or aircraft until there have been paid to the Collector —

(a) any expenses properly incurred in watching and guarding the goods beyond the relevant period, except in the case of a ship or aircraft, in respect of the day of the clearance inwards; and

(b) where the goods are removed from the ship, aircraft or vehicle to a Queen's warehouse, the expenses of that removal.

(2) In subsection (1), "the relevant period" means —

(a) in the case of a ship or vehicle, 21 clear days from the date of making due report of the ship or vehicle under section 28 or such longer period as the Collector may in any case allow;

(b) in the case of an aircraft, 7 clear days from the date of making due report of the aircraft under that section or such longer period as the Collector may in any case allow.

(3) Where in the case of any derelict or other ship or aircraft coming, driven or brought into the Falkland Islands under legal process, by stress of weather or for safety, it is necessary for the protection

of the revenue to station any officer in charge thereof, whether on board or otherwise, the proper officer may detain that ship or aircraft until any expenses incurred by the Collector have been repaid.

**Control of movement of uncleared goods within or between port or airport or other places**

23.—(1) The Collector may from time to time give general or special directions as to the manner in which, and the conditions under which, goods to which this section applies, or any class or description of such goods, may be moved within the limits of any port or customs airport or between any port or customs airport and any other place.

(2) This section applies to goods chargeable with any duty which has not been paid, to drawback goods, and to any goods which have not been cleared out of charge.

(3) Any directions under subsection (1) may require that any goods to which this section applies shall be moved only —

(a) by persons licensed by the Collector for the purpose;

(b) in such ships, aircraft or vehicles or by such other means as may be approved by the Collector for that purpose,

and any such licence or approval may be granted for such period and subject to such conditions and restrictions as the Collector thinks fit and may be revoked at any time by the Collector.

(4) A person who contravenes any direction given by the Collector under this section commits an offence and is liable to a fine not exceeding the maximum of level 2 on the standard scale.

**Control of movement of goods to and from inland clearance depot, etc**

24.—(1) The Governor may by regulations impose conditions and restrictions as respects —

(a) the movement of imported goods between the place of importation and a place approved by the Collector for the clearance out of charge of such goods or the place of exportation of such goods; and

(b) the movement of goods intended for export between a place approved by the Collector for the examination of such goods and the place of exportation.

(2) Regulations under subsection (1) may in particular —

(a) require the goods to be moved within such period as may be specified under the regulations;

(b) require the goods to be carried in a vehicle or container complying with such requirements and secured in such manner as may be so specified;

(c) prohibit, except in such circumstances as may be so specified, any unloading or loading of the vehicle or container or any interference with its security.

(3) If any person contravenes any regulation under subsection (1) or any requirement imposed by or under any such regulation, he and any person then in charge of the goods is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

#### **Penalty for carrying away officers**

**25.—**(1) If any ship or aircraft departs from any place carrying on board without his consent any customs officer or other Government officer, the master of the ship or the commander of the aircraft shall be liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(2) Without prejudice to the liability of any person under subsection (1), the amount of any expenses incurred by the Crown by the reason of the carrying away of the customs officer or other Government officer may be recovered summarily as a civil debt from that person or from the owner of the ship or aircraft concerned.

#### **Power to inspect aircraft, aerodromes, records etc.**

**26.—**(1) The commander of an aircraft shall permit an officer at any time to board the aircraft and inspect —

(a) the aircraft and any goods loaded therein;

(b) all documents relating to the aircraft or to goods or persons carried therein;

and an officer shall have the right of access at any time to any place to which access is required for the purpose of any such inspection.

(2) The person in control of an aerodrome shall permit a customs officer at any time to enter upon and inspect the aerodrome and all buildings and goods thereon.

(3) The person in control of an aerodrome licensed under any enactment relating to air navigation and, if so required by the Collector, the person in control of any other aerodrome shall —

(a) keep a record in such form and manner as the Collector may approve of all aircraft arriving or departing from the aerodrome;

(b) keep that record available and produce it on demand to any customs officer, together with all other documents kept at the aerodrome which relate to the movement of aircraft; and

(c) permit any officer to make copies of and take extracts from any such record or document.

(4) Any person who contravenes any of the provisions commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding 3 months.

#### **Power to prevent flight of aircraft**

**27.—**(1) If it appears to any customs officer or police officer that an aircraft is intended or likely to depart for a destination outside the Falkland Islands from —

(a) any place other than a customs airport;

(b) a customs airport before clearance outwards is given,

he may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.

(2) A person who contravenes any instructions given under subsection (1) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding 3 months.

(3) If an aircraft flies in contravention of any instructions given under subsection (1) or notwithstanding any steps taken to prevent the flight, the owner and commander of the aircraft, each commit an offence under subsection (2), without prejudice to the liability of any other person under that subsection, but it is a defence for the owner or commander to prove that the flight took place without his knowledge or connivance.

PART IV  
CONTROL OF IMPORTATION  
*Inward entry and clearance*

**Report inwards**

**28.**—(1) Report shall be made within 24 hours of the arrival of every ship and aircraft to which this section applies in such form and in such manner and containing such particulars as the Collector may direct.

(2) This section applies to every ship arriving at a port —

(a) from any place outside the Falkland Islands; or

(b) carrying any goods brought in that ship from some place outside the Falkland Islands and not yet cleared on importation;

(3) This section applies to every aircraft arriving at any place in the Falkland Islands—

(a) from any place or area outside the Falkland Islands;

(b) carrying passengers or goods taken on board that aircraft at a place outside the Falkland Islands, being passengers or goods either —

(i) bound for a destination in the Falkland Islands and not already cleared at a customs airport;  
or

(ii) bound for a destination outside the Falkland Islands.

(4) The Governor may make regulations prescribing the procedure for making report under this section.

(5) If the person by whom the report should be made fails to make report as required by or under this section —

(a) he is liable on summary conviction to a fine not exceeding the maximum of level 3 on the standard scale; and

(b) any goods required to be reported which are not duly reported may be detained by any customs officer until so reported or until the omission is explained to the satisfaction of the Collector, and may in the mean time be deposited in Queen's warehouse.

(6) The person making the report shall at the time of making it answer all such questions relating to the ship or aircraft, to the goods carried therein, to the crew and to the voyage or flight as may be put to him by the proper officer; and if he refuses to answer he commits an offence and is liable on conviction not exceeding the maximum of level 3 on the standard scale.

(7) If at any time after a ship or aircraft carrying goods brought therein from any place outside the Falkland Islands arrives in or over Falkland Islands waters, and before report has been made in accordance with this section —

(a) bulk is broken; or

(b) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part thereof before due report has been made; or

(c) any part of the goods is staved, destroyed or thrown overboard or any container is opened,

and the matter is not explained to the satisfaction of the Collector, the master of the ship or the commander of the aircraft commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

#### **Provisions as to Her Majesty's ships, etc**

29.—(1) The person in command of any ship having a commission from Her Majesty or any foreign State which has on board goods loaded in any place outside the Falkland Islands shall, before any such goods are unloaded, or at any time when called upon to do so by the proper officer, deliver to the proper officer an account of the goods in accordance with subsection (2) and if he fails to do so he shall be liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(2) An account of goods under subsection (1) shall be in such form, and shall contain to the best of the knowledge of the person delivering the account such particulars, and shall be delivered in such manner, as the Collector may direct.

(3) The person delivering such an account shall, when delivering it answer all such questions relating to the goods as may be put to him by the proper officer and if he refuses to answer he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

(4) Subject in the case of ships having a commission from Her Majesty to the regulations (if any) made by Her Majesty's Treasury in the United Kingdom and having effect for the purposes of section 36(4) of the Customs and Excise Management Act 1979 (which Regulations shall have effect in the Falkland Islands, with all necessary modifications as to localities and authorities as if they were Regulations made under this Ordinance), the provisions of Parts III to VII of this Ordinance as to the boarding and search of ships shall have effect in relation to such a ship as they have effect in relation to any other ship, and any customs officer may remove to the Queen's warehouse any goods loaded as aforesaid found on board such a ship.

#### **Entry of goods on importation**

**30.—**(1) The importer of any goods, other than goods which are exempt from the requirements of this section, shall deliver to the proper officer an entry thereof in such form and manner and containing such particular as the Collector may direct.

(2) The following goods are exempt from the requirements of this section —

(a) fresh fish (or fish frozen when fresh) (including shell-fish) of Falkland Islands taking brought by ships registered in the Falkland Islands and;

(b) passengers' baggage.

(3) Subject to subsections (4) and (5) of this section, goods may be entered under this section —

(a) for home use, if so eligible;

(b) for warehousing;

(c) for transit or transshipment;

(d) for inward processing; or

(e) in such cases as the Collector may permit, for temporary retention with a view to subsequent re-exportation.

(4) All good imported by means of a pipe-line and chargeable with duty shall be entered for warehousing.

(5) The Collector may —

(a) refuse to accept an entry of any goods if he is not satisfied that those goods were imported before the time of the delivery of the entry;

(b) subject to subsection (4) of this section, direct that goods of any class or description specified in the direction shall not be permitted to be entered for warehousing.

(6) If, in the case of any goods which are not dutiable goods, any such entry as aforesaid is inaccurate in any particular, the importer shall, within 14 clear days of the delivery of the entry or such longer period as the Collector may in any case allow, deliver to the proper officer a full and accurate account of the goods.



(7) If an account of the goods is delivered in accordance with subsection (6) of this section and the Collector is satisfied that the inaccuracy was inadvertent and immaterial except for statistical purposes, then notwithstanding anything in any other legislation relating to customs the goods shall not be liable to forfeiture, or the importer to any penalty, by reason only of the inaccuracy of the entry.

### **Entry by Bill of Sight**

**31.—**(1) Without prejudice to section 30, where on the importation of any goods the importer is unable for want of full information to make immediately perfect entry thereof, he may, subject to subsection 2 of this section, on making a signed declaration to the effect before the proper officer, deliver to that officer an entry of the goods by bill of sight in such form and manner and containing such particulars as the Collector may direct.

(2) Notwithstanding subsection (1) of this section, the Collector may refuse to accept an entry by bill of sight of any goods if he is not satisfied that those goods were imported before the delivery of the entry.

(3) An entry of any goods by bill of sight under subsection (1) above when signed by the proper officer shall be the warrant of the examination of the goods by the importer in the presence of the proper officer with a view to making perfect entry thereof.

(4) If within such a period from the date of the entry of any goods by Bill of Sight as the Collector may allow, no entry purporting to be a perfect entry has been made of those goods, the proper officer may cause the goods to be deposited in a Queen's warehouse; and, without prejudice to sections 91(3) of this Ordinance, if any goods so deposited are not cleared within 28 days from the date of the deposit the Collector may sell them.

### **Entry of surplus stores**

**32.—**(1) With the permission of the proper officer, surplus stores of any ship or aircraft —

(a) if intended for private use and in quantities which do not appear to him to be excessive, may be entered and otherwise treated as if they were goods imported in the ship or aircraft; or

(b) in any other case, may, subject to subsection (2), be entered for warehousing notwithstanding that they could not lawfully be imported as merchandise.

(2) Goods entered for warehousing by virtue of subsection (1)(b), shall not, except with the sanction of the Collector, be further entered, or be removed from the warehouse, otherwise than for use as stores.

### **Removal of uncleared goods to Queen's warehouse**

**33.—**(1) Where in the case of any imported goods —

(a) entry has not been made thereof by the expiration of the relevant period; or

(b) at the expiration of 21 clear days from the date when they were presented at the proper office of Customs and Excise they have not been produced for examination and clearance and the failure to produce them is attributable to an act or omission for which the importer is responsible; or

(c) being goods imported by sea and not being in large quantity, they are at any time after the arrival of the importing ship at the port or place at which they are to be unloaded the only goods remaining to be unloaded from the ship at that port,

the proper officer may cause the goods to be deposited in a Queen's warehouse.

(2) Where any small package or consignment of goods is imported, the proper officer may at any time after the relevant date cause that package or consignment to be deposited in a Queen's warehouse to await entry.

(3) Without prejudice to section 89(3), if any goods deposited in a Queen's warehouse by the proper officer under this section are not cleared by the importer thereof —

(a) in the case of goods which are in the opinion of the Collector of a perishable nature, forthwith;  
or

(b) in any other case, within 3 months after they have been so deposited or such longer time as the Collector may in any case allow,

the Collector may sell them.

(4) In this section —

(a) "the relevant period" means a period of, in the case of goods imported by air, 7, and in any other case, 14, clear days from the relevant date; and

(b) "the relevant date" means, subject to subsection (5), the date when report was made of the importing ship or aircraft under section 28, or where no such report was made, the date when it should properly have been made.

(5) Where any restriction is placed on the unloading of goods from any ship or aircraft by virtue of any enactment relating to the prevention of epidemic and infectious diseases, then, in relation to that ship or aircraft, "the relevant date" in this section means the date of removal of the restriction.

#### **Failure to comply with provisions as to entry**

**34.** Without prejudice to any liability under any other provision of any relevant enactment, any person making entry of goods on their importation who fails to comply with any of the requirements of this Part of this Ordinance commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale, and the goods in question shall be liable to forfeiture.

#### **Power to regulate unloading, removal etc. of imported goods**

**35.—(1)** The Governor may make regulations —

(a) prescribing the procedure to be followed by a ship arriving at a port, an aircraft arriving at a customs airport;

(b) regulating the unloading, landing, movement and removal of goods on their importation;

and different regulations may be made with respect to importation by sea and air, respectively.

(2) A person who contravenes any regulation made under this section or any direction given by the Collector or the proper officer in pursuance of any such regulation and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

*Provisions as to duty on imported goods*

**Duty on imported goods**

**36.**—(1) Save as permitted by any relevant enactment, no imported goods shall be delivered or removed on importation until the importer has paid to the proper officer any duty chargeable thereon, and that duty shall, in the case of goods of which entry is made, be paid on making the entry.

(2) Subject to subsections (3) to (5), the duties of customs and the rates thereof chargeable on imported goods —

(a) if entry is made thereof, except where entry is for warehousing, or if they are declared under section 71, shall be those in force with respect to such goods at the time when entry is accepted or the declaration is made;

(b) if entry or, in the case of goods entered by bill of sight, perfect entry is made for warehousing, shall be ascertained in accordance with warehousing regulations;

(c) if no entry is made thereof and the goods are not declared under section 69 shall be those in force with respect to such goods at the time of their importation.

(3) Where the Collector requires a duty of customs to be paid because of a failure to comply with a condition or other obligation imposed under section 38 or 39 (not being a condition or obligation required to be complied with before the goods were allowed to be removed or delivered) the duty shall be charged as if entry of the goods had been accepted at the time when non-compliance occurred.

(4) Where any duties of customs are chargeable in respect of waste or debris resulting from the destruction of imported goods in free circulation, those duties and their rates shall be those in force at the time when the goods were destroyed.

(5) As respects goods which have been unlawfully removed from customs charge, subsection (2)(c) shall have effect with respect to any duties of customs as if they had been imported at the time of their removal.

(6) Any goods brought or coming into the Falkland Islands by sea otherwise than as cargo, stores or baggage carried in a ship shall be chargeable with the like duty, if any, as would be applicable to those goods if they had been imported as merchandise; and if any question arises as to the origin of the goods they shall, unless that question is determined under section 121, be deemed to be the produce of such country as the Collector may determine.

(7) Where entry of goods is made otherwise than for warehousing and there is a reduction in the rate of duty of customs chargeable on the goods between —

(a) the time mentioned in subsection 2(a); and

(b) the time when the goods are cleared from customs charge,

the rate of duty chargeable on the goods shall, if the importer so requests, be that in force at the time mentioned in paragraph (b) of this subsection unless clearance of the goods has been delayed by reason of any act or omission for which the importer is responsible.

#### **Exclusion of section 36(1) for importers etc. keeping standing deposits**

37. Where the Financial Secretary so directs, section 36(1) shall not apply if and so long as the importer or his agent pays to, and keeps deposited with, the Treasury a sum by way of standing deposit sufficient in the Financial Secretary's opinion to cover any duty which may become payable in respect of goods entered by that importer or agent, and if the importer or agent complies with such other conditions as the Financial Secretary, after consulting the Collector, may impose.

#### **Deferred payment of customs duty**

38.—(1) The Governor may by regulations provide for the payment of customs duty to be deferred in such cases as may be specified by the regulations and subject to such conditions as may be imposed by or under the regulations; and duty of which payment is deferred under the regulations shall be treated, for such purposes as may be specified thereby, as if it had been paid.

(2) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.

#### **Goods to be warehoused without payment of duty**

39. Any goods which are on their importation permitted to be entered for warehousing shall be allowed, subject to such conditions or restrictions as may be imposed under warehousing regulations, to be warehoused without payment of duty.

#### **Relief from payment of duty of goods entered for transit or transshipment**

40. Where any goods are entered for transit or transshipment, the Collector may allow the goods to be removed for that purpose, subject to such conditions and restrictions as he sees fit, without payment of duty.

#### **Relief from payment of duty of goods temporarily imported**

41. In such cases as the Governor may by regulations prescribe, where the Collector is satisfied that goods are imported only temporarily with a view to subsequent re-exportation, the Collector may permit the goods to be delivered on importation, subject to such conditions as the Collector sees fit to impose, without payment of duty.

#### *Forfeiture, offences etc. in connection with importation*

#### **Forfeiture of goods improperly imported**

42.—(1) Where —

(a) except as provided by or under any relevant enactment, any imported goods, being goods chargeable on their importation with customs duty, are, without payment of that duty —

(i) unshipped in any port;

(ii) unloaded from any aircraft in the Falkland Islands; or

(iii) removed from their place of importation or from any approved wharf, examination station or transit shed; or

(b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or

(c) any goods, being goods chargeable with duty, goods the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any ship or aircraft; or

(d) any goods are imported concealed in a container holding goods of a different description; or

(e) any imported goods are found, whether before or after delivery, not to correspond with the entry made thereof; or

(f) any imported goods are concealed or packed in any manner appearing to be intended to deceive a customs officer,

those goods are, subject to subsection (2), liable to forfeiture.

(2) Where any goods, the importation of which is for the time being prohibited or restricted by or under any enactment, are on their importation either—

(a) reported as intended for exportation in the same ship or aircraft; or

(b) entered for transit or transshipment; or

(c) entered to be warehoused for exportation or for use as stores,

the Collector may, if he sees fit, permit the goods to be dealt with accordingly.

### **Penalty for improper importation of goods**

43.—(1) Subsection (2) applies to goods of the following descriptions, that is to say—

(a) goods chargeable with a duty which has not been paid; or

(b) goods the importation, landing or unloading of which is for the time being prohibited or restricted by or under any enactment.

(2) Any person who, with intent to defraud Her Majesty of any such duty or to evade any such prohibition or restriction as is mentioned in subsection (1)—

(a) unships or lands at any port or unloads from any aircraft in the Falkland Islands any goods to which this subsection applies, or assists or is otherwise concerned in such unshipping, landing or unloading; or

(b) removes from their place of importation or from any approved wharf, examination station, transit shed or customs station and goods to which this subsection applies or assists or is otherwise concerned in such removal,

commits an offence under this subsection and may be arrested without warrant.

(3) Any person who imports or is concerned in importing any goods contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods, whether or not those goods are unloaded, and does so with intent to evade the prohibition or restriction, commits an offence under this subsection and may be arrested without warrant.

(4) Subject to subsection (5) or (6), a person convicted of an offence under subsection (2) or (3) is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

(5) In the case of an offence under subsection (2) or (3) in connection with a prohibition or restriction having effect by virtue of section 3 of the Misuse of Drugs Ordinance 1987, subsection (4) has effect subject to the modifications specified in Schedule 1 to this Ordinance.

(6) In the case of an offence under subsection (2) or (3) in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981 in its application to the Falkland Islands under the provisions of the Crimes Ordinance 1989, subsection (4) shall have effect as if the words "7 years" were replaced by the words "10 years".

(7) Any person who —

(a) imports or causes to be imported any goods concealed in a container holding goods of a different description;

(b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry made thereof;

commits an offence and is liable on conviction to a fine not exceeding three times the value of the goods or the maximum of level 3 on the standard scale, whichever is the greater.

## PART V

### CONTROL OF EXPORTATION

#### *Outward entry and clearance of goods*

#### **Meaning for this Part of "dutiabale or restricted goods"**

44. For the purposes of this Part of this Ordinance "dutiabale or restricted goods" are goods of the following descriptions, that is to say —

(a) goods from warehouse;

(b) transit goods;

(c) any other goods chargeable with duty which has not been paid;

(d) drawback goods;

(e) goods with respect to the exportation of which any restriction is for the time being in force under or by virtue of any enactment; or

(f) any goods required by or under any provision of this Ordinance other than a provision of this Part or by or under any provision of any other Ordinance to be entered before exportation or before shipment for exportation or as stores.

#### **Entry outwards of dutiable or restricted goods**

**45.**—(1) Where any dutiable or restricted goods are to be shipped for exportation or as stores for use on a voyage or a flight to an eventual destination outside the Falkland Islands or are brought to any customs station for exportation, the exporter shall, subject to subsection (2) —

(a) deliver to the proper officer an entry outwards of the goods under this section in such form and in such manner and containing such particulars as the Collector may direct;

(b) give security to the satisfaction of the Collector that the goods will be duly shipped or exported and discharged at the destination for which they are entered outwards within such time as the Collector considers reasonable, or, in the case of goods for use as stores, will be duly so used, or that they will be otherwise accounted for to the satisfaction of the Collector.

(2) The Collector may relax all or any of the requirements imposed by or under subsection (1) as he thinks fit in relation to any goods.

(3) If any goods of which entry is required under this section are shipped for exportation or as stores or are waterborne for such shipment before entry thereof has been duly made, the goods are liable to forfeiture and, where shipping or making waterborne is done with fraudulent intent, any person concerned therein with knowledge of that intent commits an offence under this section and may be arrested without warrant.

(4) A person who is convicted of an offence under subsection (3) is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or three times the value of the goods, whichever is greater, and to imprisonment for a term not exceeding 2 years

(5) If any goods are found not to correspond with any entry made thereof under this section they are liable to forfeiture.

#### **Entry outwards of goods which are not dutiable or restricted goods**

**46.**—(1) Subject to subsection (5), before any goods which are not dutiable or restricted goods are exported or shipped for exportation, the exporter shall deliver to the proper officer an entry outwards of the goods under this section.

(2) The form of entries under this section, the particulars to be contained therein and the manner of their delivery shall be such as the Collector may from time to time direct.

(3) Where the particulars contained in any entry delivered under this section are in any way incorrect or inaccurate, the person delivering it shall notify the proper officer of any necessary correction within fourteen days beginning with the day of delivery.

(4) The Collector may give directions under this section imposing on persons specified in the directions requirements as to the giving of information with respect to, and the furnishing of documents in connection with, goods which have been entered under this section but are not exported or shipped for exportation within a specified period beginning with the day of delivery of the entry.

(5) The Collector may relax any requirement imposed by or under this section as he thinks fit in relation to any goods.

(6) Subject to this section and to section 45, a person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale if —

(a) being the exporter of goods, those goods are exported or shipped before delivery of an entry in respect thereof;

(b) he fails to comply with subsection (3) in respect of any entry; or

(c) he contravenes with any direction given under this section.

#### **Acceptance of incomplete entry**

**47.—**(1) The proper officer may, if he thinks fit, accept an entry which does not in every respect comply with section 45 or 46, but he shall not do so in a case in which the goods have not been presented.

(2) Where an entry is accepted under this section, the exporter shall, within such time as the Collector may allow, deliver to the Collector such of the particulars or documents as were required to be, but were not, contained in or delivered with the entry or, if the Collector so permits, deliver to him a substituted entry complying in all respects with section 45 or 46.

(3) Any person who fails to comply with subsection (2) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

#### **Correction and cancellation of entry**

**48.—**(1) The exporter may correct any of the particulars contained in an entry of goods under section 45 or 46 after it has been accepted if —

(a) the appropriate authority has not been given for the removal of the goods;

(b) the exporter has not been notified by a customs officer that the goods are to be examined; and

(c) the entry has not been found by a customs officer to be incorrect;



and in paragraph (a) "the appropriate authority" means, in the case of goods which have been presented to the proper officer at a place approved by the Collector under section 24(1)(b), any authority to remove the goods from the place where they were presented to the proper officer which is required under section 24;

(2) Particulars in an entry may be corrected after the giving of such authority as mentioned in subsection (1)(a) if they relate to a matter which can be established in the absence of the goods.

(3) The proper officer may permit or require any correction allowed by subsection (1) to be made by the delivery of a substituted entry.

(4) Subject to subsection (5), an entry which has been accepted may be cancelled at the request of the exporter if he delivers to the proper officer all copies of the entry and such other documents delivered to him on or in connection with the entry as the Collector may require and shows to the satisfaction of the Collector that the goods are in the Falkland Islands and the arrangements for exporting them have been cancelled.

(5) An entry shall not be cancelled under subsection (4) —

(a) in a case where the exporter is informed by a customs officer that the goods are to be examined, until the examination has taken place;

(b) until the exporter has complied with any requirements imposed by the Collector as to the movement of the goods in respect of which the entry was made to such places as he may specify.

(6) Where an entry in respect of goods which are not dutiable or restricted goods is cancelled under subsection (4), the exporter shall within such period as may be specified by directions given by the Collector furnish him with such information and such documents relating to the goods as may be specified in the directions.

(7) A person who contravenes with subsection (6) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

### **Failure to export**

**49.**—(1) Where any goods in respect of which an entry has been accepted have not been shipped, an officer may by notice given to the exporter require the goods to be exported within such time as is specified in the notice; and if the notice is not complied with the entry shall be treated as cancelled.

(2) Where, in the case of any such goods as are mentioned in subsection (1) which are due to be loaded into a ship or aircraft specified in the entry or by the person having charge of them at the port or customs airport for intended shipment, no notice has been served under that subsection and the goods have not been shipped by the time the ship or aircraft departs from the port or airport at which it has been cleared by the proper officer, then —

(a) the entry shall be treated as cancelled at that time;

(b) if the goods are dutiable or restricted goods, they are liable to forfeiture unless notice of the failure to export them is given to the proper officer immediately after that time.

(3) Where an entry in respect of dutiable or restricted goods is treated as cancelled by virtue of this section —

(a) the exporter shall within such period as may be specified by directions given by the Collector furnish him with such information and such documents as may be specified in the directions; and

(b) if the goods have not been forfeited under subsection (1) (b), they shall be warehoused or, if the Collector shall so require, shall be moved to such place as the Collector may specify.

(4) Where an entry in respect of goods which are not dutiable or restricted goods is treated as cancelled by virtue of this section, the exporter shall within such time as may be specified by directions given by the Collector furnish him with such information and such documents relating to the goods as may be specified in the directions.

(5) A person commits an offence who contravenes with subsection (3) or (4) and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

#### **Simplified clearance procedure**

**50.**—(1) Goods which are not dutiable or restricted goods may be shipped for exportation without entry under section 46 if —

(a) the exporter is registered in a register of exporters maintained by the Collector for the purposes of this section; and

(b) before the goods are shipped the conditions mentioned in subsection (3) are satisfied.

(2) The Collector may for the purposes of this section —

(a) enter in a register maintained by him any person applying for registration and appearing to the Collector to be concerned in the exportation of goods and to satisfy such requirements for registration as he may think fit to impose;

(b) give directions imposing requirements on registered persons, including, in particular, requirements as to the keeping of accounts and the giving of access to them;

(c) suspend or cancel the registration of any person if it appears to him that he has failed to comply with any direction under this section or with section 51(1) or (2) or that there is other reasonable cause for the suspension or cancellation.

(3) The conditions referred to in subsection (1) are —

(a) that the goods are presented to the proper officer;

(b) that the exporter delivers to the proper officer and the proper officer accepts such document relating to the goods as the direction may require;

(c) that the exporter complies with such other requirements as the directions may impose,

and goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Collector may direct, to the proper officer of the presence of the goods at the place designated by him.

(4) The document referred to in subsection (3) (b) shall be delivered and accepted in such manner as the directions may require and once acceptance of that document by the proper officer has been signified the goods shall not be removed without his consent from the place they were at the time of acceptance.

(5) The Collector may relax any requirement imposed under this section as he thinks fit in relation to any goods and, if he does, may impose substituted requirements.

(6) Sections 48 shall apply in relation to a document required to be delivered under sub section (3)(b) as it applies in relation to an entry and section 49 shall apply in relation to goods in respect of which such a document has been accepted under that subsection as it applies to goods in respect of which an entry has been accepted.

#### **Provisions supplementary to section 50**

**51.**—(1) Where by virtue of section 50 goods have been shipped for exportation without entry under section 44, the exporter shall deliver to the proper officer a specification of the goods containing, as the Collector may direct, either the particulars that would have been required to have been contained in the entry or such other particulars as may be so directed.

(2) The specification referred to in subsection (1) above may, if the Collector permits, be a single specification relating to the goods exported during a particular period and shall be delivered at such place and in such manner and by such time as the Collector may allow.

(3) A person commits an offence who —

(a) fails to deliver a specification in accordance with the foregoing provisions of this section or delivers a specification which is incorrect and does not correct it within the fourteen days following delivery. or

(b) without reasonable excuse fails to comply with a requirement imposed on him by section 50.

#### **Pipe-lines**

**52.**—(1) For the purposes of this Part of this Ordinance goods which are to be exported by means of a pipe-line shall be treated as having been presented to the proper officer when notice of the goods to be exported has been given to the proper officer and accepted by him.

(2) Notice under subsection (1) shall be given by such person and in such form and manner and shall contain such particulars as the Governor may direct.

### Provisions as to stores

53.—(1) The Financial Secretary may give directions —

(a) as to the quantity of any goods which may be carried in any ship or aircraft as stores for use on a voyage or flight to an eventual destination outside the Falkland Islands;

(b) as to the descriptions of vessel on which goods carried as stores may be used in port without payment of duty;

(c) as to the quantity of any goods which may be carried as stores for use in port as mentioned in paragraph (b) and as to the time within which such goods or any specified quantities of them may be so used; and

(d) as to the authorisation to be obtained for the supply and carriage of, and the procedure to be followed in supplying, any goods as stores for use as mentioned in paragraph (a) or (b), whether or not any duty is chargeable or has been paid, or any drawback is payable, in respect of those goods.

(2) Save as provided in subsection (3), goods shall not be permitted to be shipped as stores without payment of duty or on drawback except in a ship of not less than 40 tons register departing on a voyage, or in an aircraft departing on a flight, to a country outside the Falkland Islands.

(3) The Financial Secretary may, in such cases and subject to such conditions and restrictions as he sees fit, permit goods to be shipped as mentioned in subsection (2) in —

(a) any ship departing from the Falkland Islands, being a ship of not less than forty tons register departing for a voyage not falling within subsection (2) or a ship of less than forty tons register; or

(b) any aircraft departing from the Falkland Islands for a flight not falling within that subsection.

(4) If any goods shipped or carried as stores for use on a voyage or flight to an eventual destination outside the Falkland Islands or for use in a port without payment of duty are without the authority of the proper officer landed or unloaded at any place in the Falkland Islands —

(a) the goods are liable to forfeiture; and

(b) the master or commander and the owner of the ship or aircraft each commit an offence and are each liable on conviction to a fine not exceeding the greater of three times the value of the goods or level 3 on the standard scale.

(5) The proper officer may lock up, mark, seal or otherwise secure any goods entered, shipped or carried as stores for use as mentioned in subsection (4) or any place or container in which such goods are kept or held.

(6) If any ship or aircraft which has departed from any port or customs airport for a destination outside the Falkland Islands carrying stores fails to reach the destination for which it was cleared outwards and returns to any place within the Falkland Islands —

(a) if the failure was not due to stress of weather, mechanical defect or any other unavoidable cause and any deficiency is found in the said goods; or

(b) if the failure was due to any such cause as is mentioned in paragraph (a) and any deficiency is discovered in the said goods which, in the opinion of the Collector, exceeds the quantity which might fairly have been consumed having regard to the length of time between the ship's or aircraft's departure and return as aforesaid,

the master of the ship or commander of the aircraft has committed an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale, and shall also pay on the deficiency or, as the case may be, on the excess deficiency any duty chargeable on the importation of the good (and any such duty shall be recoverable as a civil debt).

### **Information, documentation, etc. as to export goods**

54.—(1) The Collector may give directions under this subsection imposing on persons specified in the directions, requirements as to the giving of information with respect to, or the furnishing of documents in connection with goods exported, or intended to be exported, in any such container as is specified in the directions, or by such other means, or in accordance with any such commercial procedure, as is so specified.

(2) The Collector may relax any requirement imposed under subsection (1) as he thinks fit in relation to any goods.

(3) Subject to subsection (2), a person commits an offence who fails to comply with a direction under subsection (1) and he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

### *Outward entry and clearance of ships, etc*

#### **Entry outwards of exporting ships**

55.—(1) Where a ship is to load any goods at a port or other place exceptionally approved by the Collector of Customs for exportation or as stores for use on a voyage to an eventual destination outside the Falkland Islands, the master of the ship shall, before any goods are taken on board that ship at that port or other place, other than goods for exportation loaded in accordance with a stiffening order issued by the proper officer, deliver to the proper officer —

(a) an entry outwards of the ship in such form and manner and containing such particulars as the Collector may direct; and

(b) a certificate from the proper officer of the clearance inwards or coastwise of the ship of her last voyage with cargo; and

(c) if the ship has already loaded goods at some other port or place for exportation or use as stores for use as aforesaid or has been cleared in ballast from some other port or place, the clearance outwards of the ship from that other port or place.

(2) If on the arrival at any port of a ship carrying goods coastwise from one place in the Falkland Islands to another such place, it is desired that the ship shall proceed with those goods or any of them

to a place outside the Falkland Islands, entry outwards shall be made of that ship (whether or not any other goods are to be loaded at that port) and of any of those goods which are dutiable or restricted goods as if the goods were to be loaded for exportation at that port, but any such entry may, subject to such conditions as the Collector sees fit to impose, be made without the goods first being discharged.

(3) A ship may, subject to subsection (4), be entered outwards from a port under this section notwithstanding that before departing for any place outside the Falkland Islands the ship is to go to another port.

(4) A ship carrying cargo brought in that ship from some place outside the Falkland Islands and intended to be discharged in the Falkland Islands may only be entered outwards by virtue of subsection (3) subject to such conditions as the Collector sees fit to impose.

(5) If, when a ship is required by this section to be entered outwards from any port, any goods are taken on board that ship at that port, except in accordance with such a stiffening order as is mentioned in subsection (1), before the ship is so entered, the goods are liable to forfeiture and the master of the ship commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(6) Where goods are taken on board a ship as mentioned in subsection (5) or made waterborne for that purpose with fraudulent intent, any person concerned therein with knowledge of that intent commits an offence in respect of which he may be arrested without warrant and is liable on conviction to a fine not exceeding the greater of three times the value of the goods and the maximum of level 12 on the standard scale and to imprisonment for a term not exceeding 7 years.

#### **Clearance outwards of ships and aircraft**

**56.—**(1) Save as permitted by the Collector, no ship or aircraft shall depart from any port or customs airport from which it commences, or at which touches during, a voyage or flight to an eventual destination outside the Falkland Islands until clearance of the ship or aircraft for the departure has been obtained from the proper officer at that port or airport.

(2) The Collector may give directions —

(a) as to the procedure for obtaining clearance under this section;

(b) as to the documents to be produced and the information to be furnished by any person applying for such a clearance.

(3) Where clearance is sought under this section for any ship which is in ballast or has on board no goods other than stores, the baggage of passengers carried in that ship, chalk, slate, or empty returned containers upon which no freight or profit is earned, the proper officer in granting clearance thereof shall, on the application of the master, clear the ship as in ballast.

(4) Any customs officer may board any ship which is cleared outwards from a port at any time while the ship is in the Falkland Islands and require the production of the ship's clearance, and if the master refuses to produce it or to answer such questions as the customs officer may put to him concerning the

ship, cargo or intended voyage, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(5) Every ship departing from a port shall, if so required, for the purpose of disembarking a customs officer or of further examination, bring to at the boarding station, and if any ship fails to comply with any such requirement the master commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

(6) If any ship or aircraft required to be cleared under this section departs from any port or customs airport without a valid clearance, the master or commander commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(7) If, when any aircraft is required to obtain clearance from any customs airport under this section, any goods are loaded, or are waterborne for loading in that aircraft at that airport before application has been made for clearance has been made, the goods are liable for forfeiture and, where the loading or making waterborne is done with fraudulent intent any person concerned therein commits an offence under this subsection, may be arrested without warrant and is liable on conviction to a fine not exceeding the greater of three times the value of the goods concerned and the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

#### **Power to refuse or cancel clearance of ship or aircraft**

**57.—**(1) For the purpose of its detention in pursuance of any power or duty conferred or imposed by or under any enactment, or for the purpose of securing compliance with any provision of the relevant enactments or of any other enactment or of any instrument made thereunder, being a provision relating to the importation or exportation of goods —

(a) the proper officer may at any time refuse clearance of a ship or aircraft; and

(b) where clearance has been granted to a ship or aircraft, any customs officer may at any time while the ship is within the limits of any port or the aircraft is at any customs airport demand that the clearance be returned to him.

(2) Any such demand may be made either orally or in writing on the master of the ship or the commander of the aircraft, and if in writing may be served —

(a) by delivering it to him personally;

(b) by leaving it as his last known place of abode;

(c) by leaving it on board the ship or aircraft with the person appearing to be in charge or command thereof.

(3) Where a demand for the return of a clearance is made as aforesaid —

(a) the clearance forthwith becomes void; and

(b) if the demand is not complied with, the master of the ship or the commander of the aircraft commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

*General regulation of exportation, etc*

**Power to make regulations as to exportation, etc**

**58.**—(1) The Governor may make regulations —

(a) regulating with respect to ships and aircraft respectively the loading and making waterborne for loading of goods for exportation or as stores and the embarking of passengers for a destination outside the Falkland Islands;

(b) requiring delivery of a manifest containing such particulars as the Collector may direct of all cargo carried in an exporting ship and, if the Collector so directs, such other documents relating to the cargo as are specified in the direction;

(c) requiring delivery of a certificate of the fuel shipped in any ship departing from a port for a place outside the Falkland Islands.

(2) A person who contravenes any regulation made under this section commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

*Offences in relation to exportation*

**Offences in relation to the exportation of goods**

**59.**—(1) If any goods which have been loaded or retained on board any ship or aircraft for exportation are not exported to and discharged at a place outside the Falkland Islands but are unloaded in the Falkland Islands, then, unless —

(a) the unloading was authorised by the proper officer, and

(b) except where that officer otherwise permits, any duty chargeable and unpaid on the goods is paid and any drawback or allowance paid in respect thereof is repaid.

the master of the ship or the commander of the aircraft and any person concerned in the unshipping, relanding, landing, unloading or carrying of the goods from the ship or aircraft without such authority, payment or repayment each commits an offence under this section.

(2) The Collector may impose such conditions as he sees fit with respect to any goods loaded or retained as mentioned in subsection (1) which are permitted to be unloaded in the Falkland Islands and any person who contravenes or is concerned in any contravention of any condition imposed under this subsection commits an offence under this section.

(3) Where any goods loaded or retained as mentioned in subsection (1) are —

(a) goods from warehouse;

(b) transit goods;



(c) other goods chargeable with duty which has not been paid; or

(d) drawback goods.

then if any container in which the goods are held is without the authority of the proper officer opened, or any mark, letter or device on such container or on any lot of the goods is without that authority cancelled, obliterated or altered, every person concerned in the opening, cancellation, obliteration or alteration commits an offence under this section.

(4) Any goods in respect of which an offence under this section is committed are liable to forfeiture and any person convicted of an offence under this section is liable to a fine not exceeding three times the value of the goods concerned or the maximum of level 3 on the standard scale, whichever is the greater.

### **Offences in relation to exportation of prohibited or restricted goods**

**60.**—(1) If any goods are —

(a) exported or shipped as stores;

(b) brought to any place in the Falkland Islands for the purpose of being exported or shipped as stores,

and the exportation or shipment is or would be contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, the goods are liable to forfeiture and the exporter or intending exporter of the goods and any agent of his concerned in the exportation or shipment or intended exportation or shipment each commits an offence and is liable on conviction to a fine not exceeding three times the value of the goods or the maximum of level 3 on the standard scale, whichever is the greater.

(2) A person who is knowingly concerned in the exportation or shipment as stores, or in the attempted exportation or shipment as stores, of any goods with intent to evade any such prohibition or restriction as is mentioned in subsection (1) commits an offence and may be arrested without warrant.

(3) Subject to subsection (4) or (5), a person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

(4) In the case of an offence under subsection (2) in connection with the prohibition contained in section 21 of the Forgery and Counterfeiting Act 1981 in its application to the Falkland Islands, subsection (3) shall have effect as if the words “10 years” appeared in place of the words “7 years”.

(5) If by virtue of any such restriction as is mentioned in subsection (1) any goods may be exported only when consigned to a particular place or person and any goods so consigned are delivered to some other place or person, the ship or aircraft in which they were exported is liable to forfeiture unless it is proved to the satisfaction of the Governor that both the owner of the ship or aircraft and the master of the ship or commander of the aircraft —

(a) took all reasonable steps to secure that the goods were delivered to the particular place to which or person to whom they were consigned; and

(b) did not connive at or, except under duress, consent to the delivery of the goods to that other place or person.

## PART VI CONTROL OF COASTWISE TRAFFIC

### **Coasting trade**

**61.**—(1) Subject to section 62, any ship for the time being engaged in the trade of carrying goods coastwise between places in the Falkland Islands shall for the purposes of the relevant enactments be a coasting ship.

(2) Subject to that section, no goods not yet entered on importation and no goods for exportation shall be carried in a ship engaged in the trade of carrying goods coastwise.

### **Coasting trade: exceptional provisions**

**62.**—(1) The Collector may, subject to such conditions and restrictions as he sees fit to impose, permit a ship to carry goods coastwise notwithstanding that the ship is carrying goods brought therein from some place outside the Falkland Islands and not yet entered on importation; but a ship so permitted to carry goods coastwise shall not for the purposes of the relevant enactments be a coasting ship.

(2) The Collector may, subject to such conditions and restrictions as he sees fit to impose, permit goods brought by an importing ship to some place in the Falkland Islands but consigned to and intended to be delivered at some other such place to be transhipped before due entry of the goods has been made to another ship for carriage coastwise to that other place.

(3) Where any ship has begun to load goods at any place in the Falkland Islands for exportation or as stores for use on voyage to an eventual destination outside the Falkland Islands and is to go to any other such place to complete loading, the Collector may, subject to such conditions as he sees fit, permit that ship to carry other goods coastwise until she has completed her loading.

(4) If, where any goods are permitted to be carried coastwise in any ship under this section, the goods are loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Collector, the goods are liable to forfeiture and the master of the ship has committed an offence in respect of which he is on conviction liable to a fine not exceeding the maximum of level 2 on the standard scale.

### **Clearance of coasting ship and transire**

**63.**—(1) Subject to the provisions of this section and save as permitted by the Collector, before any coasting ship departs from any port the master of the ship shall deliver to the proper officer an account in such form and in such manner as the Collector may direct; and that account when signed by the proper officer shall be the transire, that is to say the clearance of the ship from that port and the pass for any goods to which the account relates.

(2) The Collector may, subject to such conditions as he sees fit, grant a general transire in respect of any coasting ship and any goods carried therein.

(3) Any such general transire may be revoked by the Collector by notice in writing delivered to the master or owner of the ship or to any member of the crew on board the ship.

(4) If any coasting ship departs from any port without a correct account having been delivered, except as permitted by the Collector or under and in compliance with any conditions imposed on the grant of a general transire, the master commits an offence and is liable to a fine not exceeding the maximum of level 2 on the standard scale.

#### **Additional powers of customs officers in relation to coasting ships**

**64.**—(1) The proper officer may examine any goods carried or to be carried on a coasting ship —

(a) at any time while they are on board the ship;

(b) at any place in the Falkland Islands to which the goods have been brought for shipment in, or at which they have been unloaded from the ship.

(2) For the purpose of examining any goods in pursuance of subsection (1), the proper officer may require any container to be opened or unpacked; and any such opening or unpacking and any repacking shall be done by or at the expense of the proprietor of the goods.

(3) The proper officer —

(a) may board and search a coasting ship at any time during its voyage;

(b) may at any time require any document which should properly be on board a coasting ship to be produced or brought to him for examination;

and if the master of the ship fails to produce or bring any such document to the proper officer when required, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 2 on the standard scale.

#### **Power to make regulations as to the carriage of goods coastwise, etc.**

**65.**—(1) The Governor may make regulations as to the carriage of goods coastwise—

(a) regulating the loading and unloading and the making waterborne for loading of the goods;

(b) requiring the keeping and production by the master of a coasting ship of such record of the cargo carried in that ship as may be prescribed by the regulations.

(2) Any person who contravenes a regulation made under this section commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

#### **Offences in connection with carriage of goods coastwise**

**66.**—(1) If in the case of any coasting ship —

(a) any goods are taken on board or removed therefrom at sea or at any place outside the Falkland Islands;

(b) except for some unavoidable cause the ship touches at any place outside the Falkland Islands or deviates from her voyage; or

(c) the ship touches at any place outside the Falkland Islands and the master does not report that fact in writing to the proper officer at the first port at which the ship arrives thereafter,

the master commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(2) Any goods which are shipped and carried coastwise, or which, having been carried coastwise, are unloaded in any place in the Falkland Islands, otherwise than in accordance with the provisions of sections 61 to 63 of this Ordinance or of any regulations made under section 65, or which are brought to any place for the purpose of being so shipped and carried coastwise, are liable to forfeiture.

(3) If any goods —

(a) are carried coastwise or shipped as stores in a coasting ship contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or

(b) are brought to any place in the Falkland Islands for the purpose of being so carried or shipped,

then those goods are liable to forfeiture and the shipper or intending shipper of the goods commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(4) In any case where a person would, apart from this subsection, be guilty of —

(a) an offence under subsection (3); and

(b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction in question, being an offence in respect of which a fine or other penalty is expressly provided by that enactment or other instrument,

he is not guilty of an offence under subsection (3).

PART VII  
CUSTOMS CONTROL: SUPPLEMENTARY PROVISIONS  
*Special requirements as to movement of certain goods*

**Explosives**

67.—(1) No goods which are explosives within the meaning of the Explosives Act 1875 in its application to the Falkland Islands shall be loaded into any ship or aircraft for exportation, exported by land or shipped for carriage coastwise as cargo, until due entry has been made of the goods in such form and manner and containing such particulars as the Collector may direct.

(2) Without prejudice to section 45 of this Ordinance, any goods required to be entered under this section which are loaded, exported or shipped as mentioned in subsection (1) without being entered under this section are liable to forfeiture, and the exporter or, as the case may be, shipper commits an offence if any such requirement is contravened and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

*Keeping and preservation of records*

**Records relating to importation and exportation**

**68.—**(1) Every person who is concerned (in whatever capacity) in the importation or exportation of goods shall keep such records as may be required by regulations under this Ordinance and, if no such regulations have been made, such records as may be required by the Collector.

(2) Such records shall be preserved for such period as may be required by such regulations or, in the absence of any such regulations, for such period not exceeding 4 years as may be required by the Collector.

(3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as is prescribed by or permitted under regulations having effect for the purposes of subsection (1) or, in the absence of such regulations, by such means as the Collector may approve. Where information is preserved by any such means, a copy of any document forming part of the records shall, subject to the following provisions of this section, be admissible in evidence in any proceedings. Whether civil or criminal, to the same extent as the records themselves.

(4) The Collector may, as a condition of an approval under subsection (3) above of any means of preserving information, impose such reasonable requirements as appear to him necessary for securing that the information will be readily available to him as if the records themselves had been preserved.

(5) The Collector may at any time for reasonable cause revoke or vary the conditions of any approval given under subsection (3).

*Additional provisions as to information*

**Information in relation to goods imported or exported**

**69.—**(1) A customs officer may require any person —

(a) concerned with the shipment for carriage coastwise of goods of an entry of which is required by or under any relevant enactment;

(b) concerned in the carriage, unloading, landing or loading of goods which are being or have been imported or exported,

to furnish in such form as the officer may require any information relating to the goods and to produce and allow the officer to inspect and take extracts from or make copies of any invoice, bill of lading or other book or document whatsoever relating to the goods.

(2) A person commits an offence who without reasonable cause fails to comply with a requirement imposed on him under subsection (1) and he is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(3) Where any prohibition or restriction to which this subsection applies, that is to say, any prohibition or restriction under or by virtue of any enactment with respect to—

(a) the exportation of any goods to any particular destination; or

(b) the exportation of goods of any particular class or description to any particular destination,

is for the time being in force, then, if any person about to ship for exportation or to export any goods or, as the case may be, any goods of that class or description, in the course of making any entry thereof before shipment or exportation makes a declaration as to the ultimate destination thereof, and the Collector has reason to suspect that the declaration is untrue in any material particular, the goods may be detained until the Collector is satisfied as to the truth of the declaration, and if he is not so satisfied the goods are liable to forfeiture.

### **Information powers**

70.—(1) Every person who (in whatever capacity) is concerned in the importation or exportation of goods for which for that purpose an entry is required under any provision of any regulations made under this Ordinance or an entry or specification is required by or under this Ordinance shall —

(a) furnish to the Collector, within such time and in such form he may reasonably require, such information relating to the goods or to the importation or exportation as the Collector may reasonably specify; and

(b) if so required by a customs officer, produce or cause to be produced for inspection by the officer—

(i) at the principal place of business of the person upon whom the demand is made or at such other place as the officer may reasonably require, and

(ii) at such time as the officer may reasonably require,

any documents relating to the goods or to the importation or exportation.

(2) Where, by virtue of subsection (1), an officer has power to require the production of any documents from any such person as is referred to in that subsection, he shall have the like power to require the production of the documents concerned from any other person who appears to the officer to be in possession of them, but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(3) A customs officer may take copies of, or make extracts from, any document produced under subsection (1) or subsection (2).

(4) If it appears to him to be necessary to do so, an officer may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or subsection (2) and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under subsection (2) above, the removal of the document shall not be regarded as breaking the lien.

(5) Where a document removed by an officer under subsection (4) is reasonably required for the proper conduct of a business, the officer shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(6) Where any documents removed under the powers conferred by this section are lost or damaged, the Crown is liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(7) Any person who fails to comply with a requirement made by a customs officer under this section commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

### **Customs control of persons entering or leaving the Falkland Islands**

**71.—**(1) Any person entering the Falkland Islands shall, at such place and in such manner as the Collector may direct, declare any thing contained in his baggage or carried with him which —

(a) he has obtained outside the Falkland Islands;

(b) being dutiable goods or chargeable goods, he has obtained in the Falkland Islands without payment of duty or tax,

and in respect of which he is not entitled to exemption from duty and tax under by virtue of any provision of, or of any Order made under, this Ordinance or any relevant enactment (personal reliefs).

(2) In subsection (1) “chargeable goods” means goods on the importation of which under any provision of any law of the Falkland Islands for the time being in force tax is payable and “tax” means any such tax.

(3) Any person entering or leaving the Falkland Islands shall answer such questions as the proper officer may put to him with respect to his baggage and any thing contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Collector may direct.

(4) Any person who fails to declare any thing or produce any baggage or thing as required by this section commits an offence and is liable on conviction of that offence to a fine of three times the value of the thing not declared or of the baggage or thing not produced, as the case may be, or to a fine not exceeding the maximum of level 3 on the standard scale, whichever is the greater.

(5) Any thing chargeable with any duty or tax which is found concealed, or not declared, and any thing which is being taken into or out of the Falkland Islands contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, is liable to forfeiture.

### **Power to require evidence in support of information**

**72.—**(1) The Collector may, if he considers it necessary, require evidence to be produced to his satisfaction in support of any information required by or under Parts II to VII of this Ordinance to be provided in respect of goods imported or exported.

(2) Without prejudice to subsection (1), where any question as to the duties chargeable on any imported goods, or the operation of any prohibition or restriction on importation, depends on any question as to the place from which the goods were consigned, or any question where they or other goods are to be treated as grown, manufactured or produced, or any question as to payments made or relief from duty allowed in any country or territory, then —

(a) the Collector may require the importer of the goods to furnish to him, in such form as he may prescribe, proof of —

(i) any statement made to him as to any fact necessary to determine that question, or

(ii) the accuracy of any certificate or other document furnished in connection with the importation of the goods and relating to the matter in issue,

and if such proof is not furnished to his satisfaction, the question may be determined without regard to that statement or to that certificate or document; and

(b) in any proceedings relating to the goods or to the duty chargeable thereon the accuracy of any such certificate or document comes in question, it shall be for the person relying on it to furnish proof of its accuracy.

#### *Prevention of smuggling*

##### **Power to regulate small craft**

73.—(1) The following provisions of this section shall not have effect until they are brought into effect by an Order made by the Governor under this subsection.

(2) In this section “small ships” means ships not exceeding 100 tons register.

(3) The Governor may make general regulations with respect to small ships and any such regulations may in particular make provision as to the purposes for which and the limits within which such ships may be used.

(4) Different provisions may be made by regulations under this section for different classes or descriptions of small ships.

(5) The Governor may, in respect of any small ship, grant a licence exempting that ship from all or any of the provisions of any regulations made under this section.

(6) Any such licence may be granted for such period, for such purpose, and subject to such conditions and restrictions as the Governor sees fit, and may be revoked at any time.

(7) Any small ship which, except under and in accordance with the terms of a licence granted under this section, is used contrary to any regulation made under this section, and any ship granted such a licence which is found not to have that licence on board, shall be liable to forfeiture.



(8) Every boat belonging to a British ship registered at a port in the Falkland Islands and every other vessel not exceeding 100 tons register shall be marked in such manner as the Collector may direct, and any such boat or vessel which is not so marked, is liable to forfeiture.

**Power to haul up revenue vessels, patrol coasts, etc**

74.—(1) The person in command or charge of any vessel in the service of Her Majesty which is engaged in the prevention of smuggling —

(a) may haul up and leave that vessel on any part of the coast or of the shore or bank of any river or creek;

(b) may moor that vessel at any place below high water mark on any part of the coast or of any such shore or bank.

(2) Any customs officer and any person acting in aid of such an officer or otherwise duly engaged in the prevention of smuggling may for that purpose patrol upon and pass freely along and over any part of the coast or of the shore or bank of any river or creek, over any aerodrome or land adjoining any aerodrome.

**Penalty for removing seals, etc**

75.—(1) Where, in pursuance of any power conferred by any relevant enactment or of any requirement imposed by or under any relevant enactment, a seal lock or mark is used to secure or identify any goods for any of the purposes of those enactments and —

(a) at any time while the goods are in the Falkland Islands or within the limits of any port in the Falkland Islands, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person; or

(b) at any time before the lock seal or mark is lawfully removed, any of the goods are wilfully removed by any person,

that person and the person in charge of the goods each commit an offence and are each liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale.

(2) For the purposes of subsection (1) of this section, goods in a ship or aircraft shall be deemed to be in the charge of the master of the ship or commander of the aircraft.

**Penalty for signalling to smugglers**

76.—(1) In this section references to a “prohibited signal” or “prohibited message” are references to a signal or message connected with the smuggling or intended smuggling of goods out of or into the Falkland Islands.

(2) A person commits an offence who by any means makes any prohibited signal or transmits any prohibited message from the Falkland Islands or from any ship or aircraft for the information of any person in any ship or aircraft and such a person is liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding 6

months and may be arrested without warrant and any equipment or apparatus used for sending the signal or message is liable to forfeiture.

(3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at the time in smuggling goods.

(4) If, in any proceedings under subsection (2), any question arises as to whether any signal or message was a prohibited signal or message, the burden of proof lies upon the defendant or claimant.

(5) If any customs officer or police officer or any member of Her Majesty's armed forces has reasonable grounds for suspecting that any prohibited signal or message is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter that ship, aircraft, vehicle, house or place and take such steps as are reasonably necessary to stop or prevent the sending of the signal or message.

#### **Penalty for interfering with revenue vessels, etc**

77.—(1) A person commits an offence, save for just and sufficient cause, interferes in any way with any ship, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used for the purposes of any of the functions of the Collector under Parts III to VII of this Ordinance and such a person is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(2) A person who fires upon any vessel, aircraft or vehicle in the service of Her Majesty while that vessel, aircraft or vehicle is engaged in the prevention of smuggling commits an offence and is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 5 years.

#### **Special penalty where offender armed or disguised**

78.—(1) A person commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 10 on the standard scale or to a term of imprisonment not exceeding 3 years who —

(a) while concerned in the movement, carriage or concealment of goods —

(i) contrary to or for the purpose of contravening any prohibition or any restriction for the time being in force under or by virtue of any enactment with respect to the importation or exportation thereof; or

(ii) without payment having been made of or any security having been given for any duty payable thereon,

is armed with any offensive weapon or disguised in any way; or

(b) while so armed or disguised is found in the Falkland Islands in possession of any goods liable to forfeiture under any provision of any relevant enactment relating to imported goods or restricted goods.

(2) A person who commits an offence to which subsection (1) relates may be arrested without a warrant.

**Penalty for offering goods for sale as smuggled goods**

79. A person commits an offence who offers any goods for sale as having been imported unlawfully without the payment of duty or as having been otherwise unlawfully imported and, whether or not the goods were in fact unlawfully imported or were in fact chargeable with duty, the goods are liable to forfeiture and the person is liable on conviction of the offence to a fine not exceeding three times the value of the goods or the maximum of level 5 on the standard scale, whichever is the greater, and may be arrested without a warrant.

*Forfeiture of ships, etc. for certain offences*

**Forfeiture of ship, aircraft or vehicle constructed, etc. for concealing goods**

80. Where —

(a) a ship is or has been in Falkland Islands waters; or

(b) an aircraft is or has been at any place, whether on land or on water, in the Falkland Islands; or

(c) a vehicle is or has been within the limits of any port or any aerodrome,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft or vehicle is liable to forfeiture.

**Forfeiture of ship jettisoning cargo, etc**

81.—(1) If any part of the cargo of a ship is thrown overboard or is staved or destroyed to prevent seizure —

(a) while the ship is in Falkland Island waters; or

(b) while the ship, having been properly summoned to bring to by any vessel in the service of Her Majesty, fails to do so and chase is given, at any time during the chase,

the ship is liable to forfeiture.

(2) For the purposes of this section a ship shall be deemed to have been properly summoned to bring to—

(a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and

(b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was in Falkland Islands waters.

**Forfeiture of ship or aircraft unable to account for missing cargo**

82. Where a ship has been within the limits of any port in the Falkland Islands, or an aircraft has been in the Falkland Islands, with a cargo on board and a substantial part of that cargo is afterwards found in the Falkland Islands to be missing, then, if the master of the ship or the commander of the aircraft fails to account therefor to the satisfaction of the Collector, the ship or aircraft is liable to forfeiture.

### **Ships failing to bring to**

**83.—**(1) If, save for just and sufficient cause, any ship which is liable to forfeiture or examination under any provision of any relevant enactment does not bring to when required to do so, the master of the ship commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

(2) Where any ship liable to forfeiture or examination as aforesaid has failed to bring to when required to do so and chase has been given thereto by any vessel in the service of Her Majesty in right of the Falkland Islands or of the United Kingdom and, after the commander of that vessel has hoisted an ensign and caused a gun to be fired as a signal, the ship still fails to bring to, the ship may be fired upon.

## PART VIII WAREHOUSES AND QUEEN'S WAREHOUSES AND RELATED PROVISIONS ABOUT PIPE-LINES

### **Approval of warehouses**

**84.—**(1) The Collector may approve, for such periods and subject to such conditions as he thinks fit, places of security for the deposit, keeping and securing —

(a) of imported goods chargeable as such with duty without payment of the duty;

(b) of goods for exportation or for use as stores, being goods not eligible for home use;

(c) of goods manufactured or produced in the Falkland Islands and permitted by or under the relevant enactment to be warehoused without payment of any duty of excise chargeable thereon;

(d) of goods imported into or manufactured or produced in the Falkland Islands and permitted by or under the relevant enactments to be warehoused on drawback,

subject to and in accordance with warehousing regulations, and any place of security so approved is referred to in this Ordinance as a "customs warehouse".

(2) The Collector may from time to time give directions —

(a) as to the goods which may or may not be deposited in any particular warehouse or class of warehouse;

(b) as to the part of any warehouse in which any class or description of goods may be kept or secured.

(3) If, after the approval of a warehouse as a customs warehouse, the occupier thereof makes without the previous consent of the Collector any alteration therein or addition thereto, he commits an offence and is liable on conviction of that offence to a fine of an amount not exceeding the maximum of level 8 on the standard scale.

(4) The Collector may at any time for reasonable cause revoke or vary the terms of his approval of any warehouse under this section.

(5) Where any person contravenes any condition imposed or direction given by the Collector under this section, he commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 7 on the standard scale.

### **Regulation of warehouses and warehoused goods**

**85.—(1)** The Governor may by regulations under this section (referred to in this Ordinance as “warehousing regulations”) —

(a) prohibit the deposit or keeping of goods in a warehouse except where the occupier of the warehouse has been approved by the Collector in accordance with the regulations and where such regulations and where such conditions as may be prescribed in relation to that occupier are satisfied;

(b) otherwise regulate the deposit, keeping, securing and treatment of goods in a warehouse;

(c) make provision, in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the keeping, preservation and production of records and the furnishing of information;

(d) regulate the removal of goods from a warehouse and make provision with respect to goods which have lawfully been permitted to be removed from a warehouse without payment of duty; and

(e) make provision in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the keeping, preservation and production of records and the furnishing of information.

**(2)** Warehousing regulations may, without prejudice to the generality of subsection (1), include provisions —

(a) imposing or providing for the imposition under the regulations of conditions or restrictions subject to which goods may be deposited in, secured in, kept in or removed from any warehouse or made available there to their owner for any prescribed purpose;

(b) requiring goods deposited in warehouse to be produced to or made available for inspection by a customs officer on request by him;

(c) permitting the carrying out on warehoused goods of such operations as may be prescribed or allowed under the regulations in such manner and subject to such conditions and restrictions as may be imposed by or under the regulations;

(d) for determining, for the purpose of charging or securing the payment of duty, the duties and the rates thereof to be applied to warehoused goods and in that connection —

(i) for determining the time by reference to which warehoused goods are to be classified;

(ii) for determining the time at which warehoused goods are to be treated as having been removed from the warehouse;

- (iii) for ascertaining the quantity which is to be taken as the quantity of warehoused goods;
- (e) providing for all or any prescribed purposes of any relevant enactment —
- (i) for goods to be treated as warehoused where in a prescribed case they are in the custody or under the control of an approved occupier of the warehouse; and
- (ii) for goods to be treated, at such times before the duty point for those goods as may be prescribed or as may be determined under the regulations, as goods which are required to be deposited in a warehouse;
- (f) providing for the revocation of the approval under regulations of any occupier of a warehouse and applying, with modifications, any of the provisions of section 90 of this Ordinance in relation to such a revocation or to cases where such an approval is not renewed;
- (g) enabling the Collector to allow goods to be removed from warehouse without approval of duty in such circumstances and subject to such conditions as he may determine;
- (h) providing that goods which are required to be deposited in a warehouse, or which have been lawfully permitted to be removed from a warehouse without payment of duty, are to be treated as if, for all or any prescribed purposes of the relevant enactments, they were warehoused;
- (i) permitting goods to be destroyed or abandoned to the Collector without payment of duty in such circumstances and subject to such conditions as he may determine;
- (j) requiring goods which are required to be deposited in a warehouse or which have lawfully been permitted to be removed from a warehouse without payment of duty to be accompanied by such documents in such form and containing such particulars as may be prescribed;
- (k) imposing or providing for the imposition under the regulations of requirements on persons concerned in any prescribed respect with the carriage of such goods to keep and preserve the documents that are required to accompany the goods;
- (l) imposing or providing for the imposition under the regulations of requirements on a person so concerned to produce or cause to be produced any documents which are required to accompany any goods by virtue of paragraph (j) of this subsection to a customs officer when required to do so for the purposes of allowing the officer to inspect them or remove them at a reasonable time and for a reasonable period;
- (m) imposing or providing for the imposition under the regulations of requirements on the occupier of a warehouse or the proprietor of goods in a warehouse or goods which have been in or are required to be deposited in a warehouse to keep and preserve such records as may be prescribed relating to his occupation of the warehouse or proprietorship of the goods;
- (n) imposing or providing for the imposition of requirements on such an occupier or proprietor to preserve all other records kept by him for the purpose of any relevant business or activity, except any records which (or records of a class which) the Collector specifies as not needing preservation;

(o) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to produce or cause to be produced any records which he has been required to preserve by virtue of paragraph (l) or (m) of this subsection to a customs officer when required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;

(p) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to furnish the Commissioners with any information relating to any relevant business or activity which they specify as information which they think it is necessary or expedient for them to be given for the protection of the revenue;

(q) allowing a requirement to preserve any records which has been imposed by virtue of paragraph (m) of this subsection to be discharged by the preservation in a form approved by the Collector of the information contained in the records,

and may contain such incidental or supplementary provisions as the Governor thinks necessary or expedient for the protection of the revenue.

(3) In subsection (2) "relevant business or activity" means, in relation to an occupier or proprietor, any business or activity of his which includes occupation of a warehouse or (as the case may be) proprietorship of goods in a warehouse or goods which have been in or are required to be deposited in a warehouse, where the goods are of a kind in which the proprietor trades or deals.

(4) Where any documents or records removed under the powers conferred by subsection (2) of this section are lost or damaged, the Crown is liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(5) Warehousing regulations may make different provision for different cases, including different provision for different occupiers or descriptions of occupier, for warehouses or parts of warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.

(6) Warehousing regulations may make provision about the removal of goods from one warehouse to another or from one part of a warehouse to another part or for treating goods remaining in a warehouse as if, for all or any of the prescribed purposes of the relevant enactments, they had been so removed; and regulations about the removal of goods may, for all or any of the prescribed purposes of those enactments, include provision for treating the goods as having been warehoused or removed from warehouse (where they would not otherwise be so treated).

(7) Warehousing regulations made by virtue of paragraph (a) or (c) of subsection (2) may also provide for the forfeiture of goods in the event of non-compliance with any condition or restriction imposed by virtue of that paragraph or in the event of the carrying out of any operation on warehoused goods which is not by virtue of the said paragraph (c) permitted to be carried on in the warehouse.

(8) Warehousing regulations made by virtue of any of paragraphs (j) to (l) or (m) to (o) of subsection (2) may also provide for the forfeiture of the goods in question in the event of any contravention of any

requirements imposed by or under the regulations with respect to any documents or records relating to the prescribed goods.

(9) Any person who fails to comply with any warehousing regulation or with any condition or requirement imposed under a warehousing regulation commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 7 on the standard scale.

(10) In this section —

(a) “prescribed” means prescribed by warehousing regulations;

(b) references to goods which are required to be deposited in a warehouse are references to goods which have been entered for warehousing on importation, which have been removed from a producer’s premises for warehousing without payment of duty, which are to be warehoused on drawback or which are otherwise to be treated by virtue of sub-paragraph (ii) of paragraph (e) of subsection (2) of this section as goods which are required to be deposited in a warehouse.

### **Deficiency in warehoused goods**

**86.—**(1) This section applies where goods have been warehoused, and before they are lawfully removed from warehouse in accordance with a proper clearance thereof, they are found to be missing or deficient.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Collector that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Collector may require the occupier of the warehouse or the proprietor of the goods to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as he sees fit, the duty chargeable or deemed under warehousing regulations to be chargeable on such goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to the drawback and any allowance paid in respect of those goods.

(3) The occupier of the warehouse or the proprietor of the goods, as the case may be, commits an offence on conviction of which he is liable to a fine of twice the amount he is required to pay under subsection (2) of this section if, on the written demand of a customs officer to pay that sum he refuses to pay, or fails within seven days to pay, the required sum.

(4) This section has effect without prejudice to any other provision of any relevant enactment providing for an offence to have been committed or for forfeiture of any goods to have been incurred.

### **Deficiency in goods occurring in course of removal from warehouse without payment of duty**

**87.—**(1) Where any goods have been lawfully permitted to be taken from a warehouse without payment of duty for removal to another warehouse or to some other place, section 86 of this Ordinance shall, subject to subsection (2) of this section, have effect in relation to those goods in the course of removal as if those goods were still in the warehouse.

(2) In its application in relation to any goods by virtue of subsection (1) of this section, section 86 of this Ordinance shall have effect as if the references in subsections (2) and (3) of that section to the occupier of the warehouse were omitted.



### **Deficiency in certain goods moved by pipe-line**

**88.**—(1) This section applies where goods of any of the following descriptions, that is to say —

- (a) goods which are chargeable with any duty which has not been paid;
- (b) goods on which duty has been repaid or remitted in whole or in part; and
- (c) goods on which drawback has been paid,

are moved by pipe-line, or notified to the proper officer as being goods to be moved by pipe-line, and are thereafter found to be missing or defective.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Collector that the absence or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Collector may require the owner of the pipe-line or the proprietor of the goods to pay immediately in respect of the missing goods, or in respect of the whole or part of the deficiency, as he sees fit, the amount of the duty unpaid or repaid therefrom or, as the case may be, an amount equal to the drawback paid thereon.

(3) A person commits an offence on conviction of which he is liable to a fine of an amount not exceeding twice the amount referred to in subsection (2) if, on the written demand of a customs officer, any person refuses to pay any sum which he is required to pay under subsection (2).

(4) For the purposes of this section any absence or deficiency in the case of goods moved by a pipe-line used for the importation or exportation of goods shall be deemed to have taken place in the Falkland Islands unless the contrary is shown.

(5) This section has effect without prejudice to any provision of any relevant enactment under which anything to which this section relates might constitute an offence or lead to forfeiture of any goods.

### **Restriction on compensation for loss or damage to goods in, or for removal of goods from, warehouse or pipe-line**

**89.**—(1) This section applies to —

- (a) any loss or damage caused to goods while in a warehouse or pipe-line; and
- (b) any unlawful removal of goods from a warehouse or pipe-line.

(2) Subject to subsection (3), no compensation shall be payable by, and no action shall lie against, the Crown, the Collector or any customs officer acting in the execution of his duty for any loss or damage to which this section applies or for any unlawful removal to which this section applies.

(3) If any goods in a warehouse or pipe-line are destroyed, stolen or unlawfully removed by or with the connivance of a customs officer and that officer is convicted of the offence, then, except where the proprietor of the goods or the occupier of the warehouse or, as the case may be, the owner of the pipe-line was a party to the offence, the Crown shall pay compensation for any loss caused by any such destruction, theft or removal.

(4) Where compensation is payable by virtue of subsection (3) then, notwithstanding any other provision of any relevant enactment, no duty is payable on the goods by the proprietor of the goods or by the occupier of the warehouse or, as the case may be, the owner of the pipe-line, and any sum paid by way of duty on those goods by any of those persons before the conviction shall be repaid.

#### **Procedure on warehouse ceasing to be approved**

**90.**—(1) Where the Collector intends to revoke or not to renew his approval of a warehouse, he shall, not later than the beginning of the prescribed period ending with the date on which the revocation is to take effect or the approval is due to expire, as the case may be, give notice of his intention, specifying therein the said date and, unless the notice has been withdrawn or extended, the warehouse shall cease to be approved on that date.

(2) The notice shall be given in writing and shall be deemed to have been served on all persons interested in any goods then deposited in that warehouse or permitted under any relevant enactment to be so deposited between the giving of the notice and the date specified therein, if addressed to the occupier of, and left at, the warehouse.

(3) If after the date on which the warehouse ceases to be approved any goods not duly cleared still remain in the former warehouse —

(a) they may be taken by a customs officer to a Queen's warehouse and, without prejudice to section 91(3), if they are not cleared from it within one month may be sold; or

(b) if the Collector so allows, they may remain in the former warehouse and if they are not cleared from it within one month may be sold.

(4) Where in accordance with paragraph (b) of subsection (3) goods remain in the warehouse after revocation or expiry of the Collector's approval —

(a) section 91(6) and (7) apply as if they were deposited in a Queen's warehouse under any relevant enactment; and

(b) sections 85, 86, 87, 89 and 92 apply and any security given by bond or otherwise and any condition imposed by or under any relevant enactment shall continue to have effect, as if the former warehouse were still a warehouse.

(5) In this section "the prescribed period" means 3 months or such greater period as may be prescribed by warehousing regulations.

#### **Provisions as to deposit in Queen's warehouse**

**91.**—(1) The following provisions of this section have effect in relation to any goods which are deposited in a Queen's warehouse under or by virtue of any provision of a relevant enactment.

(2) Such rent shall be payable while the goods are deposited as may be fixed by the Governor.

(3) If the goods are of a combustible or inflammable nature or otherwise of such a character as to require special care or treatment —

(a) they shall, in addition to any other charges payable thereon, be chargeable with such expenses for securing, watching and guarding them as the Collector, subject to any direction by the Governor, may see fit;

(b) neither the Crown, the Collector or any customs officer shall be liable to make good any damage which the goods may have sustained;

(c) if the proprietor of the goods has not cleared them within a period of 28 days from the date of deposit, they may be sold by the Collector,

but, in the case of goods deposited by virtue of section 33(2) of this Ordinance, paragraph (c) of this subsection shall only apply if the goods are of a combustible or inflammable nature.

(4) Save as may be permitted by or under any relevant enactment, the goods shall not be removed from the warehouse until —

(a) any duty chargeable thereon; and

(b) any charges in respect of —

(i) the goods removal to the warehouse, and

(ii) under subsection (2) and (3),

have been paid and, in the case of goods requiring entry and not yet entered, until entry has been made of the goods.

(5) The customs officer having the custody of the goods may refuse to allow them to be removed until he is satisfied that any freight charges due in respect of them have been paid.

(6) If the goods are sold under or by virtue of any relevant enactment, the proceeds of the sale shall be applied —

(a) first, in paying any duty chargeable on the goods:

(b) secondly, in defraying any such charges as are mentioned in subsection (4) of this section; and

(c) thirdly, in defraying any charges for freight;

and if the person who was immediately before the sale the proprietor of the goods makes application in that behalf, the remainder, if any, shall be paid to him.

(7) When the goods are authorised to be sold under any relevant enactment but cannot be sold —

(a) if the goods are to be exported, for a sum sufficient to make the payment mentioned in paragraph (b) of subsection (6) of this section; or

(b) in any other case, for a sum sufficient to make the payments mentioned in paragraphs (a) and (b) of that subsection,

the Collector may destroy the goods.

### **General offences relating to warehouses and warehoused goods**

**92.—(1)** A person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale, and in respect of which he may be arrested without a warrant, who without the authority or of the proper officer and without just and sufficient cause —

(a) opens any of the doors or locks of a warehouse or Queen's warehouse; or

(b) makes or obtains access to any such warehouse or to any goods warehoused in any such warehouse.

(2) Goods are liable to forfeiture if —

(a) having been entered for warehousing or being otherwise required to be entered in a warehouse, they are taken into the warehouse without the authority of, or otherwise than in accordance with any directions given by, the proper officer;

(b) having been entered for warehousing or being otherwise required to be deposited in a warehouse, they are, save as permitted by any relevant enactment or by or under warehousing regulations, removed without being duly warehoused;

(c) having been deposited in a warehouse or Queen's warehouse, they are unlawfully removed from it or are unlawfully loaded into any ship, aircraft or vehicle for removal or for exportation or use as stores;

(d) having been entered for warehousing or being otherwise required to be deposited in a warehouse they are concealed before they are warehoused or when they are required to be in the custody or under the control of the occupier of a warehouse;

(e) having been lawfully permitted for any purpose to be removed from a warehouse or a Queen's warehouse without payment of duty, they are not duly delivered at the destination to which they should have been taken in accordance with that permission.

(3) A person commits an offence in respect of which he may be arrested without a warrant if he takes, removes, loads or conceals any goods as mentioned in subsection (2), with intent —

(a) to defraud Her Majesty of any duty chargeable thereon; or

(b) to evade any prohibition or restriction for the time being in force in relation to them under or by virtue of any enactment.

(4) A person convicted of an offence under subsection (3) is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

PART IX  
DUTIES AND DRAWBACKS: GENERAL PROVISIONS

*General provisions relating to imported goods*

**Delivery of imported goods on giving security**

**93.**—(1) Where it is impracticable immediately to ascertain whether any or what duty is payable in respect of any imported goods which are entered for home use or for free circulation, whether on importation or from warehouse, the Collector may, if he thinks fit and notwithstanding any other provision of any relevant enactment, allow those goods to be delivered upon the importer giving security by deposit of money or otherwise to their satisfaction for payment of any amount unpaid which may be payable by way of duty.

(2) The Collector may for the purposes of subsection (1) treat goods as entered for home use notwithstanding that the entry does not contain all the particulars required for perfect entry if it contains as many of those particulars as are then known to the importer, and in that event the importer shall supply the remaining particulars as soon as may be to the Collector.

(3) Where goods are allowed to be delivered under this section, the Collector shall, when he has determined the amount of duty which is in his opinion payable, give to the importer a notice specifying the amount.

(4) On the giving of a notice under subsection (3) the amount specified in the notice or, where any amount has been deposited under subsection (1), any difference between those amounts shall forthwith be paid or repaid as the case may require.

(5) Subject to subsection (6), if the importer disputes the correctness of the amount specified in a notice given to him under subsection (3), he may at any time within 3 months of the date of the notice make an application to the Senior Magistrate as referee to determine the matter, and the decision of the Senior Magistrate shall be final and binding.

(6) No requirement or application shall be made by virtue of subsection (5) until any sum falling to be paid by the importer under subsection (4) has been paid.

**Regulations for determining origin of goods**

**94.**—(1) The Governor may by regulations make provision for determining, for the purposes of any duty of customs, the origin of any goods in cases where it does not fall to be determined under any enactment or other instrument having the force of law.

(2) Regulations under this section may—

(a) make provision as to the evidence which is required to be or is to be sufficient for the purpose of showing that goods are of a particular origin; and

(b) make different provision for different purposes and in relation to goods of different descriptions.

(3) Subject to the provisions of any regulations under this section, where in connection with a duty of customs chargeable on any goods any question arises as to the origin of the goods, the Collector may require the importer of the goods to furnish to him, in such form as he may prescribe, proof of any statement made to him as to any fact necessary to determine that question; and if such proof is not furnished to his satisfaction, the question may be determined without regard to that statement.

**Power to impose restrictions where duty depends on certain matters other than use**

**95.** Where any question arises as to the duties of customs chargeable on any imported goods (other than the use to be made of the goods) not reasonably ascertainable from an examination of the goods, and that question is not in law conclusively determined by the production of any certificate or other document, then on the importation of those goods, the Collector may impose such conditions as he sees fit for the prevention of abuse or the protection of the revenue (including conditions requiring security for the observance of any conditions so imposed).

**Regulations where duty depends on use**

**96.—(1)** The Governor may make regulations applying in cases where any question as to the duties of customs chargeable on any goods depends on the use to be made of them.

(2) Regulations made under subsection (1) may make such provision for the purpose of securing that the relevant use is made of the goods as appears to the Governor to be necessary or expedient.

**Repayment of duty where goods returned or destroyed by importer**

**97.—(1)** Subject to such conditions as the Collector sees fit to impose, where it is shown to the satisfaction of the Collector —

(a) that goods were imported in pursuance of a contract of sale and that the description, quality, state or condition of the goods was not in accordance with the contract or that the goods were damaged in transit; and

(b) that the importer with the consent of the seller —

(i) returned the goods unused to the seller and for that purpose complied with section 45 as to entry in like manner as if they had been dutiable or restricted goods for the purposes of Part V of this Ordinance; or

(ii) destroyed such goods unused,

(c) that the importer has, with the consent of the Collector, destroyed any goods on which duty has been paid,

the importer is entitled to obtain from the Collector repayment of any duty paid on the importation of the goods.

(2) Nothing in this section shall apply to goods imported on approval, or on sale or return, or on other similar terms.

### **Forfeiture for breach of certain conditions**

**98.**—(1) Where —

(a) any imported goods have been relieved from customs duty chargeable on their importation or have been charged with duty at a reduced rate; or

(b) any condition or other obligation required to be complied with in connection with the relief of the charge of duty at that rate is not complied with,

the goods shall be liable to forfeiture.

(2) The provisions of this section shall apply whether or not any undertaking or security has been given for compliance with the condition or obligation or for the payment of duty payable apart therefrom, and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking or security.

### **Valuation of goods for purpose of ad valorem duties**

**99.**—(1) For the purposes of any duty for the time being chargeable on any imported goods by reference to their value, the value of goods shall be determined on the basis of a delivery to the buyer at the port or place of importation into the Falkland Islands.

(2) The Governor may make regulations for the purpose of giving effect to subsection (1), and in particular for requiring any importer or other person concerned with the importation of goods —

(a) to furnish to the Collector in such form as he may require, such information as in his opinion is necessary for a proper valuation of the goods; and

(b) to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

(3) A person who contravenes any regulation made under subsection (2) commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 3 on the standard scale.

### **Charge of duty on manufactured or composite imported articles**

**100.**—(1) Subject to subsections (2) to (4), if any imported goods contain as a part or ingredient thereof any article chargeable with duty, duty shall be chargeable on the goods in respect of each article according to the quantity thereof appearing to the Collector to be used in the manufacture or preparation of the goods.

(2) Where, in the opinion of the Financial Secretary, it is necessary for the protection of the revenue, such imported goods shall be chargeable with the amount of duty with which they would be chargeable if they consisted wholly of the chargeable article or, if the goods contain more than one such article, of that one of the chargeable articles which will yield the highest amount of duty.

(3) The Governor may by regulations make provision with respect to the duties to be charged and the drawbacks to be allowed, on imported composite goods containing a dutiable part or ingredient.

(4) Subsections (1) and (2) do not apply where other provision is made by any other Ordinance relating to duties on imported goods.

(5) Any rebate which can be allowed by law on any article when separately charged shall be allowed in charging goods under subsection (1) or (2) in respect of any quantity of that article used in the manufacture or preparation of the goods.

*Deferred payment of duty on goods*

**Deferred payment of duty on goods**

**101.**—(1) The Governor may by regulations make provision for the payment (in accordance, where any requirement to pay the duty takes effect, with that requirement) of any duty on goods of a prescribed kind to be deferred, in prescribed cases, subject to such conditions or requirements as may be imposed —

(a) by the regulations; or

(b) where the regulations so provide, by the Collector.

(2) Any duty payment of which is deferred under the regulations shall be treated, for prescribed purposes, as if it had been paid.

(3) Where —

(a) any duty to which an application for deferment of duty made under the regulations relates is payable on goods on their removal from a warehouse; and

(b) the Collector is not satisfied —

(i) that the conditions imposed under section 84(1) have been complied with by the occupier of the warehouse; or

(ii) that the warehousing regulations made by virtue of section 85(2)(m) have been complied with by the occupier or by the proprietor of the goods,

the Collector may, notwithstanding any provision of the regulations, refuse the application or refuse it in so far as it relates to those goods.

(4) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.

(5) In this section “prescribed” means prescribed by regulations made under this section.

*General provision relating to charge of duty on and delivery of goods*

**Restriction on delivery of goods**

**102.**—(1) During any period not exceeding 3 months specified at any time by Order of the Governor for the purposes of this section, the Collector may refuse to allow the removal for home use on payment of duty, or the sending out for home use after the charging of duty, of goods of any class or



description chargeable with duty, notwithstanding payment of that duty, in quantities exceeding those which appear to the Collector to be reasonable in the circumstances.

(2) Where the Collector has during any such period exercised his powers under this section with respect to goods of any class or description, then, in the case of any such goods which are removed or sent for home use after the end of the period the duties and the rates thereof chargeable on those goods shall, notwithstanding any other provision of any relevant enactment relating to the determination of those duties and rates, be those in force at the date of the removal or sending out of the goods.

#### **Power to remit or repay duty on denatured goods**

**103.**—(1) Subject to subsection (2), where any goods —

(a) which have been imported but not yet cleared for any purpose for which they may be entered on importation; or

(b) which are chargeable with a duty the requirement to pay which has not yet taken effect,

have by reason of their state and condition ceased to be worth the full duty chargeable thereon and have been denatured in such manner as the Collector may direct and in accordance with such conditions as he sees fit to impose, the Collector may remit or repay the whole or any part of any duty chargeable or paid thereon, or waive repayment of the whole or part of any drawback paid on their warehousing, upon delivery of the goods for use for such purposes as the Collector may allow.

(2) Subsection (1) does not apply to spirits.

(3) Where, whether under subsection (1) or otherwise, any goods chargeable with duty have gone into home use after having been denatured by mixture with some other substance, any person who separates the goods from the other substance commits an offence under this subsection in respect of which he may be arrested without a warrant, and the goods are liable to forfeiture.

(4) A person convicted of an offence under subsection (3) is liable on conviction to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding 2 years.

#### **Power to remit or repay duty on goods lost or destroyed etc**

**104.**—(1) Where it is shown to the satisfaction of the Collector that any goods chargeable with duty have been lost or destroyed by unavoidable accident —

(a) after importation but before clearance for any purpose for which they might be entered on importation;

(b) in the case of goods chargeable with duty on their manufacture or production or on their removal from their place of manufacture or production, at any time before removal from that place; or

(c) while in a warehouse or Queen's warehouse; or

(d) at any time while that duty is otherwise lawfully unpaid, except where payment of that duty has become due but has been allowed by the Collector to be deferred; or

(e) at any time after drawback of that duty has been paid,

the Collector may remit or repay any duty chargeable or paid thereon or waive repayment of any drawback paid on their warehousing.

(2) The Collector may, at the request of the proprietor of the goods in question and subject to compliance with such conditions as the Collector sees fit to impose, permit the destruction of and waive payment of duty and repayment of drawback on —

(a) any part of any warehoused goods which becomes damaged or surplus by reason of the carrying out of any permitted operation on those goods in warehouse, and any refuse resulting from any such operation; and

(b) any imported goods not yet cleared for any purpose for which they might be entered on importation or any warehoused goods, being in either case goods which by reason of their state or condition ceased to be worth the full duty chargeable thereon.

#### **Enforcement of bond in respect of goods removed without payment of duty**

**105.** If any goods which have ceased to be lawfully permitted to be removed for any purpose without payment of duty are unlawfully taken from any ship, aircraft, vehicle or place before that purpose is accomplished, the Crown may if it sees fit enforce any bond given in respect thereof notwithstanding that any time prescribed in the bond for accomplishing that purpose has not expired.

#### *Drawback, allowances, duties, etc: general*

##### **Extension of drawback**

**106.—**(1) Without prejudice to any other provision of any relevant enactment or other written law, where drawback is allowable on the shipment of any goods as stores, the like drawback shall, subject to such conditions and restrictions as the Collector sees fit to impose, be allowed on the warehousing in a warehouse of those goods for use as stores.

(2) Without prejudice to any other provision of any relevant enactment or other written law, where drawback would be payable on the exportation of any goods, or on the warehousing of any goods for exportation, then, subject to such conditions and restrictions as the Collector sees fit, the like drawback shall be payable on the shipment of any such goods as stores or, as the case may be, on their warehousing in a warehouse for use as stores.

##### **General provisions as to claims for drawback**

**107.—**(1) Any claim for drawback shall be made in such form and manner and contain such particulars as the Collector may direct.

(2) Where drawback has been claimed in the case of any goods subsections (3) to (6) shall apply in relation to the claim.

(3) No drawback shall be payable unless it is shown to the satisfaction of the Collector that duty in respect of the goods or the article contained therein or used in the manufacture or preparation thereof in respect of which the claim is made has been duly paid and has not been drawn back.

(4) No drawback shall be paid until the person entitled thereto or his agent has made a declaration in such form and manner and containing such particulars as the Collector may direct that the conditions on which the drawback is payable have been fulfilled.

(5) The Collector may require any person who has been concerned at any stage with the goods or article —

(a) to furnish such information as may be reasonably necessary to enable the Collector to determine whether duty has been duly paid and not drawn back and for enabling a calculation to be made of the amount of the drawback payable; and

(b) to produce any book of account or other document of whatever nature relating to the goods or article.

(6) Any person who fails to comply with any requirement made under subsection (5) commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 3 on the standard scale.

#### **Drawback and allowance on goods damaged or destroyed after shipment**

**108.**—(1) Where it is proved to the satisfaction of the Collector that any goods after being duly shipped for exportation have been destroyed by accident on board the exporting ship or aircraft, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be payable in the same manner as if the goods had been exported to their destination.

(2) Where it is proved to the satisfaction of the Collector that any goods after being duly shipped for exportation, have been materially damaged by accident on board the exporting ship or aircraft, and the goods are with the consent of and in accordance with any conditions imposed by the Collector relanded or unloaded again in or brought back into the Falkland Islands and either abandoned to the Collector or destroyed, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be paid as if they had been duly exported and not so relanded, unloaded or brought back.

(3) Notwithstanding any provision of any relevant enactment or other written law relating to the reimportation of exported goods, the person to whom any amount is payable or has been paid under subsection (2) above shall not be required to pay any duty in respect of goods relanded, unloaded or brought back under that subsection.

#### **Time limit on payment of drawback or allowance**

**109.** No payment shall be made in respect of any drawback or allowance unless the debenture or other document authorising payment is presented for payment within 2 years from the date of the event on the happening of which the drawback or allowance became payable.

### **Offences in connection with claims for drawback, etc.**

**110.—**(1) A person commits an offence under this subsection who, with intent to defraud Her Majesty, obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which—

(a) is not lawfully payable or allowable in respect thereof; or

(b) is greater than the amount so payable or allowable.

(2) A person commits an offence under this subsection who, without such intent as is mentioned in subsection (1), does any of the things there mentioned.

(3) A person convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding the maximum of level 11 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater, or to imprisonment for a term not exceeding 7 years and a person convicted of an offence under subsection (2) is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater.

(4) Any goods in respect of which an offence under subsection (1) or (2) has been committed are liable to forfeiture; but in the case of a claim for drawback, the Collector may, if he sees fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as he considers proper.

(5) Without prejudice to the foregoing provisions of this section, if in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any entry made thereof in connection with that claim, the goods are liable to forfeiture and any person by whom such claim or entry was made has committed an offence in respect of which he is liable on conviction to a fine not exceeding three times the amount claimed or the maximum of level 3 on the standard scale, whichever is the greater.

(6) Subsection (5) applies in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made where it is found that the goods, if sold for home use, would realise less than the amount claimed as it applies where the finding specified in subsection (5) is made except that it does not apply by virtue of this subsection to any claim under sections 97 or 108(2).

### **Recovery of duties and calculation of duties, drawbacks, etc**

**111.—**(1) Without prejudice to any other provision of any relevant enactment, any amount due by way of duty may be recovered as a debt due to the Crown.

(2) Any duty, drawback, allowance or rebate the rate of which is expressed by reference to a specified quantity or weight of any goods shall, subject to subsection (3), be chargeable or allowable on any fraction of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately.

(3) The Collector may for the purposes of subsection (2) determine the fractions to be taken into account in the case of any weight or quantity.

(4) For the purposes of calculating any amount due from or to any person under any relevant enactment by way of duty, drawback, allowance, repayment or rebate any fraction of a penny in that amount shall be disregarded.

### **Repayment of overpaid duty**

**112.—**(1) Where a person pays to the Collector an amount by way of duty which is not due, the Crown is liable to repay that amount.

(2) The Crown is not required to make any such repayment unless a claim is made to the Collector in such form, and supported by such documentary evidence as may be prescribed by regulations made by the Governor, and regulations under this subsection may make different provision for different cases.

(3) It is a defence to a claim for repayment that the repayment would unjustly enrich the claimant.

(4) No claim for repayment may be made after the expiry of 6 years beginning with the date of payment or, if later, the date on which the claimant (or, where the right to repayment has been assigned or otherwise transmitted, any predecessor in title of his) discovered, or could with reasonable diligence have discovered, that the amount was due.

(5) Except as provided by this section the Crown is not, nor is the Collector, liable to repay an amount paid to the Collector by way of duty by reason of the fact that it was not due.

## **PART X**

### **IMPOSITION OF DUTY AND RELIEF AND EXEMPTION FROM DUTY**

#### *Imposition of duty and exemptions from payment of duty*

#### **Imposition of duties by the Legislative Council**

**113.—**(1) Subject to subsection (2), the Legislative Council may by resolution impose, vary or revoke—

(a) import or export duties of customs or excise upon any kind of goods whatsoever which may be imported into or exported from the Falkland Islands; or

(b) excise duties upon any kind of goods whatsoever manufactured, extracted or produced within, the Falkland Islands.

(2) The Legislative Council shall not, unless the Governor has notified it in writing that the Secretary of State has consented thereto, exercise its powers under subsection (1) so as impose differential rates of duties, that is to say different rates of duties in relation to the same category of goods applicable by relation to the place of origin or manufacture, treatment or processing of the goods or place from which the goods were shipped to the Falkland Islands.

(3) Any resolution of the Legislative Council under this section shall be published in the *Gazette*.

### **Persons exempted from liability to pay duty**

**114.** Notwithstanding any other provision of any relevant enactment, there are exempt from all duties payable by virtue of this Ordinance —

(a) all goods imported or acquired by Her Majesty in her personal capacity and all goods imported or acquired by Her Majesty in right of her Government of the Falkland Islands or in right of Her Government of the United Kingdom (including goods imported or acquired for the use of Her Majesty's armed forces);

(b) all goods imported or acquired by the Governor for his personal use;

(c) all goods imported for his personal use by a person not having Falkland Islands status who —

(i) is a serving member of Her Majesty's armed forces, is in connection with the defence of the Falkland Islands in the service in a civil capacity of Her Majesty in right of Her Government of the United Kingdom or is an employee of the Navy Army and Air Force Institute or of the British Forces Broadcasting Service;

(ii) is a person or a member of persons declared by the Governor after consultation with the Executive Council to be so closely associated with persons to whom subparagraph (i) applies that he ought fairly to have the benefit of the exemption under this paragraph;

(iii) is the spouse or a dependent of any person mentioned in subparagraph (i) or (ii);

(d) all goods imported by the Navy Army and Air Force Institute or the British Forces Broadcasting Corporation for its own use or supply to a person or persons exempt from the payment of duty by any of the foregoing paragraphs or by paragraph (e); and

(e) all goods imported by any contractor to Her Majesty in right of Her Government of the United Kingdom for its own use or supply to a person or persons exempt from the payment of duty by virtue of any of the foregoing paragraphs, but in either case, only if the goods are used or supplied in performance of the contract in question and are not used or supplied further or otherwise.

### **Entitlement to drawback on supply to an exempted person**

**115.—**(1) Subject to subsections (2) and (3), a person who satisfies the Collector that he has, in the course of any trade or business carried on by him, supplied to any person to whom paragraphs (a), (b), (d) or (e) of section 114 apply any goods by way of sale in respect of which he has paid duty which has not previously been repaid to him by way of drawback or refunded to him or if so repaid or refunded, that he has repaid the amount thereof to the Consolidated Fund, is entitled to be repaid any duty which he satisfies the Collector that he has paid in respect of those goods and, if he has not paid that duty is no longer liable to pay the same.

(2) Subsection (1) does not apply in respect of any goods which have previously been used in the Falkland Islands whether by the supplier of the goods or any other person.

(3) If any goods supplied as mentioned in subsection (1) are returned to the supplier, then unless he satisfies the Collector that the goods have been destroyed or delivers them to the Collector for

destruction or disposal as the Collector sees fit, the supplier is liable forthwith to pay the duty repaid or excused by virtue of subsection (1).

### **Power to provide for reliefs from duty in respect of imported legacies**

**116.**—(1) The Governor may by Order make provision for conferring reliefs from duty in respect of goods imported into the Falkland Islands by or for any person who has become entitled to them as legatee.

(2) Any such relief may take the form either of an exemption from payment of duty or of a provision whereby the sum payable by way of duty is less than it would otherwise be.

(3) An Order under this section —

(a) may make any relief for which it provides subject to any conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies;

(b) may, in relation to any relief conferred by Order made under this section, contain such incidental and supplementary provisions as the Governor thinks necessary or expedient; and

(c) may make different provision for different cases.

(4) In this section, “legatee” means any person taking under a testamentary disposition or donatio mortis causa or on an intestacy.

### **Relief from duty on trade samples, labels, etc**

**117.** The Collector may allow the delivery without payment of duty on importation, subject to such conditions and restrictions as he sees fit —

(a) of trade samples of such goods as he sees fit, whether imported as samples or drawn from the goods on their importation;

(b) of labels or other articles supplied without charge for the purpose of being re-exported with goods manufactured or produced in the Falkland Islands.

### **Relief from duty on certain foreign goods re-imported**

**118.**—(1) Without prejudice to any other provision of any relevant enactment, but subject to subsection (2), goods manufactured or produced outside the Falkland Islands after exportation therefrom may on their re-importation be delivered without payment of duty for home use, where so eligible, if it is shown to the satisfaction of the Collector —

(a) that no duty was payable thereon at their previous importation or that any duty so chargeable was then paid;

(b) that no drawback has been paid or duty refunded on their exportation or that any drawback so paid or duty refunded has been repaid to the Consolidated Fund; and

(c) that the goods have not undergone any process outside the Falkland Islands since their exportation.

(2) For the purposes of this section, goods which on their previous importation were entered for transit or transshipment or were permitted to be delivered without payment of duty as being imported only temporarily with a view to subsequent re-exportation and which were re-exported accordingly shall on their re-importation be deemed not to have been previously imported.

*Relief for goods for Her Majesty's ships*

**Supply of duty-free goods to Her Majesty's ships**

**119.**—(1) Unless by Order under this subsection the Governor provides to the contrary, and subject to any regulations under subsection (3) for the time being in force, all goods dutiable as alcohol or tobacco which are supplied either —

(a) to any ship of the Royal Navy for the use of persons serving on that ship, being persons borne on the books of that or some other ship of the Royal Navy or a naval establishment;

(b) to the Ministry of Defence of the United Kingdom, for the use of persons serving in ships of the Royal Navy or naval establishments,

shall for all or any purposes of any duty or drawback in respect of those goods be treated as exported, and a person supplying or intending to supply goods as mentioned in paragraph (a) or (b) shall be treated accordingly as exporting or intending to export them.

(2) The Governor may by Order under this subsection amend subsection (1) so as to add to the categories of dutiable goods in relation to which it applies.

(3) An Order made under subsection (1) or subsection (2) may —

(a) contain such incidental or supplementary provisions as appear to the Governor to be necessary for the purposes of this section, including any adaptation of any provision of any relevant enactment; and

(b) make different provision in relation to different cases.

*Personal reliefs*

**Power to provide, in relation to persons entering the Falkland Islands, for reliefs from duty**

**120.**—(1) The Governor may by Order make provision for conferring on persons entering the Falkland Islands reliefs from duty; and any such relief may take the form either of an exemption from payment of duty or of a provision whereby the sum payable by way of duty is less than otherwise it would be.

(2) Without prejudice to subsection (1), the Governor may by Order make provision whereby, in such cases and to such extent as may be specified in the Order, a sum calculated at a rate specified in the Order is treated as the amount payable by way of duty in respect of goods imported by a person entering the Falkland Islands; but any Order making such provision shall enable the person concerned to elect that duty shall be charged on the goods at the rate which would be applicable apart from that provision.



(3) An Order under this section —

(a) may make any relief for which it provides subject to conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies and conditions with respect to the conduct in relation to the goods of persons other than the person on whom the relief is conferred and of persons whose identity cannot be ascertained at the date of importation;

(b) may, in relation to any relief conferred by Order made under this section, contain such incidental and supplementary provisions as the Governor thinks necessary or expedient, including provisions requiring any person to whom a condition of the relief at any time relates to notify the Collector of any non-compliance with the condition and provisions for the forfeiture of the goods in the event of non-compliance with any condition subject to which they have been relieved from duty; and

(c) may make different provision for different cases.

(4) An Order under this section may provide, in relation to any relief which under any such Order is made subject to a condition, for there to be a presumption that, in such cases as may be described in the Order by reference —

(a) to the quantity of goods in question; or

(b) to any other factor which the Governor considers appropriate,

the condition is to be treated, unless the Collector is satisfied to the contrary, as not being complied with.

(5) An Order under this section may provide, in relation to any requirement of such an Order for the Collector to be notified of non-compliance with a condition to which any relief from payment of duty is made subject, for goods to be exempt from forfeiture under section 98 in respect of non-compliance with that condition if —

(a) the non-compliance is notified to the Collector in accordance with that requirement;

(b) any duty which becomes payable on those goods by virtue of the non-compliance is paid; and

(c) the circumstances are otherwise such as may be described in the Order.

(6) A person who fails to comply with any requirement of an Order under this section to notify the Collector of any non-compliance with a condition to which any relief is made subject commits an offence and —

(a) is liable on conviction of that offence to a fine not exceeding level 5 on the standard scale;

(b) the goods in respect of which the offence was committed are liable to forfeiture.

(7) In subsection (3) "conduct", in relation to a person who has or may acquire possession or control of any goods, includes that person's intentions at any time in relation to those goods.

(8) Nothing in any Order made under this section shall be construed as authorising any person to import any thing in contravention of any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment.

*Produce of the sea or of the continental shelf*

**Produce of the sea or continental shelf**

**121.—**(1) Fish or other natural produce of the sea, or goods produced or manufactured therefrom at sea, if brought direct to the Falkland Islands, shall —

(a) in the case of goods which, under any enactment or instrument having the force of law, are to be treated as originating in the Falkland Islands, be deemed for the purposes of any charge to customs duty not to be imported; and

(b) in the case of goods which, under any enactment or instrument having the force of law, are to be treated as originating in any other country or territory, be deemed to be consigned to the Falkland Islands from that country or territory.

(2) Any goods brought into the Falkland Islands which are shown to the satisfaction of the Collector to have been grown, produced or manufactured in any area which is a designated area of the continental shelf and to have been brought direct from that area shall be deemed for the purposes of any charge to duty not to be imported.

(3) The Governor may, after consulting the Secretary of State and in accordance with such advice as he then receives, by regulations prescribe cases in which, with a view to exempting any goods from any duty, or charging goods with duty at a reduced or preferential rate, under any relevant enactment the continental shelf of any country prescribed by the regulations, or of any country or class of countries so prescribed, shall be treated for the purposes of such of those enactments or of any instruments made thereunder as may be so prescribed as if the shelf formed part of that country and any goods brought from that shelf were consigned from that country.

(4) In subsection (3) —

(a) "continental shelf", in relation to the Falkland Islands, has the same meaning as it has under section 2(1) the Offshore Minerals Ordinance 1994: and

(b) in any other case, "continental shelf" is the sea-bed and subsoil of the submarine areas adjacent to the coast, but outside the seaward limits of the territorial sea, of that country over which the exercise by that country of sovereign rights in accordance with international law is recognised or authorised by Her Majesty's Government in the United Kingdom.

*Provisions in relation to duty on alcoholic liquors: introductory*

**Ascertainment of strength, volume and weight of alcoholic liquors**

**122.—**(1) This section applies to spirits, methylated spirits and any fermented liquor other than wash, and "liquor" in this section shall be construed accordingly.

(2) For all the purposes of this Part —

(a) except where some other measure of quantity is specified, any computation of the quantity of any liquor or of the alcohol contained in any liquor shall be made in terms of the volume of the liquor or alcohol, as the case may be;

(b) any computation of the volume of any liquor or of the alcohol contained in any liquor shall be made in litres at 20° Centigrade; and

(c) the alcoholic strength of any liquor is the ratio of the alcohol contained in the liquor to the volume of the liquor (inclusive of the alcohol contained in it).

(3) All regulations made under, or for the time being having effect as if made or partly made under section 2(3) of the Alcoholic Liquor Duties Act 1979 of the United Kingdom shall, subject to such modifications as are required by section 76 of the Interpretation and General Clauses Ordinance 1977, have effect for the purposes of prescribing the means to be used for ascertaining for any purpose the strength, weight or volume of any liquor for the purposes of this Part as they have effect for the purposes of the said Act.

#### **Meaning of and method of ascertaining gravity of liquids**

**123.**—(1) The gravity of any liquid shall be ascertained by such method as the Collector may approve, and the gravity so ascertained shall be deemed to be the true gravity of the liquid.

(2) Where for the purposes of any relevant enactment it is necessary to ascertain the original gravity of worts in which fermentation has commenced or of any liquid produced from such worts, subject to any modifications which may be required by section 76 of the Interpretation and General Clauses Ordinance 1977, that gravity shall be determined in such manner as is prescribed by the regulations made under or for the time being having effect as if made under, or partly made under, section 3(2) of the Alcoholic Liquor Duties Act 1979.

(3) Where the original gravity of any worts has been determined in accordance with the regulations mentioned in subsection (2) for the purposes of charging duty by reference to the quantity and original gravity of worts produced, a deduction of  $3/4^\circ$  shall be allowed from the original gravity so determined, so however as not to reduce the original gravity by reference to which the duty is charged below the gravity of the worts as ascertained by the proper officer in accordance with subsection (1).

#### *Charge of duty upon alcohol*

#### **Spirits: charge of duty**

**124.**—(1) Subject to any relevant enactment, there shall be charged on spirits imported into the Falkland Islands or distilled or manufactured in the Falkland Islands duty at such rate per litre of alcohol in the spirits as is for the time being prescribed by customs resolution.

(2) The Collector may, subject to such conditions as he sees fit to impose, direct that the aromatic flavouring essence commonly known as angostura bitters shall be treated as not being spirits for the purpose of the charge to duty on spirits.

(3) The Collector may if he thinks fit, and subject to any conditions he sees fit to impose, permit spirits to be imported or delivered from warehouse without payment of duty if he is satisfied that those spirits are to be used for medical purposes or for scientific purposes.

(4) A person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale if he contravenes any condition imposed under subsection (2) or (3).

### **Importation and exportation of spirits**

**125.—**(1) Save as permitted by the Collector, spirits shall not be imported —

(a) in any ship of less than 40 tons register: or

(b) in containers of a capacity less than 40 litres each unless in bottles properly packed in cases.

(2) Save as permitted by the Collector, spirits other than bottled spirits shall not be exported, or be brought to any place or be waterborne for exportation in containers holding less than 40 litres each.

(3) Any spirits imported, exported, brought or waterborne contrary to this section are liable to forfeiture.

(4) Where any ship is or has been in Falkland Islands waters while having on board or attached in any manner thereto any spirits in containers other than such as are permitted by or under subsection (1), the ship and any spirits found therein are liable to forfeiture.

### **Restrictions on use of certain goods relieved from spirits duty**

**126.—**(1) Any person who uses otherwise than for a medical or scientific purpose —

(a) any mixture which has on importation been relieved to any extent of the duty chargeable in respect of the spirits contained in it or used in its preparation or manufacture by reason of being a mixture which is recognised by the Collector as being used for medical purposes;

(b) any article containing spirits which were exempted from duty under section 124; or

(c) any article manufactured or prepared from spirits in respect of which remission of duty has been obtained under section 124,

unless he has complied with the requirements specified in subsection (2) of this section, commits an offence and is liable on conviction to a fine of a maximum of three times the value of the mixture or the article so used or level 3 on the standard scale and any article in his possession in the preparation or manufacture of which the mixture or article has been used is liable to forfeiture.

(2) The requirements with which a person must comply to avoid incurring liability under subsection (1) are —

(a) he must obtain the consent of the Collector in writing to the use of the mixture or article otherwise than for a medical or scientific purpose;

(b) he must pay to the Collector an amount equal to the difference between the duty charged on the mixture and the duty which would have been chargeable if it had not been a mixture recognised as mentioned in subsection (1)(a) above, or to the amount of the duty remitted, as the case may be.

(3) The Governor may make regulations for the purpose of enforcing the provisions of this section.

(4) Regulations under subsection (3) may in particular require any person carrying on any trade in which spirits or mixture or articles containing or prepared or manufactured with spirits, are in the opinion of the Collector likely to be or to have been so used —

(a) to give and verify particulars of the materials which he is using or has used and of any such mixtures or articles he has used and of any mixture or articles he has sold;

(b) to produce any books of account or other documents of whatever nature relating to any such materials, mixture or articles.

(5) A person commits an offence who contravenes or fails to comply with any regulations made under subsection (3) and on conviction of that offence he is liable to a fine not exceeding the maximum of level 3 on the standard scale.

(6) In this section “mixture” includes a preparation and a compound, and any reference to a mixture or article includes a reference to any part thereof.

#### **Beer: charge of duty**

127.—(1) Subject to this section, there shall be charged on beer imported into, or produced in, the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) No duty shall be chargeable on beer brewed in the Falkland Islands by a person who brews the same only for his own domestic use and who is not also a wholesaler or retailer of beer.

#### **Wine: charge of duty**

128.—(1) Subject to this section, there shall be charged on wine imported into the Falkland Islands or produced in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more wines (“the constituent wines”) constitutes the production of wine if —

(a) the rate of duty applicable to one of the constituent wines is different from that applicable to the other or, as the case may be, at least one of the others; and

(b) the rate of duty applicable to the wine which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent wines;

(c) the blending or other mixing is with a view to dealing wholesale in the wine which is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any wine is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where, by virtue of subsection (2), wine is produced in the Falkland Islands, duty is chargeable on that wine by virtue of this Ordinance, whether or not duty was previously charged on all or any of the constituent wines by virtue of this Ordinance by virtue of its importation into or production in the Falkland Islands; but nothing in this subsection shall affect the operation of regulations under section 129 giving relief from duty on wine so produced by reference to duty charged on all or any of the constituent wines.

(4) No duty shall be chargeable on wine made in the Falkland Islands by a person who make the same only for his own domestic use and who is not also a wholesaler or retailer of wine.

### **Spirituos beverage: charge of duty**

**129.**—(1) Subject to this section, there shall be charged on spirituous beverages imported into or made in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more liquors (“the constituent liquors”) one or more of which is spirits constitutes the production of spirituous beverage if —

(a) the rate of duty applicable to one of the constituent liquors is different from that applicable to the other or, as the case may be, at least one of the others; and

(b) the rate of duty applicable to the mixed or blended liquor which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent liquors;

(c) the mixed or blended liquor which results is a spirituous beverage (that is to say, the majority of the alcohol therein is distilled alcohol and the percentage of alcohol therein by volume does not exceed 22%);

(d) the mixing or blending is with a view to dealing wholesale in the liquor which is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any spirituous beverage is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where, by virtue of subsection (2), spirituous beverage is produced in the Falkland Islands, duty is chargeable on that spirituous beverage by virtue of this Ordinance, whether or not duty was previously charged on all or any of the constituent liquors by virtue of this Ordinance by virtue of its importation into or production in the Falkland Islands.

**Fortified wine: charge of duty**

130.—(1) Subject to this section there shall be charged on fortified wine imported into or made in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more liquors (“the constituent liquors”) one or more of which is wine constitutes the production of fortified wine if—

(a) the rate of duty applicable to one of the constituent liquors is different from that applicable to the other or, as the case may be, at least one of the others; and

(b) the rate of duty applicable to the mixed or blended liquor which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent liquors;

(c) the mixed or blended liquor which results is fortified wine (that is to say, it is not within the definitions of beer, wine or spirituous beverage contained in section 2(1) and it contains at least 15% and not more than 22% alcohol

(d) the mixing or blending is with a view to dealing wholesale in the liquor which is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any fortified wine is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where, by virtue of subsection (2), fortified wine is produced in the Falkland Islands, duty is chargeable on that spirituous beverage by virtue of this Ordinance, whether or not duty was previously charged on all or any of the constituent liquors by virtue of this Ordinance by virtue of its importation into or production in the Falkland Islands.

**Other strong liquor: charge of duty**

131. There shall be charged on other strong liquor imported into or produced in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

*Stills*

**Power to make regulations in relation to stills**

132.—(1) The Governor may make regulations —

(a) regulating the keeping and use of stills;

(b) regulating the manufacture of stills;

(c) prohibiting the removal of stills or parts thereof.

(2) Any person who contravenes any regulation commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 5 on the standard scale and the still or part thereof in respect of which the offence was committed is liable to forfeiture.

PART XI  
DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

*Detention*

**Provisions as to arrest of persons**

**133.**—(1) Any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence in respect of which any provision of this Ordinance provides that a person who has committed that offence may be arrested without a warrant, may be arrested by any customs officer, police officer or any member of Her Majesty's armed forces at any time within 12 years from the date of the commission of the offence.

(2) Where it was not practicable to arrest any person in respect of an offence to which subsection (1) relates at the time of the commission of the offence, or where such person having been then or subsequently arrested for that offence has escaped he may be arrested by any customs officer, police officer or member of Her Majesty's armed forces at any time and may be proceeded against in like manner as if the offence had been committed at the date when he was finally arrested.

(3) Where a person is a member of the crew of any ship in Her Majesty's employment or service is arrested by a customs officer or police officer for an offence under any relevant enactment, the commanding officer of the ship shall, if so required by the arresting officer, keep that person on board that ship until he can be brought before a court and shall then deliver him up to the proper officer.

(4) Where any person has been arrested by virtue of this section, the person arresting him shall give notice of the arrest to the Collector.

*Forfeiture*

**Provisions as to detention, seizure and condemnation of goods, etc**

**134.**—(1) Any thing liable to forfeiture under any relevant enactment may be seized or detained by any customs officer or police officer or by any member of Her Majesty's Armed Forces in accordance with the provisions of the Prohibited Goods Ordinance (Title 26.2).

(2) The Prohibited Goods Ordinance is amended in the manner specified in Schedule 2 to this Ordinance.

**Forfeiture of spirits**

**135.** Where, by any provision of, or of any instrument made under, any relevant enactment, any spirits become liable to forfeiture by reason of some offence committed by a revenue trader, then —

(a) where that provision specifies the quantity of those spirits but does not specify the spirits so liable, the Collector may seize the equivalent of that quantity from any spirits in the stock of that trader; and



(b) where that provision specifies the spirits so liable, the Collector may, if he thinks fit, seize instead of the spirits so specified an equivalent quantity of any other spirits in the stock of that trader.

### **Forfeiture of ships, etc. used in connection with goods liable to forfeiture**

**136.**—(1) Without prejudice to any other provision of any relevant enactment, where any thing has become liable to forfeiture under any provision of such an enactment —

(a) any ship, aircraft, vehicle, animal, container (including any article of passenger's baggage) or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at a time when it was so liable of for the purposes of the commission of the offence for which it later became so liable; and

(b) any other thing mixed, packed or found with the thing so liable,

is also liable to forfeiture.

(2) Where any ship, aircraft, vehicle or animal has become liable to forfeiture under any relevant enactment, whether by virtue of subsection (1) of this section or otherwise, all tackle, apparel or furniture thereof is also liable to forfeiture.

(3) Where any ship not exceeding 100 tons register or any aircraft becomes liable to forfeiture under this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander each commit an offence and are liable on conviction of that offence to a fine not exceeding the lesser of the value of the ship or aircraft or the maximum of level 7 on the standard scale.

### **Special provisions as to forfeiture of larger ships**

**137.**—(1) Notwithstanding any other provision of any relevant enactment, a ship of 250 or more tons register shall not be liable to forfeiture under or by virtue of any provision of any relevant enactment, except section 80 of this Ordinance, unless the offence in respect of or in connection with which the forfeiture is claimed —

(a) was substantially the object of the voyage during which the offence was committed;

(b) was committed while the ship was under chase by a vessel in the service of Her Majesty after failing to bring to when properly summoned to do so by that vessel.

(2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to —

(a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and

(b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was in Falkland Islands waters.

(3) The exemption from forfeiture of any ship under this section shall not affect any liability to the forfeiture of goods carried therein.

**Penalty in lieu of forfeiture of larger ship where responsible officer implicated in offence**

**138.—**(1) Where any ship of 250 or more tons register would, but for section 138, be liable to forfeiture for or in connection with any offence under any relevant enactment and, in the opinion of the Senior Magistrate, a responsible officer of the ship is implicated either by his own act or by neglect in that offence, the Senior Magistrate may order the owners of the ship to pay to the Crown such sum, not exceeding £50,000, as he thinks fit.

(2) The Magistrate's Court may make an order under subsection (1) —

(a) in the course of criminal proceedings in the Magistrate's Court in relation to that offence; or

(b) on the application of the Collector or of the Attorney General,

but the Magistrate's Court shall not make such an order unless the owners of the ship have been given a reasonable opportunity of being heard in relation thereto.

(3) The Collector may detain a ship in respect of which he believes an order under subsection (1) could be made until the earliest of —

(a) until the conclusion of any criminal proceedings to which paragraph (a) of subsection relates;

(b) the delivery by or on behalf of the owners of such security as he considers sufficient, for such amount not exceeding £50,000 as he may require, for the payment of any sum which the Magistrate's Court may order under subsection (1);

(c) the payment of any amount ordered by the Magistrate's Court under subsection (1) to be paid;

(d) an order of a competent court that the ship be released.

(4) For the purposes of this section —

(a) "responsible officer", in relation to any ship, means the master, a mate or an engineer of the ship and, in the case of a ship carrying a passenger certificate, the purser or chief steward;

(b) without prejudice to any other grounds on which a responsible officer of a ship may be held to be implicated by neglect, he may be so held if goods not owned by any member of the crew are discovered in a place under that officer's supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.

### **Protection of customs officers etc. in relation to seizure and detention of goods, etc**

**139.**—(1) Where, in any proceedings for the condemnation of any thing seized or liable to forfeiture under any relevant enactment, judgment is given for the claimant, the court may, if it thinks fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Crown, the Collector, the Attorney General or any person authorised by or under any relevant enactment to seize or detain any thing liable to forfeiture under any relevant enactment on account of the seizure or detention of any thing, and judgment is given for the plaintiff or prosecutor, then if either —

(a) a certificate relating to the seizure has been granted under subsection (1) above; or

(b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the relevant enactments,

the plaintiff or prosecutor is not entitled to recover any damages or costs and the defendant shall not be liable to any punishment.

(3) Nothing in subsection (2) affects any right of any person to the return of any thing seized or detained or to compensation in respect of any damage to the thing or in respect of its destruction.

(4) Any certificate under subsection (1) may be proved by the production of either the original certificate or a certified copy of it signed by the Senior Magistrate or the Courts Administrator.

### *General provisions*

#### **Institution of proceedings, service of process and time limit for proceedings**

**140.**—(1) No proceedings for an offence under a relevant enactment shall be brought except by or with the authority of one or other of the Collector and the Attorney General.

(2) Any summons or other process for the purpose of any proceedings under any relevant enactment may be served upon the person to whom it is addressed —

(a) by delivering it to him personally;

(b) by leaving it so addressed at his last known place of abode or business or, in the case of a body corporate at its principal or registered office or in the case of an oversea company at its principal place of business in the Falkland Islands;

(c) by leaving it so addressed on board any vessel or aircraft to which he may belong or may have lately belonged;

(d) if that person is the owner or one of the owners or a charterer or one of the charterers of a vessel or a the master or lately the master or other member of the crew of any vessel, by leaving it so addressed with any agents in the Falkland Islands of that vessel.

(3) Proceedings for an offence under any relevant enactment shall not be commenced after the end of 12 years beginning with the date on which the offence was committed.

### **Proof of certain documents**

**141.**—(1) Any document purporting to be signed by the Collector or by any other person with his authority shall, until the contrary is proved, be deemed to be so signed and may be proved by production of a copy of it purporting to be so signed.

(2) A photograph of any document delivered to the Collector for any customs purpose and certified by him to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

### **Proof of certain other matters**

**142.**—(1) An averment in any process in proceedings under a relevant enactment —

(a) that those proceedings were instituted with the authority of the Collector or of the Attorney General;

(b) that any person is or was the Collector, a customs officer or a police officer or a member of Her Majesty's armed forces; or

(c) that any person is or was appointed or authorised by the Collector to discharge, or was engaged by the orders or with the concurrence of the Collector in the discharge of, any duty;

(d) that the Collector has or has not been satisfied as to any matter as to which he is required by any provision of any relevant enactment to be satisfied;

(e) that any ship is a British ship; or

(f) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods,

shall, until the contrary is proved, be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to customs any question arises as to the place from which any goods have been brought or as to whether or not —

(a) any duty has been paid or secured in respect of any goods; or

(b) any goods or other things whatsoever are of the description or nature alleged in the information, writ or other process; or

(c) any goods have been lawfully imported or lawfully unloaded from any ship or aircraft;

(d) any goods have been lawfully loaded into any ship or aircraft or lawfully exported or were lawfully waterborne;

(e) any goods were lawfully brought to any place for the purpose of being loaded into any ship or aircraft or exported; or

(f) any goods are or were subject to any prohibition or restriction on their importation or exportation or carriage coastwise,

then, where those proceedings are brought by or against the Collector or the Attorney General or a customs officer, or against any other person in respect of anything purporting to have been done in pursuance of any power or duty conferred or imposed by him under any relevant enactment, the burden of proof lies on the other party to the proceedings.

PART XII  
GENERAL AND MISCELLANEOUS  
*Prohibited imports and exports*

**Prohibition of imports and exports**

**143.**—(1) The Governor may by Order make such provision as the Governor thinks expedient for prohibiting or regulating, in all cases or any specified classes of cases, and subject to such exceptions, if any, as may be made by or under the Order, the importation into, or exportation from, the Falkland Islands, or the carriage coastwise or shipment as ship's or aircraft's stores, of all goods or goods of a specified description.

(2) An Order under this section may constitute breaches of such of its provisions as are specified for the purpose offences punishable on conviction by a fine not exceeding such amount or imprisonment for a term not exceeding such length (or both such a fine and such imprisonment) as the Governor specifies in the Order (but so that no fine greater than the maximum of level 10 on the standard scale or term of imprisonment longer than 3 years shall be so specified).

(3) If any goods —

(a) are imported, exported carried coastwise or shipped as ship's or aircraft's stores in contravention of an Order under subsection (1); or

(b) are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped in contravention of such an Order,

those goods shall be deemed to be prohibited goods and are forfeit to the Crown and shall be disposed of in such manner as the Governor may direct.

(4) If any Order under subsection (1) prohibits the exportation of any goods unless consigned to a particular place or person, and such goods so consigned are delivered otherwise than to such place or person, as the case may be, the vessel or aircraft in which the goods were exported shall be deemed, unless the contrary is shown, to have been used in the conveyance of prohibited goods.

(5) If any goods are imported, exported, carried coastwise or shipped as ship's or aircraft's stores, or are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped, the proper officer may require any person possessing or having control of the goods to satisfy the Collector that the importation, exportation or carriage coastwise of the goods or the shipment of the goods as ship's or aircraft's stores, as the case may be, is not unlawful by virtue of an order under subsection (1) or some other written law and if he fails to do so then, unless the contrary is

proved, the goods shall be deemed to be prohibited goods and are forfeit to the Crown and shall be disposed of in such manner as the Governor may direct.

(6) Nothing in any foregoing provision of this section or in any Order made under subsection (1) applies to any goods imported into, carried coastwise in or exported from the Falkland Islands by or on behalf of Her Majesty in right of Her Government of the United Kingdom.

(7) The foregoing provisions of this section have effect without prejudice to the provisions of sections 35 and 36 of the repealed Ordinance or any Proclamation made under the said section 35.

#### **Provisions as to the ultimate destination of goods**

**144.**—(1) Where a person about to export goods from the Falkland Islands, in the course of making entry of them before shipment, makes a declaration as to their ultimate destination, and the Collector suspects that the declaration is untrue in any material particular, the goods may be detained until he is satisfied as to the truth of the declaration, and, if the Collector is not so satisfied, the goods shall be forfeit to the Crown and may be disposed of in such manner as the Governor may direct.

(2) An exporter or shipper of goods which have been exported from the Falkland Islands shall, if so required by the Collector, satisfy him that the goods have not reached (whether as ultimate destination or in transit) any country or territory or destination in any country or territory or any other place to which, by virtue of an Order under section 144(1) or any other written law, to which they may not lawfully be exported and if he fails to do so he commits an offence and is liable on conviction of that offence to a fine of an amount equivalent to three times the value of the goods or the maximum of level 10 on the standard scale, whichever is the greater, and to be imprisoned for a term not exceeding 3 years.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he did not consent to or connive at the goods reaching a destination (whether as ultimate destination or in transit) to which they could not lawfully be sent and that he took all reasonable steps to secure that the ultimate destination of the goods was that specified in the documents shown or furnished to customs officers in connection with the exportation of the goods.

#### *General powers, etc*

#### **Bonds and security**

**145.**—(1) Without prejudice to any express requirement as to security contained in any relevant enactment, the Collector may, if he thinks fit, require any person to give security by bond or otherwise for the observance of any condition in connection with customs.

(2) Any bond taken pursuant to subsection (1) —

(a) shall be taken on behalf of Her Majesty;

(b) shall be valid notwithstanding that it is entered into by a person under the age of 18 years; and

(c) may be cancelled at any time by order of the Collector.

### **Power to require provision of facilities**

**146.—(1)** Any person required by the Collector under a relevant enactment to give security in respect of any premises or place to be used for the examination of goods by a customs officer, shall —

(a) provide and maintain such appliances and afford such other facilities reasonably necessary to enable a customs officer to take any account or make any examination or search or perform any other duty on the premises of that person or at the bonded premises or place as the Collector may direct;

(b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose;

(c) allow the proper officer at any time to use anything so provided or give him any assistance necessary for the performance of his duties.

(2) A person who contravenes any provision of subsection (1) commits an offence on conviction of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(3) A person subject to a requirement to which subsection (1) relates shall provide and maintain any fitting required for the purpose of affixing any lock which the proper officer may require to affix to the premises of that person or any part thereof or to any vessel, utensil or other apparatus whatsoever kept thereon and in default —

(a) the fitting may be provided and any work necessary for its maintenance may be carried out by the proper officer, and any expenses so incurred shall be paid on demand by that person;

(b) if that person fails on demand to pay those expenses he commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(4) Any person who is subject to a requirement under subsection (1) or any employee of his commits an offence in respect of which he may be arrested without a warrant and is liable to a fine not exceeding the maximum of level 5 on the standard scale if —

(a) he willfully destroys or damages any such fitting as is mentioned in subsection (3) or any lock or key provided for use with it, or any label or seal placed on any such lock;

(b) he improperly obtains access to any place or article secured by any such lock; or

(c) he has any such fitting or any article intended to be secured by means of it so constructed that that intention is defeated.

### **Power to examine and take account of goods**

**147.—(1)** Without prejudice to any other power conferred by any relevant enactment, a customs officer may examine and take account of any goods —

(a) which are imported;

(b) which are in a Queen's warehouse;

(c) which have been loaded into any ship or aircraft at any place in the Falkland Islands;

(d) which are entered for exportation or for use as stores;

(e) which are brought to any place in the Falkland Islands for exportation or for shipment for exportation or as stores; or

(f) in the case of which any claim for drawback, allowance, rebate, remission or repayment of duty is made;

and may for that purpose require any container to be opened or unpacked.

(2) Any examination of goods under any relevant enactment shall be at such place as the Collector appoints for the purpose.

(3) In the case of such goods as the Collector may direct, and subject to such conditions as he sees fit to impose, a customs officer may permit goods to be skipped on the quay or bulked, sorted, lotted, packed or repacked before account is taken thereof.

(4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for the purposes of, or incidental to, the examination by an officer, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided, by or at the expense of the proprietor of the goods.

(5) If any imported goods which a customs officer has power under any relevant enactment to examine are without the authority of the proper officer removed from customs charge before they have been examined, those goods are liable to forfeiture.

(6) If any goods falling within subsection (5) are removed by a person with intent to defraud Her Majesty of any duty chargeable thereon or to evade any prohibition or restriction for the time being in force with respect thereto, that person commits an offence under this subsection in respect of which he may be arrested without a warrant.

(7) A person convicted of an offence under subsection (6) is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

(8) Without prejudice to the foregoing provisions of this section, where by this section or any other provision of any relevant enactment an account is authorised or required to be taken of any goods for any purpose by a customs officer, the Collector may, with the consent of the proprietor of the goods, accept as the account of the goods for that purpose an account taken by such other person as may be approved in that behalf by both the Collector and the proprietor of the goods.



**Application of customs and excise enactments to certain postal packets**

148.—(1) Subject as follows, this Ordinance and all other enactments for the time being in force in relation to customs or excise shall apply to goods contained in postal packets to which this section applies which are brought into or sent out of the Falkland Islands by post from or to any place outside the Falkland Islands as they apply in relation to goods otherwise imported, exported or removed into or out of the Falkland Islands from or to any such place.

(2) The Governor may make Regulations for —

(a) specifying the postal packets to which this section applies;

(b) making modifications or exceptions in the application of the enactments mentioned in subsection (1) to such packets;

(c) enabling persons engaged in the business of a postal operator to perform for the purposes of those enactments and otherwise all or any of the duties of the importer, exporter or person removing the goods;

(d) carrying into effect any arrangement with the Government or postal administration of any country or territory outside the Falkland Islands with respect to foreign postal packets;

(e) securing the observance of the enactments mentioned in subsection (1); and

(f) without prejudice to any liability of any person under those enactments, punishing any contravention of the Regulations.

(3) Duties (whether of customs or excise) charged on imported goods or other charges payable in respect of postal packets to which this section applies (whether payable to the Falkland Islands Post Office or to a foreign administrator) as a civil debt due to Her Majesty in Right of Her Government of the Falkland Islands.

(4) In any proceedings for the recovery of any charges payable as mentioned in subsection (3), a certificate of the Postmaster of the amount of the charges shall be evidence of that fact.

(5) In this section “foreign postal packet” means any postal packet either posted in the Falkland Islands and sent to a place outside the Falkland Islands, or posted in a place outside the Falkland Islands and sent to a place within the Falkland Islands, or in transit through the Falkland Islands to a place outside the Falkland Islands.”

**Power to detain postal packets containing contraband**

149.—(1) The Postmaster may —

(a) detain any postal packet if he suspects that it may contain relevant goods—

(b) forward any packet so detained to the Collector.

(2) In this section —

(a) "the Postmaster" includes any public officer employed in the Falkland Islands Post Office acting with the authority or under the instructions of the Postmaster;

(b) "relevant goods" means —

(i) any goods chargeable with any duty charged on imported goods (whether a customs or an excise duty) which has not been paid or secured, or

(ii) any goods in the course of importation, exportation or removal into or out of the Falkland Islands contrary to any prohibition or restriction for the time being in force by virtue of any enactment.

(3) Subsection (1) has effect without prejudice to section 148.

(4) The Collector may open and examine any postal packet received at a post office and any postal packet forwarded to him under this section and if he finds any relevant goods on opening and examine a postal packet under this section, made detain the packet and its contents for the purpose of proceedings being brought in relation to them.

(5) If the Collector does not find any relevant goods on opening and examining a postal packet under this section, he shall —

(a) deliver the packet to the addressee upon his paying any postage and other sums chargeable on it, or

(b) forward the packet to him by post.

(6) No provision of any enactment as to the inviolability of mails applies in relation to any power conferred by this section.

(7) In subsections (4) to (6) "the Collector" includes any customs officer acting with the authority or under the direction of the Collector.

### **Power to take samples**

**150.**—(1) A customs officer may at any time take samples of any goods —

(a) which he is empowered by any provision of any relevant enactment to examine;

(b) which are on premises where goods chargeable with any duty are manufactured, prepared, or subjected to any process; or

(c) which, being dutiable goods, are held by any person as stock for his business or as materials for manufacturing or processing.

(2) Where a customs officer takes from any vessel, pipe or utensil a sample of any product of, or any materials for, the manufacture of any person —

(a) the person may, if he wishes, stir up and mix together the contents of that vessel, pipe or utensil before the sample is taken;

(b) the sample taken by the officer shall be deemed to be representative of the whole contents of that vessel, pipe or utensil.

(3) Any samples taken under this section shall be disposed of and accounted for in such manner as the Collector may direct.

(4) Where any sample is taken under this section from any goods chargeable with duty after that duty has been paid, other than —

(a) a sample taken when goods are first entered on importation; or

(b) a sample taken from goods in respect of which a claim for drawback, allowance, rebate, remission or repayment of that duty is being made,

and the sample so taken is to be retained, the officer taking it shall, if so required by the person in possession of the goods, pay for the sample on behalf of the Collector such sum as reasonably represents its wholesale value.

#### **Power to search premises**

**151.**—(1) Without prejudice to any other power conferred by any relevant enactment but subject to subsection (2) of this section, where there are reasonable grounds to suspect that any thing liable to forfeiture under any relevant enactment is kept or concealed in any building or place, any customs officer may —

(a) enter that building or place at any time, whether by day or by night, on any day, and search for, seize, and detain or remove any such thing; and

(b) so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force or remove any other impediment or obstruction.

(2) No customs officer shall exercise the power of entry conferred by subsection (1) by night unless he is accompanied by a police officer.

#### **Power to enter land for or in connection with access to pipe-lines**

**152.** Where any thing conveyed by a pipe-line is chargeable with duty which has not been paid, a customs officer may enter any land adjacent to the pipe-line in order to get to the pipe-line for the purpose of exercising in relation to that thing any power conferred by or under any relevant enactment or to get from the pipe-line after an exercise of any such power.

#### **Power to search vehicles or vessels or aircraft**

**153.**—(1) Without prejudice to any other power conferred by any relevant enactment, where there are reasonable grounds to suspect that any vehicle, vessel or aircraft is or may be carrying any goods which are —

(a) chargeable with any duty which has not been paid or secured;

(b) in the course of being unlawfully removed from or to any place; or

(c) otherwise liable to forfeiture under any relevant enactment;

subject to subsection (2), any customs officer, police officer or member of Her Majesty's armed forces may stop and search that vehicle, vessel or aircraft.

(2) If when so required by any such officer, constable or member the person in charge of any such vehicle, vessel or aircraft refuses to stop or to permit the vehicle, vessel or aircraft to be searched, that person commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale in relation to vehicles, vessels or aircraft but the power to stop and search in subsection (1) is not available in respect of aircraft which are airborne.

### **Power to search persons**

**154.**—(1) Where there are reasonable grounds to suspect that any person to whom this section applies (referred to in this section as “the suspect”) is carrying any article —

(a) which is chargeable with any duty which has not been paid or secured; or

(b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment,

a customs officer may exercise the powers conferred by subsection (2) and, if the suspect is not under arrest, may detain him for so long as may be necessary for the exercise of those powers and (where applicable) the exercise of the rights conferred by subsection (3) of this section.

(2) The customs officer may require the suspect —

(a) to permit such a search of any article which he has with him; and

(b) subject to subsection (3), to submit to such searches of his person, whether rub-down, strip or intimate,

as the customs officer may consider necessary or expedient; but no such requirement may be imposed under paragraph (b) of this subsection without the customs officer informing the suspect of the effect of subsection (3).

(3) If the suspect is required to submit to a search of his person, he may require to be taken —

(a) except in the case of a rub-down search, before a justice of the peace or, unless the customs officer requiring the search is the Collector, before a superior of the customs officer;

(b) in the case of a rub-down search, and unless the customs officer requiring the search is the Collector, before a superior of the customs officer;

and the justice or superior shall consider the grounds for suspicion and direct accordingly whether the suspect is to submit to the search.

(4) A rub-down or strip search shall not be carried out except by a person of the same sex as the suspect; and an intimate search shall not be carried out except by a suitably qualified person.

(5) This section applies to the following persons —

(a) any person who is on board or who has landed from any ship or aircraft;

(b) any person entering or about to leave the Falkland Islands;

(c) any person at a customs airport;

(d) any person in, entering or leaving any approved wharf or transit shed.

(6) In this section —

“approved wharf or transit shed” means the Falklands Interim Port and Storage System and the East Jetty at Stanley, the whole of the harbour facility at Mare Harbour the jetties at Fox Bay East and Port Howard in West Falkland and any other wharf or transit shed declared by an Order by the Governor under this subsection to be an approved wharf or transit shed;

“intimate search” means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person’s body orifices;

“rub-down search” means any search which is neither an intimate search nor a strip search;

“strip search” means a search which is not an intimate search but which involves the removal of an article of clothing which —

(a) is being worn wholly or partly on a person’s trunk;

(b) is being so worn either next to the skin or next to an article of underwear; and

“suitably qualified person” means a person who is registered as a medical practitioner under the Medical Practitioners, Midwives and Dentists Ordinance or is qualified to be so registered or is a person employed as a staff nurse, sister or nursing officer by the Crown or is a person who has been notified by the Governor in the *Gazette* as being a person whom he is satisfied is a person who is appropriately qualified for the purposes of this section.

### **Agents**

**155.**—(1) If any person requests a customs officer or a person appointed by the Collector to transact any business relating to customs with him on behalf of another person, the customs officer or person so appointed may refuse to transact that business with him unless written authority from that other person is produced in such form as the Collector may require.

(2) Subject to subsection (1), anything required by any relevant enactment to be done by the importer or exporter of goods may, except where the Collector otherwise requires, be done on his behalf by an agent.

#### *General offences*

#### **Untrue declarations, etc**

**156.—**(1) If any person either knowingly or recklessly —

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Collector or to a customs officer, any declaration, notice, certificate or other document whatsoever; or

(b) makes any statement in answer to any question put to him by a customs officer which he is required by or under any enactment to answer,

being a document or statement produced or made for any purpose of any matter related to customs, which is untrue in any material particular, he commits an offence under this subsection in respect of which he may be arrested without a warrant; and any goods in relation to which the document or statement was made are liable to forfeiture.

(2) Without prejudice to subsection (4), a person who commits an offence under subsection (1) is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding 2 years.

(3) If any person —

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Collector or to a customs officer, any declaration, notice, certificate or other document whatsoever; or

(b) makes any statement in answer to any question put to him by a customs officer which he is required by or under any enactment to answer,

being a document or statement produced or made for any purpose of any matter relating to customs, which is untrue in any material particular, then, without prejudice to subsection (4), he is liable to a fine not exceeding the maximum of level 4 on the standard scale.

(4) Where by reason of any such document or statement as is mentioned in subsection (1) or (3) the full amount of duty is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of the duty unpaid or of the overpayment is recoverable as a debt due to the Crown or may be summarily recovered as a civil debt.

#### **Counterfeiting documents, etc**

**157.—**(1) If any person —

(a) counterfeits or falsifies any document which is required by or under any enactment relating to customs or which is used in the transaction of any business relating to customs;

(b) knowingly accepts, receives or uses any such document so counterfeited or falsified;

(c) alters any such document after it is officially issued; or

(d) counterfeits any seal, signature, initials or other mark of, or used by, any customs officer for the verification of such a document or for the security of goods or for any other purpose relating to customs,

he commits an offence under this section in respect of which he may be arrested without a warrant.

(2) A person convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding 2 years.

### **False scales, etc**

**158.**—(1) If any person required by or under any relevant enactment to provide scales for any purpose provides, uses or permits to be used any scales which are false or unjust he commits an offence under this section.

(2) Where any article is to be weighed, counted, gauged or measured for the purposes of the taking of an account or the making of an examination by a customs officer, then—

(a) any such person as is mentioned in subsection (1); or

(b) any person by whom or on whose behalf the article is weighed, counted, gauged or measured,

does anything whereby the customs officer might be prevented from, or hindered or deceived in, taking a true and just account or making a due examination, he commits an offence under this section.

(3) Any person committing an offence under this section is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale and any false or unjust scales, and any article in connection with which the offence was committed, shall be liable to forfeiture.

(4) In this section “scales” includes weights, measures and weighing or measuring machines or instruments.

### **Penalty for fraudulent evasion of duty**

**159.**—(1) Without prejudice to any other provision of any relevant enactment any person who —

(a) knowingly acquires possession of any of the following goods —

(i) goods which have been unlawfully removed from a warehouse or Queen’s warehouse;

(ii) goods which are chargeable with a duty which has not been paid;

(iii) goods with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment; or

(b) is in any way knowingly concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any such goods,

does so with intent to defraud Her Majesty of any duty payable on the goods or to evade any such prohibition or restriction with respect to the goods he commits an offence under this section in respect of which he may be arrested without a warrant.

(2) Without prejudice to any other provision of any relevant enactment, if any person is in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion —

(a) of any duty chargeable on the goods;

(b) of any prohibition or restriction for the time being in force with respect to the goods under or by virtue of any enactment; or

(c) of any provision of any relevant enactment in relation to the goods,

he commits an offence under this section in respect of which he may be arrested without a warrant.

(3) Subject to subsection (4) and (5), a person convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding 7 years.

(4) In the case of an offence under this section in connection with a prohibition or restriction on importation having effect by virtue of section 3 of the Misuse of Drugs Ordinance 1987, subsection (3) of this section has effect subject to the modifications specified in Schedule 1 to this Ordinance.

(5) In the case of an offence under this section in connection with the prohibitions contained in section 20 and 21 of the Forgery Act 1981 in its application under the law of the Falkland Islands, subsection (3) shall have effect as if for the words “7 years” there were substituted the words “10 years”.

(6) In any case where a person would, apart from this subsection, be guilty of —

(a) an offence under this section in connection with a prohibition or restriction; and

(b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction, being an offence for which a fine or other penalty is expressly provided for by that enactment or other instrument,

he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

(7) Where any person commits an offence under this section, the goods in respect of which the offence was committed are liable to forfeiture.

### **General provisions as to offences and penalties**

**160.—(1)** Where —



(a) by any provision of any relevant enactment a punishment is prescribed for any offence under it or for any contravention of any regulation, direction, condition or requirement made given or imposed under it;

(b) any person is convicted in the same proceedings of more than one such offence or contravention,

that person is liable to that punishment for each such offence or contravention of which he is convicted.

(2) Where a fine for an offence under any relevant enactment is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might be reasonably expected to have fetched, after payment of any duty or tax charged on them, if they had been sold in the open market at or about the date of the commission of the offence in respect of which the fine is imposed.

(3) Where an offence under any relevant enactment has been committed by a body corporate and it is proved to have been committed with the consent or the connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate or any person purporting to act in such capacity, he as well as the body corporate has committed the offence and is liable to be proceeded against and punished accordingly.

(4) Where in any proceedings for an offence under any relevant enactment any question arises as to the duty or rate of duty chargeable on any imported goods, and it is not possible to ascertain the relevant time specified in section 36, that duty or rate shall be determined as if the goods had been imported without entry at the time when the proceedings were commenced.

#### *Miscellaneous*

#### **Directions**

**161.** Directions given under any provision of this Ordinance may make different provision for different circumstances and may be varied or revoked by subsequent directions.

#### **Regulations**

**162.** The Governor may make regulations for the better carrying out of the provisions of this Ordinance and any other relevant enactment, and may, in such regulations, prescribe fees, rents or charges to be paid in respect of any matter therein referred to.

#### **Repeal, savings and amendments**

**163.—**(1) Subject to subsection (2), the Customs Ordinance (Title 26.1) (“the repealed Ordinance”) is repealed.

(2) Sections 35 and 36 of the repealed Ordinance shall remain in force and effect but may be repealed or amended by Order under this section.

(3) Paragraph 4 of the Customs Order (Title 26.1.2) is revoked.

(4) Notwithstanding the repeal of the repealed Ordinance, and subject to subsection (2) of this section, all subsidiary legislation made under the repealed Ordinance (that is to say Title 26.1.1 to Title 26.1.5

as amended prior to the commencement of this Ordinance) remains in force and effect but may be revoked or amended by Order made under this subsection.

(5) Any provision of this Ordinance or any other relevant enactment relating to anything to be done or required or authorised to be done under or in pursuance of a relevant enactment shall have effect as if the repealed Ordinance were a relevant enactment.

(6) Any provision of this Ordinance relating to anything done or required or authorised to be done under, in pursuance of or by reference to that provision or any other provision of this Ordinance shall have effect as if any reference to that provision, or that other provision, as the case may be, included a reference to the corresponding provision of the repealed Ordinance.

## SCHEDULE

### AMENDMENT OF PROHIBITED GOODS ORDINANCE (TITLE 26.2)

1. The Prohibited Goods Ordinance (Title 26.2) (in this Schedule called “the Ordinance”) is amended in the manner provided by the subsequent paragraphs of this Schedule.

2. Section 2 of the Ordinance is amended —

(a) by the addition of the following paragraph to the definition of “authorised person” appearing in that section —

“(d) a member of Her Majesty’s Armed Forces”; and

(b) by the addition of the following paragraphs to the definition of “prohibited goods” appearing in that section —

“(c) any thing liable to forfeiture under the Customs Ordinance 2003 or any enactment which is a relevant enactment for the purposes of that Ordinance; and

(d) any dutiable goods seized or detained by any authorised person other than a customs officer notwithstanding that they were not liable to forfeiture by virtue of paragraph (c).”

3. Section 3 of the Ordinance is amended —

(a) by adding at the end of subsection (1) the words “and, subject to subsection (1A), shall deliver them as soon as reasonably possible to the Collector of Customs”; and

(b) by inserting the following subsections after subsection (1) —

“(1A) Where the person seizing or taking possession of anything under subsection (1) is a police officer and that thing is or may be required for use in connection with any proceedings to be brought otherwise than under an enactment which is for the purposes of the Customs Ordinance 2003 a relevant enactment that thing may, subject to subsection (1)(B), be retained in the custody of the police until either those proceedings are completed or it is decided that no such proceedings should be brought.

(1B) The following provisions apply in relation to things retained in the custody of the police by virtue of subsection 1(A) —

(a) notice in writing of the seizure or detention and of the intention to retain the thing in question in the custody of the police, together with full particulars of the thing, shall be given to the Collector;

(b) any customs officer shall be permitted to examine that thing and take account thereof at any time while it remains in the custody of the police; and

(c) nothing in the Police (Property) Act 1897 in its application to the Falkland Islands shall apply in relation to the thing.

(1C) Where the person seizing or detaining any thing as liable to forfeiture under any relevant enactment is a customs officer and that thing is or may be required for use in connection with any proceedings to be brought under a relevant enactment that thing may be retained in the custody of the Collector until either those proceedings are completed or it is decided that no such proceedings shall be brought."

(c) In that subsection 4, by inserting the words "as subject to subsection (4A)" after the words "the court" appearing in that subsection.

(d) By inserting the following subsection after subsection (4) —

"(4A) Where subsection (1A) or subsection (1C) applies in relation to any goods the Court shall not proceed to hear and determine the appeal unless it is satisfied that the proceedings referred to in such of those subsections as is relevant in the circumstances of the case have been completed or that it has been decided that no such proceedings shall be brought."

Passed by the Legislature of the Falkland Islands this 28<sup>th</sup> day of May 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

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The following are published in this Supplement -

**Proclamation - Customs (Proclamation No. 1 of 2003);**

**Education (Amendment) Ordinance 2003, (Commencement Notice).**

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**PROCLAMATION**

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**CUSTOMS**

Importation of Food and Animal Products from South America (Amendment) Proclamation 2003

(Proclamation No. 1 of 2003)

**IN EXERCISE** of my powers under section 35 of the Customs Ordinance (Title 26.1) I make the following Proclamation —

**Citation and Commencement**

1. This Proclamation may be cited as the Import of Food and Animal Products from South America (Amendment) Proclamation 2003 and comes into force upon publication in the *Gazette*.

**Amendment of Importation of food and Animal Products from South America Proclamation 2001**

2.—(1) Article 4(3)(c) of the Importation of Food and Animal Products from South America Proclamation 2001(a) is amended by deleting subparagraph (i) and replacing it with the following —

“(i) Chile;”

(2) Article 4(3)(d) is amended by deleting the words “except Region V”.

Made this 18<sup>th</sup> day of June 2003

H J S Pearce  
*Governor*

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## EXPLANATORY NOTE

This Proclamation amends the Importation of Food and Animal Products from South America Proclamation 2001 so as to permit, under licence granted by the Director of Agriculture, the importation of poultry meat from Chile and the importation of eggs intended for human consumption from Chile, thereby lifting the restriction previously in place which only permitted such importation from a Region of Chile other than Region V.

**EDUCATION (AMENDMENT) ORDINANCE 2003**

**SECTION 1**

**COMMENCEMENT NOTICE**

IN EXERCISE of my powers under section 1 of the Education (Amendment) Ordinance 2003(a), I hereby notify that the Ordinance shall come into force on 9<sup>th</sup> August 2003.

Dated this 18<sup>th</sup> day of June 2003

H J S Pearce CVO  
*Governor*

For Information: The Education (Academic Year) Ordinance 2002(b) in accordance with section 1 of the Ordinance comes into force on 9<sup>th</sup> August 2003.

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(a) No 14 of 2003  
(b) No 18 of 2002





**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

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The following is published in this Supplement -

**Stanley Common (Young Motorcyclists) Order 2003, (S. R. & O. No: 15 of 2003).**

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**SUBSIDIARY LEGISLATION**

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**ROAD TRAFFIC**

**Stanley Common (Young Motorcyclists) Order 2003**

S. R. & O. No: 15 of 2003

*Made: ..... 30 June 2003*

*Published: ..... 18 July 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 2(3) and (4) of the Road Traffic Ordinance (Title 63.1)(a) and of all other powers enabling me in that behalf, I make the following Order —

**Citation**

1. This Order may be cited as the Stanley Common (Young Motorcyclists) Order 2003.

**Road Traffic Ordinance not to apply to young motorcyclists on Stanley Common**

2.—(1) Subject to paragraph (2), notwithstanding that roads and tracks in such parts of Stanley Common as are within Stanley or are within four miles of the boundary of Stanley are roads to which the Road Traffic Ordinance applies by virtue of section 2(1) of that Ordinance, none of the provisions of that Ordinance shall have effect in relation to the use and riding of motorcycles by persons under the age of sixteen years.

(2) Paragraph (1) shall not have any effect in relation to —

(a) any road north of the Stanley By-pass Road or the Stanley Airport Road;

(b) the Stanley By-pass Road, the Stanley-Darwin Road or the Stanley Airport Road; or

(c) any other designated road.

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(a) s.2(3) and (4) of Title 63.1 were inserted by s.2(b) of No 15 of 2003

Made this 30<sup>th</sup> day of June 2003

H J S Pearce  
*Governor*

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EXPLANATORY NOTE

*(not forming part of the above Order)*

The effect of this Order is to render it lawful for persons under the age of sixteen, who cannot possess a driving licence issued under the Road Traffic Ordinance, to ride motorcycles on parts of Stanley Common which otherwise they could not do without committing offences under the Ordinance.

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The following are published in this Supplement -

**Immigration (Amendment) Bill 2003;**

**Companies (Auditors) Bill 2003;**

**Endangered Species Protection Bill 2003;**

**Building Control (Amendment) Bill 2003.**

**Erratum**

Falkland Islands Gazette Supplement - Volume 14

Gazette Supplement No 17 published on 18th July 2003 was wrongly so numbered and is now renumbered No 16.

**Immigration (Amendment) Bill 2003**

(No: of 2003)

**ARRANGEMENT OF PROVISIONS**

**Clause**

1. Short title
2. Amendment of the Immigration Ordinance 1999

**IMMIGRATION (AMENDMENT) BILL 2003**

(No: of 2003)

*(assented to: 2003)*  
*(commencement: 2003)*  
*(published: 2003)*

**A BILL**

for

**AN ORDINANCE**

To amend the Immigration Ordinance 1999.

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Immigration (Amendment) Ordinance 2003.

**Interpretation**

2. Section 17 of the Immigration Ordinance 1999 is amended —

(a) by repealing subsection (5)(b)(ii); and

(b) by inserting the following subsection —

“(7A) Unless otherwise directed by the Governor, the Principal Immigration Officer may require —

(a) any employment vacancy to be advertised in the Falkland Islands before considering any application for a work permit enabling a person who has not a right of residence in the Falkland Islands to be engaged to fill that vacancy;

(b) the proposed employer to satisfy the Principal Immigration Officer that it is necessary to engage such a person rather than engage any person having a right of residence in the Falkland Islands who has applied as a result of that advertisement or otherwise to be engaged to fill that vacancy.”

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#### OBJECTS AND REASONS

To make amendments to provisions in relation to the grant of work permits.

**Companies (Auditors) Bill 2003**

(No: of 2003)

**ARRANGEMENT OF PROVISIONS**

Clause

1. Short title
2. Modification of section 161 of the Companies Act 1948 in its application to the Falkland Islands
3. Application of section 26 of the Companies Act 1989

Schedule

**COMPANIES (AUDITORS) BILL 2003**

(No: of 2003)

*(assented to: 2003)*

*(commencement: upon publication)*

*(published: 2003)*

A BILL

for

AN ORDINANCE

To amend the Companies Act 1948 in its application to the Falkland Islands (Title 18)

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Companies (Auditors) Ordinance 2003.

**Modification of section 161 of the Companies Act 1948 in its application to the Falkland Islands**

2. Section 161 of the Companies Act 1948 in its application to the Falkland Islands is modified so as to have effect as if —

(a) subsection (2)(c) read —



“(c) subject to subsection (2A), a body corporate;”

(b) the following subsections (2A) and (2B) appeared in it after subsection (2) —

“(2A) A body corporate and a partnership are qualified to be appointed company auditor if, were Chapter V of Part XI of the Companies Act 1985 of England to apply to that company, that body corporate or partnership would be eligible to be appointed company auditor of that company under Part II of the Companies Act 1989 of England.

(2B) In subsection (2A) —

(a) “company auditor” means a person appointed as auditor of a company;

(b) the references to Chapter V of Part XI of the Companies Act 1985 of England and Part II of the Companies Act 1989 of England are references to those provision as they may from time to time be amended or replaced whether before or after the enactment of the Companies (Auditors) Ordinance 2003.”

### **Application of section 26 of the Companies Act 1989**

3. Section 26 of the Companies Act 1989 (a copy of which section is set out in the Schedule to this Ordinance) shall apply in the Falkland Islands with the substitution of the words “Northern Ireland or the Falkland Islands” in subsection (1) in place of the words “or Northern Ireland”.

## **SCHEDULE**

### **Effect of appointment of partnership**

26.—(1) The following provisions apply to the appointment as company auditor of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person.

(2) The appointment is (unless a contrary intention appears) an appointment of the partnership as such and not of the partners.

(3) Where the partnership ceases, the appointment shall be treated as extending to —

(a) any partnership which succeeds to the practice of that partnership and is eligible for the appointment, and

(b) any person who succeeds to that practice having previously carried it on in partnership and is eligible for the appointment.

(4) For this purpose a partnership shall be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership; and a partnership or other person shall be regarded as succeeding to the

practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.

(5) Where the partnership ceases and no person succeeds to the appointment under subsection (3), the appointment may with the consent of the company be treated as extending to a partnership or other person eligible for the appointment who succeeds to the business of the former partnership or to such part of it as is agreed by the company shall be treated as comprising the appointment.

## **Endangered Species Protection Bill 2003**

(No: of 2003)

### **ARRANGEMENT OF PROVISIONS**

#### Clause

1. Short title
2. Interpretation
3. Restrictions on the exportation or importation of protected goods
4. Management Authority
5. Scientific Authority
6. Offences by company, etc
7. Stop and search powers
8. Application to the Crown

## **ENDANGERED SPECIES PROTECTION BILL 2003**

(No: of 2003)

*(assented to: 2003)*

*(commencement: 2003)*

*(published: 2003)*

A BILL

for

AN ORDINANCE

To provide for the protection of endangered, endemic and indigenous species of animals and plants and to regulate the trade in endangered species.

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

#### **Short title and commencement**

1. This Ordinance may be cited as the Endangered Species Protection Ordinance 2003 and comes into force on such date as the Governor may appoint by Notice published in the *Gazette*.

## **Interpretation**

2. In this Ordinance, unless the contrary intention appears —

“CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora that was concluded in Washington on 3 March 1973;

“export” means to take, or cause to be taken, out of the Falkland Islands;

“import” means to bring, or cause to be brought, into the Falkland Islands, including for the purpose of export;

“Management Authority” means the Management Authority for the Falkland Islands for the purposes of CITES, provided for in section 3;

“protected goods” means any specimen of a species that is for the time being included in Appendix I, Appendix II or Appendix III to CITES;

“Scientific Authority” means the Scientific Authority for the Falkland Islands for the purpose of CITES, provided for in section 4; and

“species” and “specimen” have the meanings attributed to them in Article I of CITES.

## **Restrictions on the exportation or importation of protected goods**

3.—(1) Save in accordance with a licence issued by the Management Authority under this Ordinance, the exportation or the importation of any protected goods is prohibited.

(2) A licence issued under this Ordinance shall be substantially in the form set out in Article VI to CITES, and may be general or specific and may be expressed to be valid for such period as may be stated in it and may be modified or revoked at any time by the Management Authority.

(3) The reference in subsection (1) to a licence issued under this Ordinance is a reference to such a licence issued prior to the exportation or importation to which it relates:

Provided that the Management Authority may in exceptional cases and when satisfied that proper regard is being had to the relevant recommendations in that behalf issued by the competent authority under CITES, issue a licence in respect of an exportation or an importation that has already taken place; and that licence shall then have effect for the purpose of this Ordinance as if issued prior to that exportation or importation.

(4) Where any protected goods are being exported or imported or have been imported, a customs officer or police officer may require any person having possession or control of those goods to furnish proof that its exportation or importation is or was not unlawful under this section; and if such proof is not furnished to the satisfaction of the Management Authority, the goods shall be forfeited to the Crown and shall be disposed of in such manner as the Governor may direct.

(5) Any person who contravenes subsection (1) commits an offence and shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding the maximum of level 12 on the standard scale.

(6) Where any person is convicted of an offence under subsection (5) the goods in respect of which the offence was committed shall, without further order, be forfeited to the Crown and shall be disposed of in such manner as the Governor may direct.

(7) Any person who, for the purpose of obtaining, whether for himself or for another, the issue of a licence under subsection (1) above —

(a) makes any statement which he knows to be false in a material particular; or

(b) furnishes a document or information which he knows to be false in a material particular; or

(c) recklessly makes a statement or furnishes a document or information which is false in a material particular,

commits an offence and shall be liable, on conviction, to a fine not exceeding £1000 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

#### **Management Authority**

4.—(1) The Management Authority for the Falkland Islands for the purpose of CITES shall be the Chief Executive or such other public officer as the Governor may from time to time appoint.

(2) Before exercising any of its powers under section 3, the Management Authority shall obtain the advice of the Scientific Authority:

Provided that the exercise of any such power shall not be invalidated by reason only of a failure to comply with this subsection.

#### **Scientific Authority**

5.—(1) The Scientific Authority for the Falkland Islands for the purpose of CITES shall be such person or persons or body of persons as the Governor shall from time to time appoint.

(2) The function of the Scientific Authority is to advise the Management Authority or, as appropriate, the Governor —

(a) on the exercise of the Management Authority's powers under section 3;

(b) on any matter relating to the administration of this Ordinance on which its advice is sought or on which it wishes to tender advice; and

(c) generally, on matters relating to endangered species on which its advice is sought or on which it wishes to tender advice.

### **Offences by company, etc**

6.—(1) If an offence under this Ordinance is committed by a company, firm or other association of individuals whether incorporated or not, each —

- (a) director and officer of the company; or
- (b) partner and officer of the firm; or
- (c) member and person concerned in the management of the affairs of the association,

as the case may be, is severally liable to be prosecuted and punished for the offence, unless the act or omission constituting the offence took place without his knowledge, consent or connivance.

(2) A person may be prosecuted by virtue of subsection (1) whether or not the company, firm or other association of individuals is prosecuted.

### **Stop and search powers**

7.—(1) The powers conferred by this section have effect without prejudice to any powers conferred, in any particular case, by any other written law.

(2) For the purposes of this Ordinance, any customs officer and any police officer may —

- (a) stop, board and search any ship, aircraft or vehicle if he has reason to suspect that there is therein anything liable to seizure; and
- (b) stop and search any person and search the property of any person if he has reason to suspect that that person has in his possession anything liable to seizure; and
- (c) enter and search any premises, being premises on which he has reason to suspect that an imported living specimen is being held, for the purpose of ascertaining whether any condition to which the relevant importation licence is subject and which relates to the housing or care of that specimen is being complied with.

(3) Where it appears to a Justice of the Peace, upon the oath of any person, that there is reasonable cause to believe that there is in any place or premises, anything liable to seizure, he may, by warrant directed to a customs officer or a police officer, empower him to enter, by force if necessary, and search the place or premises named in the warrant and to seize anything therein which is liable to seizure.

(4) For the purposes of this section, any protected goods imported in contravention of this Ordinance are liable to seizure.

**Application to the Crown**

**8. This Ordinance binds the Crown.**

**Building Control (Amendment) Bill 2003**

(No:        of 2003)

ARRANGEMENT OF PROVISIONS

Clause

1. Short title and commencement
2. The principal Ordinance
3. Repeal and replacement of section 6(2) of the principal Ordinance
4. Insertion of new sections 6A to 6D in the principal Ordinance
5. Amendment of section 3(3) of the principal Ordinance and insertion of Schedule 2 in the principal Ordinance

**BUILDING CONTROL (AMENDMENT) BILL 2003**

(No:        of 2003)

*(assented to:2003)*  
*(commencement:2003)*  
*(published:2003)*

A BILL

for

AN ORDINANCE

To amend the Building Control Ordinance 1994.

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1. This Ordinance may be cited as the Building Control (Amendment) Ordinance 2003 and comes into force on 1<sup>st</sup> September 2003.

**The principal Ordinance**

2. In this Ordinance “the principal Ordinance” means the Building Control Ordinance 1994(a).

---

(a) No 3 of 1994



### **Repeal and replacement of section 6(2) of the principal Ordinance**

3. Section 6(2) of the principal Ordinance is repealed and is replaced by the following subsections (2) and (3) —

“(2) The Governor may by direction exempt from all or any of the provisions of Building Regulations —

(a) a particular building, or

(b) buildings of a particular class at a particular location;

either unconditionally or subject to compliance with any conditions specified in the direction.

(3) A person commits an offence who contravenes a condition specified in a direction given under subsection (2), or permits such a condition to be contravened, and is liable on conviction to a fine not exceeding the maximum of level 5 on the Standard Scale and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.”

### **Insertion of new sections 6A to 6D in the principal Ordinance**

4. The principal Ordinance is amended by inserting in it, immediately after section 6 the following cross-heading and sections 6A to 6D —

#### *“Relaxation of Building Regulations*

##### **Relaxation of Building Regulations**

**6A.**—(1) Subject to this section, the Governor, if on an application for direction under this section he considers that the operation of a requirement in Building Regulations would be unreasonable in relation to the particular case to which the application relates, may, after consultation with the Committee, give a direction dispensing with or relaxing that requirement.

(2) If Building Regulations so provide as regards a requirement contained in the Regulations, the power to dispense with or relax that requirement under subsection (1) is exercisable by the Committee (instead of by the Governor after consultation with the Committee).

(3) Building Regulations made by virtue of subsection (2) may except applications of any description.

(4) Building Regulations may provide as regards a requirement contained in the Regulations that subsections (1) to (3) of this section do not apply.

##### **Application for relaxation**

**6B.**—(1) An application under section 6A(1) or (2) shall be in such form and shall contain such particulars as may be prescribed.

(2) The application shall be made to the Committee and, except where the power of giving the direction is exercisable by the Committee, the Committee shall transmit the application to the Governor with its comments in writing, if any, in relation to the merits of the application and give notice to the applicant that the application has been so transmitted.

(3) Schedule 2 to this Ordinance has effect as regards an application for a direction that will affect the application of Building Regulations to work that has been carried out before the making of the application.

#### **Advertisement of proposal for relaxation of Building Regulations**

**6C.—**(1) Not less than 21 days before giving a direction under section 6A(1) or (2) in respect of any particular work, the Governor shall publish in a newspaper circulating in the Falkland Islands a notice —

(a) indicating the situation and nature of the work and the requirement to be dispensed with or relaxed, and

(b) stating that representations with regard to the effect that the direction may have on public health or safety may be made by a date specified in the notice, being a date not less than 21 days from the date of the notice

and where the direction is proposed to be made on an application, the Governor may, as a condition of entertaining the application, require the applicant to pay or undertake to pay the cost of publication.

(2) No notice need be published under subsection (1) where it appears to the Governor (or, as the case may be, the Committee where it has the power to dispense with or relax the requirement of Building Regulations in question) that any effect that the direction may have on public health or safety will be limited to premises adjoining the site of the work, but in that case he, or as the case may be, the Committee, shall give such a notice to the owner and occupier of those premises.

(3) No notice need be published or given under subsection (1) or (2) where the work affects only an internal part of a building.

(4) The Governor may, instead of himself publishing or giving a notice under subsection (1) or (2), require the Committee or a public officer on its behalf to give or publish the notice.

(5) Before giving the direction, the Governor shall consider any representations duly made in pursuance of a notice published or given under subsection (1) or (2).

(6) If, after the Committee has received representations under this section, it refuses the application to which the representations relate and an appeal is brought against its refusal, the Committee shall transmit to the Governor copies of those representations.

### **Type relaxation of Building Regulations**

**6D.**—(1) If the Governor considers that the operation of a requirement to Building Regulations would be unreasonable in relation to a particular type of building matter, he may, either on an application made to him or of his own accord, give a direction dispensing with or relaxing that requirement generally in relation to that type of building matter, either —

(a) unconditionally, or

(b) subject to compliance with any conditions specified in the direction, being conditions with respect to matters directly connected with the dispensation or relaxation.

(2) A direction under subsection (1) —

(a) If it so provides, ceases to have effect at the end of such period as may be specified in the direction,

(b) may be varied or revoked by a subsequent direction of the Governor.

(3) Building Regulations may require a person making an application under subsection (1) to pay the Governor the prescribed fee, and —

(a) may prescribe different fees for different cases, and

(b) the Governor may in a particular case remit the whole or part of a fee payable by virtue of this subsection.

(4) Where the Governor gives a direction under subsection (1), he shall publish notice of that fact in the *Gazette*.

(5) A person commits an offence who contravenes a condition specified in a direction given under subsection (1), or permits such a condition to be contravened and is liable on conviction of that offence to a fine not exceeding the maximum of level 5 of the Standard Scale and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.

(6) If at any time a direction under subsection (1) dispensing with or relaxing a requirement of building regulations ceases to have effect by virtue of subsection (2)(a), or is varied or revoked under subsection (2)(b), that fact does not affect the continued operation of the direction (with any conditions specified in it) in a case in which before that time plans of the proposed work were, in accordance with building regulations, deposited with the Committee or the Building Control Surveyor as the case may be.

(7) In this section “building matter” means any building or other matter whatsoever to which building regulations are applicable.”

**Amendment of section 3(3) of the principal Ordinance and insertion of Schedule 2 in the principal Ordinance**

5.—(1) The words “The Schedule” in section 3(3) of the principal Ordinance are replaced by the words “Schedule 1” and the heading of the existing Schedule to this Ordinance is amended by replacing the word “Schedule” with the words “Schedule 1”.

(2) The principal Ordinance is amended by inserting the following Schedule after Schedule 1 —

“SCHEDULE 2

Relaxation of Building Regulations for existing work

*Application of Schedule*

1. This Schedule applies to a direction under section 6A of this Ordinance that will affect the application of Building Regulations to work that has been carried out before the giving of the direction.

*Cases where no direction may be given*

2. Neither the Governor nor a committee shall give a direction to which this Schedule applies if, when the application is made, there is in force an injunction or other direction given by a court that requires the work to be pulled down, removed or altered.

*Suspension of certain provisions when application pending*

3.—(1) Subject to the following provisions of this Schedule, after the making of an application for a direction to which this Schedule applies, and until the application is withdrawn or finally disposed of, no section 8 notice shall be given as regards the work to which the application relates on the ground that it contravenes the requirement to which the application relates.

(2) If an application for a direction to which this Schedule applies is made less than twelve months after the completion of the work to which the application relates, section 8(4) of this Ordinance does not prevent the giving of a notice as regards that work at any time within a period of three months from the date on which the application is withdrawn or finally disposed of.

(3) If an application for a direction to which this Schedule applies is made after a section 36 notice has been given on the ground that the work to which the application relates contravenes the requirement to which the application relates (not being an application prohibited by paragraph 2 of this Schedule) section 8(3) of this Ordinance has effect in relation to that work as if for the reference to the period there mentioned there was substituted a reference to a period expiring 28 days after the application is withdrawn or finally disposed of.

(4) Subject to the following provisions of this Schedule, if an application for a direction to which this Schedule applies is made after any person has, in consequence of the carrying out

of the work to which the application relates in contravention of building regulations, become liable to a penalty continuing from day to day, the daily penalty is not recoverable in respect of any day after the making of the application and before it is withdrawn or finally disposed of.

(5) In a case where an application is withdrawn or finally disposed of without any directions being given, the Governor or, as the case may be, the Committee may order that the daily penalty is not recoverable in respect of any day during such further period not exceeding 28 days as may be specified in the order.

4. Paragraph 3(1), (3) and (4) do not apply to an application that is a repetition, or substantially a repetition, of a previous application made under section 6A of this Ordinance.

*Saving for criminal liability incurred before making of application*

5. The giving of a direction to which this Schedule applies does not affect the liability of a person for an offence committed before the giving of the direction, except so far as that liability depends on the continuation of the offence after the giving of the direction.

*Termination of proceedings under section 8 on giving of direction*

6. If, before the giving of a direction to which this Schedule applies, a section 8 notice has been given, and the contravention of Building Regulations by virtue of which the notice was given comes to an end when the direction is given, the Crown is not, after the giving of the direction, entitled to proceed under section 8(3) of this Ordinance by virtue of that notice.”

## EXPLANATORY MEMORANDUM

### Building Control (Amendment) Bill 2003

#### *Introductory*

1. The provisions of the Building Control Ordinance 1994 were largely modelled on the Building Act 1984 of England. Sections 5 and 6 of that Ordinance made very limited provision in relation to exemptions from Building Regulations and omitted the more generous provisions for exemptions and relaxations of Building Regulations contained in the Building Act 1984 ("the 1984 Act"). In the light of experience, in the operation of the Building Regulations 1999 made under the Building Control Ordinance 1994 this Bill would insert more extensive provisions in relation to exemptions and entirely new provisions in relation to relaxation of Building Regulations. These provisions are modelled on sections 3, 4, 6, 8 to 11 and Schedule 2 of the Building Act 1984 with minor modifications in relation to local circumstances.

#### *Detail*

2. Section 3 of the Bill would repeal and replace section 6(2) of the Building Control Ordinance 1994 ("the 1994 Ordinance") and replace it with the new subsections (2) and (3) set out in the clause. The effect of the new subsection (2) would be to enable the Governor, advised by the Executive Council, to exempt a particular building from all or any of the provisions of Building Regulations. The existing subsection (2) enables a class of building to be exempted but not a particular building. The new subsection (2) would be more flexible. The new subsection (3) would create an offence of contravening any condition contained in a direction made by the Governor under subsection (2).

3. Clause 4 would insert new sections 6A to 6D in the 1994 Ordinance. The new section 6A, which is modelled on section 8 of the Building Act 1984, would enable the Governor, on the advice of the Executive Council and after consultation with the Committee, to give a direction dispensing with or relaxing a requirement of Building Regulations. The new section 6A(2) would enable Building Regulations to provide that in respect of requirements specified in the Building Regulations the powers of dispensation and relaxation could be exercised by the Committee. The new section 6B would make provision in relation to applications for relaxation under the new section 6A and the new section 6C would make provision in relation to the advertisement of proposals for relaxation of Building Regulations and these notification of adjoining owners and occupiers so that they can make representations which must be considered before the direction to dispense or relax with the requirement of Building Regulations is given. There will be no such right (see subsection (3)) where the work affects only an internal part of a building.

4. The new section 6D would enable the Governor to give a "type dispensation" or "type relaxation" of the provisions of Building Regulations in relation to a particular type of building matter. "Building matter" is defined in the new section 6D(7) as meaning any building or other matter whatsoever to which Building Regulations are in any circumstances applicable. Section 6D is closely modelled on the provisions of section 11 of the Building Act 1984.

5. Lastly, the Bill would insert a new Schedule 2 in the 1994 Ordinance making detailed provision in relation to the operation of section 8 of the 1999 Ordinance (removal of alteration of offending work) where an application for a relaxation under the new section 6A has been made.







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The following are published in this Supplement -

- S. I. 2001 No. 395, United Nations, The Iraq (United Nations Sanctions) (Overseas Territories) (Amendment) Order 2001;**
- S. I. 2001 No. 946, United Nations, The Liberia (United Nations Sanctions) (Overseas Territories) Order 2001;**
- S. I. 2001 No. 1867, United Nations, The Liberia (United Nations Sanctions) (Overseas Territories) (No. 2) Order 2001;**
- S. I. 2001 No. 3366, United Nations, The Terrorism (United Nations Measures) (Overseas Territories) Order 2001;**
- S. I. 2002 No. 112, United Nations, The Al-Qa'ida and Taliban (United Nations Measures) (Overseas Territories) Order 2002;**
- S. I. 2002 No. 266, United Nations, The Al-Qa'ida and Taliban (United Nations Measures) (Overseas Territories) (Amendment) Order 2002;**
- S. I. 2002 No. 1076, Geneva Conventions, The Geneva Conventions (Amendment) Act (Overseas Territories) Order 2002;**
- S. I. 2002 No. 1252 (C. 34), British Overseas Territories British Nationality, The British Overseas Territories Act 2002 (Commencement) Order 2002;**
- S. I. 2002 No. 1823, Extradition, The Extradition (Overseas Territories) Order 2002;**
- S. I. 2002 No. 1824, Hong Kong Extradition, The Extradition (Overseas Territories) (Hong Kong) Order 2002;**
- S. I. 2002 No. 1825, Hong Kong Extradition, The Extradition (Overseas Territories) (Application to Hong Kong) Order 2002;**
- S. I. 2002 No. 2631, United Nations, The Somalia (United Nations Sanctions) (Overseas Territories) Order 2002.**

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STATUTORY INSTRUMENTS

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**2001 No. 395**

**UNITED NATIONS**

**The Iraq (United Nations Sanctions) (Overseas Territories)  
(Amendment) Order 2001**

*Made - - - - - 14th February 2001*  
*Laid before Parliament 15th February 2001*  
*Coming into force - - 16th February 2001*

At the Court at Buckingham Palace, the 14th day of February 2001

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946<sup>(a)</sup>, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement, operation and extent**

1.—(1) This Order may be cited as the Iraq (United Nations Sanctions) (Overseas Territories) (Amendment) Order 2001 and shall come into force on 16th February 2001.

(2) In this Order, “the principal Order” means the Iraq (United Nations Sanctions) (Overseas Territories) Order 2000<sup>(b)</sup>.

(3) This Order shall extend to the territories listed in Schedule 1 to the principal Order.

2. In article 3(b) of the principal Order, the words “United Kingdom” shall be replaced by “the Territory”.

*A. K. Galloway*  
Clerk of the Privy Council

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, corrects an error in the Iraq (United Nations Sanctions) (Overseas Territories) Order 2000.

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<sup>(a)</sup> 1946 c. 45.  
<sup>(b)</sup> S.I. 2000/3242.

2001 No. 946

UNITED NATIONS

The Liberia (United Nations Sanctions) (Overseas Territories) Order 2001

<i>Made - - - - -</i>	<i>14th March 2001</i>
<i>Laid before Parliament</i>	<i>15th March 2001</i>
<i>Coming into force - -</i>	<i>16th March 2001</i>

At the Court at Buckingham Palace, the 14th day of March 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 7th March 2001, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to Liberia:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement, operation, extent and amendment**

1.—(1) This Order may be cited as the Liberia (United Nations Sanctions) (Overseas Territories) Order 2001 and shall come into force on 16th March 2001.

(2) Subject to paragraph (3) below, this Order shall remain in force until 7th May 2002 unless, on or before that date, the Security Council of the United Nations decides to extend the measures provided for in paragraph 5 of the resolution adopted by it on 7th March 2001, in which case this Order shall remain in force as specified in that decision.

(3) If the Security Council of the United Nations takes any decision which has the effect of cancelling or postponing or suspending the operation of the resolution adopted by it on 7th March 2001, in whole or in part, this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision.

(4) Particulars of the decisions referred to in paragraphs (2) and (3) above shall be published by the Secretary of State in a notice in the London, Edinburgh and Belfast Gazettes.

(5)(a) This Order shall extend to the territories listed in Schedule 1.

(b) Article 15 of this Order shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(c) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

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(a) 1946 c. 45.

(6) Articles 3, 4 and 5 shall apply to any person within the Territory and any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory; or
- (b) is a body incorporated or constituted under the law of any part of the Territory.

(7) The United Nations Arms Embargoes (Dependent Territories) Order 1995(a) shall be amended by deleting the word "Liberia" from the following provisions of that Order—

- (a) the definition of "prohibited destination" in article 2;
- (b) paragraph (8)(c) of article 9; and
- (c) paragraph 4(c) of the Schedule.

### **Interpretation**

2. In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes shipment as stores;

"exportation" in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Territory of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"Governor" means the Governor or other officer administering the Government of the Territory;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or the vehicle;

"owner", in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"restricted goods" means the goods specified in Part III of Schedule 1 to the Export of Goods (Control) Order 1994(b) made under the Import, Export and Customs Powers (Defence) Act 1939(c);

"the Sanctions Committee" means the Committee of the Security Council of the United Nations established by paragraph 14 of resolution 1343 adopted on 7th March 2001;

"ship" includes every description of vessel used in navigation;

"shipment" includes loading into an aircraft;

"stores" means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a vessel or aircraft as merchandise for sale by retail to persons carried therein;

"vehicle" means land transport vehicle.

### **RESTRICTED GOODS, TECHNICAL ASSISTANCE AND TRAINING**

#### **Supply of restricted goods**

3.—(1) Any person who, except under the authority of a licence granted by the Governor under this article or article 4—

- (a) supplies or delivers, or

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(a) S.I. 1995/1032, as amended by S.I. 1997/272 and S.I. 1998/1502.

(b) S.I. 1994/1191 as amended by S.I. 1996/2663, S.I. 1997/1008, S.I. 1997/2758, S.I. 1999/63, S.I. 1999/1777, S.I. 2000/1239, S.I., 2000/2140 and S.I. 2000/2264.

(c) 1939 c. 69.

(b) agrees to supply or deliver, or

(c) does any act calculated to promote the supply or delivery of

restricted goods to any person in Liberia shall be guilty of an offence under this Order unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Liberia.

(2) Nothing in paragraph (1)(b) or (c) of this article shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

#### **Exportation of restricted goods to Liberia**

4. Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Liberia or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Liberia.

#### **Provision of certain technical assistance or training**

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to a person in Liberia any technical assistance or training related to the supply, delivery, manufacture, maintenance or use of any restricted goods shall be guilty of an offence under this Order.

#### **Use of ships, aircraft and vehicles: restricted goods, technical assistance and training**

6.—(1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Liberia to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person, and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article then—

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2) of this article, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Liberia to any destination therein.

(4) Nothing in paragraph (1) of this article shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Liberia was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

## GENERAL

### Customs powers to demand evidence of destination which goods reach

7. Any exporter or any shipper of goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached either—

- (a) a destination to which they were authorised to be exported by a licence granted under this Order, or
- (b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

### Offences in connection with applications for licences, conditions attaching to licences, etc.

8.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement, or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence in writing shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

### Declaration as to goods: powers of search

9.—(1) Any person who is about to leave the Territory shall, if he is required to do so by an officer authorised for the purpose by the Governor—

- (a) declare whether or not he has with him any restricted goods which are destined for Liberia or for delivery, directly or indirectly, to or to the order of any person in Liberia; and
- (b) produce any such goods as aforesaid which he has with him.

Any such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration or fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

### Investigation, etc. of suspected ships

10.—(1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;
- (b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and
- (c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6, any authorised officer (either there and

then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b) above), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2) below.

- (2) The further action referred to in paragraph (1)(c) of this article is either—
- (a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or
  - (b) to request the master of the ship to take any one or more of the following steps:
    - (i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;
    - (ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an unauthorised officer that the ship may depart;
    - (iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii) above; and
    - (iv) to take her to any other destination that may be specified by the officer in agreement with the master.
- (3) Without prejudice to the provisions of article 13(3), where—
- (a) a master refuses or fails to comply with a request made under paragraph (2)(b) of this article; or
  - (b) an authorised officer otherwise has reason to suspect that a request that has been so made may not be complied with,
- any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.
- (4) In this article "authorised officer" means:—
- (a) any commissioned naval or military officer;
  - (b) any British consular officer;
  - (c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected aircraft**

11.—(1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and
- (c) if the aircraft is then in the Territory any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (a) above) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 13(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) of this article may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft and any of its cargo; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected vehicles**

12.—(1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 6—

- (a) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and
- (c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (a) above) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 13(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) of this article may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Provisions supplementary to articles 10 to 12**

13.—(1) No information furnished or document produced by any person in pursuance of a request made under article 10, 11, or 12 shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

- (b) to any person who would have been empowered under article 10, 11 or 12 to request that it be furnished or produced, or to any person holding or acting in any office under or in the service of—
  - (i) the Crown in respect of the Government of the United Kingdom;
  - (ii) the Government of the Isle of Man;
  - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
  - (iv) the States of Jersey; or
  - (v) the Government of any territory to which this Order extends;
- (c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for



the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations; or

- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings—
  - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs; or
  - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any territory to which this Order extends.

(2) Any power conferred by article 10, 11 or 12 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say—

- (a) a master of a ship who disobeys any direction given under article 10(2)(a);
- (b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—
  - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 10, 11 or 12 by any person empowered to make it, or
  - (ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any person (or any person acting under the authority of any such person) in the exercise of his powers under article 10, 11, or 12.

(4) Nothing in articles 10 to 13 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

#### **Obtaining of evidence and information**

14. The provisions of Schedule 3 to this Order shall have effect in order to facilitate the obtaining by or on behalf of the Governor—

- (a) of evidence and information for the purpose of securing compliance with or detecting evasion of—
  - (i) this Order in the Territory; or
  - (ii) any law making provision, with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any territory to which this Order extends; and
- (b) of evidence of the commission of—
  - (i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
  - (ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any territory to which this Order extends.

#### **Penalties and proceedings**

15.—(1) Any person guilty of an offence under article 3, 5 or 6(3) shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 13(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 3 shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 8(1) or (2), or article 9(3) shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 13(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3, shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 7 or 9(2) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(6) Where any body corporate is guilty of an offence under this Order and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

#### **Exercise of powers of the Governor**

16.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

#### **Miscellaneous**

17.—(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) of this article if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

*A K Galloway*  
Clerk of the Privy Council

## TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla  
 Bermuda  
 British Antarctic Territory  
 British Indian Ocean Territory  
 Cayman Islands  
 Falkland Islands  
 Gibraltar  
 Montserrat  
 Pitcairn, Henderson, Ducie and Oeno Islands  
 St Helena  
 St Helena Dependencies  
 South Georgia and the South Sandwich Islands  
 Turks and Caicos Islands  
 The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus  
 Virgin Islands

## SCHEDULE 2

**Application of Article 15 to the Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus**

1.—(1) Any person who commits an offence under article 3, 5 or 6(3), or paragraph 5(b) or (d) of Schedule 3, shall be liable on conviction:—

- (a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;
- (b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 8(1) or (2), 9(3), or 13(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 13(3)(a), (b)(i) or (c), or paragraph (5)(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 7 or 9(2) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

5. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

6. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

7. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

8. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

**Evidence and Information**

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2.—(1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

- (a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on the vehicle, ship or aircraft which has reasonable grounds to believe are required to be produced in accordance with paragraph 1 above; or
- (d) seize anything that is necessary to be seized in order prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) above shall be disclosed except:

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized: provided that a person who has obtained information or is in the possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to possession of that document in his own right; or
- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of—
  - (i) the Crown in respect of the Government of the United Kingdom;
  - (ii) the Government of the Isle of Man;
  - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
  - (iv) the States of Jersey; or
  - (v) the Government of any territory to which this Order extends;
- (c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings—
  - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs; or
  - (ii) for any offence under the law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any territory to which this Order extends.

5. Any person who—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

2001 No. 1867

UNITED NATIONS

The Liberia (United Nations Sanctions)  
(Overseas Territories) (No. 2) Order 2001

<i>Made</i> - - - - -	<i>14th May 2001</i>
<i>Coming into force</i> - -	<i>15th May 2001</i>
<i>To be laid before Parliament</i>	<i>20th June 2001</i>

At the Court of Buckingham Palace, the 14th day of May 2001

Present

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 7th March 2001, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to a decision of that Council in relation to Liberia:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement, operation and extent**

1.—(1) This Order may be cited as the Liberia (United Nations Sanctions) (Overseas Territories) (No. 2) Order 2001 and shall come into force on 15th May 2001.

(2) (a) This Order shall extend to the territories listed in Schedule 1 to this Order.

(b) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

(c) Article 6 of this Order shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2 to this Order.

**Interpretation**

2.—(1) In this Order, "Governor" means the Governor or other officer administering the government of the Territory.

(2) In article 5 and paragraphs 2(1)(a) and 4(d) of Schedule 3, references to an offence under any enactment relating to customs include references to any offence against any provision of law with respect to any of the matters regulated by this Order that is for the time being in force in any territory to which this Order extends.

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(a) 1946 c. 45.

### **Importation of rough diamonds from Liberia**

3.—(1) Except under the authority of a licence granted by the Governor under this article, no person shall import directly or indirectly to the Territory any rough diamonds exported from Liberia.

(2) Subject to the provisions of paragraph (3) of this article, any person who contravenes the provisions of paragraph (1) of this article shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of this article, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the diamonds in question had been exported from Liberia.

### **Offences in connection with applications for licences, conditions attaching to licences, etc.**

4.—(1) If for the purpose of obtaining any licence under article 3(1) of this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any condition attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

### **Obtaining of evidence and information**

5. The provisions of Schedule 3 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor, of evidence and information for the purpose of securing compliance with or detecting evasion of this Order and in order to facilitate the obtaining, by or on behalf of the Governor, of evidence of the commission of an offence under this Order or, with respect to any of the matters regulated by this Order, of an offence under any enactment relating to customs.

### **Penalties and Proceedings**

6.—(1) Any person guilty of an offence under article 3(2) of this Order shall be liable:

- (a) on conviction on indictment, to imprisonment for a term not exceeding seven years, or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

(2) Any person guilty of an offence under paragraph 5(b) or (d) of Schedule 3 to this Order shall be liable:

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

(3) Any person guilty of an offence under article 4(1) or (2) of this Order shall be liable:

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both; or
- (b) on summary conviction, to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under paragraph 5(a) or (c) of Schedule 3 to this Order shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

(5) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

#### **Exercise of Powers of the Governor**

7.—(1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

#### **Amendment**

8. Article 1(4) of the Liberia (United Nations Sanctions) (Overseas Territories) Order 2001(a) shall be replaced by the following:

“(4) Particulars of the decisions referred to in paragraphs (2) and (3) above shall be published by the Governor in a notice in the official Gazette of the Territory.”

*A. K. Galloway*  
Clerk of the Privy Council



## SCHEDULE 1

Article 1(2)(a)

### Territories to which the Order extends

Anguilla  
Bermuda  
British Antarctic Territory  
British Indian Ocean Territory  
Cayman Islands  
Falkland Islands  
Gibraltar  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St Helena  
St Helena Dependencies  
South Georgia and the South Sandwich Islands  
Turks and Caicos Islands  
The Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus  
Virgin Islands

## SCHEDULE 2

Article 1(2)(c)

### Application of Article 6 to the Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus

- 1.—(1) Any person who commits an offence under article 3(2) of this Order shall be liable:
  - (a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both; or
  - (b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.
2. Any person who commits an offence under article 4(1) or (2), or paragraph 5(b) or (d) of Schedule 3 to this Order is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.
3. Any person who commits an offence under paragraph (5)(a) or (c) of Schedule 3 to this Order is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.
4. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
5. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:  
Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

## SCHEDULE 3

Article 5

### Evidence and Information

- 1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law; the Governor (or any person authorised by him for that purpose either generally or in a particular case) may request any person in or resident in the Territory to furnish to him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.
- (2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document shall not be treated as a breach of any restriction imposed by statute or otherwise.

2.—(1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there are reasonable grounds for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

- (a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or
- (d) seize anything that is necessary to be seized in order prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds to believe that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) of this Schedule shall be disclosed except:

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in the possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to possession of that document in his own right; or

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom, or under or in the service of the Government of the Isle of Man, or under or in the service of the States of Guernsey or Alderney or the Chief Pleas of Sark; or as the case may be, the States of Jersey; or under or in the service of the Government of any territory to which this Order extends; or
- (c) on the authority of the Secretary of State, to any organ of the United Nations, or to any person in the service of the United Nations, or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs.

5. Any person who—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular or recklessly furnishes any information or produces any document which is false in a material particular, to such a person exercising his powers under this Schedule; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

#### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, applies to each of the territories specified in Schedule 1. It imposes restrictions, pursuant to a decision of the Security Council of the United Nations in its resolution 1343 of 7th March 2001, on the import of rough diamonds from Liberia. The Order also makes a textual amendment to the Liberia (United Nations Sanctions) (Overseas Territories) Order 2001.

2001 No. 3366

UNITED NATIONS

The Terrorism (United Nations Measures) (Overseas Territories) Order 2001

<i>Made</i> - - - - -	<i>9th October 2001</i>
<i>Laid before Parliament</i>	<i>9th October 2001</i>
<i>Coming into force</i> - -	<i>10th October 2001</i>

At the Court at Buckingham Palace, the 9th day of October 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 28th September 2001, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to combating terrorist activities:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement, operation, extent and amendment**

1.—(1) This Order may be cited as the Terrorism (United Nations Measures) (Overseas Territories) Order 2001 and shall come into force on 10th October 2001.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling or postponing or suspending the operation of the resolution adopted by it on 28th September 2001, in whole or in part, this Order shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision.

(3) Particulars of the decisions referred to in paragraph (2) above shall be published by the Governor in a notice in the official gazette of the Territory.

(4)(a) This Order shall extend to the territories listed in Schedule 1.

(b) Article 11 of this Order shall apply to the UK Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(c) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

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(a) 1946 c. 45.

(5) An offence may be committed under Article 3, 4, 5, 6, 7, 9 or 10 by, and a direction may be given under Article 5 or 9 to, any person within the Territory or any person elsewhere who:

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory; or
- (b) is a body incorporated or constituted under the law of any part of the Territory.

### Interpretation

2. In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“funds” means financial assets and economic benefits of any kind, including (but not limited to) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on or value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export financing;

“Governor” means the Governor or other officer administering the Government of the Territory;

“relevant institution” means—

- (a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;
- (b) any person who may lawfully accept deposits in or from within the Territory in the course of carrying on a deposit-taking business, and for this purpose “deposit” has the meaning given to that term in section 5 of the Banking Act 1987(a) and “deposit-taking business” has the meaning given to that term in section 6 of that Act;
- (c) a European authorised institution within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992(b) which has lawfully established a branch in Gibraltar for the purpose of accepting deposits or other repayable funds from the public; and
- (d) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

“terrorism” means the use or threat of action where—

- (a) (i) the action falls within sub-paragraph (b),  
(ii) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and  
(iii) the use or threat is made for the purpose of advancing a political, religious or ideological cause;
- (b) action falls within this sub-paragraph if it—
  - (i) involves serious violence against a person,
  - (ii) involves serious damage to property,
  - (iii) endangers a person’s life, other than that of the person committing the action,
  - (iv) creates a serious risk to the health or safety of the public or a section of the public, or

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(a) 1987 c. 22.

(b) S.I. 1992/3218, amended by S.I.s 1993/3225, 1995/1217, 1995/1442, 1996/1669 and 1999/2094, Chapter II of Part I of Schedule 5 to the Bank of England Act 1998 (c. 11) and sections 70(1) and 79(14) of and Part II of Schedule 6 to the Criminal Justice Act 1993 (c. 36).

- (v) is designed seriously to interfere with or seriously to disrupt an electronic system;
  - (c) the use or threat of action falling within sub-paragraph (b) which involves the use of firearms or explosives is terrorism whether or not sub-paragraph (a)(ii) is satisfied;
  - (d) in sub-paragraphs (a), (b) and (c)—
    - (i) “action” includes action outside the Territory,
    - (ii) a reference to any person or to property is a reference to any person, or to property, wherever situated,
    - (iii) a reference to the public includes a reference to the public of a territory or country other than that of the Territory,
    - (iv) “the government” means the government of the Territory, of a part of the Territory or of a territory or country other than the Territory;
- “Supreme Court” means the court of the Territory having unlimited jurisdiction in civil proceedings.

### **Collection of funds**

3.—(1) Any person who invites another to provide funds, and intends that they should be used, or knows that they may be used, for the purposes of terrorism, is guilty of an offence under this Order.

(2) Any person who receives funds, and intends that they should be used, or knows that they may be used, for the purposes of terrorism, is guilty of an offence under this Order.

(3) Any person who provides funds, and intends that they should be used, or knows that they may be used, for the purposes of terrorism, is guilty of an offence under this Order.

(4) In this section a reference to the provision of funds is a reference to them being given, lent or otherwise made available, whether or not for consideration.

### **Making funds available**

4. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds or financial (or related) services available directly or indirectly to or for the benefit of—

- (a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism,
  - (b) a person controlled or owned directly or indirectly by a person in (a), or
  - (c) a person acting on behalf, or at the direction, of a person in (a),
- is guilty of an offence under this Order.

### **Freezing of funds**

5.—(1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds are held is or may be—

- (a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism,
- (b) a person controlled or owned directly or indirectly by a person in (a), or
- (c) a person acting on behalf of, or at the direction of, a person in (a),

the Governor may by notice direct that those funds are not to be made available to any person, except under the authority of a licence granted by the Governor under this article.

(2) A direction given under paragraph (1) shall specify either—

- (a) the period for which the direction is to have effect; or
- (b) that the direction is to have effect until it is revoked by notice under paragraph (3).

(3) The Governor may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 4 in respect of the funds in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds in question ("the recipient"), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or for or on whose behalf they are held ("the owner").

(6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds are held may apply to the Supreme Court for the direction to be set aside; and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction given under paragraph (1) is guilty of an offence under this Order.

(10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.

#### **Facilitation of activities prohibited under articles 3, 4 and 5(9)**

6. Any person who intentionally engages in any activities knowing that the object or effect of those activities is to enable or facilitate the commission (by that person or another) of an offence under article 3, 4 or 5(9) is guilty of an offence under this Order.

#### **Offences in connection with licences**

7.—(1) Any person who, for the purposes of obtaining a licence under article 4 or 5, knowingly or recklessly makes any statement or furnishes any document or information which is false in a material particular is guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

#### **Failure to disclose knowledge or suspicion of offences**

8.—(1) A relevant institution is guilty of an offence under this Order if—

- (a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time is—
  - (i) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism,
  - (ii) a person controlled or owned directly or indirectly by a person in (i),
  - (iii) a person acting on behalf, or at the direction of, a person in (i), or
  - (iv) a person who has committed an offence under article 3, 4, 5(9) or 7; and
- (b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matters comes to its attention.

(2) Where a relevant institution discloses to the Governor—

- (a) its knowledge or suspicion that a person is a person covered by paragraph (1)(a)(i), (ii), (iii) or (iv) above or a person who has committed an offence under article 3, 4, 5(9) or 7, or

(b) any information or other matter on which that knowledge or suspicion is based, the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

### **Obtaining of information**

9.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may direct any person to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order or any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands, Isle of Man or any territory to which this Order extends; and any person to whom such a direction is made shall comply with it within such time and in such manner as may be specified in the direction.

(2) Nothing in paragraph (1) shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when directed to do so under this article the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this article to direct any person to produce documents shall include power to take copies of or extracts from any document so produced and to direct that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this article shall not be treated as a breach of any restriction imposed by statute or otherwise.

(6) Any person who—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any direction made under this article by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular in response to such a direction; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this article; or
- (d) with intent to evade the provisions of this article, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

### **Disclosure of information**

10.—(1) No information furnished or document produced (including any copy of, or extract made from, any document produced) by a person in pursuance of a direction made under this Order shall be disclosed except:

- (a) with the consent of the person by whom the information was furnished or the document was produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or
- (b) to any person empowered under this Order to request that it be furnished or produced or any person holding or acting in any office under or in the service of—
  - (i) the Crown in respect of the Government of the United Kingdom;
  - (ii) the Government of the Isle of Man;
  - (iii) the States of Guernsey or Alderney or Chief Pleas of Sark;
  - (iv) the States of Jersey; or
  - (v) the Government of any territory listed in Schedule 1 to this Order.
- (c) on the authority of the Governor, to any organ of the United Nations or to any person



in the service of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to terrorism decided upon by the Security Council of the United Nations; or

- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings—
  - (i) in the Territory, for an offence under this Order; or
  - (ii) for any offence under any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any territory listed in the Schedule to this Order.

(2) Any person who, without reasonable excuse, discloses information or a document in contravention of paragraph (1) is guilty of an offence.

### **Penalties and proceedings**

11.—(1) Any person guilty of an offence under article 3, 4, 5(9), 6 or 7(2) shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 7(1), 9(6)(b) or (d) or 10(2) shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(3) Any person guilty of an offence under article 5(10), 8 or 9(6)(a) or (c) shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(4) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(6) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(7) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions.

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### **Functions of the Governor**

12. The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

## Licences

13.—(1) A licence under this Order shall be in writing and may be either general or special, may be subject to or without conditions, and may be limited so as to expire on a specified date unless renewed.

(2) A special licence may be varied or revoked at any time by written notice given by the Governor to each recipient of the licence.

(3) The Governor shall publish a general licence in such manner as he thinks fit. A general licence may be varied or revoked at any time by written notice which shall be published by the Governor in the same manner as the licence.

(4) A notice under paragraph (2) may be given by post, and shall be deemed to have been given to a person if it is sent to him at his last-known address.

*A.K. Galloway*  
Clerk to the Privy Council

## TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla  
 Bermuda  
 British Antarctic Territory  
 British Indian Ocean Territory  
 Cayman Islands  
 Falkland Islands  
 Gibraltar  
 Montserrat  
 Pitcairn, Henderson, Ducie and Oeno Islands  
 St Helena and Dependencies  
 South Georgia and the South Sandwich Islands  
 The Sovereign Base Areas of Akrotiri and Dhekelia  
 Turks and Caicos Islands  
 Virgin Islands

## SCHEDULE 2

## APPLICATION OF ARTICLE 11 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA

1.—(1) Any person who commits an offence under article 3, 4 or 5(9), 6 or 7(2), shall be liable on conviction:—

- (a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;
- (b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 7(1), 9(6)(b) or (d) or 10(2) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 5(10), 8 or 9(6)(a) or (c) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

5. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

6. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

7. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, applies to each of the territories listed in Schedule 1. The Order prohibits fundraising for terrorism purposes and restricts the making available of funds and financial services to terrorists, and provides powers to freeze accounts of suspected terrorists, pursuant to a decision of the Security Council of the United Nations in its resolution 1373 of 28th September 2001.

2002 No. 112

UNITED NATIONS

The Al-Qa'ida and Taliban (United Nations Measures)  
(Overseas Territories) Order 2002

*Made* - - - - - 23rd January 2002  
*Laid before Parliament* 24th January 2002  
*Coming into force* - - - 25th January 2002

At the Court at Sandringham, the 23rd day of January 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by resolutions adopted on 15th October 1999, 19th December 2000 and 16th January 2002, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to Afghanistan and in relation to combating terrorist activities:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement, operation, extent and revocation**

1.—(1) This Order may be cited as the Al-Qa'ida and Taliban (United Nations Measures) (Overseas Territories) Order 2002 and shall come into force on 25th January 2002.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling, extending, or suspending the operation of the resolutions adopted by it on 15th October 1999, 19th December 2000 or 16th January 2002, in whole or in part, this Order shall cease to have effect or its operation shall be extended or suspended, in whole or in part, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official gazette of the Territory.

(3)(a) This Order shall extend to the territories listed in Schedule 1.

(b) Article 19 of this Order shall apply to the UK Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(c) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

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(a) 1946 c. 45.

(4) Articles 6, 7 and 8 shall apply to any person within the Territory and to any person elsewhere who—

- (a) is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) is a body incorporated or constituted under the law of any part of the Territory.

(5) The Afghanistan (United Nations Sanctions) (Overseas Territories) Order 2001(a) and the Afghanistan (United Nations Sanctions) (Overseas Territories) (Amendment) Order 2001(b) are hereby revoked.

(6) The Terrorism (United Nations Measures) (Overseas Territories) Order 2001(c) is amended by replacing in article 2 the words, ““funds” means financial assets and economic benefits of any kind” with the words, ““funds” means financial assets, economic benefits and economic resources of any kind”.

### Interpretation

2.—(1) In this Order the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“document” includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“export” includes shipment as stores;

“exportation” in relation to any vessel, submersible vehicle or aircraft, includes the taking out of the Territory of the vessel, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“funds” means financial assets, economic benefits and economic resources of any kind, including (but not limited to) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments, deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on or value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of financing;

“Governor” means the Governor or other officer administering the Government of the Territory;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft, or the vehicle;

“owner”, in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“listed person” means—

- (a) Usama bin Laden;
- (b) any person designated by the Sanctions Committee in the list maintained by that Committee in accordance with resolution 1390 adopted by the Security Council on 16th January 2002 as:
  - (i) a member of the Al-Qa’ida organisation;
  - (ii) a member of the Taliban;

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(a) S.I. 2001/392.

(b) S.I. 2001/2558.

(c) 1987 c. 22.

(iii) an individual group, undertaking or entity associated with the persons covered by (a), (b)(i) or (b)(ii) above;

“relevant institution” means—

- (a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;
- (b) any person who may lawfully accept deposits in or from within the Territory in the course of carrying on a deposit-taking business, and for this purpose “deposit” has the meaning given to that term in section 5 of the Banking Act 1987(a) and “deposit-taking business” has the meaning given to that term in section 6 of that Act;
- (c) a European authorised institution within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992(b) which has lawfully established a branch in Gibraltar for the purpose of accepting deposits or other repayable funds from the public; and
- (d) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

“restricted goods” means the goods specified in Part III of Schedule 1 to the Export of Goods (Control) Order 1994(c) made under the Import, Export and Customs Powers (Defence) Act 1939(d);

“the Sanctions Committee” means the Committee of the Security Council of the United Nations established by paragraph 6 of Resolution 1267 adopted on 15th October 1999;

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

“shipment” includes loading into an aircraft;

“stores” means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a vessel or aircraft as merchandise for sale by retail to persons carried therein;

“the Taliban” means the Afghan political faction known as the Taliban;

“vehicle” means land transport vehicle.

## RESTRICTED GOODS, TECHNICAL ASSISTANCE AND TRAINING

### Supply of restricted goods

3.—(1) Any person who—

- (a) supplies or delivers,
- (b) agrees to supply or deliver, or
- (c) does any act calculated to promote the supply or delivery of,

restricted goods from the Territory to a listed person shall be guilty of an offence under this Order unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a listed person.

(2) Any British citizen, British Dependent Territories citizen, British Overseas citizen, British subject, British National (Overseas), British protected person, or body incorporated or constituted under the law of any part of the Territory who in any place outside the Territory—

- (a) supplies or delivers,
- (b) agrees to supply or deliver, or
- (c) does any act calculated to promote the supply or delivery of,

restricted goods to a listed person shall be guilty of an offence under this Order unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a listed person.

4. Restricted goods are prohibited to be exported from the Territory to any listed person.

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(a) 1987 c. 22.

(b) S.I. 1992/3218, amended by S.I.s 1993/3225, 1995/1217, 1995/1442, 1996/1669 and 1999/2094, Chapter 11 of Part I of Schedule 5 to the Bank of England Act 1998 (c. 11) and sections 70(1) and 79(14) and Part II of Schedule 6 of the Criminal Justice Act 1993 (c. 36).

(c) S.I. 1994/1191 as amended by S.I.s 1996/2663, 1997/1008, 1997/2758, 1999/63, 1999/1777, 2001/729, 2000/1239, 2000/2140 and 2000/2264.

(d) 1939 c. 69.

### **Provision of certain technical assistance or training**

5.—(1) Any person who directly or indirectly provides from the Territory to a listed person any technical assistance or training related to:

- (a) the supply, delivery, manufacture, maintenance or use of any restricted goods, or
- (b) military activities,

shall be guilty of an offence under this Order unless he proves that he did not know and had no reason to suppose that the technical assistance or training in question was to be provided to a listed person.

(2) Any British citizen, British Dependent Territories citizen, British Overseas citizen, British subject, British National (Overseas), British protected person, or body incorporated or constituted under the law of any part of the Territory who in any place outside the Territory directly or indirectly provides to a listed person any technical assistance or training related to:

- (a) the supply, delivery, manufacture, maintenance or use of any restricted goods, or
- (b) military activities,

shall be guilty of an offence under this Order.

### **Use of ships, aircraft and vehicles: restricted goods, technical assistance and training**

6.—(1) Without prejudice to the generality of article 3, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage of those goods to a listed person.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) of this article then—

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2) of this article, the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage to a listed person.

(4) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

## **FUNDS**

### **Making funds available to Usama bin Laden and associates**

7. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds available to or for the benefit of a listed person is guilty of an offence under this Order.

### **Freezing of funds**

8.—(1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds are held is or may be a listed person, the Governor may by notice direct that those funds are not to be made available to that person, except under the authority of a licence granted by the Governor under article 7.



- (2) A direction given under paragraph (1) shall specify either—
- (a) the period for which it is to have effect; or
  - (b) that the direction is to have effect until it is revoked by notice under paragraph 3.
- (3) The Governor may by notice revoke a direction under paragraph (1) at any time.
- (4) The expiry or revocation of a direction shall not affect the application of article 7 in respect of the funds in question.
- (5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds in question (“the recipient”), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or on whose behalf they are held (“the owner”).
- (6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.
- (7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds are held may apply to the Supreme Court for the direction to be set aside; and on such application the court may set aside the direction.
- (8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.
- (9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.
- (10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.

#### **Facilitation of activities prohibited under article 7 or 8(9)**

9. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 7 or 8(9) is guilty of an offence under this Order.

#### **Failure to disclose knowledge or suspicion of measures offences**

- 10.—(1) A relevant institution is guilty of an offence if—
- (a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time—
    - (i) is a listed person; or
    - (ii) has committed an offence under article 7, 8(9) or 12(2); and
  - (b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.
- (2) Where a relevant institution discloses to the Governor—
- (a) its knowledge or suspicion that a person is a listed person, a person acting on behalf of a listed person, or a person who has committed an offence under article 7, 8(9) or 12(2), or
  - (b) any information or other matter on which that knowledge or suspicion is based,
- the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

## GENERAL

### Customs powers to demand evidence of destination which goods reach

11. Any exporter or any shipper of goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached a destination to which their exportation was not prohibited by this Order, and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

### Offences in connection with application for licences, conditions attaching to licences, etc

12.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

### Declaration as to goods: powers of search

13.—(1) Any person who is about to leave the Territory shall, if he is required to do so by the Governor—

- (a) declare whether or not he has with him any restricted goods which are destined for a listed person or for delivery, directly or indirectly, to or to the order of any listed person; and
- (b) produce any such goods as aforesaid which he has with him.

Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

### Investigation, etc. of suspected ships

14.—(1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;
- (b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and
- (c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph 1 of article 6, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo

produced in pursuance of a request made under sub-paragraph (b) above), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2) below.

- (2) The further action referred to in paragraph (1)(c) of this article is either—
- (a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or
  - (b) to request the master of the ship to take any one or more of the following steps—
    - (i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;
    - (ii) if the ship is then in port in the Territory, to cause her to remain there, until the master is notified by an authorised officer that the ship may depart;
    - (iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii) above; and
    - (iv) to take her to any other destination that may be specified by the officer in agreement with the master.
- (3) Without prejudice to the provisions of article 17(3), where—
- (a) a master refuses or fails to comply with a request made under paragraph (2)(b) of this article, or
  - (b) an authorised officer otherwise has reason to suspect that a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

- (4) In this article "authorised officer" means:—
- (a) any commissioned naval or military officer;
  - (b) any British consular officer;
  - (c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected aircraft**

15.—(1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and
- (c) if the aircraft is then in the Territory any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (a) above) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 17(3), where an authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) of this article may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft and any of its cargo; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected vehicles**

16.—(1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 6—

- (a) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and
- (c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (a) above) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 17(3), where any authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) of this article may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Provisions supplementary to articles 14 to 16**

17.—(1) No information furnished or document produced by any person in pursuance of a request made under article 14, 15 or 16 shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or the possession of that document in his own right;

- (b) to any person who would have been empowered under article 14, 15 or 16 to request that it be furnished or produced to any person holding or acting in any office under or in the service of—
  - (i) the Crown in respect of the Government of the United Kingdom;
  - (ii) the Government of the Isle of Man;
  - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
  - (iv) the States of Jersey; or
  - (v) the Government of any territory to which this Order extends;
- (c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing

compliance with or detecting evasion of measures in relation to the listed persons or any person acting on behalf of a listed person decided upon by the Security Council of the United Nations; or

- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings—
- (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs; or
  - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any territory to which this Order extends.

(2) Any power conferred by article 14, 15 or 16 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say—

- (a) a master of a ship who disobeys any direction given under article 14(2)(a);
- (b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—
  - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 14, 15 or 16 by any person empowered to make it, or
  - (ii) furnishes any document or information which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any person (or any person acting under the authority of any such person) in the exercise of his powers under article 14, 15 or 16.

(4) Nothing in articles 14 to 17 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

#### **Obtaining of evidence and information**

18. The provisions of Schedule 3 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor—

- (a) of evidence or information for the purpose of securing compliance with or detecting evasion of—
  - (i) this Order in the Territory; or
  - (ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any territory which this Order extends, and
- (b) of evidence of the commission of—
  - (i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or,
  - (ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any territory to which this Order extends.

#### **Penalties and Proceedings**

19.—(1) Any person guilty of an offence under article 3, 5, 6(3), 7, 8(9) or 9 shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 17(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 3 to this Order shall be liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 12(1) or (2) or article 13(3) shall be liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 17(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 8(10) or 10 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(6) Any person guilty of an offence under article 11 or 13(2) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(7) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(8) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(9) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(10) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

#### **Exercise of powers of the Governor**

20.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

#### **Miscellaneous**

21.—(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) of this article if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

**Publication of matters designated by the Sanctions Committee**

22. The particulars of any designation by the Sanctions Committee referred to in this Order shall be published by the Governor in the Gazette.

*A.K. Galloway*  
Clerk of the Privy Council

## TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla  
Bermuda  
British Antarctic Territory  
British Indian Ocean Territory  
Cayman Islands  
Falklands Islands  
Gibraltar  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St. Helena  
St. Helena Dependencies  
South Georgia and the South Sandwich Islands  
Turks and Caicos Islands  
The UK Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus  
Virgin Islands

## SCHEDULE 2

APPLICATION OF ARTICLE 19 TO THE UK SOVEREIGN BASE AREAS  
OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

1.—(1) Any person who commits an offence under article 3, 5, 6(3), 7, 8(9) or 9, or paragraph 5(b) or (d) of Schedule 3, shall be liable on conviction:

- (a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;
- (b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 12(1) or (2), 13(3), or 17(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 17(3)(a), (b)(i) or (c), or paragraph (5)(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 8(10) or 10 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £5,000 or its equivalent, or both.

5. Any person who commits an offence under article 11 or 13(2) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

6. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

7. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

8. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.



9. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions: Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

## SCHEDULE 3

Article 18

### EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2.—(1) If any justice of the peace is satisfied by information on oath given by any constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified, or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other person named in the warrant and any other constable, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

- (a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may—

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) above shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in the possession of a document only in this capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that documentation in his own right;

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced, or to any person holding or acting in any office under or in the service of—

- (i) the Crown in respect of the Government of the United Kingdom,
- (ii) the Government of the Isle of Man,
- (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,
- (iv) the States of Jersey, or
- (v) the Government of any territory to which this Order extends;

- (c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or to the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to listed persons or any person acting on behalf of a listed person decided upon by the Security Council of the United Nations; or

- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings—

- (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence under any enactment relating to customs, or
- (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any territory to which this Order extends.

5. Any person who—

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) furnishes any information or produces any documents which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

## EXPLANATORY NOTE

*(This Note is not part of the Order)*

This Order, made under the United Nations Act 1946, applies to each of the territories specified in Schedule 1. It gives effect to Resolution 1390, adopted by the Security Council of the United Nations on 16th January 2002. In view of the changing situation in Afghanistan, Resolution 1390 continued, amended or terminated as appropriate certain provisions of Security Council Resolutions 1267, adopted on 15th October 1999, and 1333, adopted on 19th December 2000 which imposed sanctions in relation to Usama bin Laden, the Taliban and the territory of Afghanistan. The effect of Resolution 1390 is to require States to prohibit the delivery or supply of arms and related matériel and the provision of related technical assistance and training to Usama bin Laden, Al-Qa'ida, the Taliban and their associates. It also prohibits the making of funds available to those persons.

The list of persons designated by the Security Council is to be found at [http://www.un.org/Docs/sc/committees/Afghanistan/Afg\\_list\\_eng.htm](http://www.un.org/Docs/sc/committees/Afghanistan/Afg_list_eng.htm).

The Order revokes the Afghanistan (United Nations Sanctions) (Overseas Territories) Order 2001 and the Afghanistan (United Nations Measures) (Overseas Territories) (Amendment) Order 2001 and amends the Terrorism (United Nations Measures) (Overseas Territories) Order 2001.

2002 No. 266

UNITED NATIONS

The Al-Qa'ida and Taliban (United Nations Measures)  
(Overseas Territories) (Amendment) Order 2002

*Made* - - - - - 12th February 2002  
*Laid before Parliament* 13th February 2002  
*Coming into force* - - - 14th February 2002

At the Court at Buckingham Palace, the 12th day of February 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1.—(1) This Order may be cited as the Al-Qa'ida and Taliban (United Nations Measures) (Overseas Territories) (Amendment) Order 2002 and shall come into force on 14th February 2002.

(2) This Order and the Al-Qa'ida and Taliban (United Nations Measures) (Overseas Territories) Order 2002(b) (hereinafter referred to as "the principal Order") may be cited together as the Al-Qa'ida and Taliban (United Nations Measures) (Overseas Territories) Order 2002.

2. In Article 1(4) of the principal Order, the words, "Articles 6, 7 and 8" shall be replaced by the words "Articles 6, 7, 8 and 9".

3. The definition of "relevant institution" in Article 2(1) of the principal Order shall be amended as follows—

(a) for paragraph (b), substitute—

"(b) any person who may lawfully accept deposits in or from within the Territory by way of business;" and

(b) delete paragraph (c).

4. The following paragraphs shall be inserted after Article 2(1) of the principal Order:

"(2) For the purpose of the definition of "relevant institution" in paragraph (1)—

(a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000(c); and

(b) a person is not regarded as accepting deposits by way of business if—

(i) he does not hold himself out as accepting deposits on a day to day basis, and

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(a) 1946 c. 45.  
(b) S.I. 2002/112.  
(c) 2000 c. 8.

(ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph 2(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.”

5. In Article 13(1) of the principal Order, before “by the Governor”, the words, “an officer authorised for the purpose” shall be inserted.

6. In Articles 15(2) and 16(2) of the principal Order, before “authorised person”, the words, “authorised officer or” shall be deleted.

7. In Schedule 3, paragraph 2(1) of the principal Order—

(a) in the first line, before “any constable or person”, the words, “police officer,” shall be inserted;

(b) in the second line after sub-paragraph (b), the words “any other constable” shall be replaced by, “any other police officers or constables”.

*A K Galloway*  
Clerk of the Privy Council

#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, amends the Al-Qa’ida and Taliban (United Nations Measures) (Overseas Territories) Order 2002 to update the definition of “relevant institution”. It also makes minor corrections to that Order.

2002 No. 1076

**GENEVA CONVENTIONS**

**The Geneva Conventions (Amendment) Act (Overseas Territories) Order 2002**

*Made* - - - - - *17th April 2002*

*Coming into force* *1st May 2002*

At the Court at Windsor Castle, the 17th day of April 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 8(2) of the Geneva Conventions Act 1957(a), as applied to the Geneva Conventions (Amendment) Act 1995(b) by section 7(4) of that Act, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Geneva Conventions (Amendment) Act (Overseas Territories) Order 2002. It shall come into force on 1st May 2002.
2. The provisions of the Geneva Conventions (Amendment) Act 1995 shall extend to the Territories specified in Schedule 1 hereto, subject to the exceptions and modifications specified in Schedule 2 hereto.

*A. K. Galloway*  
Clerk of the Privy Council

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(a) 5 & 6 Eliz. 2. c.52.  
(b) 1995 c.27.

*Territories to which the Geneva Conventions (Amendment) Act 1995 extends*

Anguilla  
 Bermuda  
 British Antarctic Territory  
 British Indian Ocean Territory  
 Cayman Islands  
 Falkland Islands  
 Montserrat  
 Pitcairn, Henderson, Ducie and Oeno Islands  
 St Helena and Dependencies  
 South Georgia and the South Sandwich Islands  
 Sovereign Base Areas of Akrotiri and Dhekelia  
 Turks and Caicos Islands  
 Virgin Islands

## SCHEDULE 2

*Exceptions and modifications to be made in the extension of the Geneva Conventions (Amendment) Act 1995 to the Territories specified in Schedule 1*

1. For the words "the Geneva Conventions Act 1957" in subsection (1) of section 1 there shall be substituted the words "the Geneva Conventions Act 1957 as extended to the Territory by the Geneva Conventions Act (Colonial Territories) Order in Council 1959"<sup>(a)</sup>.
2. Subsection (4) of section 1 shall be omitted.
- 3.—(1) In subsection (2) of section 2, paragraph (a) shall be omitted.  
 (2) In subsection (3) of section 2, paragraph (a) shall be omitted.  
 (3) In subsection (4) of section 2, for paragraph (a) there shall be substituted the following paragraph:—  
     “(a) for the words “fifty pounds” there shall be substituted the words “five thousand pounds or its equivalent”;
- (4) In subsection (5) of section 2, for the words “the passing of this Act” there shall be substituted the words “the coming into operation of this Act in the Territory”; and for the words “the passing of the Geneva Conventions (Amendment) Act 1995” there shall be substituted the words “the coming into operation of the Geneva Conventions (Amendment) Act 1995 in the Territory”.
- (5) In subsection (6) of section 2, for paragraph (b) there shall be substituted the following paragraph:—  
     “(b) for the words “ship or aircraft” there shall be substituted the words “ship, aircraft or hovercraft”.
- (6) In subsection (7) of section 2, paragraph (b) shall be omitted.
4. In section 3, for the words “the Secretary of State” wherever they occur there shall be substituted the words “the Governor”; and the words from “(3)” to “Parliament” shall be omitted.
5. For subsection (7) of section 4 there shall be substituted the following subsection:—  
     “(7) After subsection (2) there shall be inserted the following subsection:—

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<sup>(a)</sup> S.I. 1959/1301.

“(2A) The first protocol and the second protocol shall for the purposes of this Act be construed subject to and in accordance with:—

- (a) any reservation or declaration certified by Her Majesty by Order in Council<sup>(a)</sup> to have been made by the United Kingdom on ratification of the protocols, and which has not been so certified as having been withdrawn;
- (b) any amendment to the Fifth Schedule to this Act made by Her Majesty by Order in Council so as to ensure that the Schedule sets out the text of the first protocol as in force in relation to the United Kingdom.”

6. In section 5, paragraph (b) shall be omitted.

7. In section 7, subsections (2), (3) and (4) shall be omitted.

#### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order extends to the Territories specified in Schedule 1 the Geneva Conventions (Amendment) Act 1995, subject to the exceptions and modifications specified in Schedule 2.

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<sup>(a)</sup> See S.I. 1998/1754.



**2002 No. 1252 (C. 34)**

**BRITISH OVERSEAS TERRITORIES  
BRITISH NATIONALITY**

**The British Overseas Territories Act 2002  
(Commencement) Order 2002**

*Made - - - - -*

*1st May 2002*

The Secretary of State, in exercise of the power conferred on him by section 8(2) of the British Overseas Territories Act 2002(a), hereby makes the following Order:

1. This Order may be cited as the British Overseas Territories Act 2002 (Commencement) Order 2002.

2. The following provisions of the British Overseas Territories Act 2002 shall come into force on 21st May 2002:

- (a) sections 3 to 5 and Schedule 1,
- (b) section 6, and
- (c) section 7 and Schedule 2, so far as relating to the British Nationality (Falkland Islands) Act 1983(b).

1st May 2002

*Jack Straw*  
Secretary of State, Foreign and Commonwealth Office

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order brings into force those provisions of the British Overseas Territories Act 2002 which are not already in force.

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(a) 2002 c. 8.  
(b) 1983 c. 6.

2002 No. 1823

**EXTRADITION**

The Extradition (Overseas Territories) Order 2002

<i>Made</i> - - - -	<i>16th July 2002</i>
<i>Laid before Parliament</i>	<i>26th July 2002</i>
<i>Coming into force</i>	<i>16th August 2002</i>

At the Court at Buckingham Palace, the 16th day of July 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 32 and section 34(3) of the Extradition Act 1989(a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Extradition (Overseas Territories) Order 2002.

(2) This Order shall come into force on 16th August 2002.

2.—(1) For the purposes of extradition as between the territories listed in Schedule 1 to this Order and the United Kingdom, Ireland, Commonwealth countries and British overseas territories, the following sections of the Extradition Act 1989 (“the 1989 Act”), modified and adapted as in Schedule 2 to this Order, shall extend to the territories listed in Schedule 1 to this Order: section 1, section 2, sections 5 to 12, section 14, sections 16 and 17, sections 19, 20 and 21, section 23, section 24, section 25, sections 27 and 28, section 35 and section 36.

(2) In its extension to the British Antarctic Territory and the British Indian Ocean Territory, the 1989 Act, as so modified and adapted, shall be subject to the further modifications and adaptations set out in, respectively, Schedules 3 and 4 to this Order.

3.—(1) Subject to paragraph (2) below the Orders listed in Schedule 5 to this Order are hereby revoked.

(2) The foregoing paragraph shall not have effect in relation to any case in which a warrant of arrest, whether issued on receipt of an authority to proceed or a provisional warrant, has been issued before 16th August 2002.

(3) Without prejudice to paragraph (2) above, this Order applies to offences committed before as well as after the coming into force of this Order.

*A.K. Galloway*  
Clerk of the Privy Council

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(a) 1989 c.33.

## SCHEDULE 1

Article 2(1)

### LISTED TERRITORIES

Anguilla  
Bermuda  
British Antarctic Territory  
British Indian Ocean Territory  
Cayman Islands  
Falkland Islands  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St Helena and St Helena Dependencies  
South Georgia and the South Sandwich Islands  
Turks and Caicos Islands  
The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus  
Virgin Islands

## SCHEDULE 2

Article 2(1)

### PROVISIONS OF EXTRADITION ACT 1989 AS EXTENDED TO THE LISTED TERRITORIES

#### PART I

#### INTRODUCTORY

##### *General*

1.—(2) Subject to the provisions of this Act, a person in a listed territory who is accused of an extradition crime—

- (a) in the United Kingdom;
- (b) in a designated Commonwealth country;
- (c) in a British overseas territory; or
- (d) in Ireland,

or who is alleged to be unlawfully at large after conviction of such an offence in any such country or in a British overseas territory, may be arrested and returned to that country or British overseas territory in accordance with extradition procedures under Part III of this Act.

##### *Extradition Crimes*

2.—(1) In this Act “extradition crime” means—

- (a) conduct in the territory of the United Kingdom, Ireland, a designated Commonwealth country or a British overseas territory which, if it occurred in the relevant listed territory, would constitute an offence punishable with imprisonment for a term of 12 months, or any greater punishment, and which, however described in the law of the United Kingdom, Ireland, Commonwealth country or British overseas territory, is so punishable under that law;
- (b) an extra-territorial offence against the law of the United Kingdom, Ireland, a designated Commonwealth country or a British overseas territory which is punishable under that law with imprisonment for a term of 12 months, or any greater punishment, and which satisfies—

- (i) the condition specified in subsection (2) below; or
- (ii) all the conditions specified in subsection (3) below.

(2) The condition mentioned in subsection (1)(b)(i) above is that in corresponding circumstances equivalent conduct would constitute an extra-territorial offence against the law of the relevant listed territory punishable with imprisonment for a term of 12 months, or any greater punishment.

(3) The conditions mentioned in subsection (1)(b)(ii) above are—

- (a) that the United Kingdom, Ireland, the designated Commonwealth country or British overseas territory bases its jurisdiction on the nationality of the offender;
- (b) that the conduct constituting the offence occurred outside the relevant listed territory; and
- (c) that, if it occurred in that listed territory it would constitute an offence under the law of that territory punishable with imprisonment for a term of 12 months, or any greater punishment.

(4) For the purposes of subsections (1) to (3) above—

- (a) the law of the United Kingdom, Ireland, a designated Commonwealth country or a British overseas territory includes the law of any part of it;
- (b) conduct in a dependency of a designated Commonwealth country, or a vessel, aircraft or hovercraft of such a country, shall be treated as if it were conduct in the territory of that country; and
- (c) conduct in a vessel, aircraft or hovercraft of the United Kingdom, or of a British overseas territory, or of Ireland shall be treated as if it were conduct in the United Kingdom or in that British overseas territory or in Ireland; but
- (d) reference shall be made to the law of a dependency of a designated Commonwealth country, and not (where different) to the law of the Commonwealth country, to determine the level of punishment applicable to conduct in that dependency.

#### *Designation etc.*

5.—(1) In this Act as it has effect under the law of a listed territory, “designated Commonwealth country” means any country that is for the time being a designated Commonwealth country under this Act as it has effect under the law of the United Kingdom.

(2) This Act has effect in relation to all British overseas territories.

(3) Subject to any provision made by the Governor of a territory under subsection (4) below, any Order of Her Majesty in Council made under section 5(3) of this Act as it has effect under the law of the United Kingdom, and any provision made by an Order of Her Majesty in Council in reliance on section 5(4) of this Act as it so has effect, shall have effect also under the law of a listed territory.

(4) The Governor of a listed territory may, by order made with the approval of the Secretary of State, direct that any Order of Her Majesty in Council made under section 5(3) of this Act as it has effect under the law of the United Kingdom, or any provision made by an Order of Her Majesty in Council in reliance on section 5(4) of this Act as it so has effect, shall not have effect under the law of that listed territory or shall have effect subject to such exceptions, adaptations or modifications as may be specified in the Governor’s order.

(5) The Governor of a listed territory may by order direct that this Act shall have effect in relation to the return of persons to, or in relation to persons returned from, any designated Commonwealth country or any British overseas territory subject to such exceptions, adaptations or modifications as may be specified in the order.

(6) Any order under this section may contain such transitional or other incidental and supplementary provisions as may appear to the Governor to be necessary or expedient.

(7) For the purposes of any order under section 5(1) of this Act as it has effect under the law of the United Kingdom, any territory for the external relations of which a Commonwealth country is responsible may be treated as part of that country or, if the Government of that country so requests, as a separate country.

(8) Any order made by the Governor of a territory under this section shall be published in the Official Gazette of the territory.

## PART II

### RESTRICTIONS ON RETURN

6.—(1) A person shall not be returned under Part III of this Act, or committed or kept in custody for the purposes of return, if it appears to an appropriate authority—

- (a) that the offence of which that person is accused or was convicted is an offence of a political character;
- (b) that it is an offence under military law which is not also an offence under the general criminal law;
- (c) that the request for his return (though purporting to be made on account of an extradition crime) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or
- (d) that he might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

(3) A person accused of an offence shall not be returned, or committed or kept in custody for the purposes of return, if it appears to an appropriate authority that if charged with that offence in the relevant listed territory he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

(4) A person shall not be returned, or committed or kept in custody for the purposes of such return, unless provision is made by the relevant law, or by an arrangement made with the relevant country or British overseas territory, for securing that he will not, unless he has first had an opportunity to leave it, be dealt with there for or in respect of any offence committed before his return to it other than—

- (a) the offence in respect of which his return is ordered;
- (b) an offence, other than an offence excluded by subsection (5) below, which is disclosed by the facts in respect of which his return was ordered; or
- (c) subject to subsection (6) below, any other offence being an extradition crime in respect of which the Governor may consent to his being dealt with.

(5) The offences excluded from paragraph (b) of subsection (4) above are offences in relation to which an order for the return of the person concerned could not lawfully be made.

(6) The Governor may not give consent under paragraph (c) of subsection (4) above in respect of an offence in relation to which it appears to him that an order for the return of the person concerned could not lawfully be made, or would not in fact be made.

(7) Any such arrangement as is mentioned in subsection (4) above may be an arrangement made for the particular case or an arrangement of a more general nature, and for the purposes of that subsection a certificate issued by or under the authority of the Governor confirming the existence of an arrangement with a country or a British overseas territory and stating its terms shall be conclusive evidence of the matters contained in the certificate.

(8) The reference in subsection (1) above to an offence of a political character does not include an offence against the life or person of the Head of the Commonwealth or attempting or conspiring to commit, or assisting, counselling or procuring the commission of or being accessory before or after the fact to such an offence, or of impeding the apprehension or prosecution of persons guilty of such an offence.

(9) In this Act “appropriate authority” means—

- (a) the Governor;
- (b) the court of committal;
- (c) a superior court of the relevant listed territory, on an application for habeas corpus or for review of the order of committal.

(10) In this section, in relation to Commonwealth countries and colonies, “race” includes tribe.

**PART III**  
**PROCEDURE**

*General*

7.—(1) Subject to the provisions of this Act relating to provisional warrants, a person shall not be dealt with under this Part of this Act except in pursuance of an order of the Governor (in this Act referred to as an “authority to proceed”) issued in pursuance of a request (in this Act referred to as an “extradition request”) for the surrender of a person under this Act made to the Governor by or on behalf of the Government of the United Kingdom, or the Government of a designated Commonwealth country or the Governor of a British overseas territory or the Government of Ireland.

- (2) There shall be furnished with any extradition request—
- (a) particulars of the person whose return is requested;
  - (b) particulars of the offence of which he is accused or was convicted (including evidence sufficient to justify the issue of a warrant for his arrest under this Act);
  - (c) in the case of a person accused of an offence, a warrant for his arrest issued in that country or British overseas territory; and
  - (d) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence,

and copies of them shall be served on the person whose return is requested before he is brought before the court of committal.

(4) On receipt of any such request the Governor may issue an authority to proceed unless it appears to him that an order for the return of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Act.

(5) An authority to proceed shall specify the offence or offences under the law of the relevant listed territory which it appears to the Governor would be constituted by equivalent conduct in that territory.

8.—(1) For the purposes of this Part of this Act a warrant for the arrest of a person may be issued by a magistrate—

- (a) on receipt of an authority to proceed;
- (b) without such an authority upon information that the said person is or is believed to be in or on his way to the relevant listed territory;

and any warrant issued by virtue of paragraph (b) above is in this Act referred to as a “provisional warrant”.

(3) A person empowered to issue warrants of arrest under this section may issue such a warrant if he is supplied with such evidence as would in his opinion justify the issue of a warrant for the arrest of a person accused or, as the case may be, convicted within his jurisdiction and it appears to him that the conduct alleged would constitute an extradition crime.

(4) Where a provisional warrant is issued under this section, the magistrate by whom it is issued shall forthwith give notice to the Governor and transmit to him the information and evidence, or certified copies of the information and evidence, upon which it was issued; and the Governor may in any case, and shall if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, cancel the warrant and, if that person has been arrested under it, discharge him from custody.

(5) A warrant of arrest issued under this section may be executed by any person to whom it is directed or by any constable.

(6) Where a warrant is issued under this section for the arrest of a person accused of an offence of stealing or receiving stolen property or any other offence in respect of property, a magistrate shall have the like power to issue a warrant to search for the property as if the offence had been committed within the jurisdiction.

9.—(1) A person arrested in pursuance of a warrant under section 8 above shall (unless previously discharged under subsection (4) of that section) be brought as soon as practicable before a court (in this Act referred to as “the court of committal”) consisting of a magistrate.

(2) For the purposes of proceedings under this section a court of committal shall have the like jurisdiction and powers, as nearly as may be, including power to remand in custody or on bail as a magistrates' court in proceedings for committal in relation to an offence triable on indictment in the relevant listed territory.

(5) Where the person arrested is in custody by virtue of a provisional warrant and no authority to proceed has been received in respect of him, the court of committal may fix a period (of which the court shall give notice to the Governor) after which he will be discharged from custody unless such an authority has been received.

(8) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any representations made in support of the extradition request or on behalf of that person, that the offence to which the authority relates is an extradition crime, and is further satisfied—

- (a) where that person is accused of the offence, that the evidence would be sufficient to warrant his trial if the extradition crime had taken place within the jurisdiction of the court;
- (b) where that person is alleged to be unlawfully at large after conviction of the offence, that he has been so convicted and appears to be so at large,

the court, unless his committal is prohibited by any other provision of this Act, shall commit him to custody or on bail—

- (i) to await the Governor's decision as to his return; and
- (ii) if the Governor decides that he shall be returned, to await his return.

(9) If the court commits a person under subsection (8) above, it shall issue a certificate of the offence against the law of the relevant listed territory which would be constituted by his conduct.

(10) If the court commits a person to custody in the exercise of that power, it may subsequently grant bail if it considers it appropriate to do so.

(11) If—

- (a) the court is not satisfied as mentioned in subsection (8) above in relation to the person arrested; or
- (b) his committal is prohibited by a provision of this Act,

it shall discharge him.

**10.—(1)** If the court of committal refuses to make an order in relation to a person under section 9 above in respect of the offence or, as the case may be, any of the offences to which the authority to proceed relates, the country or British overseas territory seeking his return may question the proceeding on the ground that it is wrong in law by applying to the court to state a case for the opinion of a superior court of the relevant listed territory on the question of law involved.

(2) If the country or British overseas territory seeking return immediately informs the court of committal that it intends to make such an application, the court shall make an order providing for the detention of the person to whom the authority to proceed relates, or directing that he shall not be released except on bail.

(3) Rules of court may specify—

- (a) a period within which such an application must be made unless the court grants a longer period; and
- (b) a period within which the court of committal must comply with such an application.

(4) Where the court of committal fails to comply with an application under subsection (1) above within the period specified by rules of court, the superior court may, on the application of the country or British overseas territory that applied for the case to be stated, make an order requiring the court to state a case.

- (5) The superior court shall have power—
- (a) to remit the case to the court of committal to decide it according to the opinion of the superior court on the question of law; or
  - (b) to dismiss the appeal.
- (6) Where the superior court dismisses an appeal relating to an offence, it shall by order declare that the offence is not an offence in respect of which the Governor has power to make an order for return in respect of the person whose return was requested.
- (7) An order made under subsection (2) above shall cease to have effect if—
- (a) the superior court dismisses the appeal in respect of the offence or all the offences to which it relates; and
  - (b) the country or British overseas territory seeking return does not immediately—
    - (i) apply for leave to appeal against that dismissal; or
    - (ii) inform the superior court that it intends to apply for leave.
- (9) An appeal against the decision of a superior court given under this section may be made to the court of the territory to which an appeal from the superior court in criminal matters lies by the person whose return is sought or by the country or British overseas territory seeking his return but may be so made only—
- (a) by leave of the superior court; or
  - (b) where that court has refused leave under paragraph (a) above, by special leave of the court to which an appeal in that case would lie.
- (10) Without prejudice to any other powers exercisable apart from this provision, a court may, on an appeal from a decision of a superior court under subsection (9) above, exercise any powers of the superior court under subsection (5) above, and subsection (6) above shall apply to it as it applies to the superior court in question.
- (11) Subject to subsection (7) above, an order under subsection (2) above shall have effect so long as the case is pending.
- (12) For the purpose of this section a case is pending (unless proceedings are discontinued) until (disregarding any power of a court to grant leave to take any step out of time and the power of Her Majesty to grant special leave to appeal to Her Majesty in Council) there is no step that the country or British overseas territory seeking the return can take.
- 11.—(1) Where a person is committed under section 9 above, the court shall inform him in ordinary language of his right to make an application for habeas corpus, and shall forthwith give notice of the committal to the Governor.
- (2) A person committed shall not be returned—
- (a) in any case, until the expiration of the period of 15 days beginning with the day on which the order for his committal is made;
  - (b) if an application for habeas corpus is made in his case, so long as proceedings on that application are pending.
- (3) Without prejudice to any jurisdiction, apart from this section, of the court of the relevant listed territory to which the application for habeas corpus is made, the court shall order the applicant's discharge if it appears to the court in relation to the offence, or each of the offences, in respect of which the applicant's return is sought, that—
- (a) by reason of the trivial nature of the offence; or
  - (b) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or
  - (c) because the accusation against him is not made in good faith in the interests of justice, it would, having regard to all the circumstances, be unjust or oppressive to return him.
- (4) On any such application the court may receive additional evidence relevant to the exercise of its jurisdiction under section 6 above or subsection (3) above.
- (5) Proceedings on an application for habeas corpus shall be treated for the purposes of this section as pending (unless they are discontinued) until (disregarding any power of a court to grant



leave to appeal out of time and the power of Her Majesty to grant special leave to appeal to Her Majesty in Council) there is no further possibility of an appeal.

12.—(1) Where a person is committed under section 9 above and is not discharged by order of a superior court of the relevant listed territory, the Governor may by warrant order him to be returned unless his return is prohibited, or prohibited for the time being, by this Act, or the Governor decides under this section to make no such order in his case.

(2) Without prejudice to his general discretion as to the making of an order for the return of a person to a country or British overseas territory—

(a) the Governor shall not make an order in the case of any person if it appears to the Governor in relation to the offence, or each of the offences, in respect of which his return is sought, that—

(i) by reason of its trivial nature; or

(ii) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large, as the case may be; or

(iii) because the accusation against him is not made in good faith in the interests of justice,

it would, having regard to all the circumstances, be unjust or oppressive to return him; and

(b) the Governor may decide to make no order for the return of a person accused or convicted of an offence not punishable with death in the relevant listed territory if that person could be or has been sentenced to death for that offence in the country by which the request for his return is made.

(3) An order for return shall not be made in the case of a person who is serving a sentence of imprisonment or detention, or is charged with an offence, in the relevant listed territory—

(a) in the case of a person serving such a sentence, until the sentence has been served;

(b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn or unless an order is made for it to lie on the file and, if it results in his serving a term of imprisonment or detention, until the sentence has been served.

(5) The Governor may decide to make no order under this section for the return of a person committed in consequence of an extradition request if another extradition request (as defined in section 35 of this Act) has been made in respect of him and it appears to the Governor, having regard to all the circumstances of the case and in particular—

(a) the relative seriousness of the offences in question;

(b) the date on which each such request was made; and

(c) the nationality or citizenship of the person concerned and his ordinary residence,

that preference should be given to that other request or requisition.

(6) Notice of the issue of a warrant under this section for the return of a person shall forthwith be given to the person to be returned.

14.—(1) A person may give notice that he waives the rights conferred on him by section 11 above.

(2) A notice under this section shall be given in the manner prescribed by rules for proceedings before a magistrate in the relevant listed territory and the power to make such rules shall include power to make provision for a magistrate to order the committal for return of a person with his consent at any time after his arrest.

(4) Where an order is made by virtue of this section, this Act shall cease to apply to the person in respect of whom it is made, except that, if he is not surrendered within one month after the order is made, a superior court of the relevant listed territory, upon application by or on behalf of that person, may, unless reasonable cause is shown for the delay, order him to be discharged.

#### *Effect of delay*

16.—(1) If a person committed under section 9 above is still in the relevant listed territory after the expiration of the relevant period, he may apply to a superior court of the territory for his discharge.

(2) Unless he has instituted proceedings for judicial review of the Governor's decision to order his return, the relevant period is—

- (a) the period of two months beginning with the first day on which, having regard to section 11(2) above, he could have been returned;
- (b) where a warrant for his return has been issued under section 12 above, the period of one month beginning with the day on which that warrant was issued.

(3) If he has instituted such proceedings, the relevant period is the period expiring one month after they end.

(4) Proceedings for judicial review end for the purposes of this section—

- (a) if they are discontinued, on the day of discontinuance; and
- (b) if they are determined, on the day on which (disregarding any power of a court to grant leave to appeal out of time and the power of Her Majesty to grant special leave to appeal to Her Majesty in Council) there is no further possibility of an appeal.

(5) If upon an application under this section the court is satisfied that reasonable notice of the proposed application has been given to the Governor, the court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged and, if a warrant for his return has been issued under section 12 above, quash that warrant.

17.—(1) Any person remanded or committed to custody under this Part of this Act shall be committed to the like institution as a person charged with an offence before the court of committal.

(2) If any person who is in custody by virtue of a warrant under this Act escapes out of custody, he may be retaken in like manner as a person escaping from custody under a warrant for his arrest issued in respect of an offence committed in the relevant listed territory.

(3) Where a person, being in custody in any part of a listed territory whether under this Part of this Act or otherwise, is required to be removed in custody under this Act to another part of that territory and is so removed by sea or by air, he shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed.

(4) A warrant for the return of any person shall be sufficient authority for all persons to whom it is directed and all constables to receive that person, keep him in custody and convey him into the jurisdiction to which he is to be returned.

#### PART IV

##### TREATMENT OF PERSONS RETURNED

19.—(1) This section applies to any person accused or convicted of an offence under the law of a listed territory who is returned to that territory—

- (a) from the United Kingdom, under this Act as it has effect in the United Kingdom;
- (b) from any designated Commonwealth country or Ireland, under any law of that country corresponding with this Act;
- (c) from any British overseas territory, under this Act, or the Fugitive Offenders Act 1967(a), as extended to that British overseas territory or under any corresponding law of that British overseas territory.

(2) A person to whom this section applies shall not, during the period described in subsection (3) below, be dealt with in the relevant listed territory for or in respect of any offence committed before he was returned to that territory other than—

- (i) the offence in respect of which he was returned;
- (ii) any lesser offence disclosed by the particulars furnished to the country or British overseas territory on which his return is grounded; or
- (iii) any other offence in respect of which the Government of the country or Governor of the British overseas territory from which he was returned may consent to his being dealt with.

(3) The period referred to in subsection (2) above in relation to a person to whom this section applies is the period beginning with the day of his arrival in the relevant listed territory on his return as mentioned in subsection (1) above and ending 45 days after the first subsequent day on which he has the opportunity to leave that territory.

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(a) 1967 c.68.

(4) Where a person to whom this section applies has been convicted before his return of an offence for which his return was not granted, any punishment for that offence shall by operation of this section be remitted; but his conviction for it shall be treated as a conviction for all other purposes.

(5) In this section "dealt with" means tried or returned or surrendered to any country or British overseas territory or detained with a view to trial or with a view to such return or surrender.

20.—(1) This section applies to any person accused of an offence under the law of a listed territory who is returned to that territory as mentioned in section 19(1) above.

(2) If in the case of a person to whom this section applies either—

- (a) proceedings against him for the offence for which he was returned are not begun within the period of six months beginning with the day of his arrival in that territory on being returned; or
- (b) on his trial for that offence, he is acquitted or discharged (whether conditionally or unconditionally),

the Governor may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the jurisdiction of the country or British overseas territory from which he was returned.

## PART V

### SPECIAL CASES

#### *Repatriation Cases*

21.—(1) This section applies where—

- (a) a request is made by or on behalf of the Government of the United Kingdom or the Government of Ireland or the Government of a designated Commonwealth country or the Governor of a British overseas territory, for the arrest and return of a person in a listed territory who is alleged to be unlawfully at large from a prison in which he was serving a sentence in pursuance of international arrangements for the repatriation of prisoners sentenced in one country ("the country of conviction") to serve their sentences in another ("the country of imprisonment"); and
- (b) there are furnished with the request—
  - (i) particulars of the person whose return is requested;
  - (ii) particulars of the offence of which he was convicted (including evidence sufficient to justify the issue of a warrant for his arrest under the relevant legislation);
  - (iii) a certificate of the conviction and sentence; and
  - (iv) a certificate of the international arrangements for repatriation under which he was held.

(2) Where this section applies, the relevant legislation shall have effect—

- (a) if the request is from the country of conviction, as if the person to whom the request relates were alleged to be unlawfully at large from a prison in that country; and
- (b) if it is from the country of imprisonment, as if he were alleged to have been convicted of a corresponding offence under the law of that country committed there,

and the question whether the person to whom the request relates is to be returned shall be determined, subject to subsection (3) below, in accordance with that legislation.

(3) A person shall not be returned under subsection (2)(b) above unless—

- (a) the offence was committed in the country of conviction; or
- (b) the offence was not committed there but was committed in circumstances in which he might be returned on a request made by the country of conviction.

(4) In this section "the relevant legislation" means the provisions of this Act that are relevant—

- (a) if the case falls within paragraph (a) of subsection (2) above, to extradition to the country of conviction; and
- (b) if it falls within paragraph (b), to extradition to the country of imprisonment.

*International Convention Cases*

23.—(1) For the purposes of this Act, no offence which, if committed in the relevant listed territory, would be punishable as an offence of genocide or as an attempt, conspiracy or incitement to commit such an offence shall be regarded as an offence of a political character, and no proceedings in respect of such an offence shall be regarded as a criminal matter of a political character.

(2) It shall not be an objection to any proceedings against a person under this Act in respect of an offence which, if committed in the relevant listed territory, would be punishable as an offence of genocide or as an attempt, conspiracy or incitement to commit such an offence that under the law in force at the time when and in the place where he is alleged to have committed the act of which he is accused or of which he was convicted he could not have been punished for it.

24.—(1) For the purposes mentioned in subsection (2) below—

- (a) no offence to which section 1 of the Suppression of Terrorism Act 1978(a) applies shall be regarded as an offence of a political character; and
- (b) no proceedings in respect of an offence to which that section applies shall be regarded as a criminal matter of a political character or as criminal proceedings of a political character.

(2) Those purposes are the purposes of a request for the return of a person from a listed territory to which the Suppression of Terrorism Act 1978 has been extended in accordance with extradition procedures under Part III of this Act, made by a country to which this subsection applies.

(3) Subsection (2) above applies—

- (a) to the United Kingdom;
- (b) to a Commonwealth country in relation to which the Secretary of State has made an order under section 5 of the Suppression of Terrorism Act 1978 applying that subsection;
- (c) to any British overseas territory to which that Act has been extended; and
- (d) to Ireland.

25.—(1) A person shall not be returned under this Act from a listed territory to which the Convention referred to in subsection (3) below has been extended, to Ireland or to a designated Commonwealth country which is party to that Convention, or to a British overseas territory to which that Convention has been extended, or committed or kept in custody for the purposes of such return, if it appears to the appropriate authority—

- (a) that he might, if returned, be prejudiced at his trial by reason of the impossibility of effecting communications between him and the appropriate authorities of the state entitled to exercise rights of protection in relation to him; and
- (b) that the act or omission constituting the offence of which he has been accused or convicted also constituted an offence under section 1 of the Taking of Hostages Act 1982(b) as extended to that territory, or a corresponding law of that territory, or an attempt to commit such an offence.

(2) Where the Governor of the relevant listed territory certifies that a country is a party to the Convention or that a British overseas territory is a British overseas territory to which the Convention has been extended, the certificate shall, in any proceedings under this Act, be conclusive evidence of that fact.

(3) The Convention mentioned in subsections (1) and (2) above is the International Convention against the Taking of Hostages opened for signature at New York on 18 December 1979.

**PART VI**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Evidence*

27.—(1) In any proceedings under this Act in relation to a person whose return has been requested from a listed territory by the United Kingdom, a designated Commonwealth country,

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(a) 1978 c.26.

(b) 1982 c.28.

Ireland or a British overseas territory, including proceedings on an application for habeas corpus in respect of a person in custody under this Act—

- (a) a document, duly authenticated, which purports to set out evidence given on oath in the United Kingdom, a designated Commonwealth country, Ireland or a British overseas territory (other than the relevant listed territory) shall be admissible as evidence of the matters stated in it;
  - (b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document so received, in any proceeding in any such country or British overseas territory shall be admissible in evidence;
  - (c) a document, duly authenticated, which certifies that a person was convicted on a date specified in the document of an offence against the law of, or of a part of, any such country or any British overseas territory shall be admissible as evidence of the fact and date of the conviction.
- (2) A document shall be deemed to be duly authenticated for the purposes of this section—
- (a) in the case of a document purporting to set out evidence given as mentioned in subsection (1)(a) above, if the document purports to be certified by a judge or magistrate or officer in or of the country or British overseas territory in question to be the original document containing or recording that evidence or a true copy of such a document;
  - (b) in the case of a document which purports to have been received in evidence as mentioned in subsection (1)(b) above or to be a copy of a document so received, if the document purports to be certified as mentioned in paragraph (a) above to have been, or to be a true copy of a document which has been, so received;
  - (c) in the case of a document which certifies that a person was convicted as mentioned in subsection (1)(c) above, if the document purports to be certified as mentioned in paragraph (a) above,

and in any such case the document is authenticated either by the oath of a witness or by the official seal of a Minister of the country or of the Governor or a Minister, secretary or other officer administering a department of the government of the British overseas territory, as the case may be.

(3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

#### *Warrants and orders*

28.—(1) Any warrant or order to be issued or made by the Governor of a listed territory under this Act shall be given under the hand of the Governor or any person for the time being lawfully performing the functions of the Governor.

(2) The Governor of a listed territory may by regulations prescribe the form of any warrant or order to be issued or made under this Act in its application to return to the United Kingdom, Ireland, Commonwealth countries and British overseas territories.

#### *General*

35.—(1) In this Act—

- “appropriate authority” has the meaning assigned to it by section 6(9) above;
- “authority to proceed” has the meaning assigned to it by section 7(1) above;
- “constable” includes an officer of the police force of the territory;
- “court of committal” has the meaning assigned to it by section 9(1) above;
- “designated Commonwealth country” has the meaning assigned to it by section 5(1) above;
- “extradition crime” is to be construed in accordance with section 2 above;
- “extradition request” has the meaning assigned to it by section 7(1) above, but in section 12(5) above includes a request or requisition made by some person recognised by the Governor of the relevant listed territory as the consular representative of a foreign State (or as the governor of a colony or dependency of a foreign State) for the surrender of a person to that State, colony or dependency under the law in that behalf for the time being in force in that listed territory;

“Governor” means the person for the time being lawfully administering the government of the territory;

“listed territory” means a territory listed in Schedule 1 to this Order and references to a relevant listed territory are references to a listed territory from which the return of a person is sought or (as the case may be) to which a person has been returned;

“provisional warrant” has the meaning assigned to it by section 8(1) above;

“the United Kingdom” includes the Channel Islands and the Isle of Man.

(2) For the purposes of this Act a person convicted in his absence in a designated Commonwealth country, Ireland or a British overseas territory shall be treated as a person accused of the offence of which he is convicted.

### SCHEDULE 3

Article 2(2)

#### FURTHER MODIFICATIONS AND ADAPTATIONS TO EXTRADITION ACT 1989 AS EXTENDED TO THE BRITISH ANTARCTIC TERRITORY

1. The references in this Schedule to provisions of the 1989 Act are references to them as set out in Schedule 2 to this Order and as they are extended to the British Antarctic Territory.

2. In section 8(1), for the words “a magistrate” there shall be substituted the words “the Senior Magistrate or a designated magistrate (that is to say, a magistrate designated for the purposes of this Act by the Commissioner)”; and in section 8(4) the words “or by any public officer” shall be added after the word “constable”.

3. At the end of section 9(1), there shall be added the words “holding a Summary Court”.

4. In section 9(2), for all the words after the words “in custody or on bail”, there shall be substituted the words “as a Summary Court sitting in committal proceedings (as defined in section 2(2) of the Summary Courts (Criminal Proceedings) Ordinance 1990(a) of the British Antarctic Territory”.

5. For section 14(2) there shall be substituted the following:

“(2) A notice under this section shall be given in the manner prescribed by rules under section 42 of the Summary Courts (Criminal Proceedings) Ordinance 1990 of the British Antarctic Territory or, subject to any such rules, as directed under section 41 of that Ordinance, and a magistrate may order the committal for return of a person with his consent at any time after his arrest.”.

6. In section 17(1), for all the words after the words “this Part of this Act” there shall be substituted the words “may for that purpose be dealt with in like manner as a person charged with an offence before a Summary Court”.

7. For section 17(3) there shall be substituted the following:

“(3) Where a person, being in custody in any part of the British Antarctic Territory whether under this Part of this Act or otherwise, is required to be moved in custody under this Act to another part of the Territory and is so removed by sea or air or, without prejudice to any provision in that behalf in the Falkland Islands Courts (Overseas Jurisdiction) Order 1989(b), where such a person is required to be removed to the Falkland Islands, he shall be deemed to continue to be in legal custody until he reaches the place to which he is required to be removed.”.

8. In section 17(4) the words “and public officers” shall be inserted after the word “constables”.

9. The following shall be added to section 19 as subsection (6) thereof:

“(6) References in this section to a person’s being returned to, or being dealt with in, a listed territory include, in their application to the British Antarctic Territory, references to his being returned to, or being dealt with in, a place where a court of that Territory sits; the reference in subsection (3) above to his arrival in, or opportunity to leave, such a territory includes, in its application as aforesaid, a reference to his arrival in, or opportunity to leave,

(a) Ordinance No. 6 of 1990.

(b) S.I. 1989/2399.

such a place; and references in this section to a court of the British Antarctic Territory include, without prejudice to their generality, references (to the extent provided for in section 35(3) below) to the Supreme Court of the Falkland Islands (as defined in the said section 35(3)).”.

10. The following shall be added to section 20 as subsection (3) thereof:

“(3) Section 19(6) above applies also for the interpretation of this section.”.

11. The words “or of the Administrator” shall be added at the end of section 28(1).

12. In section 35(1), for the definition “Governor” means the person for the time being lawfully administering the government of the territory” there shall be substituted the definition “the Governor”, in relation to the British Antarctic Territory and without prejudice to the definition in Schedule 1 to the Interpretation Act 1978(a), means the Commissioner”.

13. The following additional definitions shall be inserted, in their appropriate places (by alphabetical order), in section 35(1):

“the Administrator” means the person holding the office of Administrator of the British Antarctic Territory and includes any person for the time being lawfully discharging the functions of that office;

“the Commissioner” means the person holding the office of Commissioner for the British Antarctic Territory and includes any person for the time being lawfully discharging the functions of that office;

“magistrate” means any person appointed to be a magistrate under Part IV of the Administration of Justice Ordinance 1990(b) of the British Antarctic Territory;

“public officer” has the meaning assigned to it by section 7(1) of the Interpretation and General Provisions Ordinance 1990(c) of the British Antarctic Territory and, in any case where a member of a police force established under the law of another country (including a British overseas territory other than the British Antarctic Territory) has, by arrangement with the Commissioner, been empowered under that law to act as a constable under the law of the Territory for the purposes of, or in connection with, extradition from the Territory, includes that member of that police force; and a certificate by the Commissioner that that member was at the relevant time so empowered shall, in any proceedings concerning anything done or omitted by him, be conclusive of that fact;

“the Senior Magistrate” means the person holding the office of Senior Magistrate under Part III of the Administration of Justice Ordinance 1990 of the British Antarctic Territory and includes any person for the time being lawfully discharging the functions of that office;

“Summary Court” means a court established under Part IV of the Administration of Justice Ordinance 1990 of the British Antarctic Territory.

14. The following shall be added to section 35 as subsections (3) and (4) thereof:

“(3) (a) In their application to the British Antarctic Territory and subject to paragraph (b) below, references in this Act to a superior court of a listed territory are references to the Supreme Court of that Territory.

(b) Without prejudice to the generality of sections 3 and 4 of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989, the jurisdiction and powers conferred on the Supreme Court of the Falkland Islands by those sections include the jurisdiction to hear and determine any matter that may under this Act be heard and determined by the Supreme Court of the British Antarctic Territory and all powers that under this Act are vested in the latter court; and all references in this Act to the latter court (including references to the stating of a case to it or to appeals from its decisions) shall be construed accordingly.

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(a) 1978 c.30.

(b) Ordinance No. 5 of 1990.

(c) Ordinance No. 4 of 1990.

(c) Where it appears to the Judge of the Supreme Court of the British Antarctic Territory that any proceedings that have been instituted under this Act before that court could more appropriately be pursued, by virtue of paragraph (b) above, before the Supreme Court of the Falkland Islands, he may, after consultation with the Chief Justice of the Falkland Islands, so order and may give any necessary directions for that purpose.

(d) In this subsection, but subject to paragraph (b) above, references to the Supreme Court of the British Antarctic Territory are references to the court established by Part II of the Administration of Justice Ordinance 1990 of the British Antarctic Territory; and references in this subsection and in section 19(6) above to the Supreme Court of the Falkland Islands are references to the court established by section 77 of the Constitution of the Falkland Islands set out in Schedule 1 to the Falkland Islands Constitution Order 1985(a).

(4) For the avoidance of doubt, any of the functions conferred by this Act on the Commissioner (whether expressly so referred to or referred to as the Governor) or the Administrator or the Senior Magistrate may be performed either within or outside the British Antarctic Territory.”

#### SCHEDULE 4

Article 2(2)

#### FURTHER MODIFICATIONS AND ADAPTATIONS TO EXTRADITION ACT 1989 AS EXTENDED TO THE BRITISH INDIAN OCEAN TERRITORY

1. The references in this Schedule to provisions of the 1989 Act are references to them as set out in Schedule 2 to this Order and as they are extended to the British Indian Ocean Territory.

2. In section 8(4), for the word “constable” there shall be substituted the words “Peace Officer”.

3. In section 9(2), for all the words after the words “in custody or on bail,” there shall be substituted the words “as the Magistrates’ Court trying a criminal charge”.

4. For section 14(2) there shall be substituted the following:

“(2) A notice under this section shall be given in such manner as may be directed by the court of committal, and a Magistrate may order the committal for return of a person with his consent at any time after his arrest.”

5. In section 17(4), for the word “constables” there shall be substituted the words “Peace Officers”.

6. The words “or of the Administrator” shall be added at the end of section 28(1).

7. In section 35(1), for the definition “Governor” means the person for the time being lawfully administering the government of the territory” there shall be substituted the definition “the Governor”, in relation to the British Indian Ocean Territory and without prejudice to the definition in Schedule 1 to the Interpretation Act 1978(b), means the Commissioner (that is to say, the person holding the office of Commissioner for that Territory or any person for the time being lawfully discharging the functions of that office)”.

8. The following additional definitions shall be inserted, in their appropriate places (by alphabetical order), in section 35(1):

“the Administrator” means the person holding the office of Administrator of the British Indian Ocean Territory and includes any person for the time being lawfully discharging the functions of that office;

“Magistrate” means any person appointed as such by under the Courts Ordinance 1983(c) of the British Indian Ocean Territory and includes a Senior Magistrate so appointed;

“the Magistrates’ Court” means the Magistrates’ Court established by the Courts Ordinance 1983 of the British Indian Ocean Territory;

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(a) S.I. 1985/444.

(b) 1978 c.30.

(c) Ordinance No. 3 of 1983.



“Peace Officer” means any person appointed as such under the Courts Ordinance 1983 of the British Indian Ocean Territory;”.

9. The following shall be added to section 35 as subsection (3) thereof:

“(3) For the avoidance of doubt, any of the functions conferred by this Act on the Commissioner (as “the Governor”) or on the Administrator may be performed either within or outside the British Indian Ocean Territory.”.

## SCHEDULE 5 ORDERS REVOKED

Article 3

- The Fugitive Offenders (Bermuda) Order 1967, S.I. 1967/1905.
  - The Fugitive Offenders (Gibraltar) Order 1967, S.I. 1967/1909.
  - The Fugitive Offenders (Montserrat) Order 1967, S.I. 1967/1913.
  - The Fugitive Offenders (Virgin Islands) Order 1967, S.I. 1967/1915.
  - The Fugitive Offenders (Sovereign Base Areas of Akrotiri and Dhekelia) Order 1967, S.I. 1967/1916.
  - The Fugitive Offenders (Cayman Islands) Order 1968, S.I. 1968/112.
  - The Fugitive Offenders (Falkland Islands and Dependencies) Order 1968, S.I. 1968/113.
  - The Fugitive Offenders (British Indian Ocean Territory) Order 1968, S.I. 1968/183.
  - The Fugitive Offenders (St Helena) Order 1968, S.I. 1968/184.
  - The Fugitive Offenders (Turks and Caicos Islands) Order 1968, S.I. 1968/185.
  - The Fugitive Offenders (Overseas Territories) Order 1968, S.I. 1968/292.
  - The Fugitive Offenders (Pitcairn) Order 1968, S.I. 1968/884 (amended by S.I. 1973 No. 761).
  - The Fugitive Offenders (Overseas Territories) (No. 2) Order 1968, S.I. 1968/1375.
  - The Fugitive Offenders (Anguilla) Order 1987, S.I. 1987/452.
  - The Extradition (British Antarctic Territory) (Commonwealth countries, Colonies and Republic of Ireland) Order 1992, S.I. 1992/1300.
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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order extends to all the British overseas territories except Gibraltar, with certain exceptions, adaptations and modifications, the provisions of the Extradition Act 1989 relating to extradition between the United Kingdom and Commonwealth countries or the British overseas territories. It also applies those provisions as appropriate so as to regulate extradition between the territories and Ireland and the territories and the United Kingdom itself.

2002 No. 1824

**HONG KONG  
EXTRADITION**

**The Extradition (Overseas Territories) (Hong Kong) Order  
2002**

<i>Made</i> - - - -	<i>16th July 2002</i>
<i>Laid before Parliament</i>	<i>26th July 2002</i>
<i>Coming into force</i>	<i>16th August 2002</i>

At the Court at Buckingham Palace, the 16th day of July 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by paragraph 3(2) of the Schedule to the Hong Kong Act 1985(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Extradition (Overseas Territories) (Hong Kong) Order 2002.

(2) This Order shall come into force on 16th August 2002.

2. There shall be inserted after subsection (2) of section 32 of the Extradition Act 1989(b) the following subsection:

“(2A) An Order in Council under this section may make such provision as appears to Her Majesty to be necessary or expedient in consequence of or in connection with the provisions of section 1(1) of the Hong Kong Act 1985 for the purposes of the surrender of persons from a British overseas territory to the Hong Kong Special Administrative Region of the People's Republic of China and the treatment of persons surrendered to a British overseas territory from that Region.”

*A.K. Galloway*  
Clerk of the Privy Council

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(a) 1985 c.15.  
(b) 1989 c.33.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends section 32 of the Extradition Act 1989 (which provides for the application of provisions of that Act relating to return to Commonwealth countries to any British overseas territory) to enable provision to be made for extradition to continue as between specified British overseas territories and the Hong Kong Special Administrative Region of the People's Republic of China following the resumption of sovereignty over Hong Kong by the People's Republic of China as from 1st July 1997.

2002 No. 1825

**HONG KONG  
EXTRADITION**

The Extradition (Overseas Territories) (Application to Hong  
Kong) Order 2002

*Made* - - - - - 16th July 2002

*Laid before Parliament* 26th July 2002

*Coming into force* 16th August 2002

At the Court at Buckingham Palace, the 16th day of July 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 32(2A) of the Extradition Act 1989(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Extradition (Overseas Territories) (Application to Hong Kong) Order 2002.

(2) This Order shall come into force on 16th August 2002.

(3) In this Order, “the principal Order” means the Extradition (Overseas Territories) Order 2002, and the expressions “listed territory” and “relevant listed territory” have the meanings respectively assigned to them by section 35 of the Extradition Act 1989 as set out in Schedule 2 to that Order.

2. For the purposes of extradition as between a listed territory and the Hong Kong Special Administrative Region of the People's Republic of China, the provisions of the Extradition Act 1989, as extended to that territory by virtue of Article 2 of the principal Order and set out (as amended) in its Schedule 2 shall have effect under the law of that territory subject to the amendments set out in the Schedule to this Order.

*A. K. Galloway*  
Clerk of the Privy Council

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(a) 1989 c.33; section 32(2A) was inserted by S.I. 2002/1824.

## AMENDMENTS TO SCHEDULE 2 OF THE PRINCIPAL ORDER

1. After section 1(2) (liability to extradition), there shall be inserted the following subsection:

“(2A) Subject to the provisions of this Act, a person in a listed territory who—

- (a) is accused in the Hong Kong Special Administrative Region of an extradition crime, or
- (b) is alleged to be unlawfully at large after conviction for such an offence in that Region,

may be arrested and returned to that Region in accordance with extradition procedures under Part III of this Act.”

2.—(1) Section 2 (meaning of “extradition crime”) shall be amended as follows.

(2) In subsection (1)—

(a) in paragraph (a)—

- (i) for the words “or a British overseas territory” there shall be substituted the words “, a British overseas territory or the Hong Kong Special Administrative Region”, and
- (ii) after the words “or British overseas territory” there shall be inserted the words “, or of the Hong Kong Special Administrative Region”, and

(b) in paragraph (b) after the words “British overseas territory” there shall be inserted the words, “or of the Hong Kong Special Administrative Region,”.

(3) In subsection (3)(a), after the words “British overseas territory” there shall be inserted the words “or the Hong Kong Special Administrative Region”.

(4) In subsection (4)—

(a) at the end of paragraph (b) the word “and” shall be omitted, and

(b) after the words “in that dependency” in paragraph (d) there shall be added:

“; and

- (e) conduct in a vessel, aircraft or hovercraft of the Hong Kong Special Administrative Region shall be treated as if it were conduct in the Hong Kong Special Administrative Region.”.

3.—(1) In section 6 (general restrictions on return), there shall be inserted immediately following subsection (1) the following subsection:

“(2) A person who is alleged to be unlawfully at large after conviction of an extradition crime shall not be returned to the Hong Kong Special Administrative Region or committed or kept in custody for the purposes of return to that Region if it appears to an appropriate authority—

- (a) that the conviction was obtained in his absence; and
- (b) that it would not be in the interests of justice to return him on the ground of that conviction.”.

(3) In subsections (4) and (7), after the words “British overseas territory” there shall be inserted the words “or with the Hong Kong Special Administrative Region”.

4. In section 7 (extradition request and authority to proceed)—

- (a) in subsection (1), after “Government of Ireland”, there shall be inserted “or the Government of the Hong Kong Special Administrative Region.”;

- (b) in subsection (2)(c), after the words "British overseas territory", there shall be inserted the words "or in the Hong Kong Special Administrative Region".
5. In section 9 (proceedings for committal), after subsection (5) there shall be inserted—
- “(5A) In exercising the power conferred by subsection (5) above in a case where the extradition request is made by or on behalf of the Government of Hong Kong Special Administrative Region the court shall not fix a period ending more than 60 days after the day of the person’s arrest, unless the exceptional circumstances of the case justify a longer period.”.
6. In section 10 (statement of case by court), after subsection (12), there shall be inserted—
- “(14) This section shall apply to the Hong Kong Special Administrative Region in the same way as it applies to a Commonwealth country or British overseas territory.”.
7. In section 12(2) (order for return), after the words "British overseas territory" there shall be inserted the words "or to the Hong Kong Special Administrative Region".
8. Section 19 shall have effect as if (a) the references therein to a country from which a person is returned to a listed territory were references (in relation to such a return) to the Hong Kong Special Administrative Region; and (b) the reference in section 19(3) to "45 days" was a reference to "40 days".
9. In section 20 (restoration of persons not tried or acquitted) in subsection (2) after the words "overseas territory from which he was returned", there shall be added the words ", or to the Hong Kong Special Administrative Region,".
10. In section 21 (persons serving sentences outside country of conviction), in subsection (1)(a), there shall be inserted after "Governor of a British overseas territory" the words "or by or on behalf of the Government of the Hong Kong Special Administrative Region".
11. After section 27 (evidence) there shall be inserted the following section:
- “27A.—(1) In extradition proceedings in relation to a person whose return has been requested by or on behalf of the Government of the Hong Kong Special Administrative Region documents from that Region may be authenticated by the oath of a witness, but shall in any case be deemed duly authenticated—
- (a) if they purport to be signed by a judge, magistrate or officer of the Hong Kong Special Administrative Region; and
- (b) if they purport to be certified by being sealed—
- (i) with an official or public seal of the Hong Kong Special Administrative Region, or
- (ii) by an officer of that Region.
- (2) Judicial notice shall be taken of such certification as is mentioned in subsection (1)(b) above, and documents authenticated by such certification shall be received in evidence without further proof.”
12. In section 28(2) (form of warrants and orders), for the words "and British overseas territories" there shall be substituted the words ", British overseas territories and the Hong Kong Special Administrative Region".
13. In section 35 (interpretation), in subsection (1), after the definition of "extradition request" there shall be inserted—
- ““Hong Kong Special Administrative Region” means the Hong Kong Special Administrative Region of the People’s Republic of China;”.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, applies to each of the territories specified in Schedule 1. It imposes restrictions on the delivery or supply of arms and related *matériel* and the provision of related technical assistance and training to Liberia pursuant to a decision of the Security Council of the United Nations in its resolution 1343 of 7th March 2001.

The Order also revokes the United Nations Arms Embargoes (Dependent Territories) Order 1995 in so far as that Order relates to Liberia.

2002 No. 2631

UNITED NATIONS

The Somalia (United Nations Sanctions) (Overseas Territories) Order 2002

*Made* - - - - - 22nd October 2002

*Laid before Parliament* 23rd October 2002

*Coming into force* - - 24th October 2002

At the Court at Buckingham Palace, the 22nd day of October 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by certain resolutions adopted on 23rd January 1992, 19th June 2001 and 22nd July 2002, called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to Somalia:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement, operation, extent and amendment**

1.—(1) This Order may be cited as the Somalia (United Nations Sanctions) (Overseas Territories) Order 2002 and shall come into force on 24th October 2002.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling or suspending the operation of the resolutions adopted by it on 23rd January 1992, 19th June 2001 and 22nd July 2002, in whole or in part, this Order shall cease to have effect or its operation shall be suspended, in whole or in part, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Governor in a notice in the official gazette of the Territory.

(3) (a) This Order shall extend to the territories listed in Schedule 1.

(b) Article 15 of this Order shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(c) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

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(a) 1946 c. 45.



(4) Articles 3, 4 and 5 shall apply to any person within the Territory and any person elsewhere who is—

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of any part of the Territory.

(5) The United Nations Arms Embargoes (Dependent Territories) Order 1995(a) shall be amended by deleting the word “Somalia” from the following provisions of that Order—

- (a) the definition of “prohibited destination” in article 2;
- (b) paragraph 8(c) of article 9; and
- (c) paragraph 4(c) of Schedule 3 to that Order.

## Interpretation

2. In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say—

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“document” includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“export” includes shipment as stores;

“exportation” in relation to any ship, submersible vehicle or aircraft, includes the taking out of the Territory of the ship, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“Governor” means the Governor or other officer administering the Government of the Territory;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

“owner”, in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“restricted goods” means the goods specified in Part III of Schedule I to the Export of Goods (Control) Order 1994(b) made under the Import, Export and Customs Powers (Defence) Act 1939(c);

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

“shipment” includes loading into an aircraft;

“stores”, means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein;

“vehicle” means land transport vehicle.

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(a) S.I. 1995/1032, as amended by S.I.s 1997/272, 1998/1502 and 2000/1106.

(b) S.I. 1994/1191. The relevant amending Orders are S.I. 1994/2711, which amended Schedule III and entry ML4; S.I. 1996/2663, which amended Schedule I, Part III; S.I. 1997/323, which amended Schedule 3; S.I. 1997/2758, which amended Schedule 3 and Group 3, Part I, Schedule 1 and entries ML8 and ML10; S.I. 1999/63, which amended Schedule I, Part III; S.I. 1999/1777, which amended Group 3, Part I, Schedule 1 and entry ML8; S.I. 1999/335, which amended Schedule 3; S.I. 1999/3411, which amended Group 3, Part I, Schedule I; S.I. 2000/1239, which amended Schedule I, Part III and entries PL5021, ML3, ML4, ML7, ML8, ML13, ML17, PL5033 and ML21; S.I. 2000/2264, which amended Schedule I, Part III and entries PL5031 and PL5001; S.I. 2001/729, which amended entry ML4; and S.I. 2002/2059, which amended Schedule I, Part III and certain definitions and entries ML4, ML8 and ML10.

(c) 1939 c. 69.

## RESTRICTED GOODS, TECHNICAL ASSISTANCE AND TRAINING

### Supply of restricted goods

3.—(1) Any person who, except under the authority of a licence granted by the Governor under this article or article 4—

- (a) supplies or delivers;
- (b) agrees to supply or deliver; or
- (c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Somalia shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Somalia.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

### Exportation of restricted goods to Somalia

4. Any person who, except under the authority of a licence granted by the Governor under this article, knowingly exports any restricted goods from the Territory to any destination in Somalia or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Somalia, shall be guilty of an offence under this Order.

### Provision of technical advice, assistance or training relating to military activities

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person in Somalia any—

- (a) technical advice;
- (b) financial or other assistance; or
- (c) training,

related to military activities shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the technical advice, financial or other assistance, or training in question was to be provided to a person in Somalia.

### Use of ships, aircraft and vehicles: restricted goods

6.—(1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Somalia to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is—

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person, and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then—

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in sub-paragraph (a) or sub-paragraph (b) of paragraph (2), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Somalia to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Somalia was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

## GENERAL

### Customs powers to demand evidence of destination which goods reach

7. Any exporter or any shipper of goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached either—

(a) a destination to which they were authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

### Offences in connection with applications for licences, conditions attaching to licences, etc.

8.—(1) If for the purpose of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

### Declaration as to goods: powers of search

9.—(1) Any person who is about to leave the Territory shall, if he is required to do so by an officer authorised for the purpose by the Governor—

(a) declare whether or not he has with him any restricted goods which are destined for Somalia or for delivery, directly or indirectly, to or to the order of any person in Somalia; and

(b) produce any such goods as aforesaid which he has with him.

Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

### **Investigation, etc. of suspected ships**

10.—(1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;
  - (b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and
  - (c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).
- (2) The further action referred to in paragraph (1)(c) is either—
- (a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or
  - (b) to request the master of the ship to take any one or more of the following steps—
    - (i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;
    - (ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;
    - (iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and
    - (iv) to take her to any other destination that may be specified by the officer in agreement with the master.
- (3) Without prejudice to the provisions of article 13(3), where—
- (a) a master refuses or fails to comply with a request made under paragraph (2)(b); or
  - (b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

- (4) In this article “authorised officer” means—
- (a) any commissioned naval or military officer;
  - (b) any British consular officer;
  - (c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

### **Investigation, etc. of suspected aircraft**

11.—(1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article—

- (a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and
- (c) if the aircraft is then in the Territory, any authorised person may (either there and

then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 13(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft and any of its cargo; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected vehicles**

12.—(1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 6—

- (a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;
- (b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify; and
- (c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 13(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose—

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article—

“authorised person” means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Provisions supplementary to articles 10 to 12**

13.—(1) No information furnished or document produced by any person in pursuance of a request made under article 10, 11 or 12 shall be disclosed except—

- (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

- (b) to any person who would have been empowered under article 10, 11 or 12 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of—
  - (i) the Crown in respect of the Government of the United Kingdom;
  - (ii) the Government of the Isle of Man;
  - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
  - (iv) the States of Jersey; or
  - (v) the Government of any territory to which this Order extends;
- (c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Somalia decided upon by the Security Council of the United Nations; or
- (d) with a view to the institution of, or otherwise for the purposes of, any proceedings—
  - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or
  - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any territory to which this Order extends.

(2) Any power conferred by article 10, 11 or 12 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say—

- (a) a master of a ship who disobeys any direction given under article 10(2)(a);
- (b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who—
  - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 10, 11 or 12 by any person empowered to make it, or
  - (ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 10, 11 or 12.

(4) Nothing in articles 10 to 13 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

#### **Obtaining of evidence and information**

14. The provisions of Schedule 3 to this Order shall have effect in order to facilitate the obtaining, by or on behalf of the Governor—

- (a) of evidence and information for the purpose of securing compliance with or detecting evasion of—
  - (i) this Order in the Territory; or
  - (ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any territory to which this Order extends; and

- (b) of evidence of the commission of—
  - (i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
  - (ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any territory to which this Order extends.

### Penalties and proceedings

- 15.—(1) Any person guilty of an offence under article 3, 4, 5 or 6(3) shall be liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
  - (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (2) Any person guilty of an offence under article 13(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 3 shall be liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
  - (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (3) Any person guilty of an offence under article 8(1) or (2) or article 9(3) shall be liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
  - (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.
- (4) Any person guilty of an offence under article 13(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (5) Any person guilty of an offence under article 7 or 9(2) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.
- (6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.
- (7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be commenced at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.
- (8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.
- (9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:
- Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### Exercise of powers of the Governor

- 16.—(1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 3 to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

**Miscellaneous**

17.—(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

*A.K. Galloway*  
Clerk of the Privy Council



## TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla  
 Bermuda  
 British Antarctic Territory  
 British Indian Ocean Territory  
 Cayman Islands  
 Falkland Islands  
 Gibraltar  
 Montserrat  
 Pitcairn, Henderson, Ducie and Oeno Islands  
 St. Helena and Dependencies  
 South Georgia and South Sandwich Islands  
 The Sovereign Base Areas of Akrotiri and Dhekelia  
 Turks and Caicos Islands  
 Virgin Islands

## SCHEDULE 2

## APPLICATION OF ARTICLE 15 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

- 1.—(1) Any person who commits an offence under article 3, 4, 5, or 6(3), or paragraph 5(b) of (d) of Schedule 3, shall be liable on conviction—
  - (a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;
  - (b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.
2. Any person who commits an offence under article 8(1) or (2), 9(3), or 13(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.
3. Any person who commits an offence under article 13(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent or to both.
4. Any person who commits an offence under article 7 or 9(2) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.
5. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
6. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.
7. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.
8. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions: Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

## EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2.—(1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case—

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things—

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may—

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a), if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except—

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of—

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any territory to which this Order extends;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Somalia decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings—

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under the law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any territory to which this Order extends.

5. Any person who—

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) furnishes any information or produces any document which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, applies to each of the territories specified in Schedule 1. It prohibits the direct or indirect supply to Somalia of technical advice, financial and other assistance, and training related to military activities, pursuant to a decision of the Security Council of the United Nations in Resolution 1425 of 22nd July 2002.

The opportunity has been taken to include in this Order the provisions of the United Nations Arms Embargoes (Dependant Territories) Order 1995 in so far as that Order relates to the arms embargo imposed on Somalia pursuant to decisions of the Security Council of the United Nations in Resolution Nos. 733 of 23rd January 1992 and 1356 of 19th June 2001.



**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*11th September 2003*

*No. 19*

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The following are published in this Supplement -

- Immigration (Amendment) Ordinance 2003, (No: 16 of 2003);**
- Building Control (Amendment) Ordinance 2003, (No: 17 of 2003);**
- Endangered Species Protection Ordinance 2003, (No: 18 of 2003);**
- Companies (Auditors) Ordinance 2003, (No: 19 of 2003);**
- Supplementary Appropriation (2003-2004) Ordinance 2003, (No: 20 of 2003);**
- Building (Amendment) Regulations 2003 (Correction) Order 2003, S. R. & O. (No:16 of 2003);**
- Education (Amendment) Ordinance 2003 (Correction) Order 2003, S. R. & O. (No:17 of 2003);**
- Fishing Licences (Applications and Fees) Order 2003, S. R. & O. (No: 18 of 2003);**
- Animal Health (Application of Legislation) Order 1998, Commencement Notice;**
- Rabies (Importation of Animals) Order 1999, Commencement Notice;**
- Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2003, (S.I. 2003 No.1877);**
- Merchant Shipping (Confirmation of Legislation)(Falkland Islands) Order 2003 (Commencement) Proclamation No. 2 of 2003;**
- Merchant Shipping Ordinance 2001 and the Merchant Shipping (Registration) Regulations 2001, Commencement Notice.**

**ELIZABETH II**



**FALKLAND ISLANDS**

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HARRIET HALL,  
*Acting Governor.*

**Immigration (Amendment) Ordinance 2003**

(No: 16 of 2003)

**ARRANGEMENT OF PROVISIONS**

Section

1. Short title
2. Amendment of the Immigration Ordinance 1999

**ELIZABETH II**



**FALKLAND ISLANDS**

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HARRIET HALL,  
*Acting Governor.*

**IMMIGRATION (AMENDMENT) ORDINANCE 2003**

(No: 16 of 2003)

*(assented to: 5<sup>th</sup> September 2003)*  
*(commencement: upon publication)*  
*(published: 11<sup>th</sup> September 2003)*

**AN ORDINANCE**

To amend the Immigration Ordinance 1999.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Immigration (Amendment) Ordinance 2003.

**Interpretation**

2. Section 17 of the Immigration Ordinance 1999 is amended —

(a) by repealing subsection (5)(b)(ii); and

(b) by inserting the following subsection —

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(a) No 15 of 1999

“(7A) Unless otherwise directed by the Governor, the Principal Immigration Officer may require —

(a) any employment vacancy to be advertised in the Falkland Islands before considering any application for a work permit enabling a person who has not a right of residence in the Falkland Islands to be engaged to fill that vacancy;

(b) the proposed employer to satisfy the Principal Immigration Officer that it is necessary to engage such a person rather than engage any person having a right of residence in the Falkland Islands who has applied as a result of that advertisement or otherwise to be engaged to fill that vacancy.”

Passed by the Legislature of the Falkland Islands this 29<sup>th</sup> day of August 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*



**ELIZABETH II**



**FALKLAND ISLANDS**

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HARRIET HALL,  
*Acting Governor.*

**Building Control (Amendment) Ordinance 2003**

(No: 17 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. The principal Ordinance
3. Repeal and replacement of section 6(2) of the principal Ordinance
4. Insertion of new sections 6A to 6D in the principal Ordinance
5. Amendment of section 3(3) of the principal Ordinance and insertion of Schedule 2 in the principal Ordinance

**ELIZABETH II**



**FALKLAND ISLANDS**

HARRIET HALL,  
*Acting Governor.*

**BUILDING CONTROL (AMENDMENT) ORDINANCE 2003**

(No: 17 of 2003)

*(assented to: 5 September 2003)*  
*(commencement: 1 September 2003)*  
*(published: 11 September 2003)*

**AN ORDINANCE**

To amend the Building Control Ordinance 1994.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1. This Ordinance may be cited as the Building Control (Amendment) Ordinance 2003 and comes into force on 1<sup>st</sup> September 2003.

**The principal Ordinance**

2. In this Ordinance “the principal Ordinance” means the Building Control Ordinance 1994(a).

**Repeal and replacement of section 6(2) of the principal Ordinance**

3. Section 6(2) of the principal Ordinance is repealed and is replaced by the following subsections (2) and (3) —

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(a) No 3 of 1994

“(2) The Governor may by direction exempt from all or any of the provisions of Building Regulations —

- (a) a particular building, or
- (b) buildings of a particular class at a particular location;

either unconditionally or subject to compliance with any conditions specified in the direction.

(3) A person commits an offence who contravenes a condition specified in a direction given under subsection (2), or permits such a condition to be contravened, and is liable on conviction to a fine not exceeding the maximum of level 5 on the Standard Scale and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.”

#### **Insertion of new sections 6A to 6D in the principal Ordinance**

4. The principal Ordinance is amended by inserting in it, immediately after section 6 the following cross-heading and sections 6A to 6D —

#### *“Relaxation of Building Regulations*

##### **Relaxation of Building Regulations**

**6A.**—(1) Subject to this section, the Governor, if on an application for direction under this section he considers that the operation of a requirement in Building Regulations would be unreasonable in relation to the particular case to which the application relates, may, after consultation with the Committee, give a direction dispensing with or relaxing that requirement.

(2) If Building Regulations so provide as regards a requirement contained in the Regulations, the power to dispense with or relax that requirement under subsection (1) is exercisable by the Committee (instead of by the Governor after consultation with the Committee).

(3) Buildings Regulations made by virtue of subsection (2) may except applications of any description.

(4) Building Regulations may provide as regards a requirement contained in the Regulations that subsections (1) to (3) of this section do not apply.

##### **Application for relaxation**

**6B.**—(1) An application under section 6A(1) or (2) shall be in such form and shall contain such particulars as may be prescribed.

(2) The application shall be made to the Committee and, except where the power of giving the direction is exercisable by the Committee, the Committee shall transmit the application to

the Governor with its comments in writing, if any, in relation to the merits of the application and give notice to the applicant that the application has been so transmitted.

(3) Schedule 2 to this Ordinance has effect as regards an application for a direction that will affect the application of Building Regulations to work that has been carried out before the making of the application.

#### **Advertisement of proposal for relaxation of Building Regulations**

**6C.—(1)** Not less than 21 days before giving a direction under section 6A(1) or (2) in respect of any particular work, the Governor shall publish in a newspaper circulating in the Falkland Islands a notice—

(a) indicating the situation and nature of the work and the requirement to be dispensed with or relaxed, and

(b) stating that representations with regard to the effect that the direction may have on public health or safety may be made by a date specified in the notice, being a date not less than 21 days from the date of the notice

and where the direction is proposed to be made on an application, the Governor may, as a condition of entertaining the application, require the applicant to pay or undertake to pay the cost of publication.

(2) No notice need be published under subsection (1) where it appears to the Governor (or, as the case may be, the Committee where it has the power to dispense with or relax the requirement of Building Regulations in question) that any effect that the direction may have on public health or safety will be limited to premises adjoining the site of the work, but in that case he, or as the case may be, the Committee, shall give such a notice to the owner and occupier of those premises.

(3) No notice need be published or given under subsection (1) or (2) where the work affects only an internal part of a building.

(4) The Governor may, instead of himself publishing or giving a notice under subsection (1) or (2), require the Committee or a public officer on its behalf to give or publish the notice.

(5) Before giving the direction, the Governor shall consider any representations duly made in pursuance of a notice published or given under subsection (1) or (2).

(6) If, after the Committee has received representations under this section, it refuses the application to which the representations relate and an appeal is brought against its refusal, the Committee shall transmit to the Governor copies of those representations.

### **Type relaxation of Building Regulations**

**6D.—(1)** If the Governor considers that the operation of a requirement to Building Regulations would be unreasonable in relation to a particular type of building matter, he may, either on an application made to him or of his own accord, give a direction dispensing with or relaxing that requirement generally in relation to that type of building matter, either —

(a) unconditionally, or

(b) subject to compliance with any conditions specified in the direction, being conditions with respect to matters directly connected with the dispensation or relaxation.

(2) A direction under subsection (1) —

(a) If it so provides, ceases to have effect at the end of such period as may be specified in the direction,

(b) may be varied or revoked by a subsequent direction of the Governor.

(3) Building Regulations may require a person making an application under subsection (1) to pay the Governor the prescribed fee, and —

(a) may prescribe different fees for different cases, and

(b) the Governor may in a particular case remit the whole or part of a fee payable by virtue of this subsection.

(4) Where the Governor gives a direction under subsection (1), he shall publish notice of that fact in the *Gazette*.

(5) A person commits an offence who contravenes a condition specified in a direction given under subsection (1), or permits such a condition to be contravened and is liable on conviction of that offence to a fine not exceeding the maximum of level 5 of the Standard Scale and to a further fine not exceeding £50 for each day on which the offence continues after he is convicted.

(6) If at any time a direction under subsection (1) dispensing with or relaxing a requirement of building regulations ceases to have effect by virtue of subsection (2)(a), or is varied or revoked under subsection (2)(b), that fact does not affect the continued operation of the direction (with any conditions specified in it) in a case in which before that time plans of the proposed work were, in accordance with building regulations, deposited with the Committee or the Building Control Surveyor as the case may be.

(7) In this section “building matter” means any building or other matter whatsoever to which building regulations are applicable.”

**Amendment of section 3(3) of the principal Ordinance and insertion of Schedule 2 in the principal Ordinance**

5.—(1) The words “The Schedule” in section 3(3) of the principal Ordinance are replaced by the words “Schedule 1” and the heading of the existing Schedule to this Ordinance is amended by replacing the word “Schedule” with the words “Schedule 1”.

(2) The principal Ordinance is amended by inserting the following Schedule after Schedule 1 —

**“SCHEDULE 2**

**Relaxation of Building Regulations for existing work**

*Application of Schedule*

1. This Schedule applies to a direction under section 6A of this Ordinance that will affect the application of Building Regulations to work that has been carried out before the giving of the direction.

*Cases where no direction may be given*

2. Neither the Governor nor a committee shall give a direction to which this Schedule applies if, when the application is made, there is in force an injunction or other direction given by a court that requires the work to be pulled down, removed or altered.

*Suspension of certain provisions when application pending*

3.—(1) Subject to the following provisions of this Schedule, after the making of an application for a direction to which this Schedule applies, and until the application is withdrawn or finally disposed of, no section 8 notice shall be given as regards the work to which the application relates on the ground that it contravenes the requirement to which the application relates.

(2) If an application for a direction to which this Schedule applies is made less than twelve months after the completion of the work to which the application relates, section 8(4) of this Ordinance does not prevent the giving of a notice as regards that work at any time within a period of three months from the date on which the application is withdrawn or finally disposed of.

(3) If an application for a direction to which this Schedule applies is made after a section 36 notice has been given on the ground that the work to which the application relates contravenes the requirement to which the application relates (not being an application prohibited by paragraph 2 of this Schedule) section 8(3) of this Ordinance has effect in relation to that work as if for the reference to the period there mentioned there was substituted a reference to a period expiring 28 days after the application is withdrawn or finally disposed of.

(4) Subject to the following provisions of this Schedule, if an application for a direction to which this Schedule applies is made after any person has, in consequence of the carrying out

of the work to which the application relates in contravention of building regulations, become liable to a penalty continuing from day to day, the daily penalty is not recoverable in respect of any day after the making of the application and before it is withdrawn or finally disposed of.

(5) In a case where an application is withdrawn or finally disposed of without any directions being given, the Governor or, as the case may be, the Committee may order that the daily penalty is not recoverable in respect of any day during such further period not exceeding 28 days as may be specified in the order.

4. Paragraph 3(1), (3) and (4) do not apply to an application that is a repetition, or substantially a repetition, of a previous application made under section 6A of this Ordinance.

*Saving for criminal liability incurred before making of application*

5. The giving of a direction to which this Schedule applies does not affect the liability of a person for an offence committed before the giving of the direction, except so far as that liability depends on the continuation of the offence after the giving of the direction.

*Termination of proceedings under section 8 on giving of direction*

6. If, before the giving of a direction to which this Schedule applies, a section 8 notice has been given, and the contravention of Building Regulations by virtue of which the notice was given comes to an end when the direction is given, the Crown is not, after the giving of the direction, entitled to proceed under section 8(3) of this Ordinance by virtue of that notice.”

Passed by the Legislature of the Falkland Islands this 29<sup>th</sup> day of August 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

**ELIZABETH II**



**FALKLAND ISLANDS**

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HARRIET HALL,  
*Acting Governor.*

**Endangered Species Protection Ordinance 2003**

(No: 18 of 2003)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Short title
2. Interpretation
3. Restrictions on the exportation or importation of protected goods
4. Management Authority
5. Scientific Authority
6. Offences by company, etc
7. Stop and search powers
8. Application to the Crown



**ELIZABETH II**



**FALKLAND ISLANDS**

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HARRIET HALL,  
*Acting Governor.*

**ENDANGERED SPECIES PROTECTION ORDINANCE 2003**

(No: 18 of 2003)

*(assented to: 5 September 2003)*  
*(commencement: in accordance with section 1)*  
*(published: 11 September 2003)*

**AN ORDINANCE**

To provide for the protection of endangered, endemic and indigenous species of animals and plants and to regulate the trade in endangered species.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and commencement**

1. This Ordinance may be cited as the Endangered Species Protection Ordinance 2003 and comes into force on such date as the Governor may appoint by Notice published in the *Gazette*.

**Interpretation**

2. In this Ordinance, unless the contrary intention appears —

“CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora that was concluded in Washington on 3 March 1973;

“export” means to take, or cause to be taken, out of the Falkland Islands;

“import” means to bring, or cause to be brought, into the Falkland Islands, including for the purpose of export;

“Management Authority” means the Management Authority for the Falkland Islands for the purposes of CITES, provided for in section 3;

“protected goods” means any specimen of a species that is for the time being included in Appendix I, Appendix II or Appendix III to CITES;

“Scientific Authority” means the Scientific Authority for the Falkland Islands for the purpose of CITES, provided for in section 4; and

“species” and “specimen” have the meanings attributed to them in Article I of CITES.

### **Restrictions on the exportation or importation of protected goods**

3.—(1) Save in accordance with a licence issued by the Management Authority under this Ordinance, the exportation or the importation of any protected goods is prohibited.

(2) A licence issued under this Ordinance shall be substantially in the form set out in Article VI to CITES, and may be general or specific and may be expressed to be valid for such period as may be stated in it and may be modified or revoked at any time by the Management Authority.

(3) The reference in subsection (1) to a licence issued under this Ordinance is a reference to such a licence issued prior to the exportation or importation to which it relates:

Provided that the Management Authority may in exceptional cases and when satisfied that proper regard is being had to the relevant recommendations in that behalf issued by the competent authority under CITES, issue a licence in respect of an exportation or an importation that has already taken place; and that licence shall then have effect for the purpose of this Ordinance as if issued prior to that exportation or importation.

(4) Where any protected goods are being exported or imported or have been imported, a customs officer or police officer may require any person having possession or control of those goods to furnish proof that its exportation or importation is or was not unlawful under this section; and if such proof is not furnished to the satisfaction of the Management Authority, the goods shall be forfeited to the Crown and shall be disposed of in such manner as the Governor may direct.

(5) Any person who contravenes subsection (1) commits an offence and shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding the maximum of level 12 on the standard scale.

(6) Where any person is convicted of an offence under subsection (5) the goods in respect of which the offence was committed shall, without further order, be forfeited to the Crown and shall be disposed of in such manner as the Governor may direct.

(7) Any person who, for the purpose of obtaining, whether for himself or for another, the issue of a licence under subsection (1) above —

- (a) makes any statement which he knows to be false in a material particular; or
- (b) furnishes a document or information which he knows to be false in a material particular; or
- (c) recklessly makes a statement or furnishes a document or information which is false in a material particular,

commits an offence and shall be liable, on conviction, to a fine not exceeding £1000 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

#### **Management Authority**

4.—(1) The Management Authority for the Falkland Islands for the purpose of CITES shall be the Chief Executive or such other public officer as the Governor may from time to time appoint.

(2) Before exercising any of its powers under section 3, the Management Authority shall obtain the advice of the Scientific Authority:

Provided that the exercise of any such power shall not be invalidated by reason only of a failure to comply with this subsection.

#### **Scientific Authority**

5.—(1) The Scientific Authority for the Falkland Islands for the purpose of CITES shall be such person or persons or body of persons as the Governor shall from time to time appoint.

(2) The function of the Scientific Authority is to advise the Management Authority or, as appropriate, the Governor —

- (a) on the exercise of the Management Authority's powers under section 3;
- (b) on any matter relating to the administration of this Ordinance on which its advice is sought or on which it wishes to tender advice; and
- (c) generally, on matters relating to endangered species on which its advice is sought or on which it wishes to tender advice.

#### **Offences by company, etc**

6.—(1) If an offence under this Ordinance is committed by a company, firm or other association of individuals whether incorporated or not, each —

- (a) director and officer of the company; or
- (b) partner and officer of the firm; or
- (c) member and person concerned in the management of the affairs of the association,

as the case may be, is severally liable to be prosecuted and punished for the offence, unless the act or omission constituting the offence took place without his knowledge, consent or connivance.

(2) A person may be prosecuted by virtue of subsection (1) whether or not the company, firm or other association of individuals is prosecuted.

### **Stop and search powers**

7.—(1) The powers conferred by this section have effect without prejudice to any powers conferred, in any particular case, by any other written law.

(2) For the purposes of this Ordinance, any customs officer and any police officer may —

(a) stop, board and search any ship, aircraft or vehicle if he has reason to suspect that there is therein anything liable to seizure; and

(b) stop and search any person and search the property of any person if he has reason to suspect that that person has in his possession anything liable to seizure; and

(c) enter and search any premises, being premises on which he has reason to suspect that an imported living specimen is being held, for the purpose of ascertaining whether any condition to which the relevant importation licence is subject and which relates to the housing or care of that specimen is being complied with.

(3) Where it appears to a Justice of the Peace, upon the oath of any person, that there is reasonable cause to believe that there is in any place or premises, anything liable to seizure, he may, by warrant directed to a customs officer or a police officer, empower him to enter, by force if necessary, and search the place or premises named in the warrant and to seize anything therein which is liable to seizure.

(4) For the purposes of this section, any protected goods imported in contravention of this Ordinance are liable to seizure.

### **Application to the Crown**

8. This Ordinance binds the Crown.

Passed by the Legislature of the Falkland Islands this 29<sup>th</sup> day of August 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

**ELIZABETH II**



**FALKLAND ISLANDS**

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HARRIET HALL,  
*Acting Governor.*

**Companies (Auditors) Ordinance 2003**

(No: 19 of 2003)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Short title
2. Modification of section 161 of the Companies Act 1948 in its application to the Falkland Islands
3. Application of section 26 of the Companies Act 1989

**Schedule**

**ELIZABETH II**



**FALKLAND ISLANDS**

HARRIET HALL,  
*Acting Governor.*

**COMPANIES (AUDITORS) ORDINANCE 2003**

(No: 19 of 2003)

*(assented to: 5 September 2003)*

*(commencement: upon publication)*

*(published: 11 September 2003)*

**AN ORDINANCE**

To amend the Companies Act 1948 in its application to the Falkland Islands (Title 18)

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Companies (Auditors) Ordinance 2003.

**Modification of section 161 of the Companies Act 1948 in its application to the Falkland Islands**

2. Section 161 of the Companies Act 1948 in its application to the Falkland Islands is modified so as to have effect as if —

(a) subsection (2)(c) read —

“(c) subject to subsection (2A), a body corporate;”

(b) the following subsections (2A) and (2B) appeared in it after subsection (2) —

“(2A) A body corporate and a partnership are qualified to be appointed company auditor if, were Chapter V of Part XI of the Companies Act 1985 of England to apply to that company, that body corporate or partnership would be eligible to be appointed company auditor of that company under Part II of the Companies Act 1989 of England.

(2B) In subsection (2A) —

(a) “company auditor” means a person appointed as auditor of a company;

(b) the references to Chapter V of Part XI of the Companies Act 1985 of England and Part II of the Companies Act 1989 of England are references to those provision as they may from time to time be amended or replaced whether before or after the enactment of the Companies (Auditors) Ordinance 2003.”

### **Application of section 26 of the Companies Act 1989**

3. Section 26 of the Companies Act 1989 (a copy of which section is set out in the Schedule to this Ordinance) shall apply in the Falkland Islands with the substitution of the words “Northern Ireland or the Falkland Islands” in subsection (1) in place of the words “or Northern Ireland”.

## **SCHEDULE**

### **Effect of appointment of partnership**

26.—(1) The following provisions apply to the appointment as company auditor of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person.

(2) The appointment is (unless a contrary intention appears) an appointment of the partnership as such and not of the partners.

(3) Where the partnership ceases, the appointment shall be treated as extending to —

(a) any partnership which succeeds to the practice of that partnership and is eligible for the appointment, and

(b) any person who succeeds to that practice having previously carried it on in partnership and is eligible for the appointment.

(4) For this purpose a partnership shall be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership; and a partnership or other person shall be regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.

(5) Where the partnership ceases and no person succeeds to the appointment under subsection (3), the appointment may with the consent of the company be treated as extending to a

partnership or other person eligible for the appointment who succeeds to the business of the former partnership or to such part of it as is agreed by the company shall be treated as comprising the appointment.

Passed by the Legislature of the Falkland Islands this 29<sup>th</sup> day of August 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*



**ELIZABETH II**



**FALKLAND ISLANDS**

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HARRIET HALL,  
*Acting Governor.*

**Supplementary Appropriation (2003-2004) Ordinance 2003**

(No: 20 of 2003)

**ARRANGEMENT OF PROVISIONS**

Section

1. Short title
2. Appropriation of further sum

Schedule

**ELIZABETH II**



**FALKLAND ISLANDS**

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HARRIET HALL,  
*Acting Governor.*

**SUPPLEMENTARY APPROPRIATION (2003-2004) ORDINANCE 2003**

(No: 20 of 2003)

*(assented to: 5 September 2003)*

*(commencement: upon publication)*

*(published: 11 September 2003)*

**AN ORDINANCE**

To appropriate and authorise the withdrawal from the Consolidated Fund of the additional sum of £2,938,220 for the service of the financial year ending 30 June 2004.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short Title**

1. This Ordinance may be cited as the Supplementary Appropriation (2003-2004) Ordinance 2003.

**Appropriation of further sum**

2. The Financial Secretary may for the purposes specified in the Schedule cause to be withdrawn from the Consolidated Fund and applied to the service of the year commencing on 1 July 2003 and ending on 30 June 2004 (“the financial year”) the further sum of £2,938,220 in addition to sums already appropriated by Ordinance.

## SCHEDULE

<u>Number</u>	<u>Head of Service</u>	<u>Amount</u> £
<b>OPERATING BUDGET</b>		
0450	Justice	6,000
0600	Central Administration	346,410
0609	Taxation	30,700
0610	FIITEC	52,400
<b>TOTAL OPERATING BUDGET</b>		<hr/> <b>435,510</b>
<b>CAPITAL BUDGET</b>		
0950	Capital	2,233,230
<b>TRANSFERS</b>		
0990	Transfers	269,480
<b>TOTAL SUPPLEMENTARY EXPENDITURE</b>		<hr/> <b>2,938,220</b> <hr/>

Passed by the Legislature of the Falkland Islands this 29<sup>th</sup> day of August 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

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**SUBSIDIARY LEGISLATION**

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**PLANNING AND BUILDING**

**Building (Amendment) Regulations 2003 (Correction) Order 2003**

S. R. & O. No. 16 of 2003

*Made: .....13 August 2003*

*Published: .....11 September 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 93 of the Interpretation and General Clauses Ordinance(a), and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Building (Amendment) Regulations 2003 (Correction) Order 2003 and shall come into force on publication.

**Correction of the Building (Amendment) Regulations 2003**

2. The Building (Amendment) Regulations 2003(b) are corrected in regulation 3 —

(a) by deleting paragraph (d)(i); and

(b) by inserting the words “or the” immediately after the word “Surveyor” in paragraph (d)(iii).

Made this 13<sup>th</sup> day of August 2003

D G Lang  
*Attorney General*

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(a) Title 67.2

(b) SR&O No 9 of 2003

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**SUBSIDIARY LEGISLATION**

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**EDUCATION**

**Education (Amendment) Ordinance 2003 (Correction) Order 2003**

S. R. & O. No. 17 of 2003

*Made: .....13 August 2003*

*Published: .....11 September 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 93 of the Interpretation and General Clauses Ordinance(a), and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Education (Amendment) Ordinance 2003 (Correction) Order 2003 and shall come into force on publication.

**Correction of the Education (Amendment) Ordinance 2003**

2. The Education (Amendment) Ordinance 2003 (b) is corrected by deleting section 3(b).

Made this 13<sup>th</sup> day of August 2003

D G Lang  
*Attorney General*

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**SUBSIDIARY LEGISLATION**

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**FISHERIES**

**Fishing Licences (Applications and Fees) Order 2003**

(S. R. & O. No: 18 of 2003)

*Made: .....5<sup>th</sup> September 2003*

*Published:.....11<sup>th</sup> September 2003*

*Coming into force: upon publication*

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986(a) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Fishing Licences (Applications and Fees) Order 2003 and shall come into operation on the date it is first published in the *Gazette* and cease to have effect on 30th June 2004.

**Application**

2. Nothing in this Order applies to licences for exploratory or scientific purposes or to fishing within the territorial sea or internal waters.

**Interpretation**

3. In this Order —

“combination vessel” means a fishing boat which is equipped so as to be able to catch or take fish both by jigging machines and by trawl or trawls;

“exploratory or scientific purposes” means purposes related to the assessment of the commercial or practical viability of fishing for fish generally or for a particular species of fish or to the assessment or quantification of stocks of any species of fish or fish of any age, stage of maturity or size of a species of fish or the locations in which they or any species of fish or fish of any age, stage of maturity or size may be found;

“FICZ” means the interim conservation and management zone as defined in section 2 of the Fisheries (Conservation and Management) Ordinance 1986;

“fishing licence” means a licence to catch or take fish within the fishing waters;

“FOCZ” means the outer conservation zone as defined in Proclamation 2 of 1990 as varied by Proclamation 1 of 1994;

“jigger” means a fishing boat which is equipped so as to be able to catch or take fish by means of jigging machines;

“northern area” means those areas of the FICZ which lie to the north of latitude 51°15’ south and to the east of longitude 60° west and north of latitude 52° south and to the west of longitude 60° west;

“southern area” means those areas of the FICZ which lie to the south of latitude 51°15’ south and to the east of longitude 60° west and south of latitude 52° south and to the west of longitude 60° west;

“the fishing season” means —

(a) in relation to an “A” licence the period commencing on 1st January 2004 and ending on 30th June 2004;

(b) in relation to a “B” licence the period commencing on 15th February 2004 and ending on 15th June 2004;

(c) in relation to a “C” licence the period commencing on 1st February 2004 and ending on 31st May 2004;

(d) in relation to an “F” licence the period commencing on 1st January 2004 and ending on 30th June 2004;

(e) in relation to a “G” licence the period commencing on 1st March 2004 and ending on 31st May 2004;

(f) in relation to a “S” licence the period commencing on 1st January 2004 and ending on 30th June 2004;

(g) in relation to a “W” licence the period commencing on 1st January 2004 and ending on 30th June 2004.

(h) in relation to an “L” licence the period commencing on 1st January 2004 and ending on 30<sup>th</sup> June 2004.

“the principal Regulations” means the Fishing Regulations Order 1987;

“trawler” means a fishing boat which is equipped so as to be able catch or take fish by means of a trawl or trawls.

#### **The principal Regulations**

4. For so long as this Order is in force such of the provisions of the principal Regulations as are inconsistent with this Order shall not be in force, but except as aforesaid the provisions of the principal Regulations remain in force and shall be complied with in addition to those of this Order.

### Types of Licence

5.—(1) For the purpose of this Order there shall be the following categories of licence —

- (a) an “A” licence;
- (b) a “B” licence;
- (c) a “C” licence;
- (d) an “F” licence;
- (e) a “G” licence;
- (f) an “L” licence;
- (g) an “S” licence;
- (h) a “W” licence.

(2) An “A” licence authorises the catching or taking of any Finfish, that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including Skate (*Rajidae*) or Toothfish (*Dissostichus eleginoides*) or squid of any kind.

(3) A “B” licence authorises the catching or taking within the northern area and the FOCZ of *Illex argentinus* and *Martialia hyadesi* only.

(4) A “C” licence authorises the catching or taking within the southern area of squid of the species *Loligo gahi*.

(5) An “F” licence authorises the catching or taking of all species of the family Skate (*Rajidae*) and shall not permit the taking of other species of finfish or squid of any kind.

(6) A “G” licence authorises the catching or taking of *Illex argentinus* and *Martialia hyadesi* and any finfish except Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) or Skate (*Rajidae*) that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) or Skate (*Rajidae*).

(7) An “L” licence issued under these regulations authorises the catching of Toothfish (*Dissostichus eleginoides*).

(8) An “S” licence authorises the catching or taking of Blue Whiting (*Micromesistus australis*) and Hoki (*Macruronus magellanicus*).

(9) A “W” licence authorises the catching or taking of any finfish (that is to say a vertebrate fish having a dorsal fin, a ventral or pectoral fin) except Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) and Skate (*Rajidae*).



### **Applications for Licences**

6.—(1) Applications for licences in respect of the whole or any part of any fishing season shall be made to the Director of Fisheries at the Falkland Islands Fisheries Department, PO Box 598, Stanley, Falkland Islands.

(2) Any application to which paragraph (1) of this article relates shall be made so as to be received there by Wednesday 1<sup>st</sup> October 2003.

(3) The Director of Fisheries in his discretion may consider an application lodged after the date mentioned in paragraph (2) of this article but is not bound to do so.

### **The Schedule and its Tables**

7.—(1) Table 1 of the Schedule to this Order applies in respect of the fees payable for type "A" licences.

(2) Table 2 of the Schedule to this Order applies in respect of the fees payable for type "B" licences granted to any jigger.

(3) Table 3 of the Schedule to this Order applies in respect of the fees payable for type "B" licences granted to any trawler or combination vessel.

(4) Table 4 of the Schedule to this Order applies in respect of the fees payable for type "C" licences.

(5) Table 5 of the Schedule to this Order applies in respect of the fees payable for type "F" licences.

(6) Table 6 of the Schedule to this Order applies in respect of the fees payable for type "G" licences.

(7) Table 7 of the Schedule to this Order applies in respect of the fees payable for type "S" licences.

(8) Table 8 of the Schedule to this Order applies in respect of the fees payable for type "W" licences.

(9) Table 9 of the schedule to this order applies in respect of fees payable for type "L" licences.

(10) All fees payable under this article shall be paid in pounds Sterling and in accordance with the principal Regulations.

(11) The explanatory notes at the commencement of each Table in the Schedule to this Order are for guidance only and shall not have legislative effect.

(12) This article and the Schedule has effect subject to article 8(3).

### **Licence in rotation**

8.—(1) The Director of Fisheries may, if he thinks fit, grant a licence in respect of one or more vessels in rotation for one another.

(2) Where a licence is granted under paragraph (1) the Director of Fisheries may impose such conditions in the licence as he considers necessary or expedient and, in particular, to ensure —

(a) that only one vessel is permitted to fish within the fishing waters at any one time;

(b) that proper and adequate notice is given to him of the intention to substitute one vessel for another and that any vessel previously permitted to fish in the fishing waters has ceased to do so before another vessel is permitted to commence fishing;

(c) that all and any other conditions specially necessary to promote the proper conservation and management of fish within the fishing waters appear therein.

(3) The Director of Fisheries may require —

(a) that, where appropriate so as to take into consideration the overall fishing capacity of vessels as they are rotating for one another, a special licence fee calculated by reference to a formula approved by the Governor and prescribed by a further Order shall be paid in respect of a rotating licence; and

(b) that, an administration fee of such amounts as he may fix in the circumstances of the case shall be paid before one vessel is substituted for another under a rotating licence.

(4) A rotating licence is not transferable except as expressly permitted thereby.

#### **Special provisions in relation to type “B” licences**

9.—(1) The Director of Fisheries may, if he thinks fit, grant a type “B” licence for such period within the fishing season as he thinks fit.

(2) Where a licence is granted under paragraph (1) a special fee, calculated by reference to a formula prescribed by a further Order, must be paid.

#### **Transshipment fees**

10. The fee for transshipment or transshipment and export licences for the period 1st January 2004 to 30th June 2004 is £1,500 per transshipment operation. Where a fishing licence or combination of fishing licences are granted to a fishing vessel for a period of three or more months, a transshipment licence for the period 1<sup>st</sup> January 2004 to the 30<sup>th</sup> June 2004 will be issued.

## THE SCHEDULE

Provision as to fishing licences in respect of the fishing season

**TABLE 1**  
**Finfish only - Type "A" Licences**

(Explanatory notes:

1. These notes are **not** of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take all finfish except Toothfish (*Dissostichus eleginoides*) and Skate (*Rajidae*).
3. The season for this type of licence commences on 1st January 2004 and ends on 30th June 2004 and will be subject to a closed area and provisions of the Fishing (Nets and Supplementary Equipment) Regulations Order 1990.
4. Fees set out in this Table are payable in respect of the number of months for which the licence is valid.)

**Effective text (of legislative effect)**

- A. In the following formula, "GRT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed.
- B. A licence is not transferable.

**Formula**

Fee payable is the result of:

$$\pounds(5.882 * \text{GRT}) + 15333$$

**TABLE 2**  
**Jiggers - Squid North - Type "B" Licences**

(Explanatory notes:

1. These notes are **not** of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to jiggers licensed to take squid in the FICZ northern area and FOCZ and not to trawlers or combination vessels.
3. The season for this type of licence commences on 15th February 2004 and ends on 15th June 2004.
4. Fees calculated by the Formula set out in this Table are for the full season.)

**Effective text (of legislative effect)**

- A. In the following Formula, "GRT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed; 'D' means the number of double jigging machines located upon the jigger to which the licence relates and 'S' means the number of single jigging machines located upon the jigger to which the licence relates.
- B. A licence is not transferable.

### Formula

Where the following is applicable —

- I. Where the vessel held and utilised a comparable licence in respect of the first season 2003.

Fee payable is the result of:

$$\pounds(0.383*(GRT*(S+1.5D)))+102102$$

Less 1% for each year licensed between 1994 and 2002

- II In any case where Formula I does not apply —

Fee payable is the result of:

$$\pounds(0.425*(GRT*S+1.5D))+113447$$

### TABLE 3

#### Trawlers - Squid North - Type "B" Licences

(Explanatory notes:

1. These notes are **not** of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to trawlers and combination vessels licensed to take squid in the northern area and FOCZ and not to jiggers.
3. The season for this type of licence commences on 15 February 2004 and ends on 15th June 2004. (Note: Vessels fishing under a Type "B" licence using a bottom or demersal trawl are subject to the Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990, but vessels fishing under such a licence using any other kind of trawl have until 15th June 2004 been exempted by the Director of Fisheries from the provisions of that Order).
4. Fees calculated by the Formula set out in this Table are for the full season.)

#### Effective text (of legislative effect)

- A. In the following Formula, "GRT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed.
- B. A licence is not transferable.

### Formula

Fee payable is the result of:

$$\pounds(3.687*GRT)+105796$$

### TABLE 4

#### Trawlers - Squid South - Type "C" Licences

(Explanatory notes:

1. These notes are **not** of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take squid species *Loligo Gahi* within the shaded (valid) area.

3. The season for this type of licence commences on 1st March 2004 and ends on 14<sup>th</sup> April 2004 and is exempt from the Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990, within the shaded (valid) area.

4. Fees calculated by the Formula set out in this Table are for the full season.)

**Effective text (of legislative effect)**

A. In the following Formula, "GRT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed.

B. A licence is not transferable.

**Formula**

Fee payable is the result of:

$$\pounds((97.566 * \text{GRT}) + 111621) / 3$$

**TABLE 5**

**Skate Only - Type "F" Licences**

(Explanatory notes:

1. These notes are **not** of legislative effect but are for guidance only.

2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take Skate (*Rajidae*) only.

3. The season for this type of licence commences on 1st January 2004 and ends on 30th June 2004 and will be subject to a closed area and the Fishing (Nets and Supplementary Equipment) Regulations Order 1990.

4. Fees calculated by the Formula set out in this Table are payable in respect of the number of months for which the licence is valid.)

**Effective text (of legislative effect)**

A. In the following Formula, "GRT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed.

B. A licence is not transferable.

**Formula**

Fees payable per licensed month of fishing is the result of:

$$\pounds(2.47 * \text{GRT}) + 19945$$

**TABLE 6**

**Squid and Finfish (Species Restricted) - Type "G" Licences**

(Explanatory notes:

1. These notes are **not** of legislative effect but are for guidance only.

2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take *Illex argentinus* and *Martialia hyadesi* and any finfish except Hake (*Merluccius spp*), Toothfish (*Dissostichus eleginoides*) or Skate (*Rajidae*).

3. The season for this type of licence commences on 1st March 2004 and ends on 31st May 2004 and will be subject to a closed area and the Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990. Applications for this licence type must be in respect of vessels which will engage in fishing using bottom or demersal trawls.
4. Fees calculated by the Formula set out in this Table are payable in respect of the Season.)

**Effective text (of legislative effect)**

- A. In the following Formula, "GRT" means gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed.
- B. A licence is not transferable.

**Formula**

Fee payable is the result of:

$$\pounds(35.79 * \text{GRT}) + 25465$$

**TABLE 7**

**Finfish only - Species Restricted - Type "S" Licences**

(Explanatory notes:

1. These notes are **not** of legislative effect but are for guidance only.
2. Fees calculated by the Formula set out in this table apply to trawlers equipped with Surimi factories, licensed to take Blue Whiting (*Micromesistus australis*) and Hoki (*Macruronus magellanicus*).
3. The season for this type of licence commences on 1st January 2004 and ends on 30th June 2004 and will be subject to the Fishing (Nets and supplementary Equipment) Regulations Order 1990.
4. Fees calculated by the Formula set out in this Table are payable in respect of the number of months for which the licence is valid.)

**Effective text (of legislative effect)**

- A. In the following Formula, "GRT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed.
- B. A licence is not transferable.

**Formula**

Fee payable per licensed month is the result of:

$$\pounds(18.189 * \text{GRT}) + 48416$$

**TABLE 8**

**Finfish Only - Species Restricted - Type "W" Licences**

(Explanatory notes:

1. These notes are **not** of legislative effect but are for guidance only.

2. Fees calculated by the Formula set out in this Table apply to trawlers licensed to take all finfish species with the exception of Hake (*Merluccius spp.*), Toothfish (*Dissostichus eleginoides*) and Skate (*Rajidae*) or squid.
3. The season for this type of licence commences on the 1st January 2004 and ends on the 30th June 2004 and will be subject to closed areas and the provisions of the Fishing (Nets and Supplementary Net Equipment) Regulations Order 1990.
4. Fees calculated by the Formula set out in this table are payable in respect of the number of months for which the licence is valid.)

**Effective text (of legislative effect)**

- A. In the following Formula, "GRT" means the gross tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules in respect of the vessel to be licensed.
- B. A licence is not transferable.

**Formula**

Fees payable per licensed month is the result of:

$$\pounds(5.882 * \text{GRT}) + 10333$$

Made this 5<sup>th</sup> day of September 2003

Harriet Hall  
*Acting Governor*

**ANIMAL HEALTH (APPLICATION OF LEGISLATION) ORDER 1998**

**ARTICLE 1**

**COMMENCEMENT NOTICE**

IN EXERCISE of my powers under article 1 of the Animal Health (Application of Legislation) Order 1998(a), I hereby notify that the Order shall be deemed to have come into force on 1 September 2003.

Dated this 1<sup>st</sup> day of September 2003

H Hall  
*Acting Governor*

(a) SR&O No 64 of 1998



**RABIES (IMPORTATION OF ANIMALS) ORDER 1999**

**ARTICLE 1**

**COMMENCEMENT NOTICE**

IN EXERCISE of my powers under article 1 of the Rabies (Importation of Animals) Order 1999(a), I hereby notify that the Order shall be deemed to have come into force on 1 September 2003.

Dated this 1<sup>st</sup> day of September 2003

**H Hall**  
*Acting Governor*

(a) SR&O No 29 of 1999

2003 No. 1877

**MERCHANT SHIPPING**

The Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2003

*Made* - - - - - 17th July 2003

*Laid before Parliament* 29th July 2003

*Coming into force in accordance with article 1*

At the Court at Buckingham Palace, the 17th day of July 2003

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 735(1) of the Merchant Shipping Act 1894(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 2003 and shall come into force on such date as the Governor of the Falkland Islands may appoint by proclamation published in the Falkland Islands Government Gazette.

2. The Merchant Shipping Ordinance 2001(b), enacted by the Legislature of the Falkland Islands, is hereby confirmed.

*A.K. Galloway*  
Clerk of the Privy Council

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(a) 1894 c. 60.  
(b) No. 15 of 2001.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, made under section 735(1) of the Merchant Shipping Act 1894, confirms an Ordinance of 2001 enacted by the Legislature of the Falkland Islands, which repeals the Merchant Shipping Act 1894, Part I, in so far as it applies to the Falkland Islands and replaces it with local legislation.

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**PROCLAMATION**

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**MERCHANT SHIPPING**

Merchant Shipping (Confirmation of Legislation)(Falkland Islands) Order 2003  
(Commencement) Proclamation 2003

(Proclamation No. 2 of 2003)

**IN EXERCISE** of my powers under article 1 of the Merchant Shipping (Confirmation of Legislation)(Falkland Islands) Order 2003(a) I appoint 15 September 2003 as the date on which the said Order shall come into force.

Made this 5<sup>th</sup> day of September 2003

Harriet Hall  
*Acting Governor*

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**EXPLANATORY NOTE**

The effect of this Proclamation is to bring into force the Merchant Shipping (Confirmation of Legislation)(Falkland Islands) Order 2003 and to enable the Merchant Shipping Ordinance 2001(b) to be brought into force.

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(a) SI 2003/1877  
(b) No 15 of 2001

**MERCHANT SHIPPING ORDINANCE 2001**

**and the**

**MERCHANT SHIPPING (REGISTRATION) REGULATIONS 2001**

**COMMENCEMENT NOTICE**

IN EXERCISE of my powers under section 1 of the Merchant Shipping Ordinance 2001 and regulation 1 of the Merchant Shipping (Registration) Regulations 2001, I hereby notify that the Ordinance and the Regulations shall come into force on 15th September 2003.

Dated this 5<sup>th</sup> day of September 2003

Harriet Hall  
*Acting Governor*



**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*30th September 2003*

*No. 20*

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The following are published in this Supplement -

**Planning and Building, Buildings (Camp) Designation Order 2003 (S. R. & O.  
No. 19 of 2003);**

**Planning and Building, Buildings (Stanley) Designation Order 2003 (S. R. & O.  
No. 20 of 2003).**

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## SUBSIDIARY LEGISLATION

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### PLANNING AND BUILDING

#### **Buildings (Camp) Designation Order 2003**

(S. R. & O. No. 19 of 2003)

*Made:..... September 2003*

*Published: ..... 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 65(1) of the Planning Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order —

#### **Citation**

1. This Order may be cited as the Buildings (Camp) Designation Order 2003.

#### **Designation of buildings**

2. The buildings and structures on West Falkland specified in the Schedule to this Order are designated as buildings and structures of special architectural or historic interest.

### SCHEDULE

1. Mount Rosalie Dip;
2. Shallow Bay Old House; and
3. Cape Meredith Shanty.

Made this 24<sup>th</sup> day of September 2003

H Hall  
*Acting Governor*

---

(a) No. 7 of 1991

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#### **EXPLANATORY NOTE**

*(not forming part of the above Order)*

The effect of this Order is to require permission pursuant to section 66(4), 68(2) or 68(4) of the Planning Ordinance 1991 for any works or operations for the demolition of any of the buildings or structures the subject of this Order and any alterations or extensions which might effect their character as buildings or structures of special architectural or historic interest. Contravention of the provisions mentioned constitutes a criminal offence under section 68(6) of the Planning Ordinance 1991.

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**SUBSIDIARY LEGISLATION**

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**PLANNING AND BUILDING**

**Buildings (Stanley) Designation Order 2003**

(S. R. & O. No. 20 of 2003)

*Made:..... September 2003*

*Published: ..... 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 65(1) of the Planning Ordinance 1991(a) and of all other powers enabling me in that behalf, I make the following Order —

**Citation**

1. This Order may be cited as the Buildings (Stanley) Designation Order 2003.

**Designation of buildings**

2. The buildings and structures in Stanley specified in the Schedule to this Order are designated as buildings and structures of special architectural or historic interest.

**SCHEDULE**

1. 4 Drury Street;
2. 21 Fitzroy Road; and
3. 14 Pioneer Row.

Made this 24<sup>th</sup> day of September 2003

H Hall  
*Acting Governor*

---

(a) No. 7 of 1991

---

**EXPLANATORY NOTE**

*(not forming part of the above Order)*

The effect of this Order is to require permission pursuant to section 66(4), 68(2) or 68(4) of the Planning Ordinance 1991 for any works or operations for the demolition of any of the buildings or structures the subject of this Order and any alterations or extensions which might effect their character as buildings or structures of special architectural or historic interest. Contravention of the provisions mentioned constitutes a criminal offence under section 68(6) of the Planning Ordinance 1991.







**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

*17th October 2003*

*No. 21*

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The following are published in this Supplement -

**Code of Practice in relation to Disclosure Order 2003 (S. R. & O. No. 21 of 2003);**

**Fishery Products (Hygiene) (Revocation of Approval) Order 2003 (S. R. & O. No. 22 of 2003);**

**Housing Assistance (Guarantee) Bill 2003;**

**Insurance Bill 2003.**

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## SUBSIDIARY LEGISLATION

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### CRIMINAL PROCEDURE

#### Code of Practice in relation to Disclosure Order 2003

S. R. & O. No: 21 of 2003

*Made: .....12 September 2003*

*Published: .....17 October 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 25(1) of the Criminal Procedure and Investigations Ordinance 2003(a) and of all other powers enabling me in that behalf, I make the following Order —

#### **Citation and commencement**

1. This Order may be cited as the Code of Practice in relation to Disclosure Order 2003 and comes into force on its publication in the Gazette.

#### **Interpretation**

2. In this Order, “the English Code” means the Code of Practice prepared and published by the Secretary of State for Home Affairs of the United Kingdom under sections 23 and 25 of the Criminal Procedure and Investigations Act 1996 and which is reproduced in Schedule 1 to this Order.

#### **English Code to have effect**

3. The English Code shall have effect in the Falkland Islands, subject to the exceptions and with the modifications specified in Schedule 2 to this Order, in respect of criminal investigations commencing on or after 1<sup>st</sup> September 2003.

Made this 12<sup>th</sup> day of September 2003

H Hall  
*Acting Governor*

## SCHEDULE 1

### The English Code

#### Code of Practice

##### Introduction

1.1 This code of practice is issued under Part II of the *Criminal Procedure and Investigations Act 1996* ("the Act"). It applies in respect of criminal investigations conducted by police officers which begin on or after the day on which this code comes into effect. Persons other than police officers who are charged with the duty of conducting an investigation as defined in the Act are to have regard to the relevant provisions of the code, and should take these into account in applying their own operating procedures.

1.2 This code does not apply to persons who are not charged with the duty of conducting an investigation as defined in the Act.

1.3 Nothing in this code applies to material intercepted in obedience to a warrant issued under section 2 of the *Interception of Communications Act 1985*, or to any copy of that material as defined in section 10 of that Act.

1.4 This code extends only to England and Wales.

##### Definitions

2.1 In this code:

- a *criminal investigation* is an investigation conducted by police officers with a view to it being ascertained whether a person should be charged with an offence, or whether a person charged with an offence is guilty of it. This will include:
  - investigations into crimes that have been committed;
  - investigations whose purpose is to ascertain whether a crime has been committed, with a view to the possible institution of criminal proceedings; and
  - investigations which begin in the belief that a crime may be committed, for example when the police keep premises or individuals under observation for a period of time, with a view to the possible institution of criminal proceedings;
- charging a person with an offence includes prosecution by way of summons;
- an investigator is any police officer involved in the conduct of a criminal investigation. All *investigators* have a responsibility for carrying out the duties imposed on them under this code, including in particular recording information, and retaining records of information and other material;
- the *officer in charge of an investigation* is the police officer responsible for directing a criminal investigation. He is also responsible for ensuring that proper procedures are in place for recording information, and retaining records of information and other material, in the investigation;
- the *disclosure officer* is the person responsible for examining material retained by the police during the investigation, revealing material to the prosecutor during the investigation and any criminal proceedings resulting from it, and certifying that he has done this; and disclosing material to the accused at the request of the prosecutor;

- the *prosecutor* is the authority responsible for the conduct of criminal proceedings on behalf of the crown. Particular duties may in practice fall to individuals acting on behalf of the prosecuting authority;
- *material* is material of any kind, including information and objects, which is obtained in the course of a criminal investigation and which may be relevant to the investigation;
- material may be *relevant to the investigation* if it appears to an investigator, or to the officer in charge of an investigation, or to the disclosure officer, that it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having any impact on the case;
- *sensitive material* is material which the disclosure officer believes, after consulting the officer in charge of the investigation, it is not in the public interest to disclose;
- references to *primary prosecution disclosure* are to the duty of the prosecutor under section 3 of the Act to disclose material which is in his possession or which he has inspected in pursuance of this code, and which in his opinion might undermine the case against the accused;
- references to *secondary prosecution disclosure* are to the duty of the prosecutor under section 7 of the Act to disclose material which is in his possession or which he has inspected in pursuance of this code, and which might reasonably be expected to assist the defence disclosed by the accused in a defence statement given under the Act;
- references to disclosure of material to a person accused of an offence include references to the disclosure of material to his legal representative;
- references to police officers and to the chief officer of police include those employed in a police force as defined in section 3(3) of the *Prosecution of Offences Act 1985*.

### **General Responsibilities**

3.1 The functions of the investigator, the officer in charge of an investigation and the disclosure officer are separate. Whether they are undertaken by one, two or more persons will depend on the complexity of the case and the administrative arrangements within each police force. Where they are undertaken by more than one person close consultation between them is essential to the effective performance of the duties imposed by this code.

3.2 The chief officer of police for each police force is responsible for putting in place arrangements to ensure that in every investigation the identity of the officer in charge of the investigation and the disclosure officer is recorded.

3.3 The officer in charge of an investigation may delegate tasks to another investigator or to civilians employed by the police force, but he remains responsible for ensuring that these have been carried out and for accounting for any general policies followed in the investigation. In particular, it is an essential part of his duties to ensure that all material which may be relevant in an investigation is retained, and either made available to the disclosure officer or (in exceptional circumstances) revealed directly to the prosecutor.

3.4 In conducting an investigation, the investigator should pursue all reasonable lines in inquiry, whether these point towards or away from the suspect. What is reasonable in each case will depend on the particular circumstances.

3.5 If the officer in charge of an investigation believes that other persons may be in possession of material that may be relevant to the investigation, and if this has not been obtained

under paragraph 3.4 above, he should ask the disclosure officer to inform them of the existence of the investigation and to invite them to retain the material in case they receive a request for its disclosure. The disclosure officer should inform the prosecutor that they may have such material. However, the officer in charge of an investigation is not required to make speculative enquiries of other persons: there must be some reason to believe that they may have relevant material. That reason may come from information provided to the police by the accused or from other inquiries made or from some other source.

3.6 If, during a criminal investigation, the officer in charge of an investigation or disclosure officer for any reason no longer has responsibility for the functions falling to him, either his supervisor or the police officer in charge of criminal investigations for the police force concerned must assign someone else to assume that responsibility. That person's identity must be recorded, as with those initially responsible for these functions in each investigation.

### **Recording of information**

4.1 If material which may be relevant to the investigation consists of information which is not recorded in any form, the officer in charge of an investigation must ensure that it is recorded in a durable or retrievable form (whether in writing, on video, or audio tape, or on computer disk).

4.2 Where it is not practicable to retain the initial record of information because it forms part of a larger record which is to be destroyed, its contents should be transferred as a true record to a durable and more easily-stored form before that happens.

4.3 Negative information is often relevant to an investigation. If it may be relevant it must be recorded. An example might be a number of people present in a particular place at a particular time who state that they saw nothing unusual.

4.4 Where information which may be relevant is obtained, it must be recorded at the time it is obtained or as soon as practicable after that time. This includes, for example, information obtained in house-to-house enquiries, although the requirement to record information promptly does not require an investigator to take a statement from a potential witness where it would not otherwise be taken.

### **Retention of material**

#### *(a) Duty to retain material*

5.1 The investigator must retain material obtained in a criminal investigation which may be relevant to the investigation. This includes not only material coming into the possession of the investigator (such as documents seized in the course of searching premises) but also material generated by him (such as interview records). Material may be photographed, or retained in the form of a copy rather than the original if the original is perishable, or was supplied to the investigator rather than generated by him and is to be returned to its owner.

5.2 Where material has been seized in the exercise of the powers of seizure conferred by the *Police and Criminal Evidence Act 1984*, the duty to retain it under this code is subject to the provisions on the retention of seized material in section 22 of that Act.

5.3 If the officer in charge of an investigation becomes aware as a result of developments in the case that material previously examined but not retained (because it was not thought to be relevant) may now be relevant to the investigation, he should, wherever practicable, take steps to obtain it or ensure that it is retained for further inspection or for production in court if required.

5.4 The duty to retain material includes in particular the duty to retain material falling into the following categories, where it may be relevant to the investigation:

- crime reports (including crime report forms, relevant parts of incident report books or police officers' notebooks);
- custody records;
- records which are derived from tapes of telephone messages (for example, 999 calls) containing descriptions of an alleged offence or offender;
- final versions of witness statements (and draft versions where their content differs from the final version), including any exhibits mentioned (unless these have been returned to their owner on the understanding that they will be produced in court if required);
- interview records (written records, or audio or video tapes, of interviews, with actual or potential witnesses or suspects);
- communications between the police and experts such as forensic scientists, reports of work carried out by experts, and schedules of scientific material prepared by the expert of the investigator, for the purposes of criminal proceedings;
- any material casting doubt on the reliability of a confession;
- any material casting doubt on the reliability of a witness;
- any other material which may fall within the test for primary prosecution disclosure in the Act.

5.5 The duty to retain material falling into these categories does not extend to items which are purely ancillary to such material and possess no independent significance (for example, duplicate copies of records or reports).

(b) *Length of time for which material is to be retained*

5.6 All material which may be relevant to the investigation must be retained until a decision is taken whether to institute proceedings against a person for an offence.

5.7 If a criminal investigation results in proceedings being instituted, all material which may be relevant must be retained at least until the accused is acquitted or convicted or the prosecutor decides not to proceed with the case.

5.8 Where the accused is convicted, all material which may be relevant must be retained at least until:

- the convicted person is released from custody, or discharged from hospital, in cases where the court imposes a custodial sentence or a hospital order;
- six months from the date of conviction, in all other cases.

If the court imposes a custodial sentence or hospital order and the convicted person is released from custody or discharged from hospital earlier than six months from the date of conviction, all material which may be relevant must be retained at least until six months from the date of conviction.

5.9 If an appeal against conviction is in progress when the release or discharge occurs, or at the end of the period of six months specified in paragraph 5.8, all material which may be relevant must be retained until the appeal is determined. Similarly, if the Criminal Cases Review Commission is considering an application at that point in time, all material which may be relevant must be retained at least until the Commission decides not to refer the case to the Court of Appeal, or until the Court determines the appeal resulting from the reference by the Commission.

5.10 Material need not be retained by the police as required in paragraph 5.8 if it was seized and is to be returned to its owner.

## **Preparation of material for prosecutor**

### **(a) Introduction**

6.1 The officer in charge of the investigation, the disclosure officer or an investigator may seek advice from the prosecutor about whether any particular item of material may be relevant to the investigation.

6.2 Material which may be relevant to an investigation, which has been retained in accordance with this code, and which the disclosure officer believes will not form part of the prosecution case, must be listed on a schedule.

6.3 Material which the disclosure officer does not believe is sensitive must be listed on a schedule of non-sensitive material. The schedule must include a statement that the disclosure officer does not believe the material is sensitive.

6.4 Any material which is believed to be sensitive must be either listed on a schedule of sensitive material or, in exceptional circumstances, revealed to the prosecutor separately.

6.5 Paragraphs 6.6 to 6.11 below apply to both sensitive and non-sensitive material. Paragraphs 6.12 to 6.14 apply to sensitive material only.

### **(b) Circumstances in which a schedule is to be prepared**

6.6 The disclosure officer must ensure that a schedule is prepared in the following circumstances:

- the accused is charged with an offence which is triable only on indictment;
- the accused is charged with an offence which is triable either way, and it is considered either that the case is likely to be tried on indictment or that the accused is likely to plead not guilty at a summary trial;
- the accused is charged with a summary offence, and it is considered that he is likely to plead not guilty.

6.7 In respect of either way and summary offences, a schedule may not be needed if a person has admitted the offence, or if a police officer witnessed the offence and that person has not denied it.

6.8 If it is believed that the accused is likely to plead guilty at a summary trial, it is not necessary to prepare a schedule in advance. If, contrary to this belief, the accused pleads not guilty at a summary trial, or the offence is to be tried on indictment, the disclosure officer must ensure that a schedule is prepared as soon as is reasonably practicable after that happens.

### **(c) Way in which material is to be listed on schedule**

6.9 The disclosure officer should ensure that each item of material is listed separately on the schedule, and is numbered consecutively. The description of each item should make clear the nature of the item and should contain sufficient detail to enable the prosecutor to decide whether he needs to inspect the material before deciding whether or not it should be disclosed.

6.10 In some enquiries it may not be practicable to list each item of material separately. For example, there may be many items of a similar or repetitive nature. These may be listed in a block and described by quantity and generic title.

6.11 Even if some material is listed in a block, the disclosure officer must ensure that any items among that material which might meet the test for primary prosecution disclosure are listed and described individually.

(d) *Treatment of sensitive material*

6.12 Subject to paragraph 6.13 below, the disclosure officer must list on a sensitive schedule any material which he believes it is not in the public interest to disclose, and the reason for that belief. The schedule must include a statement that the disclosure officer believes the material is sensitive. Depending on the circumstances, examples of such material may include the following among others:

- material relating to national security;
- material received from the intelligence and security agencies;
- material relating to intelligence from foreign sources which reveals sensitive intelligence gathering methods;
- material given in confidence;
- material which relates to the use of a telephone system and which is supplied to an investigator for intelligence purposes only;
- material relating to the identity or activities of informants, or under-cover police officers, or other persons supplying information to the police who may be in danger if their identities are revealed;
- material revealing the location of any premises or other place used for police surveillance, or the identity of any person allowing a police officer to use them for surveillance;
- material revealing, either directly or indirectly, techniques and methods relied upon by a police officer in the course of criminal investigation, for example covert surveillance techniques, or other methods of detecting crime;
- material whose disclosure might facilitate the commission of other offences or hinder the prevention and detection of crime;
- internal police communications such as management minutes;
- material upon the strength of which search warrants were obtained;
- material containing details of persons taking part in identification parades;
- material supplied to an investigator during a criminal investigation which has been generated by an official of a body concerned with the regulation or supervision of bodies corporate or of persons engaged in financial activities, or which has been generated by a person retained by such a body;
- material supplied to an investigator during a criminal investigation which relates to a child or young person and which has been generated by a local authority social services department, an Area Child Protection Committee or other party contacted by an investigator during the investigation.

6.13 In exceptional circumstances, where an investigator considers that material is so sensitive that its revelation to the prosecutor by means of an entry on the sensitive schedule is inappropriate, the existence of the material must be revealed to the prosecutor separately. This will apply where compromising the material would be likely to lead directly to the loss of life, or directly threaten national security.

6.14 In such circumstances, the responsibility for informing the prosecutor lies with the investigator who knows the detail of the sensitive material. The investigator should act as soon



as is reasonably practicable after the file containing the prosecution case is sent to the prosecutor. The investigator must also ensure that the prosecutor is able to inspect the material so that he can assess whether it needs to be brought before a court for a ruling on disclosure.

### **Revelation of material to prosecutor**

7.1 The disclosure officer must give the schedules to the prosecutor. Wherever practicable this should be at the same time as he gives him the file containing the material for the prosecution case (or as soon as is reasonably practicable after the decision on mode of trial or the plea, in cases to which paragraph 6.8 applies).

7.2 The disclosure officer should draw the attention of the prosecutor to any material an investigator has retained (whether or not listed on a schedule) which may fall within the test for primary prosecution disclosure in the Act, and should explain why he has come to that view.

7.3 At the same time as complying with the duties in paragraphs 7.1 and 7.2, the disclosure officer must give the prosecutor, at the same time as he gives him the schedule, a copy of any material which falls into the following categories (unless such material has already been given to the prosecutor as part of a file containing the material for the prosecution case):

- records of the first description of a suspect given to the police by a potential witness, whether or not the description differs from that of the alleged offender;
- information provided by an accused person which indicates an explanation for the offence with which he has been charged;
- any material casting doubt on the reliability of a confession;
- any material casting doubt on the reliability of a witness;
- any other material which the investigator believes may fall within the test for primary prosecution disclosure in the Act.

7.4 If the prosecutor asks to inspect material which has not already been copied to him, the disclosure officer must allow him to inspect it. If the prosecutor asks for a copy of material which has not already been copied to him, the disclosure officer must give him a copy. However, this does not apply where the disclosure officer believes, having consulted the officer in charge of the investigation, that the material is too sensitive to be copied and can only be inspected.

7.5 If material consists of information which is recorded other than in writing, whether it should be given to the prosecutor in its original form as a whole or by way of relevant extracts recorded in the same form, or in the form of a transcript, is a matter for agreement between the disclosure officer and the prosecutor.

### **Subsequent action by disclosure officer**

8.1 At the time a schedule of non-sensitive material is prepared, the disclosure officer may not know exactly what material will form the case against the accused, and the prosecutor may not have given advice about the likely relevance of particular items of material. Once these matters have been determined, the disclosure officer must give the prosecutor, where necessary, an amended schedule listing any additional material;

8.2 After a defence statement has been given, the disclosure officer must look again at the material which has been retained and must draw the attention of the prosecutor to any material which might reasonably be expected to assist the defence disclosed by the accused; and he must reveal it to him in accordance with paragraphs 7.4 and 7.5 above.

8.3 Section 9 of the Act imposes a continuing duty on the prosecutor, for the duration of criminal proceedings against the accused, to disclose material which meets the test for disclosure (subject to public interest considerations). To enable him to do this, any new material coming to light should be treated in the same way as the earlier material.

### **Certification by disclosure officer**

9.1 The disclosure officer must certify to the prosecutor that to the best of his knowledge and belief, all material which has been retained and made available to him has been revealed to the prosecutor in accordance with this code. He must sign and date the certificate. It will be necessary to certify not only at the time when the schedule and accompanying material is submitted to the prosecutor, but also when the material which has been retained is reconsidered after the accused has given a defence statement.

### **Disclosure of material to accused**

10.1 If material has not already been copied to the prosecutor, and he requests its disclosure to the accused on the ground that:

- it falls within the test for primary or secondary prosecution disclosure, or
  - the court has ordered its disclosure after considering an application from the accused,
- the disclosure officer must disclose it to the accused.

10.2 If material has been copied to the prosecutor, and it is to be disclosed, whether it is disclosed by the prosecutor or the disclosure officer is a matter for agreement between the two of them.

10.3 The disclosure officer must disclose material to the accused either by giving him a copy or by allowing him to inspect it. If the accused person asks for a copy of any material which he has been allowed to inspect, the disclosure officer must give it to him, unless in the opinion of the disclosure officer that is either not practicable (for example because the material consists of an object which cannot be copied, or because the volume of the material is so great), or not desirable (for example because the material is a statement by a child witness in relation to a sexual offence).

10.4 If material which the accused has been allowed to inspect consists of information which is recorded other than in writing, whether it should be given to the accused in its original form or in the form of a transcript is a matter for the discretion of the disclosure officer. If the material is transcribed, the disclosure officer must ensure that the transcript is certified to the accused as a true record of the material which has been transcribed.

10.5 If a court concludes that it is in the public interest that an item of sensitive material must be disclosed to the accused, it will be necessary to disclose the material if the case is to proceed. This does not mean that sensitive documents must always be disclosed in their original form: for example, the court may agree that sensitive details still requiring protection should be blocked out, or that documents may be summarised, or that the prosecutor may make an admission about the substance of the material under section 10 of the *Criminal Justice Act 1967*.

## SCHEDULE 2

### **Modifications and Exceptions to Application of English Code**

1. The reference in paragraph 1.1 of the English Code to Part II of the Criminal Procedure and Investigations Act 1996 ("the Act") is replaced by a reference to Part II of the Criminal Procedure and Investigations Ordinance 2003 ("the Ordinance").
2. The reference in paragraph 1.3 of the English Code to section 2 of the Interception of Communications Act 1985 is to be construed as a reference to any corresponding provision of Falkland Islands law for the time being in force (there being no such provision at the date of the making of this Order) and paragraph 1.4 of that Code is omitted.
3. The references in paragraph 2.1 of the English Code to section 3 and section 7 of the Act are replaced by references to section 5 and section 9 of the Ordinance respectively.
4. The last turet of paragraph 2.1 of the English Code is omitted.
5. The words "each police force" in the second sentence of paragraph 3.1 of the English Code are replaced by the words "the Royal Falkland Islands Police".
6. The words "for each police force" in paragraph 3.2 are omitted.
7. The word "concerned" in paragraph 3.6 is omitted.
8. The references in paragraph 5.2 of the English Code to the Police and Criminal Evidence Act 1984 and to section 22 of that Act are replaced, respectively, by references to the Criminal Justice Ordinance (Title 24.1) and to section 193 of that Ordinance.
9. The second sentence of paragraph 5.9 of the English Code is omitted.
10. In paragraph 6.12 of the English Code the words from and including "local authority social services department" to the end of the paragraph are replaced by the words "the social services department, the Child Protection Committee or any corresponding authority or body overseas."
11. The references in paragraphs 7.2 and 7.3 of the English Code to "the Act" are replaced by references to the Ordinance.

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#### EXPLANATORY NOTE

*(not forming part of the above Order)*

Section 25(1) of the Criminal Procedure and Investigations Ordinance 2003 empowers the Governor to apply to the Falkland Islands with exceptions and modifications the Code of Practice on Disclosure to the defence of material obtained in the course of a criminal investigation promulgated under sections 23 and 26 of the Criminal Procedure and Investigations Act 1996. This Order does so. The English Code is reproduced in Schedule 1 to the Order and the local modifications and exceptions to that Code are specified in Schedule 2 to the Order.

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**SUBSIDIARY LEGISLATION**

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**FISHERIES**

**Fishery Products (Hygiene)(Revocation of Approval) Order 2003**

(S. R. & O. No 22 of 2003)

*Made: .....22 September 2003*

*Published: .....17 October 2003*

*Coming into force: upon publication*

IN EXERCISE of my powers under section 3(1) of the Fishery Products (Hygiene) Ordinance 1998(a) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Fishery Products (Hygiene)(Revocation of Approval) Order 2003 and comes into force on publication in the *Gazette*.

**Revocation of approval of factory fishing vessels**

2. The Fishery Products (Hygiene)(Designated Vessels) Order 1999(b) and the Fishery Products (Hygiene)(Designated Vessels)(No 2) Order 1999(c) are hereby revoked insofar as they apply to the following vessels —

(a) Murtosa; and

(b) Pardelhas.

Made this 22<sup>nd</sup> day of September 2003

H Hall  
*Acting Governor*

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**EXPLANATORY NOTE**

*(not forming part of the above Order)*

The Fishery Product (Hygiene) Ordinance 1998, coupled with the regulations made under it, enables the operators of factory fishing vessels to obtain confirmation that their vessel meets the standards of hygiene prescribed in the European Commission. The vessels the subject of this Order are no longer designated as vessels to which the provisions of the legislation apply.

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(a) No. 7 of 1998

(b) No 3 of 1999

(c) No 13 of 1999

# **Housing Assistance (Guarantee) Bill 2003**

(No: of 2003)

## **ARRANGEMENT OF PROVISIONS**

### **Clause**

1. Short title and application
  2. Interpretation
  3. Guarantee
  4. Enforcement of guarantee
  5. Postponement of sale during life time of surviving borrower
  6. Option to purchase
  7. Value of property
  8. Arbitration
- Schedule 1
- Schedule 2

# HOUSING ASSISTANCE (GUARANTEE) BILL 2003

(No: of 2003)

*(assented to: 2003)*

*(commencement: 2003)*

*(published: 2003)*

A BILL

for

AN ORDINANCE

To provide for a guarantee to be made in respect of a Housing Assistance Loan in specified circumstances.

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

## **Short title and application**

1.—(1) This Ordinance may be cited as the Housing Assistance (Guarantee) Ordinance 2003.

(2) Sections 4 to 8 of this Ordinance shall apply to and in respect of any guarantee entered into before the commencement of this Ordinance which stated that it was entered into in contemplation of this Ordinance being enacted.

## **Interpretation**

2. In this Ordinance —

“Bank” means the Standard Chartered Bank operating through its Stanley Branch;

“borrower” means a person or persons to whom the Bank has agreed to grant a housing assistance loan, subject to the Crown agreeing to provide a guarantee of that loan under section 3;

“housing assistance loan” means a loan made to a person or persons by the Bank under the Housing Assistance Programme and which is to be secured by way of a mortgage on a dwelling house;

“Housing Assistance Programme” means the programme of assistance for the purchase of domestic property within the Falkland Islands as operated from time to time by agreement between the Falkland Islands Government and the Standard Chartered Bank;

“life assurance” means a policy of life assurance obtained by the borrower or one of the persons who constitute the borrower, the proceeds of which are by the terms of a policy only to be applied in or towards the redemption of the mortgage securing the housing assistance loan in the event of the death of the person whose life is assured by the policy;

“mortgage” means the mortgage securing the housing assistance loan made to the borrower;

“personal representative” includes an executor;

“property” means the dwelling house and premises charged by the mortgage;

“value of the property” means the value of the property as determined by the Financial Secretary in accordance with section 7, or such other value as is determined by arbitration under section 8.

### **Guarantee**

3.—(1) Subject to subsections (2) and (3) the Crown may, at the request of the Bank, give a guarantee in the form set out in Schedule 1 in favour of the Bank in respect of a housing assistance loan if the borrower, or one of them in the case of joint borrowers, is unable to obtain life assurance in respect of the housing assistance loan.

(2) Where a request is made pursuant to subsection (1) in respect of a housing assistance loan because one of the borrowers is unable to obtain life insurance, the other borrower must obtain life assurance before a guarantee may be issued in accordance with subsection (1).

(3) A guarantee may only be issued in accordance with subsection (1) where the borrower, or borrowers if more than one, have entered into a guarantee agreement in the form set out in Schedule 2.

### **Enforcement of guarantee**

4.—(1) In the event of the death of the borrower, or the first to die of joint borrowers, before the mortgage securing the housing assistance loan has been discharged, the Bank may call upon the Crown to meet its obligations under the guarantee by paying such sum as is necessary to discharge that mortgage.

(2) Upon the Crown making the payment to which subsection (1) relates the legal estate in fee simple or for a term of years in the property shall thereupon vest in law in —

(a) the personal representative or personal representatives of the borrower and the Crown; or

(b) where there is a surviving borrower, that borrower and the Crown.

(3) The Crown and the other person or persons in whom the legal estate vests in accordance with subsection (1) shall hold the property formerly subject to the mortgage upon trust to sell the same and to divide the proceeds of sale between the Crown and the other person or persons so that the Crown receives such fraction of the net proceeds of sale as is equal to the fraction of the value of the property at the date of the discharge of the mortgage by the Crown as is represented by dividing the amount paid by the Crown to the Bank to discharge the mortgage by the value of the property on that date. The balance of the net proceeds of sale shall be paid to the other person or persons.

(4) The Registrar General shall, at the request of the Crown, make such entry as is necessary to reflect in the land records maintained by him the ownership of the legal estate in the property as a result of the operation of subsection (3).

(5) In this section "net proceeds of sale" means the sale price less the costs and expenses of sale.

#### **Postponement of sale during life time of surviving borrower**

5.—(1) Subject to the performance of any surviving borrower (following the redemption of the mortgage to the Bank in accordance with the preceding provisions of this Ordinance) of its obligations under subsection (2) the Crown shall not seek to enforce or implement the trust for sale upon which the property is held while the surviving borrower is in occupation of the property or a letting or parting with possession of the property not exceeding 12 months in duration and consented to by the Crown is in effect.

(2) The surviving borrower shall —

(a) at his or her own expense, maintain, repair and decorate the property as and when it is necessary to do so;

(b) at his or her own expense insure the property in the joint names of the Crown and the surviving borrower in full value thereof against such risks as he or she was previously bound to do so under the mortgage to the Bank;

(c) not lease, let or otherwise part with possession of the whole or part of the property without the consent of the Crown which shall not be reasonably withheld in respect of a letting or parting with possession for a term not exceeding 12 months at any time; and

(d) shall at his or her own expense pay and discharge all rates, water rates and other outgoings in respect of the property.

(3) Any rent or other sum received as a result of any permitted lease, letting or parting of possession of the property shall be applied in such manner as the Crown and the surviving borrower may agree but the surviving borrower shall be entitled to occupy the property without payment of rent to the Crown in respect of the Crown's interest therein.

#### **Option to purchase**

6. At any time where the property is vested in such manner as is provided by section 4(2) the surviving borrower or, as the case may be, the personal representative or personal representatives of a sole borrower who is deceased, may purchase the Crown's interest in the property at a price equal to the sum which the Crown would receive (disregarding the costs and expenses of sale) if the property were sold on the same date as the Crown's interest is purchased.

#### **Value of property**

7. For the purposes of sections 4 and 6 and subject to any arbitration pursuant to section 8, the value of a property securing a housing assistance loan shall be determined by the Financial



Secretary who must obtain at least one written valuation of the property from a suitably qualified person for this purpose.

**Arbitration**

8. In the event of any difference arising between the Crown and any surviving borrower or the personal representative or personal representatives of a deceased borrower as to the value of the property or in relation to any other matter relating to the performance of the surviving borrower’s obligations or those of the Crown in relation to the property which is not resolved by negotiation, the matter may be referred by either party to the Senior Magistrate who shall determine the matter as arbitrator between the parties and whose decision in relation to it shall be final and binding upon them.

**SCHEDULE 1**

**SPECIMEN FORM OF GUARANTEE**

**“Guarantee**

*Housing Assistance (Guarantee) Ordinance s.3*

TO: The Standard Chartered Bank, Falkland Islands

IN CONSIDERATION of your advancing to [ ] (“the borrower”) of [ ] the sum of £ (“the housing assistance loan”) upon the security of a mortgage to be made between the borrower and the Standard Chartered Bank upon the premises known as [ ].

NOW I [ ] Governor of the Falkland Islands on behalf of and in name of Her Majesty Queen Elizabeth the Second in Right and Title of Her Government of the Falkland Islands AGREE WITH YOU AS FOLLOWS:

1. The Crown guarantees that in the event of the borrower’s death, upon receiving notice in writing from the Bank delivered to the Financial Secretary of the Falkland Islands Government, the Crown will make payment to you in respect of the outstanding sum of the housing assistance loan as remains due and owing on the date of the borrower’s death for the purposes of discharging the loan securing the mortgage.

2. Payment will be made to you within 28 days of particulars of the sum being delivered to the Financial Secretary of the Falkland Islands Government.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_.”

## SCHEDULE 2

### SPECIMEN FORM OF GUARANTEE AGREEMENT

#### **“Guarantee Agreement**

*Housing Assistance (Guarantee) Ordinance s.3*

THIS AGREEMENT is made the [                      ] day of [                      ]

BETWEEN

[                      ] Governor of the Falkland Islands on behalf of and in the name of Her Majesty Queen Elizabeth II in right and title of Her Government of the Falkland Islands (“FIG”); and

[                      ] of [                      ] (“the Borrower”)

WHEREAS the Borrower wishes to purchase the property known as [                      ] pursuant to the Housing Assistance Programme agreed between FIG and the Standard Chartered Bank (“the Bank”) but is unable to obtain the life assurance policy required by the Programme and a housing assistance loan cannot therefore be made to the Borrower unless FIG gives a guarantee to the Bank.

NOW THEREFORE in consideration of a guarantee being given pursuant to section 6 of the Housing Assistance (Guarantee) Ordinance 2003, the Borrower agrees with FIG that in the event that the Crown redeems the mortgage securing the housing assistance loan, the provisions of the Housing Assistance (Guarantee) Ordinance 2003 shall apply, a copy of the relevant provisions of which are set out below —

#### **“Enforcement of guarantee**

4.—(1) In the event of the death of the borrower, or the first to die of joint borrowers, before the mortgage securing the housing assistance loan has been discharged, the Bank may call upon the Crown to meet its obligations under the guarantee by paying such sum as is necessary to discharge that mortgage.

(2) Upon the Crown making the payment to which subsection (1) relates the legal estate in fee simple or for a term of years in the property shall thereupon vest in law in —

(a) the personal representative or personal representatives of the borrower and the Crown; or

(b) where there is a surviving borrower, that borrower and the Crown.

(3) The Crown and the other person or persons in whom the legal estate vests in accordance with subsection (1) shall hold the property formerly subject to the mortgage upon trust to sell the same and to divide the proceeds of sale between the Crown and the other person or persons so that the Crown receives such fraction of the net proceeds of sale as is equal to the fraction of the value of the property at the date of the discharge of the mortgage by the Crown as is represented by dividing the amount paid by the Crown to the Bank to discharge the mortgage by the value of the property on that date. The balance of the net proceeds of sale shall be paid to the other person or persons.

(4) The Registrar General shall, at the request of the Crown, make such entry as is necessary to reflect in the land records maintained by him the ownership of the legal estate in the property as a result of the operation of subsection (3).

(5) In this section "net proceeds of sale" means the sale price less the costs and expenses of sale.

**Postponement of sale during life time of surviving borrower**

5.—(1) Subject to the performance of any surviving borrower (following the redemption of the mortgage to the Bank in accordance with the preceding provisions of this Ordinance) of its obligations under subsection (2) the Crown shall not seek to enforce or implement the trust for sale upon which the property is held while the surviving borrower is in occupation of the property or a letting or parting with possession of the property not exceeding 12 months in duration and consented to by the Crown is in effect.

(2) The surviving borrower shall —

(a) at his or her own expense, maintain, repair and decorate the property as and when it is necessary to do so;

(b) at his or her own expense insure the property in the joint names of the Crown and the surviving borrower in full value thereof against such risks as he or she was previously bound to do so under the mortgage to the Bank;

(c) not lease, let or otherwise part with possession of the whole or part of the property without the consent of the Crown which shall not be reasonably withheld in respect of a letting or parting with possession for a term not exceeding 12 months at any time; and

(d) shall at his or her own expense pay and discharge all rates, water rates and other outgoings in respect of the property.

(3) Any rent or other sum received as a result of any permitted lease, letting or parting of possession of the property shall be applied in such manner as the Crown

and the surviving borrower may agree but the surviving borrower shall be entitled to occupy the property without payment of rent to the Crown in respect of the Crown's interest therein.

**Option to purchase**

6. At any time where the property is vested in such manner as is provided by section 4(2) the surviving borrower or, as the case may be, the personal representative or personal representatives of a sole borrower who is deceased, may purchase the Crown's interest in the property at a price equal to the sum which the Crown would receive (disregarding the costs and expenses of sale) if the property were sold on the same date as the Crown's interest is purchased.

**Value of property**

7. For the purposes of sections 4 and 6 and subject to any arbitration pursuant to section 8, the value of a property securing a housing assistance loan shall be determined by the Financial Secretary who must obtain at least one written valuation of the property from a suitably qualified person for this purpose.

**Arbitration**

8. In the event of any difference arising between the Crown and any surviving borrower or the personal representative or personal representatives of a deceased borrower as to the value of the property or in relation to any other matter relating to the performance of the surviving borrower's obligations or those of the Crown in relation to the property which is not resolved by negotiation, the matter may be referred by either party to the Senior Magistrate who shall determine the matter as arbitrator between the parties and whose decision in relation to it shall be final and binding upon them."

In consideration of the Borrower's agreement set out in clause 1 FIG agrees with the Borrower to issue a guarantee in the form provided for by the Housing Assistance (Guarantee) Ordinance 2003.

.....  
Borrower

.....  
Governor."

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**OBJECTS AND REASONS**

This Ordinance enables a guarantee to be made by the Governor to the Standard Chartered Bank in respect of a housing assistance loan where a borrower is unable to obtain a policy of life insurance for the purposes of mortgage protection and makes further provision coming into operation in the event of the guarantee being enforced.

**Insurance Bill 2003**

(No: of 2003)

**ARRANGEMENT OF PROVISIONS**

**Clause**

1. Short title
2. Interpretation
3. Restriction on carrying on insurance business
4. Revocation of permission
5. Crown not to be liable
6. Amendment of other Ordinances
7. Prohibited names
8. Company incorporated in the Falkland Islands not to do insurance business overseas
9. Criminal liability of directors

## INSURANCE BILL 2003

(No: of 2003)

*(assented to: 2003)*

*(commencement: 2003)*

*(published: 2003)*

A BILL

for

AN ORDINANCE

To make new provision in relation to insurance companies and the carrying on in the Falkland Islands of insurance business.

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

### **Short title**

1. This Ordinance may be cited as the Insurance Ordinance 2003.

### **Interpretation**

2.—(1) In this Ordinance —

“insurance business” means any business of a kind ordinarily carried on by an insurance company and includes —

(a) the effecting or carrying out, by a person not carrying on a banking business, of contracts for fidelity bonds, performance bonds, administration bonds, bail bonds, or customs bonds or similar contracts of guarantee, being contracts effected by way of business (and not merely incidentally to some other business carried on by the person effecting them) in return for the payment of one or more premiums;

(b) the effecting and carrying out of tontines;

(c) the effecting and carrying out, by a body (not being a body carrying on a banking business) that carries on business which is insurance business apart from this paragraph, of—

(i) capital redemption contracts;

(ii) contracts to manage the investments of pension funds (other than funds solely for the benefit of its own officers or employees and their dependants, or, in the case of a company, partly for the benefit of officers or employees and their dependants of its subsidiary or holding company or a subsidiary of its holding company);

(d) the effecting and carrying out of contracts to pay annuities on human life; and

“person” includes a body corporate.

(2) In this Ordinance —

“long term business” means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982 (“the Act”); and

“general business” means insurance business of any of the classes specified in Part I of Schedule 2 to the Act.

(3) For the purposes of this Ordinance, and the classification of insurance business into which any contract of insurance falls, subsections (2) to (4A) of the Act shall apply.

### **Restriction on carrying on insurance business**

3.—(1) Subject to the following provisions of this section a person shall not carry on any class of insurance business in the Falkland Islands unless permitted to carry on that class or kind of business in the United Kingdom —

(a) by authorisation under section 3 or 4 of the Act; or

(b) under the provisions of section 2(1A), (2), (3) or (4) of the Act.

(2) The Governor may grant permission to any person to carry on in the Falkland Islands —

(a) insurance business of a class or classes specified in the permission;

(b) general business; or

(c) long term business;

but shall not attach any conditions to that permission.

(3) A person who for the purpose of obtaining the issue on an authorisation furnishes information which he knows to be false in a material particular commits an offence.

(4) A person who, not being permitted to do so by virtue of subsection (1) or a permission granted by the Governor under subsection (2), carries on in the Falkland Islands any insurance business of any class or kind in the Falkland Islands commits an offence.

(5) A person convicted of an offence under subsection (3) or (4) is liable to a fine not exceeding the maximum of level 12 on the standard scale and to imprisonment for a term not exceeding two years.

(6) Nothing in subsection (1) applies to the Crown.

#### **Revocation of permission**

4.—(1) The Governor may at any time, by notice in writing served on any person require that person within 28 days to show cause to the Governor why the permission granted under section 3(2) to the person should not for the reasons stated in the notice be revoked, or as the case may be, varied, in the manner specified in that notice.

(2) The Governor may, after considering any representations in writing submitted to him by or on behalf of the person on whom he has served a notice under subsection (1), by further notice in writing served on that person and for the reasons stated in that notice—

(a) revoke the permission granted under section 3(2); or

(b) vary that permission in the manner specified in that notice,  
but shall not do so —

(i) so as to revoke or vary the permission for any reason not stated in the first-mentioned notice, or

(ii) so as to vary the permission in a manner having a wider effect than that specified in that notice.

(3) A notice under subsection (2) shall not take effect for such period, not being less than 90 days, as is specified therein.

#### **Crown not to be liable**

5. The Crown shall not be liable in any respect to any person by reason of any loss arising to that person by reason of, or arising in any manner out of —

(a) the Governor granting to any person permission under section 3(2);

(b) the Governor failing to revoke or vary that permission under section 4;

(c) the Crown failing to control or regulate the carrying on of insurance business by any person carrying on insurance business within the Falkland Islands whether under the authority of such a permission or otherwise.

#### **Amendment of other Ordinances**

6.—(1) Section 43 of the Road Traffic Ordinance (Title 63.1) is amended by replacing subsection (2) with the following —

“(2) A policy must be issued by an insurer who either —



(a) in respect of policies to which Part VI of the Road Traffic Act 1988 relates is in the United Kingdom an authorised insurer within the meaning of the expression “authorised insurer” by section 145(5) of that Act;

(b) or is a person who has been granted permission by the Governor under section 3(2) of the Insurance Ordinance 2003 to carry on in the Falkland Islands either —

(i) general business (as defined in section 2(2) of that Ordinance); or

(ii) motor business: that is insurance business of all of —

(aa) class 1 (to the extent that the relevant risks are risks to the person insured sustaining injury, or dying, as the result of travelling as a passenger);

(bb) class 3 (land vehicles);

(cc) class 7 (goods in transit);

(dd) class 10 (motor vehicle liability) as described in Part I of Schedule 2 to the Insurance Companies Act 1982 of the United Kingdom.”

(2) The Schedule to the Employers’ Liability (Compulsory Insurance) Ordinance 1996 is amended by inserting after paragraph 1 of that Schedule the following paragraph —

“1(a) Section 1 of the Act is modified by replacing subsection (3)(b) with the following —

“(b) “authorised insurer” means —

(i) a person or body of persons lawfully carrying on in the United Kingdom of a class specified in Schedule 1 or 2 to the Insurance Companies Act 1982,

(ii) an insurance company the head office of which is in a member state of the European Union, which is lawfully carrying on in a member state other than the United Kingdom insurance business of a corresponding class; or

(iii) a person permitted by the Governor under section 3(2) of the Insurance Companies Ordinance 1982 to carry on insurance both long term business and general business (as defined by section 2(2) of that Ordinance).”

### **Prohibited names**

7.—(1) A company may not, without the permission in writing of the Governor —

(a) be incorporated under a name which includes the words “assurance”, “insurance”, “reinsurance” or “friendly society” or any word which is cognate to any of those words;

**Criminal liability of directors**

9.—(1) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, chief executive, manager, secretary or other similar officer of the body corporate or of any person who was purporting to act in any such capacity, he, as well as the body corporate, has committed that offence and is liable to be proceeded against and punished accordingly.

(2) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act.

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OBJECTS AND REASONS

As per long title.

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FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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The following are published in this Supplement -

**Housing Assistance (Guarantee) Ordinance 2003 (No: 21 of 2003);**

**Insurance Ordinance 2003 (No: 22 of 2003);**

**Zoonoses Order 2003 (S. R. & O. No: 23 of 2003);**

**Taxes (Amendment) Bill 2003.**

ELIZABETH II



FALKLAND ISLANDS

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Housing Assistance (Guarantee) Ordinance 2003**

(No: 21 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and application
  2. Interpretation
  3. Guarantee
  4. Enforcement of guarantee
  5. Postponement of sale during life time of surviving borrower
  6. Option to purchase
  7. Value of property
  8. Arbitration
- Schedule 1
- Schedule 2

ELIZABETH II



FALKLAND ISLANDS

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**HOUSING ASSISTANCE (GUARANTEE) ORDINANCE 2003**

(No: 21 of 2003)

*(assented to: 7 November 2003)*  
*(commencement: upon publication)*  
*(published: 19 November 2003)*

**AN ORDINANCE**

To provide for a guarantee to be made in respect of a Housing Assistance Loan in specified circumstances.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title and application**

**1.**—(1) This Ordinance may be cited as the Housing Assistance (Guarantee) Ordinance 2003.

(2) Sections 4 to 8 of this Ordinance shall apply to and in respect of any guarantee entered into before the commencement of this Ordinance which stated that it was entered into in contemplation of this Ordinance being enacted.

## **Interpretation**

### **2. In this Ordinance —**

“Bank” means the Standard Chartered Bank operating through its Stanley Branch;

“borrower” means a person or persons to who the Bank has agreed to grant a housing assistance loan, subject to the Crown agreeing to provide a guarantee of that loan under section 3;

“housing assistance loan” means a loan made to a person or persons by the Bank under the Housing Assistance Programme and which is to be secured by way of a mortgage on a dwelling house;

“Housing Assistance Programme” means the programme of assistance for the purchase of domestic property within the Falkland Islands as operated from time to time by agreement between the Falkland Islands Government and the Standard Chartered Bank;

“life assurance” means a policy of life assurance obtained by the borrower or one of the persons who constitute the borrower, the proceeds of which are by the terms of the policy or assignment to the Bank to be applied in or towards the redemption of the mortgage securing the housing assistance loan in the event of the death of the person whose life is assured by the policy;

“mortgage” means the mortgage securing the housing assistance loan made to the borrower;

“personal representative” includes an executor;

“property” means the dwelling house and premises charged by the mortgage;

“value of the property” means the value of the property as determined by the Financial Secretary in accordance with section 7, or such other value as is determined by arbitration under section 8.

## **Guarantee**

**3.—(1)** Subject to subsections (2) and (3) the Crown may, at the request of the Bank, give a guarantee in the form set out in Schedule 1 in favour of the Bank in respect of a housing assistance loan if the borrower, or one of them in the case of joint borrowers, is unable to obtain life assurance in respect of the housing assistance loan.

(2) Where a request is made pursuant to subsection (1) in respect of a housing assistance loan because one of the borrowers is unable to obtain life assurance, the other borrower must obtain life assurance before a guarantee may be issued in accordance with subsection (1).

(3) A guarantee may only be issued in accordance with subsection (1) where the borrower, or borrowers if more than one, have entered into a guarantee agreement in the form set out in Schedule 2.

### **Enforcement of guarantee**

4.—(1) In the event of the death of the borrower, or the first to die of joint borrowers, before the mortgage securing the housing assistance loan has been discharged, the Bank may call upon the Crown to meet its obligations under the guarantee by paying such sum as is necessary to discharge that mortgage.

(2) Upon the Crown making the payment to which subsection (1) relates the legal estate in fee simple or for a term of years in the property shall thereupon vest in law in —

(a) the personal representative or personal representatives of the borrower and the Crown; or

(b) where there is a surviving borrower, that borrower and the Crown.

(3) The Crown and the other person or persons in whom the legal estate vests in accordance with subsection (1) shall hold the property formerly subject to the mortgage upon trust to sell the same and to divide the proceeds of sale between the Crown and the other person or persons so that the Crown receives such fraction of the net proceeds of sale as is equal to the fraction of the value of the property at the date of the discharge of the mortgage by the Crown as is represented by dividing the amount paid by the Crown to the Bank to discharge the mortgage by the value of the property on that date. The balance of the net proceeds of sale shall be paid to the other person or persons.

(4) The Registrar General shall, at the request of the Crown, make such entry as is necessary to reflect in the land records maintained by him the ownership of the legal estate in the property as a result of the operation of subsection (3).

(5) In this section “net proceeds of sale” means the sale price less the costs and expenses of sale.

### **Postponement of sale during life time of surviving borrower**

5.—(1) Subject to the performance by any surviving borrower (following the redemption of the mortgage to the Bank in accordance with the preceding provisions of this Ordinance) of its obligations under subsection (2) the Crown shall not seek to enforce or implement the trust for sale upon which the property is held while the surviving borrower is in occupation of the property or a letting or parting with possession of the property not exceeding 12 months in duration and consented to by the Crown is in effect.

(2) The surviving borrower shall —

(a) at his or her own expense, maintain, repair and decorate the property as and when it is necessary to do so;

(b) at his or her own expense insure the property in the joint names of the Crown and the surviving borrower in the full value thereof against such risks as he or she was previously bound to do so under the mortgage to the Bank;



(c) not lease, let or otherwise part with possession of the whole or part of the property without the consent of the Crown which shall not be reasonably withheld in respect of a letting or parting with possession for a term not exceeding 12 months at any time; and

(d) shall at his or her own expense pay and discharge all rates, water rates and other outgoings in respect of the property.

(3) Any rent or other sum received as a result of any permitted lease, letting or parting of possession of the property shall be applied in such manner as the Crown and the surviving borrower may agree but the surviving borrower shall be entitled to occupy the property without payment of rent to the Crown in respect of the Crown's interest therein.

#### **Option to purchase**

6. At any time where the property is vested in such manner as is provided by section 4(2) the surviving borrower or, as the case may be, the personal representative or personal representatives of a sole borrower who is deceased, may purchase the Crown's interest in the property at a price equal to the sum which the Crown would receive (disregarding the costs and expenses of sale) if the property were sold on the same date as the Crown's interest is purchased.

#### **Value of property**

7. For the purposes of sections 4 and 6 and subject to any arbitration pursuant to section 8, the value of a property securing a housing assistance loan shall be determined by the Financial Secretary who must obtain at least one written valuation of the property from a suitably qualified person for this purpose.

#### **Arbitration**

8. In the event of any difference arising between the Crown and any surviving borrower or the personal representative or personal representatives of a deceased borrower as to the value of the property or in relation to any other matter relating to the performance of the surviving borrower's obligations or those of the Crown in relation to the property which is not resolved by negotiation, the matter may be referred by either party to the Senior Magistrate who shall determine the matter as arbitrator between the parties and whose decision in relation to it shall be final and binding upon them.

**SCHEDULE 1**

**SPECIMEN FORM OF GUARANTEE**

**"Guarantee**

*Housing Assistance (Guarantee) Ordinance s.3*

TO: The Standard Chartered Bank, Falkland Islands

IN CONSIDERATION of your advancing to [ ] ("the borrower")  
of [ ] the sum of £ ("the  
housing assistance loan") upon the security of a mortgage to be made between the  
borrower and the Standard Chartered Bank upon the premises known as [ ]  
}.

NOW I [ ] Governor of the Falkland Islands on behalf of  
and in name of Her Majesty Queen Elizabeth the Second in Right and Title of Her  
Government of the Falkland Islands AGREE WITH YOU AS FOLLOWS:

1. The Crown guarantees that in the event of the borrower's death, upon receiving notice in writing from the Bank delivered to the Financial Secretary of the Falkland Islands Government, the Crown will make payment to you in respect of the outstanding sum of the housing assistance loan as remains due and owing on the date of the borrower's death for the purposes of discharging the loan securing the mortgage.
2. Payment will be made to you within 28 days of particulars of the sum being delivered to the Financial Secretary of the Falkland Islands Government.

Dated this    day of    200 ."

## SCHEDULE 2

### SPECIMEN FORM OF GUARANTEE AGREEMENT

#### **“Guarantee Agreement**

*Housing Assistance (Guarantee) Ordinance s.3*

THIS AGREEMENT is made the [                      ] day of [                      ]

BETWEEN

[                      ] Governor of the Falkland Islands on behalf of and in the name of Her Majesty Queen Elizabeth II in right and title of Her Government of the Falkland Islands (“FIG”); and

[                      ] of [                      ] (“the Borrower”)

WHEREAS the Borrower wishes to purchase the property known as [                      ] pursuant to the Housing Assistance Programme agreed between FIG and the Standard Chartered Bank (“the Bank”) but is unable to obtain the life assurance policy required by the Programme and a housing assistance loan cannot therefore be made to the Borrower unless FIG gives a guarantee to the Bank.

NOW THEREFORE in consideration of a guarantee being given pursuant to section 6 of the Housing Assistance (Guarantee) Ordinance 2003, the Borrower agrees with FIG that in the event that the Crown redeems the mortgage securing the housing assistance loan, the provisions of the Housing Assistance (Guarantee) Ordinance 2003 shall apply, a copy of the relevant provisions of which is set out below —

#### **“Enforcement of guarantee**

4.—(1) In the event of the death of the borrower, or the first to die of joint borrowers, before the mortgage securing the housing assistance loan has been discharged, the Bank may call upon the Crown to meet its obligations under the guarantee by paying such sum as is necessary to discharge that mortgage.

(2) Upon the Crown making the payment to which subsection (1) relates the legal estate in fee simple or for a term of years in the property shall thereupon vest in law in —

(a) the personal representative or personal representatives of the borrower and the Crown; or

(b) where there is a surviving borrower, that borrower and the Crown.

(3) The Crown and the other person or persons in whom the legal estate vests in accordance with subsection (1) shall hold the property formerly subject to the mortgage upon trust to sell the same and to divide the proceeds of sale between the Crown and the other person or persons so that the Crown receives such fraction of the net proceeds of sale as is equal to the fraction of the value of the property at the date of the discharge of the mortgage by the Crown as is represented by dividing the amount paid by the Crown to the Bank to discharge the mortgage by the value of the property on that date. The balance of the net proceeds of sale shall be paid to the other person or persons.

(4) The Registrar General shall, at the request of the Crown, make such entry as is necessary to reflect in the land records maintained by him the ownership of the legal estate in the property as a result of the operation of subsection (3).

(5) In this section "net proceeds of sale" means the sale price less the costs and expenses of sale.

**Postponement of sale during life time of surviving borrower**

5.—(1) Subject to the performance by any surviving borrower (following the redemption of the mortgage to the Bank in accordance with the preceding provisions of this Ordinance) of its obligations under subsection (2) the Crown shall not seek to enforce or implement the trust for sale upon which the property is held while the surviving borrower is in occupation of the property or a letting or parting with possession of the property not exceeding 12 months in duration and consented to by the Crown is in effect.

(2) The surviving borrower shall —

(a) at his or her own expense, maintain, repair and decorate the property as and when it is necessary to do so;

(b) at his or her own expense insure the property in the joint names of the Crown and the surviving borrower in the full value thereof against such risks as he or she was previously bound to do so under the mortgage to the Bank;

(c) not lease, let or otherwise part with possession of the whole or part of the property without the consent of the Crown which shall not be reasonably withheld in respect of a letting or parting with possession for a term not exceeding 12 months at any time; and

(d) shall at his or her own expense pay and discharge all rates, water rates and other outgoings in respect of the property.

(3) Any rent or other sum received as a result of any permitted lease, letting or parting of possession of the property shall be applied in such manner as the Crown

and the surviving borrower may agree but the surviving borrower shall be entitled to occupy the property without payment of rent to the Crown in respect of the Crown's interest therein.

**Option to purchase**

6. At any time where the property is vested in such manner as is provided by section 4(2) the surviving borrower or, as the case may be, the personal representative or personal representatives of a sole borrower who is deceased, may purchase the Crown's interest in the property at a price equal to the sum which the Crown would receive (disregarding the costs and expenses of sale) if the property were sold on the same date as the Crown's interest is purchased.

**Value of property**

7. For the purposes of sections 4 and 6 and subject to any arbitration pursuant to section 8, the value of a property securing a housing assistance loan shall be determined by the Financial Secretary who must obtain at least one written valuation of the property from a suitably qualified person for this purpose.

**Arbitration**

8. In the event of any difference arising between the Crown and any surviving borrower or the personal representative or personal representatives of a deceased borrower as to the value of the property or in relation to any other matter relating to the performance of the surviving borrower's obligations or those of the Crown in relation to the property which is not resolved by negotiation, the matter may be referred by either party to the Senior Magistrate who shall determine the matter as arbitrator between the parties and whose decision in relation to it shall be final and binding upon them."

In consideration of the Borrower's agreement set out in clause 1 FIG agrees with the Borrower to issue a guarantee in the form provided for by the Housing Assistance (Guarantee) Ordinance 2003.

.....  
Borrower

.....  
Governor."

Passed by the Legislature of the Falkland Islands this 31<sup>st</sup> day of October 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

ELIZABETH II



FALKLAND ISLANDS

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**Insurance Ordinance 2003**

(No: 22 of 2003)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Interpretation
3. Restriction on carrying on insurance business
4. Revocation of permission
5. Crown not to be liable
6. Amendment of other Ordinances
7. Prohibited names
8. Company incorporated in the Falkland Islands not to do insurance business overseas
9. Criminal liability of directors

ELIZABETH II



FALKLAND ISLANDS

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

INSURANCE ORDINANCE 2003

(No: 22 of 2003)

*(assented to: 7 November 2003)*

*(commencement: upon publication)*

*(published: 19 November 2003)*

AN ORDINANCE

To make new provision in relation to insurance companies and the carrying on in the Falkland Islands of insurance business.

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title**

1. This Ordinance may be cited as the Insurance Ordinance 2003.

**Interpretation**

2.—(1) In this Ordinance —

“insurance business” means any business of a kind ordinarily carried on by an insurance company and includes —

(a) the effecting or carrying out, by a person not carrying on a banking business, of contracts for fidelity bonds, performance bonds, administration bonds, bail bonds, or customs bonds or similar contracts of guarantee, being contracts effected by way of business (and not merely



incidentally to some other business carried on by the person effecting them) in return for the payment of one or more premiums;

(b) the effecting and carrying out of tontines;

(c) the effecting and carrying out, by a body (not being a body carrying on a banking business) that carries on business which is insurance business apart from this paragraph, of—

(i) capital redemption contracts;

(ii) contracts to manage the investments of pension funds (other than funds solely for the benefit of its own officers or employees and their dependants, or, in the case of a company, partly for the benefit of officers or employees and their dependants of its subsidiary or holding company or a subsidiary of its holding company);

(d) the effecting and carrying out of contracts to pay annuities on human life; and

“person” includes a body corporate.

(2) In this Ordinance —

“long term business” means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982 (“the Act”); and

“general business” means insurance business of any of the classes specified in Part I of Schedule 2 to the Act.

(3) For the purposes of this Ordinance, and the classification of insurance business into which any contract of insurance falls, subsections (2) to (4A) of section 1 of the Act shall apply.

### **Restriction on carrying on insurance business**

**3.—(1)** Subject to the following provisions of this section a person shall not carry on any class of insurance business in the Falkland Islands unless permitted to carry on that class or kind of business in the United Kingdom —

(a) by authorisation under section 3 or 4 of the Act; or

(b) under the provisions of section 2(1A), (2), (3) or (4) of the Act.

(2) The Governor may grant permission to any person to carry on in the Falkland Islands —

(a) insurance business of a class or classes specified in the permission;

(b) general business; or

(c) long term business;

but shall not attach any conditions to that permission.

(3) A person who for the purpose of obtaining the issue on an authorisation furnishes information which he knows to be false in a material particular commits an offence.

(4) A person who, not being permitted to do so by virtue of subsection (1) or a permission granted by the Governor under subsection (2), carries on in the Falkland Islands any insurance business of any class or kind in the Falkland Islands commits an offence.

(5) A person convicted of an offence under subsection (3) or (4) is liable to a fine not exceeding the maximum of level 12 on the standard scale and to imprisonment for a term not exceeding two years.

(6) Nothing in subsection (1) applies to the Crown.

#### **Revocation of permission**

4.—(1) The Governor may at any time, by notice in writing served on any person, require that person within 28 days to show cause to the Governor why the permission granted under section 3(2) to the person should not for the reasons stated in the notice be revoked, or as the case may be, varied, in the manner specified in that notice.

(2) The Governor may, after considering any representations in writing submitted to him by or on behalf of the person on whom he has served a notice under subsection (1), by further notice in writing served on that person and for the reasons stated in that notice—

(a) revoke the permission granted under section 3(2); or

(b) vary that permission in the manner specified in that notice,

but shall not do so—

(i) so as to revoke or vary the permission for any reason not stated in the first-mentioned notice, or

(ii) so as to vary the permission in a manner having a wider effect than that specified in that notice.

(3) A notice under subsection (2) shall not take effect for such period, not being less than 90 days, as is specified therein.

#### **Crown not to be liable**

5. The Crown shall not be liable in any respect to any person by reason of any loss arising to that person by reason of, or arising in any manner out of—

- (a) the Governor granting to any person permission under section 3(2);
- (b) the Governor failing to revoke or vary that permission under section 4;
- (c) the Crown failing to control or regulate the carrying on of insurance business by any person carrying on insurance business within the Falkland Islands whether under the authority of such a permission or otherwise.

**Amendment of other Ordinances**

6.—(1) Section 43 of the Road Traffic Ordinance (Title 63.1) is amended by replacing subsection (2) with the following —

“(2) A policy must be issued by an insurer who either —

(a) in respect of policies to which Part VI of the Road Traffic Act 1988 relates is in the United Kingdom an authorised insurer within the meaning of the expression “authorised insurer” given by section 145(5) of that Act; or

(b) is a person who has been granted permission by the Governor under section 3(2) of the Insurance Ordinance 2003 to carry on in the Falkland Islands either —

(i) general business (as defined in section 2(2) of that Ordinance); or

(ii) motor business: that is insurance business of all of —

(aa) class 1 (to the extent that the relevant risks are risks to the person insured sustaining injury, or dying, as the result of travelling as a passenger);

(bb) class 3 (land vehicles);

(cc) class 7 (goods in transit);

(dd) class 10 (motor vehicle liability),

as described in Part I of Schedule 2 to the Insurance Companies Act 1982 of the United Kingdom.”

(2) The Schedule to the Employers’ Liability (Compulsory Insurance) Ordinance 1996 is amended by inserting after paragraph 1 of that Schedule the following paragraph —

“1(a) Section 1 of the Act is modified by replacing subsection (3)(b) with the following —

“(b) “authorised insurer” means —

- (i) a person or body of persons lawfully carrying on in the United Kingdom of a class specified in Schedule 1 or 2 to the Insurance Companies Act 1982,
- (ii) an insurance company the head office of which is in a member state of the European Union, which is lawfully carrying on in a member state other than the United Kingdom insurance business of a corresponding class; or
- (iii) a person permitted by the Governor under section 3(2) of the Insurance Ordinance 2003 to carry on insurance both long term business and general business (as defined by section 2(2) of that Ordinance)."

### **Prohibited names**

7.—(1) A company may not, without the permission in writing of the Governor —

(a) be incorporated under a name which includes the words “assurance”, “insurance”, “reinsurance” or “friendly society” or any word which is cognate to any of those words;

(b) change its name so as to include any of those words.

(2) Section 5 applies in relation to a permission to which subsection (1) relates as it does to a permission under section 3(2)

(3) A company contravening subsection (1) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 6 on the standard scale.

### **Company incorporated in the Falkland Islands not to do insurance business overseas**

8.—(1) It is unlawful for a company incorporated in the Falkland Islands to carry on insurance business outside the Falkland Islands.

(2) A company contravening subsection (1) commits an offence and is liable to a fine not exceeding the maximum of level 12 on the standard scale.

### **Criminal liability of directors**

9.—(1) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, chief executive, manager, secretary or other similar officer of the body corporate or of any person who was purporting to act in any such capacity, he, as well as the body corporate, has committed that offence and is liable to be proceeded against and punished accordingly.

(2) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act.

Passed by the Legislature of the Falkland Islands this 31<sup>st</sup> day of October 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

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**SUBSIDIARY LEGISLATION**

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**ANIMALS  
ANIMAL HEALTH**

**Zoonoses Order 2003**

S. R. & O. No: 23 of 2003

*Made: ..... 14 October 2003*

*Published: ..... 19 November 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 2(2) of the Animal Health Ordinance<sup>(a)</sup> and of all other powers enabling me in that behalf, I make the following Order —

**Citation**

1. This Order may be cited as the Zoonoses Order 2003.

**Application of Zoonoses Order 1988**

2. Articles 2 and 3 of the Zoonoses Order 1988 (“the Order”)<sup>(b)</sup> as amended by the Specified Risk Material Order 1997<sup>(c)</sup> shall apply to the Falkland Islands with the following modifications—

(a) the definition of “the Ministers” in article 2 shall be omitted;

(b) the words “in the opinion of the Ministers,” in article 3(1) shall be omitted; and

(c) there shall be omitted from the Schedule to the Order those provisions of the Animal Health Act 1981 mentioned in paragraph 1 of Schedule 1 to the Animal Health Ordinance 1998 (provisions of the Animal Health Act 1981 excluded from application to the Falkland Islands).

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(a) No 9 of 1998

(b) SI 1988/2264

(c) SI 1997/2964

Made this 14<sup>th</sup> day of October 2003

H J S Pearce CVO  
*Governor*

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EXPLANATORY NOTE  
*(not forming part of the above Order)*

This Order applies to the Falkland Islands the UK Zoonoses Order 1988 as amended by the UK Specified Risk Materials Order 1997. The effect of the 1988 Order was to designate BSE as a disease for the purposes of section 29 of the Animal Health Act 1981 and to apply a number of the provisions of the Act to it. This Order has a similar effect in relation to the Falkland Islands.

## TAXES (AMENDMENT) BILL 2003

### EXPLANATORY MEMORANDUM

#### Introduction

The Bill amends the Taxes Ordinance 1997 to give effect to the recommendations in the Falkland Islands Tax Policy Review carried out in 2003 and referred to in this Memorandum as “the Review”. The following explanatory notes should be read together with the Review which contains a more detailed discussion of the proposed changes.

*Clause 1* provides for the commencement of the Bill and its general interpretation. The amendments in the Bill will apply for corporation tax from 1<sup>st</sup> January 2004 and for income tax from 1<sup>st</sup> January 2005, subject to any contrary provision in the Bill. The apparent discrepancy takes account of income tax for a year of assessment being charged on the previous year’s income whereas corporation tax is charged on the current year’s income. The Bill’s provisions relating to income tax therefore apply in relation to income accruing on or after 1<sup>st</sup> January 2004, which is comparable to the corporation tax position.

*Clause 2* adds two new definitions to section 2 of the 1997 Ordinance. The lowest rate of income tax is to be known as the “basic rate” and “income” is defined to include non-cash emoluments of an employment and benefits in kind. This latter definition follows the extension by the Taxes (Amendment) Ordinance 2002 (No 23) of taxable income to include non-cash emoluments. The new definitions have no substantive effect: they are merely intended to make references to the tax rate and the benefits easier for the reader.

*Clause 3(1)(a)* paves the way for new rules identifying and valuing the benefits in kind which will be taxed in future. It is anticipated that these rules will be made in 2004 to come into force for 2005. That will mean that benefits received in 2004 may be subject to tax in 2005. *Subsection (2)* enables rules to be made for section 8(1)(b) which now applies to non-cash emoluments. If no rules are made, these emoluments will generally speaking be valued at their market value at the time they are given to the employee. Rules may be made making different provision: this power may be exercised to reduce the taxable amount to less than that market value or to provide a clear rule for valuation. The subsection also makes provision for the annual value rules which is similar to the existing provision: the opportunity is being taken to tidy up the Ordinance.

*Clause 3* also gives effect to recommendations in the Review to stop a number of allowances and deductions from income being made before tax. This follows the proposed increase in the personal allowance in *clause 7*. Those being terminated include maintenance payments: *clause 3(1)(b)*. There is a consequential repeal of section 101(1) to (3) which prevents the cost of certain benefits provided by employers from being deducted in the computation of the employer’s taxable income: *clause 3(4)*. See also *clause 6*.



*Clause 4* changes the rates of income tax from a three tier system to a two tier system. The first £12,000 of taxable income will be taxed at 20% and the remainder at 25%. At present the rates are 20%, 25% and 40%. This clause gives effect to a recommendation of the Review and should be read in conjunction with clause 7 which proposes an increase in the personal allowance to £12,000.

*Clause 5* provides for changes in the corporation tax rates. In future there will be two rates, the first £1,000,000 of income, the "threshold amount", will be taxed at 20% and the remainder at 25%. If there are associated companies the threshold amount will be reduced to prevent the higher rate being avoided by a division of income between the companies.

*Clause 6* gives effect to the recommendations in the Review for the termination of most of the existing income tax deductions. These allowances are earned income relief, maintenance payments, mortgage interest relief, dependent relatives allowance, married man's allowance and wife's earned income relief, age allowance, the allowance for children and life assurance premium relief. In addition subsection (6)(a) withdraws the current tax exemption for defence contractors. Employees of defence contractors will continue to enjoy exemption from income tax for the time being. Deductions under section 58 other than employment related deductions are abolished. This will not affect businesses as deductions for businesses are provided for in section 97.

*Clause 7* increases the personal allowance to £12,000 as recommended by the Review.

*Clause 8* is concerned with the taxation of lump sums paid to pensioners when their pension comes into payment (subject to any deferment). It makes it clear that the lump sum is only taxable at the basic rate and that the higher rate does not apply. This provision applies to payments under approved retirement benefit schemes and the Falkland Islands Pension Scheme. It follows a review of the Falkland Islands Pensions Scheme: it does not give effect to any recommendation of the Review.

*Clause 9* gives effect to the recommendation in the Review to abolish advance corporation tax. This will apply in relation to dividends paid on or after 1<sup>st</sup> January 2004 but ACT accumulated and not used before that date can be set off against corporation tax liability after that date. Tax credits will not longer be available to companies although they remain for individuals and will for the future be equal to the amount of income tax at the basic rate due in respect of the grossed up value of the dividend.

*Clause 10* authorises the imposition of civil penalties by the POAT regulations. It is envisaged that this power will be used to impose low penalties for failure to make returns in due time as required by the regulations. These penalties can be enforced without recourse to the courts.

*Clause 11* clarifies the rules for determining when expenditure is incurred for the purposes of depreciation allowances, as recommended in the Review. The rule states that, in general, expenditure will be treated as incurred as soon as there is

an unconditional obligation to pay it. Thus if a contract is entered into for delivery of goods on 1<sup>st</sup> January 2005 and the obligation to pay for the goods becomes unconditional 3 days later, the expenditure will be deemed to have been incurred on 4<sup>th</sup> January whenever the money is actually paid. But there is an exception. If that contract involved expenditure in excess of £30,000, then if any part of that £30,000 is not required to be paid until some time more than 6 months after 4<sup>th</sup> January 2005, for example if payment of £12,000 is deferred (by agreement) until 1<sup>st</sup> December 2005, the expenditure of that £12,000 will be treated as having been incurred on 1<sup>st</sup> December 2005 not 4<sup>th</sup> January 2005. The new rule applies to expenditure incurred on or after 1<sup>st</sup> January 2004,

*Clause 12* gives effect to other recommendations of the Review relating to depreciation allowances. Initial allowances are abolished and writing down allowances are changed. For ships a 20% writing down allowance will be made and for all buildings the allowance will be 10%. Those new provisions will apply in relation to expenditure incurred on or after 1<sup>st</sup> January 2004. Where a writing down allowance is currently allowable in respect of an asset, the allowance will continue to be made under the existing law not under these new provisions. All plant and machinery will be pooled and allowances given under section 117. The rate of the writing down allowance under section 117 is increased from 25% to 40% and that will apply to the whole asset pool, including assets purchased before 1<sup>st</sup> January 2004.

*Clause 13* makes new provision in relation to loss relief. For an individual, a loss incurred in a business in a period of account shall, if it cannot be set off against the profits of the year of assessment for which any profits arising in that period of account would be chargeable, be set off against the profits of the preceding year of assessment. In the first place the loss must be set off against profits of the same business but if there are no such losses then provided the business was being carried on the loss may be set off against general income. Similar provisions already apply to corporate businesses.

*Clause 14* allows group relief to be claimed even where the group has a non-Falkland Islands resident company as one of its members. The relief remains available only where the surrendering company and the claiming company are both resident in the Falkland Islands during the relevant accounting periods.

*Clause 15* amends section 206 of the 1997 Ordinance which sets out the definition of "earned income". Earned income relief is being abolished in the Bill but it is still relevant to the POAT provisions in Part IV of the Ordinance and to the relief for pensions contributions, which is calculated as a general rule as a percentage to earned income, provided for in Part III of the Ordinance. The clause 15 amendment makes it clear that non-cash emoluments and benefits will not fall within the POAT regime at this stage but that they can be taken into account in determining how much relief in respect of pension contributions is available.

## **ARRANGEMENT OF CLAUSES**

### Clause

1. Short title, commencement and interpretation
2. Amendments to section 2
3. Taxation of non-cash income and benefits from employment and maintenance payments
4. Change of income tax rates
5. Change of corporation tax rates
6. Ending of certain income tax allowances
7. Increase in personal allowance
8. Taxation of commuted pensions
9. Abolition of ACT
10. POAT: power to impose civil or administrative penalties
11. Depreciation allowances: time when expenditure is incurred
12. Depreciation allowances: abolition of initial allowances and changes to writing-down allowances
13. Loss relief: carry back of losses
14. Group relief: extension to non-Falkland Islands groups
15. Non-cash remuneration: earned income

A BILL

For

AN ORDINANCE

To amend the Taxes Ordinance 1997

BE IT ENACTED by the Legislature of the Falkland Islands as follows—

**SHORT TITLE, COMMENCEMENT AND INTERPRETATION.**

- 1.--(1) This Ordinance may be cited as the Taxes (Amendment) Ordinance 2003.
- (2) This Ordinance shall come into force on 1st January 2004 and, subject to any provision to the contrary, shall have effect in relation to the charge to tax for corporation tax years beginning on or after that date and for years of assessment beginning on or after 1<sup>st</sup> January 2005.
- (3) In this Ordinance “the 1997 Ordinance” means the Taxes Ordinance 1997.

**AMENDMENTS TO SECTION 2**

- 2.—(1) In subsection (1) of section 2 of the 1997 Ordinance (interpretation) the following definitions shall be inserted in the appropriate places—

“basic rate” means the rate of tax chargeable by virtue of section 10(a);”

“ “income” includes emoluments of an employment received otherwise than in cash and any amount in respect of which an employee is chargeable to tax by virtue of section 8(1)(c);”

- (2) In that subsection the definition of “earned income relief” shall cease to have effect.

**TAXATION OF NON-CASH INCOME AND BENEFITS FROM EMPLOYMENT AND MAINTENANCE PAYMENTS**

- 3.—(1) In section 8(1) of the 1997 Ordinance (taxable income)—

(a) for paragraphs (c) and (d) there shall be substituted—

“(c) the prescribed annual value of any prescribed benefit received otherwise than in money in respect of any employment (not being chargeable to tax under paragraph (b));” and

(b) paragraph (h) shall cease to have effect.

- (2) For subsection (2) of that section there shall be substituted—

“(2) Rules may be made providing for the valuation of any emolument of employment received otherwise than in money in respect of which an employee is chargeable to tax under subsection (1)(b).

(2A) Rules made—

(a) for the purposes of subsection (1)(c) prescribing the value of any benefit received otherwise than in money, and prescribing benefits the receipt of which will not give rise to a charge to tax under subsection (1)(c), or

(b) for the purposes of subsection (2),

shall be made by the Governor, and shall not come into effect unless they are confirmed by the Legislative Council.

(2B) Rules for the purposes of subsection (1)(c) or (2) may provide that any non-cash emolument or benefit received by one individual is, in such cases as may be prescribed in the Rules, to be deemed to be received by another individual.”

(3) Subsections (3) and (4) of that section (definition of “maintenance payment” and rule-making power) shall cease to have effect.

(4) Section 101(1) to (3) of the 1997 Ordinance (cost of excess benefits not deductible by employer) shall cease to have effect.

#### CHANGE OF INCOME TAX RATES

4. In section 10(1) of the 1997 Ordinance the following shall be substituted for paragraph (a) (income tax rates)—

“(a) on the first £12,000 of his chargeable income, at 20 per cent.; and

(b) on the remainder, at 25 per cent.”

#### CHANGE OF CORPORATION TAX RATES

5.—(1) In section 28 of the 1997 Ordinance (corporation tax rates) for subsections (1) to (5) there shall be substituted—

“(1) Corporation tax shall be charged on the chargeable income of a company for an accounting period at the following rates—

(a) on so much of its chargeable income as does not exceed the threshold amount, at 20 per cent.; and

(b) on its chargeable income not falling within paragraph (a), at 25 per

cent.

(2) For the purposes of subsection (1)—

(a) if at any time in that period the company has any associated companies the threshold amount is—

$$\frac{\pounds 1,000,000}{1 + A}$$

where A is the number of associated companies; or

(b) if paragraph (a) does not apply, the threshold amount is £1,000,000.

(3) In subsection (1)(a) above the reference to a company's chargeable income for any period is a reference to the amount of that income less the amount of any ring fence income and any franked investment income of the company for that period."

(2) In section 28(6) for "subsection (5)(a) and (b)" there shall be substituted "subsection (2)".

(3) In section 28(7) the words "the higher maximum amount and" shall cease to have effect.

(4) This section shall have effect in relation to accounting periods beginning on or after 1<sup>st</sup> January 2004.

#### ENDING OF CERTAIN INCOME TAX ALLOWANCES

6.—(1) The following provisions in section 15 of the 1997 Ordinance (which provides for various allowances) shall cease to have effect—

(a) subsection (1) (earned income relief);

(b) subsection (3)(a) (maintenance payments); and

(c) subsection (3)(b) (interest on housing loans deductible) and subsection (6) (definition of "housing loan")

(2) The following provision in section 16 of the 1997 Ordinance (which provides for various allowances) shall cease to have effect—

(a) subsection (2) (allowance for dependent relatives) and subsection (4) (definition of "dependent relative"); and

(b) subsection (3) (allowance for dependency on son or daughter).

(3) Section 17 (married man's allowance and wife's earnings relief) shall cease to

have effect.

- (4) Section 18 (age allowance) shall cease to have effect.
- (5) Sections 19 and 20 (allowances in respect of children) shall cease to have effect.
- (6) In section 57(1)—
  - (a) paragraph (h) (tax exemption for defence contractors) shall not apply in relation to accounting periods beginning on or after 1<sup>st</sup> January 2004; and
  - (b) paragraph (p) (maintenance payments) shall cease to have effect.
- (7) The following shall be substituted for section 58 (certain payments of interest and rent and other amounts deductible) —

“58. In computing a person’s income for any period from an employment, all outgoings and expenses wholly, necessarily and exclusively incurred by him during that period in the production of that income may be deducted.”
- (8) Sections 66 and 82(1)(a) (relief in respect of life assurance premiums) shall cease to have effect.

**INCREASE IN PERSONAL ALLOWANCE**

7. The following shall be substituted for subsection (1) of section 16 of the 1997 Ordinance (personal allowance)—

“(1) In computing the chargeable income of an individual there shall be allowed a deduction of £12,000.”

**TAXATION OF COMMUTED PENSIONS**

8. (1) In section 74 of the 1997 Ordinance (taxation of sums paid out in commutation of pensions) at the end of subsection (2) there shall be added “at the rate which, at the time the sum becomes receivable, is the basic rate.
  - (2A) The administrator shall account to the Commissioner for any tax deducted under subsection (2) in accordance with such rules as may be prescribed, and the employee shall not be entitled to recover any such amount of tax from the administrator.
  - (2B) Where the whole or any part of any sum is chargeable to tax under subsection (1), that sum shall not be treated as income for the purposes of any other provision of this Ordinance.”

**ABOLITION OF ACT**

- 9.—(1) This section shall have effect for the purpose of ending the charge to ACT and abolishing tax credits for companies.
- (2) The following sections of the 1997 Ordinance shall not apply in relation to any distribution or payment made on or after 1<sup>st</sup> January 2004—
- (a) section 35(1) and (2) (which impose the charge to ACT);
  - (b) section 47 (which makes provision with respect to distributions which are not payments and payments of uncertain character);
  - (c) section 56 (provision relating to dividends paid before introduction of corporation tax).
- (3) The following sections of the 1997 Ordinance shall not apply in relation to accounting periods beginning on or after 1<sup>st</sup> January 2004—
- (d) section 39 (ACT where franked investment income received);
  - (e) sections 45 and 46 (receipt of franked investment income after payment of ACT).
- (4) Section 49 (tax credits) shall have effect in relation to any distribution received on or after 1<sup>st</sup> January 2004 subject to the following amendments—
- (a) the words “another such company or” shall cease to have effect, and for the words following “corresponds” there shall be substituted “to the basic rate of income tax for the year of assessment in which the distribution is made”; and
  - (b) subsection (3) shall cease to have effect.
- (5) Section 50 (group income) shall not apply in relation to any distribution received on or after 1<sup>st</sup> January 2004.
- (6) In section 53(1) (tax credits for non-residents) the word “qualifying” shall cease to have effect..

**POAT: POWER TO IMPOSE CIVIL OR ADMINISTRATIVE PENALTIES IN REGULATIONS**

10. In section 91(10) of the 1997 Ordinance (scope of POAT regulations) after paragraph (b) there shall be inserted—

“(ba) impose civil or administrative penalties for failure to comply with the regulations, and”.



**DEPRECIATION ALLOWANCES: TIME WHEN EXPENDITURE IS INCURRED**

11.—(1) The following section shall be inserted after section 106 of the 1997 Ordinance—

**“Time when capital expenditure is deemed to be incurred**

106A.—(1) For the purposes of this Chapter, the general rule is that an amount of capital expenditure is to be treated as incurred as soon as there is an unconditional obligation to pay it.

(2) The general rule applies even if the whole or a part of the expenditure is not required to be paid until a later date, but this is subject to subsection (3).

(3) If under an agreement—

(a) an amount of capital expenditure is not required to be paid until a date more than 6 months after the unconditional obligation to pay has come into being, and

(b) the unconditional obligation to pay relates to expenditure which in total is not less than £30,000,

then the amount mentioned in paragraph (a) is to be treated as incurred on the date mentioned in that paragraph.”

(2) This section shall have effect in relation to expenditure incurred on or after 1<sup>st</sup> January 2004.

**DEPRECIATION ALLOWANCES: ABOLITION OF INITIAL ALLOWANCES AND CHANGES TO WRITING-DOWN ALLOWANCES**

12.—(1) Section 116 of the 1997 Ordinance (initial and writing-down allowances) shall have effect, in relation to expenditure incurred on or after 1<sup>st</sup> January 2004, subject to the following amendments.

(2) For subsection (1) (right to initial and writing-down allowances) there shall be substituted—

“(1) Where in the basis period for a chargeable period a person carrying on a business incurs expenditure in the acquisition of—

(a) any plant, machinery or vehicle, including aircraft but not including ships,

(b) any building, or

(c) any ship,

which is or is to be used for the purposes of the business, then in computing that person's chargeable income for that and subsequent chargeable periods a writing-down allowance shall be made in accordance with the provisions of this section, but subject to subsections (2) and (3) below and sections 105 and 106."

(3) In subsection (2) (exclusion of allowances in certain cases) for "subsections (6) to (9) below" there shall be substituted "this section".

(4) Subsection (3) (initial allowances) shall cease to have effect.

(5) For subsections (6), (7) and (8) (initial and writing-down allowances) there shall be substituted—

"(6) In the case of any ship, a writing-down allowance equal to 20 per cent. of the expenditure incurred in acquiring the ship shall be made.

(6A) In the case of plant or machinery (including aircraft) writing-down allowances shall be made under section 117."

(5) In subsection (9) (writing-down allowances for buildings) for the words from the beginning to "shall be made" there shall be substituted—

"(9) Subject to subsection (10), in the case of any building a writing down allowance equal to 10 per cent. of the expenditure incurred in the acquisition of the building shall be made,".

(7) In section 117 (pooling for plant and machinery) in subsection (2)(a) (rate of allowance) for "25 per cent." there shall be substituted "40 per cent."

#### **LOSS RELIEF: CARRY BACK OF LOSSES**

13.—(1) In section 126 (carry forward of losses of individuals and partnerships) for subsection (1) there shall be substituted—

"(1) Where a loss is sustained in any period of account of a business carried on (either alone or in partnership) by any person who is within the charge to income tax for the relevant year of assessment in respect of that business and the loss cannot be wholly set off against that person's income from other sources chargeable to tax for the same year, the amount of the loss shall, to the extent to which it is not set off against his income from other sources chargeable to tax for the same year—

(a) be carried back and—

(i) set off against the profits of that business arising in the immediately preceding period of account, and

- (ii) provided that person was carrying on that business in the preceding year, in so far as it cannot or cannot wholly be set off against such profits, it shall be set off against income of that person from other sources chargeable to tax for the year of assessment immediately preceding the relevant year; or
- (b) be carried forward and (so long as he continues to carry on the business)—
- (i) shall be set off against the profits of that business arising in the following period of account, and in so far as it cannot or cannot wholly be set off against such profits, it shall be set off against income of that person from other sources chargeable to tax for the year of assessment following the relevant year
  - (ii) in so far as it cannot or cannot wholly be set off against such profits, it shall be set off against income of that person from other sources chargeable to tax for the year of assessment following the relevant year,

and so on for subsequent years in succession until the amount of such loss is exhausted.”

- (2) In section 128 of the 1997 Ordinance (loss relief for companies) at the end of subsection (1) (losses set-off against income of period in which they are incurred) there shall be added “or of the immediately preceding accounting period.”

**GROUP RELIEF: EXTENSION TO NON-FALKLAND ISLANDS GROUPS**

- 14.—(1) In section 131 of the 1997 Ordinance (group relief) the following shall be substituted for subsection (2) (exclusion of companies not resident in the Falkland Islands)—

“(2) Group relief shall not be available unless the claimant company and the surrendering company are resident in the Falkland Islands throughout the whole of the surrendering company's accounting period to which the claim relates, and throughout the whole of the corresponding accounting period of the claimant company.”

- (2) In section 139(5) of the 1997 Ordinance (disregard of ownership of non-resident companies) the word “or” at the end of paragraph (b) and paragraph (c) shall cease to have effect.

**NON-CASH REMUNERATION: EARNED INCOME**

15.—(1) Section 206 of the 1997 Ordinance (earned income) shall be amended as follows.

(2) After subsection (2) there shall be inserted—

“(2A) In this Ordinance, except section 83(2), “earned income” also includes, in relation to any individual—

(a) an amount equal to the value of any emolument received otherwise than in cash by that individual in respect of any office or employment held by the individual, and

(b) any amount in respect of which the individual is chargeable to tax by virtue of section 8(1)(c).”

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The following are published in this Supplement -

**Taxes (Benefits in Kind) Rules 2003.**

## **Taxes (Benefit in Kind) Rules 2003**

### **Explanatory Note following consideration by Executive Council**

1. At a meeting held on 20 November 2003 Executive Council approved the recommendation in Paper 328/03 that the Taxes (Benefit in Kind) Rules 2003 be remitted to Legislative Council on 19 December for confirmation, subject to a suitable amendment to rules 5(2) to (6) being prepared to reflect the following policy modifications in connection with the tax treatment of travel benefits:

(a) remove the 5 year limit under rule 5(3) so that the benefit shall not be a prescribed benefit indefinitely.

(b) retain the exclusion for the cost of one return journey per calendar year for the employee, spouse and children (under age 18).

(c) remove the reference to the "country of origin" for that one return journey per calendar year so that an employer can pay the cost of travel from the Falkland Islands to and from anywhere in the world or within the Falkland Islands, subject to a financial limit, and that the cost is not treated as a prescribed benefit.

(d) prescribe the financial limit at (c) above as the minimum cost of travel to and from the "country of origin" including the cost of overnight accommodation and transfers where necessary.

(e) if the cost of any such travel exceeds the minimum cost at (d) above then the excess is to be treated as a prescribed benefit.

2. Executive Council referred the rates of the Annual Values prescribed under Table B to the Standing Finance Committee for consideration. At a meeting held on 21 November 2003 the Standing Finance Committee agreed that the Rules as drafted should be published and that the rates of the Annual Values should be debated at Legislative Council which provides an opportunity for any amendment, if approved by the majority of Honourable Members, prior to the confirmation of the Rules.

The Treasury  
Stanley

21 November 2003

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## SUBSIDIARY LEGISLATION

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### TAXES

#### Taxes (Benefits in Kind) Rules 2003

S. R. & O. No:            of 2003

#### ARRANGEMENT OF RULES

1. Citation and commencement
2. Interpretation
3. Benefits prescribed for section 8(1)(c) of 1997 Ordinance
4. Annual values of prescribed benefits
5. Exceptions from rules 3 and 4
6. Reduction of annual values in certain cases
7. Revocation of earlier Rules



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## SUBSIDIARY LEGISLATION

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### TAXES

#### Taxes (Benefits in Kind) Rules 2003

S. R. & O. No:                      of 2003

*Made:* ..... 2003

*Published:* ..... 2003

*Coming into force:* 1 January 2004

IN EXERCISE of my powers under section 8(1)(c) of the Taxes Ordinance 1997<sup>(b)</sup> and all other powers in that behalf enabling me, I hereby make following Rules —

#### Citation and commencement

1.—(1) These Rules may be cited as the Taxes (Benefits in Kind) Rules 2003.

(2) These Rules shall come into force on 1<sup>st</sup> January 2004 and shall have effect for the computation of chargeable income for years of assessment beginning on or after 1<sup>st</sup> January 2005.

#### Interpretation

2.—(1) In these Rules “prescribed benefit” means a benefit prescribed by these Rules for the purposes of section 8(1)(c) of the Taxes Ordinance 1997<sup>(b)</sup>.

(2) For the purposes of these Rules, unless the context otherwise requires —

(a) “the employer”, in relation to an employee, means the employer of that employee;

(b) “the employee”, in relation to an employer, means an employee of that employer;

(c) any reference to a loan includes a reference to any form of credit and to any arrangement, guarantee or other facility connected with the provision of a loan;

(d) any reference to a member of the family of an employee includes the spouse, parent, child, grandparent, grandchild, brother or sister of the employee and any person living with the employee as his partner and any child of such a person living with the employee;

(e) any reference to a child of any person includes a reference to a stepchild of his, an illegitimate child of his if he has married the other parent after the child's birth and an adopted

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<sup>(b)</sup> Section 8(1)(c) amended by the Taxes (Amendment) Ordinance 2003 No 00.

child of his if the child was under the age of 18 years when he was adopted;

(f) anything done on behalf of or by arrangement with or at the direction of an employer shall be deemed to have been done by that employer; and

(g) anything done to, by or for a member of the family of any employee shall be deemed to have been done to, by or for the employee.

(3) In these Rules “motor vehicle” means any mechanically propelled road vehicle other than —

(a) a vehicle of a construction primarily suited for the conveyance of goods or burden of any description the design weight of which exceeds 3,500 kilograms;

(b) an invalid carriage, that is to say, a vehicle which is specially designed and constructed (not merely adapted) for the use of a person with a disability and has an unladen weight not exceeding 254 kilograms;

(c) a motor cycle, that is to say, a vehicle, not being an invalid carriage, with fewer than 4 wheels and an unladen weight which does not exceed 410 kilograms; and

(d) a moped or motor scooter.

(4) In these Rules—

“agriculture” means arable farming, dairy farming and livestock breeding and keeping, the use of land as grazing land and meadow land, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes; and

“horticulture” means the production of horticultural produce for sale, and horticultural produce means fruit, flowers, vegetables and herbs, trees and shrubs, other than trees grown for the purpose of afforestation, and seeds for the reproduction of any such produce.

### **Benefits prescribed for section 8(1)(c) of 1997 Ordinance**

3.—(1) The following benefits are prescribed benefits for the purposes of section 8(1)(c) of the Taxes Ordinance 1997 —

(a) the payment by an employer of or in respect of any travel expenses incurred by or in respect of an employee;

(b) the use by an employee of a motor vehicle provided by the employer;

(c) the provision by an employer of a loan to the employee;

(d) the provision by an employer of any living accommodation, including heating and lighting of the accommodation, for the use of the employee.

(2) Paragraph (1) has effect subject to the following provisions of these Rules.

#### Annual values of prescribed benefits

4.—(1) The annual value of a benefit consisting of the payment of or in respect of any travel expenses is the amount of the payment.

(2) The annual value of a benefit consisting of the use of a motor vehicle is £40 for each day the employee enjoys the use of the vehicle but subject to a maximum value of £3,000.

(3) The annual value of a loan in a year during which is written off in whole or in part is the amount written off in that year.

(4) The annual value of a loan in a year during which the loan subsists and is not written off, or is written off in part only, is an amount equal to the amount of interest which would have been paid in respect of the loan during the year if it had borne interest at the rate equal to the base lending rate plus 3 per cent less the amount of any interest actually paid in that year.

(5) The annual value of a loan which falls within both paragraphs (3) and (4) in any year of assessment is the higher of the values found in accordance with those paragraphs.

(6) The annual value of a dwelling house provided to or for the benefit of a person by reason of his employment shall be calculated from Table A below, read with paragraph (7).

(7) The annual value shown in the third column of Table A is the value for each room in a house, and, accordingly, in relation to any particular house, that value is to be multiplied by the number of rooms in the house, but for the purposes of the Table —

(a) the maximum number of rooms which may be taken into account in calculating the annual value of any house is 7; and

(b) garages, outbuildings, porches, bathrooms, lavatories, larders, halls and passages shall be disregarded.

**TABLE A**

#### Dwelling houses

<b>Recipient</b>	<b>Description of Dwelling House</b>	<b>Annual value per room</b>
Any employee	A dwelling house which is substantially furnished	£1,000.00
Any employee	A dwelling house which is not substantially furnished	£750.00

(8) The annual value of the use or occupation of any accommodation, other than a dwelling house, with or without the provision of any meals, shall be the corresponding value in the third column of Table B increased in accordance with paragraph (9) in cases where that paragraph applies.

**TABLE B**

**Board and accommodation**

<b>Recipient</b>	<b>Benefit</b>	<b>Annual Value</b>
A domestic servant	Board and accommodation	2,700.00
Any other person	Accommodation	2,700.00
	Food or meals	2,700.00
	Heating	1,200.00
	Lighting	540.00

(9) In any case where the accommodation is used by an employee and also by the spouse or child of that person by reason of his employment, the annual value for that benefit shall be increased—

(a) in respect of the spouse, by an amount equal to 20 per cent. of the amount specified in Table B as the annual value of that benefit, and

(b) in respect of each child, by an amount equal to 10 per cent. of that amount.

Rule 2(2)(f) does not apply for the purposes of this paragraph.

**Exceptions from Rules 3 and 4**

5.—(1) Rule 3 does not apply to the following benefits, which accordingly are not prescribed benefits for the purposes of section 8(1)(c) of the Taxes Ordinance 1997—

(a) the benefit of a loan the annual value of which is less than £500 or where an employee has more than one loan outstanding in the same year, the benefit of those loans to the extent that the aggregate annual value of all the loans is less than £500;

(b) any benefit not within sub-paragraph (a), the annual value of which, calculated in accordance with Rule 4, is less than £50;

(c) the provision of any sum which in the hands of the employee is (or would be, if the employee had defrayed the expenses) deductible in computing the employee's chargeable income;

(d) the provision of a motor vehicle which —

(i) is provided for an employee who is necessarily obliged to use the vehicle in the performance of the duties of his employment, and

(ii) is not used for any other purpose.

Rule 2(2)(f) does not apply for the purposes of this sub-paragraph.

(2) Where, at any time an employee is employed in the Falkland Islands and, immediately before the commencement of the employment, the employee was not normally resident in the Falkland Islands, any benefit the employee enjoys of having the costs of travelling—

(a) between the country where the employee's usual residence is or was situated ("the country of origin") and the Falkland Islands, or

(b) between the Falkland Islands and the country of origin,

wholly or partly met or reimbursed by the employer by reason of the employment in the Falkland Islands shall not be a prescribed benefit.

(3) Paragraph (2) does not apply in relation to any journey if at the start of the journey the employee has been employed in the Falkland Islands for more than 5 years.

(4) Paragraph (2) does not apply in relation to any journey taken by an employee between his country of origin and the Falkland Islands or between the Falkland Islands and his country of origin in the course of which the employee voluntarily stays in another place otherwise than wholly, necessarily and exclusively for the purposes of his employment.

(5) Paragraph (2) does not apply to the cost of journeys taken by an employee's child aged 18 or over at the beginning of the journey to the Falkland Islands or to the country of origin.

(6) Paragraph (2) only applies in relation to one return journey in each calendar year for each individual within paragraph (2) or (4), except in the last year of the employment when (subject to paragraph (3)) it also applies to the final journey back to the country of origin.

(7) Rule 3(1)(c) does not apply to —

(a) a loan made by an employer carrying on a business which includes the making of loans if the loan was made in the ordinary course of that business and is of an amount and on terms comparable to loans available generally to customers of that business;

(b) a loan made by an individual and shown to have been made in the normal course of his domestic, family or personal relationships.

(8) Rule 3(1)(d) does not apply —

(a) if the employee is employed in agriculture or horticulture, (but otherwise they apply in relation to all employees); or

(b) in any case where the Commissioner is satisfied that it is necessary for the employee to live in the accommodation in order to carry out the duties of his employment; or

(c) if the accommodation is not situated on-shore in the Falkland Islands.

Rule 2(2)(g) does not apply for the purposes of this paragraph.

**Reduction of annual values in certain cases**

6.—(1) Where a person is in receipt of a prescribed benefit for part only of a year, the annual value of the benefit found in accordance with rule 4(6), (7), (8) or (9) shall be reduced by a corresponding proportion.

(2) The annual value of any benefit shall be reduced by an amount equivalent to any amount which the employee pays in respect of the benefit (but shall not be reduced below zero to produce a loss).

(3) The Commissioner may determine that the annual value of a benefit shall be reduced to a figure specified in the determination in any case where he considers such a reduction to be just and equitable.

**Revocation of earlier Rules**

7. The Income Tax (Annual Values) Rules 1997<sup>(a)</sup> and the Taxes (Excess Benefits) Rules 1994<sup>(b)</sup> are revoked but without prejudice to their application in relation to the computation of chargeable income for any chargeable period ending before 1<sup>st</sup> January 2004.

Made this

day of November 2003

H J S Pearce CVO  
Governor

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**EXPLANATORY NOTE**  
*(not forming part of the Rules)*

These Rules are made under section 8(1)(c) of the Taxes Ordinance 1997 which brings into the charge to tax certain benefits enjoyed by employees and members of their families by reason of the employees' employment. The Rules prescribe the benefit to be brought within the charge to tax and the annual value for that benefit which is the amount the employee will pay tax on. The Rules replace the Income Tax (Annual Values) Rules 1997<sup>(c)</sup> under which the only benefit prescribed for the purposes of section 8 of the Taxes Ordinance was accommodation, board and lodging, including heating and lighting.

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<sup>(a)</sup> 1997 S. R & O No 21

<sup>(b)</sup> 1994 S. R. & O No 18

<sup>(c)</sup> S R & O No 21 of 1997

In the main the Rules give effect to the recommendations relating to benefits in kind of the Falkland Islands Tax Policy Review 2001-2003.

Rule 1 provides the title of the Rules and their commencement. They will apply for tax purposes to benefits received by individuals on or after 1 January 2004.

Rule 2 includes definitions which apply for the purposes of the Rules. Amongst other things the definitions will ensure that benefits enjoyed by members of the family of an employee will be taxed as if they had been provided directly to the employee. All motor cars and motor bikes will be within the new Rules other than goods vehicles, invalid carriages and motor scooters and mopeds.

Rule 3 prescribes the benefits which will fall to be taxed under section 8(1)(c) of the Taxes Ordinance 1997. Paragraph (1) prescribes four different benefits: payment of travel expenses, use of motor vehicles, loans and accommodation including board and lodging, heating and lighting.

The annual values of these benefits are prescribed by Rule 4. The annual value of the use of a motor vehicle is £40 per day of use up to a maximum of £3,000. The annual value of a loan is the higher of the amount written off in the year in question (if any) and the amount of interest which would have been payable if interest on the loan had been payable at base rate plus 3%. This ensures that only low interest loans are taxable under section 8(1)(c). The annual values for accommodation, board, lodging, heating and lighting are increased from the values set in 1997 and are set out in the Rules. The exemption for agriculture and horticulture is maintained.

Rule 5 sets out certain exceptions from the charge to tax. The following are the exceptions:-

First in the case of loans, any loan of which the annual value is less than £500, or if there is more than one loan, so much of the annual aggregate annual value as is less than £500.

In the case of any other benefit, any benefit of which the annual value is less than £50.

Where the benefit consists of any sum reimbursed to or in respect of the employee which, if the employee had paid the money, would have been deductible in calculating his chargeable income, the benefit is outside the charge.

Any motor vehicle which is needed by the employee for his work and is not used for any other purpose is also outside the charge.

There are exceptions from the charge for certain travel expenses for employees who were based outside the Falkland Islands before starting to work in the Islands. The Rules will allow one journey a year for each member of the employee's family between the country of origin and the Falkland Islands. In the last year of the employment 2 journeys including the final return to the country of origin will be allowed. These exceptions are only available for the first 5 years of employment in the Islands and for children are only available until they

reach 18 years of age.

Paragraph (7) of Rule 5 exempts loans made in the ordinary course of business by the employer on normal commercial terms. This will apply for example in the case of a bank making loans on non-discriminatory terms to its employees.

Paragraph (8) exempts accommodation which the Commissioner is satisfied the employee has to live in for the purposes of his employment and any accommodation offshore in ships.

Rule 6 reduces the annual value in certain cases. If the beneficiary is not resident in the Falkland Islands for all the year, then the annual value of accommodation, board and lodging is to be proportionately reduced. If the employee pays any of the cost of the benefit himself or herself or reimburses the employer any part of the cost, the amount so paid or reimbursed is to be deducted from the annual value of the benefit. And if the Commissioner considers it just and equitable in any case he may reduce the annual value of any benefit.

Rule 7 revokes the Income Tax (Annual Values) Rules 1997 and the Taxes (Excess Benefits) Rules 1994.



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**Infectious Diseases Bill 2003, Explanatory Memorandum:**

**Infectious Diseases Bill 2003.**

## EXPLANATORY MEMORANDUM

### Infectious Diseases Bill 2003

#### *Introductory*

The present provisions of the laws of the Falkland Islands in relation to infectious diseases are to be found in the definition of "contagious or infectious disease" in section 2 of that Ordinance, section 19(1)(e), of which enables By-laws to be made as to the checking and preventing the spread of any contagious or infectious disease, Part II of the Ordinance which deals with measures to prevent the introduction of contagious or infectious disease into the Falkland Islands, By-Laws 55 to 64 of the Public Health By-Laws and the Public Health (Aircraft) Regulations 1979 which have been applied, with modifications, to the Falkland Islands.

The attached Bill would replace section 2 of the Public Health Ordinance, repeal section 19(1)(e) and revoke Board of Health By-Laws 55 to 64, which it would replace.

The Bill is based on some of the provisions of the Public Health (Control of Disease) Act 1984 as modified by the Public Health (Infectious Diseases) Regulations 1988. Many of the provisions of that Act are not necessary in the circumstances of the Falkland Islands and would not be applied by the Bill.

The effect of the Bill, if enacted, would be to provide modern and up-to-date powers to deal with diseases which, under the terms of the Bill, are notifiable and with other infectious diseases.

#### *Detail*

Clause 1 of the Bill if enacted would, by virtue of the provisions of the Interpretation and General Clauses Ordinance, come into effect on its publication as an Ordinance in the Gazette.

Clauses 2 and 3 would contain a number of definitions.

Clause 4 would require a case of notifiable disease or any of the diseases mentioned in clause 4(2)(b) and any case of food poisoning to be reported to the Chief Medical Officer by any Government Medical Officer who becomes aware or suspects that a patient he is attending is suffering from any such disease or from food poisoning or from tuberculosis but in the latter case where the opinion of the Government Medical Officer is formed from evidence not derived solely from tuberculosis tests. (That is because a positive tuberculosis test does not necessarily signify that the patient is in an infectious state).

Clause 5 contains the power for a justice of the peace to order a person to be medically examined by a Government Medical Officer if he is satisfied on a written certificate issued by a Government Medical Officer as to the matters stated in clause 5(1).

Clause 6 enables a justice of the peace to order the medical examination of a group of persons believed to comprise a carrier of an organism that is capable of causing a disease to which this section applies.

Clause 7 deals with the removal to a hospital, under an order of a justice of the peace of a person suffering from a notifiable disease or one of the other diseases referred to in clause 7(3)(b) or tuberculosis of the respiratory tract in an infectious state.

Clause 8, similarly, enables a justice of the peace to order the detention in hospital of a person suffering from a notifiable disease or one of the other diseases mentioned in clause 7(3)(b). Clause 8(6) would enable a justice of the peace additionally to order the detention in hospital of a person suffering from AIDS if the circumstances mentioned in clause 8(6) were shown to exist.

Clause 9 makes special provision in relation to persons dying in hospital with a notifiable disease or of one of the diseases mentioned in clause 9(3)(b) and clause 10 makes provision for the isolation of the body of a person dying with a notifiable disease or of any disease to which clause 7(3) deals or of tuberculosis.

Clause 10 makes provision for the isolation of the body of a person who has died from an infectious disease specified in the clause.

Clause 11 provides no wake may be held over the body of a person to which clause 10 applies.

Clause 12 makes provision in relation to precautions to be taken by persons knowing that they are suffering from a disease to which section 10 applies.

Clause 13 enables the Chief Medical Officer to require the occupier of any premises in which there is or has been any person suffering from a disease to which clause 10 applies to furnish information to the Chief Medical Officer to enable measures to be taken to prevent the spread of the disease or the trace a source of food poisoning.

Clause 14 makes provision in relation to trading or carrying on a business or occupation by a person suffering from a disease to which section 10 applies. Clause 14 enables the Chief Medical Officer to require any person suffering from a notifiable disease or from a disease mentioned in clause 15(2) to stop work. Clause 15(4) contains a provision for compensation when any such requirement is made. Similarly clause 16 contains provisions in relation to exclusion from school of children suffering from a disease to which section 10 applies and clause 17 contains provision in relation to the exclusion of children from places of entertainment or assembly if they are suffering from a disease to which clause 10 applies.

Clause 18 provides that articles which have been exposed to infection from a disease to which clause 10 applies shall not be sent to a laundry.

Clause 21 imposes duties to give information to a person negotiating for the purchase or hire of a house or part of a house in answer to any questions he may ask as to whether anybody has suffered during the preceding six weeks in any part of the house from a disease to which section 10 applies. It also imposes duties on the vendor or

landlord of a house where a person has suffered from such a disease to have the house and all articles in it properly disinfected. A similar duty is imposed by clause 21(3) in relation to hotel, and to accommodation.

Clause 22 imposes similar duties on a tenant or other occupier of a house or part of a house in which within the previous six weeks a person has suffered from a disease to which section 10 applies to disinfect the house and all articles in it liable to retain infection, to notify the owner of the house of the previous existence of disease and to answer the owner's questions. The Chief Medical Officer is required by clause 22(2) to give notice of the provisions of the section to the occupier and to the owner of any house in which he is aware that there is a person suffering from a notifiable disease.

Clause 23 would confer on the Chief Medical Officer powers in the circumstances specified by the clause to give notice to the occupier of premises requiring him to cleanse and disinfect the premises and destroy any articles in them likely to retain infection and to inform the Chief Medical Officer within 24 hours of the receipt of the notice as to whether the occupier will comply with the notice within such time as is specified in it or if no time is specified within seven days. Clause 23(2) confers powers on the Crown to cleanse and disinfect the premises and disinfect or destroy articles in them, in default of the occupier doing so, and to recover from the occupier the expenses reasonably incurred by the Crown in doing so.

Clause 24 confers powers on the Chief Medical Officer to secure the removal of any person who is not himself sick to temporary shelter or accommodation provided by the Crown with the consent of the person concerned, or of his parent or guardian where he is a child, and, if a person will not consent, to obtain an order from a justice of the peace for the removal of the person concerned.

Clause 25 contains provisions in relation to the use of public conveyances (eg. taxis and coaches) by a person who knows that he is suffering from a disease. Similar provisions are contained in the clause imposing duties on persons having the care of another person who he knows to be suffering from a disease.

Under clause 26 the owner, driver or conductor of a public conveyance used for carrying passengers of separate fares is prohibited from carrying in the conveyance any person whom he knows to be suffering from a disease. Where persons are not carried at separate fares the owner or driver of the public conveyance is empowered to refuse to carry a person suffering from disease until that person pays to him the cost of disinfection of the public conveyance. Regulation making powers are contained in clause 27.

Clause 28(1) repeals the definition of "of contagious or infectious disease" in section 2 of the Public Health Ordinance and section 19(1)(e) of that Ordinance (which empowers By-Laws in relation to contagious or infectious disease). The existing By-Laws would be revoked by clause 28(2).

Clause 29 confers powers of delegation on the Chief Medical Officer and clause 30 states that the Ordinance binds the Crown.

## Infectious Diseases Bill 2003

(No: of 2003)

### ARRANGEMENT OF PROVISIONS

#### Clause

1. Short title
2. Interpretation
3. Notifiable disease
4. Cases of notifiable disease and food poisoning to be reported  
*Infectious persons*
5. Medical examination
6. Medical examination of group of persons believed to comprise carrier of notifiable disease
7. Removal to hospital of person with notifiable disease
8. Detention in hospital of person with notifiable disease  
*Death of person suffering from disease*
9. Person dying in hospital with notifiable disease
10. Isolation of body of person dying with notifiable disease
11. Restriction of wakes  
*Conduct by persons suffering from disease etc*
12. Exposure of persons and articles liable to convey notifiable disease
13. Information to be supplied by occupier
14. Trading etc. by person with disease
15. Stopping of work to prevent spread of disease  
*School*
16. Exclusion from school of child liable to convey disease
17. Exclusion of children from places of entertainment or assembly  
*Infected articles*
18. Infected articles not to be taken or sent to be washed or cleaned
19. Library books  
*Infected premises*
20. Prohibition of certain work on premises where disease exists
21. Sale or letting of house or room after recent case of disease
22. Duty on ceasing to occupy house after recent case of disease
23. Disinfection of premises
24. Removal of person from infected house  
*Public conveyances*
25. Use of public conveyance by person with disease
26. Duty of owner, driver or conductor of public conveyance  
*Miscellaneous*
27. Regulation for control of certain diseases
28. Repeal and revocation
29. Delegation by Chief Medical Officer
30. Ordinance to bind the Crown.

# INFECTIOUS DISEASES BILL 2003

(No: of 2003)

*(assented to: 2003)*

*(commencement: 2003)*

*(published: 2003)*

A BILL

for

AN ORDINANCE

To make new provision in relation to infectious diseases and their control.

BE IT ENACTED by the Legislature of the Falkland Islands as follows —

## **Short title**

1. This Ordinance may be cited as the Infectious Diseases Ordinance 2003.

## **Interpretation**

2. In this Ordinance, unless the context otherwise requires —

“Government Medical Officer” includes the Chief Medical Officer and the Deputy Chief Medical Officer;

“hospital” includes any premises for the reception of the sick;

“house” means a dwelling-house, whether a private dwelling-house or not;

“notifiable disease” has the meaning given by section 3;

“ophthalmia neonatorum” means a purulent discharge from the eyes of an infant, commencing within 21 days of the birth;

“owner” means the person for the time being receiving the rack rent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the rack rent if those premises were let at a rack rent;

“school” includes a Sunday school; and

“viral haemorrhagic fever” means Argentine haemorrhagic fever (Junin), Bolivian haemorrhagic fever (Machupo), Chikungunya haemorrhagic fever, Congo/Crimean haemorrhagic fever, Dengue fever, Ebola virus disease, haemorrhagic fever with renal syndrome (Hantaan) Marburg disease, Omsk haemorrhagic fever and Rift Valley disease.

### **Notifiable disease**

3. In this Ordinance “notifiable disease” means —

(a) any of the following diseases —

cholera (including cholera due the eltor vibrio);  
plague;  
relapsing fever;  
small pox (including variola minor (alastrim)); and  
typhus.

### **Cases of notifiable disease and food poisoning to be reported**

4.—(1) If a Government Medical Officer becomes aware, or suspects, that a patient he is attending is suffering from a disease to which this section applies or from food poisoning, he shall, unless he believes, and has reasonable grounds for believing, that some other Government Medical Officer has complied with this subsection, inform the Chief Medical Officer of, and if the Chief Medical Officer so requires, in writing, of —

(a) the name age and sex of the patient and the premises where the patient is;

(b) the disease or, as the case may be, particulars of the poisoning from which the patient is, or is suspected to be suffering and the date, or approximate date of its onset, and, if the patient is in hospital whether or not, in the opinion of the Government Medical Officer, the disease or poisoning from which the patient is or suspected to be, suffering was contracted in hospital.

(2) This section applies to the following diseases —

(a) a notifiable disease;

(b) any of the following diseases —

acute encephalitis;  
acute poliomyelitis;  
meningitis;  
meningococcal septicaemia (without meningitis);  
anthrax;  
diphtheria;  
dysentery (amoebic or bacillary);  
paratyphoid fever;  
typhoid fever;  
viral hepatitis;  
leprosy;  
leptospirosis;  
measles;



mumps;  
rubella;  
whooping cough;  
malaria;  
tetanus;  
yellow fever;  
ophthalmia neonatorum;  
scarlet fever;  
rabies; and  
viral haemorrhagic fever;  
severe acute respiratory syndrome (SARS); and

(c) tuberculosis where in the opinion of a Government Medical Officer that a person is suffering from tuberculosis is formed from evidence not derived solely from tuberculosis tests.

### *Infectious diseases*

#### **Medical examination**

5.—(1) If a justice of the peace (acting, if he deems it necessary, ex parte) is satisfied, on a written certificate issued by a Government Medical Officer —

(a) that there is reason to believe that he or some other person with whom he may have been in contact —

(i) is or has been suffering from a disease to which this section applies;

(ii) although not suffering from such a disease, is carrying an organism that is capable of causing it, and

(b) that in his own interest, or in the interest of his family that he should be medically examined, and

public interest, it is expedient that he should be medically examined, and

(c) that he is not under the treatment of a Government Medical Officer,

the justice may order him to be medically examined by a Government Medical Officer.

(2) In this section references to a person's being medically examined shall be construed as including references to his being submitted to bacteriological and radiological tests and similar investigations.

(3) This section applies to —

(a) notifiable diseases; and

(b) the following diseases —

(i) diphtheria;  
dysentery (amoebic or bacillary);  
ophthalmia neonatorum;  
paratyphoid fever;  
severe acute respiratory syndrome (SARS);  
typhoid fever;  
viral hepatitis;  
rabies; and  
viral haemorrhagic fever.

(ii) acquired immune deficiency syndrome (AIDS);  
acute encephalitis;  
acute poliomyelitis;  
meningitis;  
meningococcal septicaemia (without meningitis);  
anthrax;  
leprosy;  
leptospirosis;  
measles;  
mumps;  
rubella;  
scarlet fever;  
whooping cough;  
malaria;  
tetanus;  
yellow fever; and  
tuberculosis.

(4) In relation to the diseases mentioned in subsection (4)(b)(ii) subsection (1)(a) shall have effect as if paragraph (ii) of that provision were omitted.

**Medical examination of group of persons believed to comprise carrier of notifiable disease**

**6.—(1)** If a justice of the peace (acting, if he deems it necessary, *ex parte*) is satisfied, on a written certificate issued by a Government Medical Officer —

(a) that there is reason to believe that one of a group of persons, though not suffering from a disease to which this section applies, is carrying an organism that is capable of causing it, and

(b) that in the interest of those persons or their families, or in the public interest, it is expedient that those persons should be medically examined,

the justice may order them to be medically examined by a Government Medical Officer.

(2) Subsections (2) to (4) of section 5 apply in relation to subsection (1) as they apply in relation to subsection (1) (or, in the case of subsection (3), subsection (1)(a)) of that section.

#### **Removal to hospital of person with notifiable disease**

7.—(1) Where a justice of peace (acting, if he deems it necessary, *ex parte*) is satisfied on the application of a Government Medical Officer that a person is suffering from a disease to which this section applies and —

(a) that his circumstances are such that proper precautions to prevent the spread of infection cannot be taken, or that such precautions are not being taken, and

(b) serious risk of infection is thereby caused to other persons; and

(c) that accommodation for him is available at the King Edward VII Memorial Hospital or another suitable hospital or place approved by the Governor for the treatment or accommodation of persons suffering from infectious diseases,

the justice may order him to be removed to it.

(2) An order under this section may be addressed to such public office or officers as the justice may deem expedient and any such officer may do all acts necessary for giving effect to the order.

(3) This section applies —

(a) to notifiable diseases; and

(b) to —

acquired immune deficiency syndrome (AIDS);  
acute encephalitis;  
acute poliomyelitis;  
meningitis;  
meningococcal septicaemia (without meningitis);  
anthrax;  
diphtheria;  
dysentery (amoebic or bacillary);  
paratyphoid fever;  
typhoid fever;  
viral hepatitis;  
leprosy;  
leptospirosis;  
measles;  
mumps;

rubella;  
whooping cough;  
rabies;  
scarlet fever;  
viral haemorrhagic fever;  
severe acute respiratory syndrome (SARS); and

(c) to tuberculosis of the respiratory tract in an infectious state.

#### **Detention in hospital of person with notifiable disease**

8.—(1) Where a justice of the peace (acting, if he deems it necessary, *ex parte*) in and for the place in which a hospital for infectious diseases is situated is satisfied, on the application of a Government Medical Officer that an inmate of the hospital who is suffering from a disease to which this section applies would not on leaving the hospital or other place of a kind referred to in section 7(1)(c) be provided with lodging or accommodation in which proper precautions could be taken to prevent the spread of the disease by him, the justice may order him to be detained in the hospital or such other place.

(2) An order made under subsection (1) above may direct detention for a period specified in the order, but any justice of the peace may extend a period so specified as often as it appears to him to be necessary to do so.

(3) Any person who leaves a hospital or other place contrary to an order made under this section for his detention there shall be liable on conviction to a fine not exceeding level 1 on the standard scale, and the court may order him to be taken back to the hospital.

(4) An order under this section may be addressed —

(a) in the case of an order for a person's detention, to such public officer, and

(b) in the case of an order made under subsection (3) above, to such Government Medical Officer

as the justice may think expedient, and that officer and any such officer may do all acts necessary for giving effect to the order.

(5) This section applies —

(a) to notifiable diseases; and

(b) to the diseases mentioned in paragraph (b) of subsection (3) of section 7 but in its application to acquired immune deficiency syndrome (AIDS) subsection (1) shall apply so that a justice of the peace (acting if he deems it necessary *ex parte*) may on the application of the Chief Medical Officer make an order for the detention in hospital of an inmate of that hospital suffering from acquired immune deficiency syndrome, in addition to the

circumstances specified in that subsection, if the justice is satisfied that on his leaving the hospital proper precautions to prevent the spread of that disease would not be taken by him—

(i) in his lodging or accommodation; or

(ii) in other places to which he may be expected to go if not detained in the hospital.

(6) In addition to the circumstances in which a justice of the peace may make an order under subsection (1) he may on the application of a Government Medical Officer make such an order in respect of an inmate of a hospital or other place of a kind referred to in section 7(1)(c) who is suffering from acquired immune deficiency syndrome (AIDS) if the justice is satisfied that on his leaving hospital or such other place proper precautions to prevent the spread of that disease would not be taken by him —

(a) in his lodging or accommodation; or

(b) in other places to which he may be expected to go if not detained in the hospital or other such place.

*Death of person suffering from disease*

**Person dying in hospital with notifiable disease**

**9.—(1) If —**

(a) a person dies in hospital or other place of a kind referred to in section 7(1)(c) while suffering from a disease to which this section applies, and

(b) a Government Medical Officer certifies that in his opinion it is desirable, in order to prevent the spread of infection, that the body should not be removed from the hospital or such other place except for the purpose of being taken direct to a mortuary or being forthwith buried,

it shall not be lawful for any person to remove the body from the hospital or such other place except for such a purpose.

(2) In any such case, when the body is removed for the purpose of burial or cremation from the hospital or any mortuary to which it has been taken, it shall forthwith be taken direct to some place of burial and there buried.

(3) This section applies —

(a) to notifiable diseases; and

(b) to —

acquired immune deficiency syndrome (AIDS);  
anthrax;  
viral haemorrhagic fever; and  
severe acute respiratory syndrome (SARS).

#### **Isolation of body of person dying with notifiable disease**

**10.—**(1) Every person having the charge or control of premises in which is lying the body of a person who has died while suffering from a disease to which this section applies shall take such steps as may be reasonably practicable to prevent persons coming unnecessarily into contact with, or proximity to, the body, and if he fails to do so he shall be liable on conviction to a fine not exceeding level 1 on the standard scale.

(2) This section applies to —

- (a) notifiable diseases;
- (b) diseases to which paragraph (b) of subsection (3) of section 7 applies; and
- (c) tuberculosis.

#### **Restriction of wakes**

**11.—**(1) It is unlawful to hold a wake over the body of a person who has died while suffering from a disease to which this section applies.

(2) The occupier of any premises who permits or suffers any such wake to take place upon them, and every person who takes part in the wake, commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(3) This section applies to the diseases to which section 10 applies.

*Conduct by persons suffering from disease etc.*

#### **Exposure of persons and articles liable to convey notifiable disease**

**12.—**(1) A person who —

- (a) knowing that he is suffering from a disease to which this section applies, exposes other people to the risk of infection by his presence or conduct in any street, public place, place of entertainment or assembly, club, hotel, public house or shop;
- (b) having the care of a person whom he knows to be suffering from a notifiable disease, causes or permits that person to expose other persons to the risk of infection by his presence or conduct in any place to which paragraph (a) of this section applies; or

(c) gives, lends, sells, transmits or exposes, without proper disinfection, any clothing, bedding or rags which he knows to have been exposed and which is liable to carry such infection,

commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(2) A person does not commit an offence under subsection (1) if, with the consent of a Government Medical Officer, he transmits with proper precautions any article for the purpose of having it disinfected.

(3) This section applies to the diseases to which section 10 applies.

#### **Information to be supplied by occupier**

13.—(1) On the application of the Chief Medical Officer, the occupier of any premises in which there is or has been any person suffering from a disease to which this section applies or from food poisoning shall furnish such information within his knowledge as the Chief Medical Officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease or, as the case may be, to trace the source of food poisoning.

(2) If any person required to furnish information under this section fails to furnish it, or knowingly furnishes false information, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(3) In this section, “occupier”, in relation to any premises, includes —

(a) a person having the charge, management or control of the premises, or of a building of which the premises form part, and

(b) in the case of premises consisting of a building the whole of which is ordinarily let out in separate tenements, or of a lodging house the whole of which is ordinarily let to lodgers, the person receiving the rent payable by the tenants or by the lodgers, as the case may be, either on his own account or as the agent of another person.

(4) This section applies to the diseases to which section 10 applies.

#### **Trading etc. by person with disease**

14.—(1) A person who, knowing that he is suffering from a disease to which this section applies, engages or carries on any trade, business or occupation which he cannot engage in or carry on without risk of spreading the disease commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(2) This section applies to the diseases to which section 10 applies.

### **Stopping of work to prevent spread of disease**

**15.—**(1) With a view to prevent the spread of —

- (a) a notifiable disease, or
- (b) a disease to which subsection (2) applies,

the Chief Medical Officer may by notice in writing require any person to discontinue his work until such time as he is notified by a Government Medical Officer that he is no longer liable to infect any other person.

(2) The diseases to which this subsection applies are —

- (a) enteric fever (including typhoid and paratyphoid fever);
- (b) dysentery;
- (c) diphtheria;
- (d) scarlet fever;
- (e) acute inflammation of the throat;
- (f) gastro-enteritis; and
- (g) undulant fever.

(3) A person who fails to comply with a request to which subsection (1) relates commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(4) The Crown shall compensate a person who has suffered any loss in complying with a request under subsection 1 and any dispute as to the amount of the compensation payable by virtue of this subsection shall be determined by, and any compensation awarded may be recovered before, the Magistrate's Court.

### *Children*

### **Exclusion from school of child liable to convey disease**

**16.—**(1) A person having the care of a child who —

- (a) is or has been suffering from a disease to which this section applies, or
- (b) has been exposed to infection of such a disease,



(c) shall not, after receiving notice from the Chief Medical Officer that the child is not to be sent to school, permit the child to attend school until he has been informed by a Government Medical Officer that in his opinion the child may attend school without undue risk of communicating the disease to others.

(2) A person who contravenes the provisions of this section shall be liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(3) This section applies to the diseases to which section 10 applies.

### **Exclusion of children from places of entertainment or assembly**

17.—(1) This section applies —

(a) to any theatre, including a cinematograph theatre, and any building used as a public hall, public concert-room or lecture room, public dance room or public gymnasium or indoor swimming baths, and

(b) to any sports ground, outdoor swimming baths, outdoor swimming pool, bowling alley, skating or roller skating rink, to which the public are admitted, either on payment of a charge for admission or not, and

(c) to any circus, show, fair, fete, amusement arcade or other public place of entertainment which is not a building.

(2) With a view to preventing the spread of a disease to which this section relates, the Chief Medical Officer may, by notice published in such manner as he thinks best for bringing it to the notice of persons concerned, prohibit or restrict the admission of persons under the prescribed age to any place to which this section applies for a time specified in the notice.

(3) A notice under this section may contain exemptions from the prohibitions or restrictions to which it imposes, and any such exemption may be made subject to compliance with such conditions as may be specified in this notice.

(4) A notice under this section may be expressed to apply to particular premises, or parts of premises, designated in the notice, or to part only of the Falkland Islands, but, except as otherwise prescribed in the notice, the notice shall apply throughout the Falkland Islands.

(5) If the person responsible for the management of a place to which this section applies, having been served by the Chief Medical Officer with a copy of a notice published under this section, admits any person under the prescribed age to that place in contravention of the notice, or fails to comply with any conditions specified in the notice, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(6) In any proceedings for an offence under subsection (5), it is a defence to prove that there were reasonable grounds for believing that the person admitted had attained the prescribed age.

(7) In this section, “prescribed age”, in relation to a notice, means such age, not exceeding sixteen, as may be prescribed by the notice.

(8) This section applies to the diseases to which section 10 applies.

#### *Infected articles*

#### **Infected articles not to be taken or sent to be washed or cleaned**

**18.—**(1) A person shall not send or take to any laundry or public wash-house for the purpose of being washed, or to any place for the purpose of being cleaned, any article which he knows to have been exposed to infection from a disease to which this section applies, unless that article —

(a) has been disinfected by or to the satisfaction of a Government Medical Officer; or

(b) is sent with proper precautions to a laundry for the purpose of disinfection, with notice that it has been exposed to infection.

(2) The occupier of any building in which a person is suffering from a disease to which this section applies shall, if required by the Chief Medical Officer, furnish to him the address of any laundry, wash-house or other place to which articles from the house have been or will be sent during the continuance of the disease for the purpose of being washed or cleaned.

(3) A person who contravenes or fails to comply with any provision of this section commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(4) This section applies to the diseases to which section 10 applies.

#### **Library books**

**19.—**(1) A person who knows that he is suffering from a disease to which this section applies shall not take any book, or cause any book to be taken for his use, or use any book taken, from any public or circulating library.

(2) A person shall not permit any book which has been taken from a public or circulating library, and is under his control, to be used by any person whom he knows to be suffering from a notifiable disease.

(3) A person shall not return to any public or circulating library a book which he knows to have been exposed to infection from a notifiable disease, or permit any such book which is under his control to be so returned, but shall give notice to the person in charge of that library or the owner of that library that the book has been so exposed to infection.

(4) The person in charge of the library or, as the case may be, the owner of the library on receiving such a notice shall cause the book to be disinfected and returned to the library, or shall cause it to be destroyed.

(5) This section applies to diseases to which section 10 applies.

(6) A person who contravenes any of the provisions of subsections (1) to (3) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

#### *Infected premises*

#### **Prohibition of certain work on premises where disease exists**

**20.—**(1) If a case of a disease to which this section applies occurs on any premises, then, whether the person suffering from the disease has been removed from the premises or not, the Chief Medical Officer may make an order forbidding any work to which this section applies to be given out to any person living or working on those premises, or on such part of them as may be specified in the order; and any order so made may be served on the occupier of any factory or other place from work which work is given out, or on any contractor employed by any such occupier.

(2) An order under this section may be expressed —

(a) to operate for a specified time or until the premises or any part of them specified in the Order have been disinfected to the satisfaction of the Chief Medical Officer, or

(b) to be inoperative so long as any other reasonable precautions specified in the order are taken.

(3) If any occupier or contractor on whom an order under this section has been served contravenes the provisions of the order, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(4) This section applies —

(a) to the diseases to which section 10 applies; and

(b) to the making, or cleaning, washing, altering, ornamenting, finishing or repairing of wearing apparel and any incidental work and to such other classes of work as may be specified by an order made by the Governor.

#### **Sale or letting of house or room after recent case of disease**

**21.—**(1) If a person who —

(a) is concerned in the sale or letting of a house or part of a house, or in showing a house or part of a house with a view to its being sold or let, or

(b) has recently ceased to occupy a house or part of a house,

is questioned by any person negotiating for the purchase or hire of the house or any part of the house as to whether there is, or has been within the preceding six weeks, in any part of the house a person suffering from a disease to which this section applies, and knowingly makes a false answer to that question, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale and to imprisonment for a term not exceeding one month.

(2) A person who sells or lets any house or part of a house in which a person has to his knowledge been suffering from a disease to which this section applies without having the house, or the part of the house, and all articles in it liable to retain infection, properly disinfected commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

(3) The keeper of an hotel, inn or lodge who allows a room in it in which a person has to his knowledge been suffering from a disease to which this section applies to be occupied by any other person before the room and all articles in it liable to retain infection have been properly disinfected commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

(4) In this section and in section 22, "properly disinfected" means disinfected to the satisfaction of the Chief Medical Officer.

(5) This section applies to the disease to which section 10 applies.

#### **Duty on ceasing to occupy house after recent case of disease**

**22.—**(1) If a person ceases to occupy a house or part of a house in which to his knowledge a person has within six weeks previously been suffering from a disease to which this section applies and either —

(a) he fails to have the house, or the part of the house, and all articles in it liable to retain infection, properly disinfected, or

(b) he fails to give to the owner of the house, or the part of the house, notice of the previous existence of disease, or

(c) on being questioned by the owner as to whether within the preceding six weeks there has been in it any person suffering from any notifiable disease, he makes a false answer,

he commits an offence and is liable on conviction —

(i) in the case of an offence under paragraph (a) or (b) of this subsection, to a fine not exceeding the maximum of level 2 on the standard scale, or

(ii) in the case of an offence under paragraph (c) of this subsection, to a fine not exceeding the maximum of level 2 on the standard scale and to imprisonment for a term not exceeding one month.

(2) The Chief Medical Officer shall cause notice to be given of the provision of this section to the occupier and also to the owner of any house in which he is aware that there is a person suffering from a notifiable disease.

(3) This section applies to the diseases to which section 10 applies.

### **Disinfection of premises**

**23.—(1)** If the Chief Medical Officer is satisfied that the cleansing and disinfection of any premises, and the disinfection or destruction of any article there likely to retain infection, would tend to prevent the spread of any infectious disease, he may give notice to the occupier of the premises requiring the occupier at his own cost —

(a) to cleanse and disinfect the premises, and

(b) to disinfect or, as the case may require, destroy any such articles, and

(c) to inform the Chief Medical Officer within 24 hours after the receipt of the notice as to whether the occupier will comply with the notice within such time as is specified in the notice and, if no time is so specified, within seven days.

(2) If —

(a) within 24 hours after the receipt of the notice the person to whom it is addressed does not so inform the Chief Medical Officer,

(b) having so informed the Chief Medical Officer, fails to take the specified steps to the satisfaction of Chief Medical Officer within the time fixed by the notice, or if no time has been so fixed, within seven days,

the Crown may cause the premises to be cleansed and disinfected and the articles to be disinfected or destroyed, as the case may require, and may recover from the occupier the expenses reasonably incurred by the Crown in doing so; and any expenses may be so recovered as a simple contract debt in any court of competent jurisdiction.

(3) Where the occupier of any premises is in the opinion of the Chief Medical Officer unable effectually to take such steps as he considers necessary, the Crown may, without giving such notice but with the occupier's consent, take the necessary steps at its own cost.

(4) For the purposes of this section, the owner of unoccupied premises shall be deemed to be in occupation of them.

### **Removal of person from infected house**

**24.—**(1) Where any infectious disease incurs in a house, or the Chief Medical Officer believes it to be necessary for the house to be disinfected, the Chief Medical Officer may —

(a) cause any person who is not himself sick and who consents to leave the house, or whose parent or guardian, where the person is a child, consents to his leaving the house, to be removed to any temporary shelter or house accommodation provided by the Crown, or

(b) cause any such person to be so removed without any consent, if a justice of the peace (acting, if he deems it necessary, *ex parte*) is satisfied, on the application of the Chief Medical Officer, of the necessity for the removal and makes an order for the removal, subject to such conditions, if any as may be specified in the order.

(2) In every case to which this section applies the removal shall be affected, and the conditions of any order shall be satisfied, without charge to the person removed, or to the parent or guardian of that person.

### *Public conveyances*

#### **Use of public conveyances by person with disease**

**25.—**(1) A person who knows that he is suffering from a disease to which this section applies shall not —

(a) enter any public conveyance used for the conveyance of persons at separate fares, or

(b) enter any other public conveyance without previously notifying the owner or driver that he is so suffering.

(2) A person having the care of a person who he knows to be suffering from a disease to which this section applies shall not permit that person to be carried —

(a) in any public conveyance used for the conveyance of persons at separate fares, or

(b) in any other public conveyance without previously informing the owner or driver that that person is so suffering.

(3) A person who contravenes any provision of this section —

(a) is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale, and

(b) in addition to any fine imposed, shall be ordered by the court convicting him to pay any person concerned with the conveyance as owner, driver or conductor a sum sufficient to cover any loss and expense incurred by him in connection with the disinfection of the conveyance in accordance with section 26.

(4) This section applies to the diseases to which section 10 applies.

**Duty of owner, driver or conductor of public conveyance**

26.—(1) The owner, driver or conductor of a public conveyance used for the conveyance of passengers at separate fares shall not convey in it a person whom he knows to be suffering from a disease to which this section applies.

(2) The owner or driver of any other public conveyance may refuse to convey in it any person suffering from a disease to which this section applies until he has been paid a sum sufficient to cover any loss and expense which will be incurred by reason of the provisions of subsection (3).

(3) If a person suffering from a disease to which this section applies is conveyed in a public conveyance, the person in charge of the conveyance shall —

(a) as soon as practicable give notice to the Chief Medical Officer of that fact; and

(b) before permitting any other person to enter the conveyance, cause it to be disinfected,

and any person concerned with the conveyance as its owner, driver or conductor may recover as a civil debt from the person so conveyed, or from the person causing that person to be so conveyed, a sufficient sum to cover any loss or expense incurred by him.

(4) This section applies to diseases to which section 10 applies.

(5) A person who contravenes any of the foregoing provisions of this section commits an offence and is liable on summary conviction of that offence to a fine not exceeding the maximum of level 1 on the standard scale.

*Miscellaneous*

**Regulation for control of certain diseases**

27.—(1) The Governor may, as respects the whole or any part of the Falkland Islands, including coastal waters, make regulations —

(a) with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases,

(b) for preventing danger to public health from vessels or aircraft arriving at any place, and

(c) for preventing the spread of infection by means of any vessel or aircraft leaving any place, so far as may be necessary or expedient for the purpose of carrying out any treaty, convention, arrangement or engagement with any country.

(d) requiring the signals to be displayed by vessels or aircraft having on board any case of epidemic, endemic or infectious disease,

(e) which provide for the questions to be answered by masters, pilots and other persons on board any vessel or aircraft as to cases of such disease on board during the voyage or on arrival,

(f) requiring persons alighting from aircraft to answer questions pertaining to their state of health or their contact with infection,

(g) authorising the detention of vessels or aircraft and of persons on board them,

(h) prescribing the duties to be performed in cases of such diseases by masters, pilots and other persons on board vessels or aircraft; and

(i) authorise the making of charges and provide for the recovery of such charges and of any expenses incurred in disinfection.

(2) The powers of the Governor under subsection (1) shall have effect in addition to any powers to make regulations under the Public Health Ordinance.

(3) Without prejudice to the generality of subsection (1) the Governor may by any such regulations apply, with or without modifications, to any disease to which the regulations relate any enactment (including any enactment in this Ordinance) relating to the notification of disease or to notifiable diseases.

(4) Regulations made under this section shall specify the persons and authorities by whom they are to be enforced and executed.

(5) The following persons, that is to say —

(a) such public officers as are specified by the regulations, and

(b) in respect of any vessel or aircraft or any building or premises within any aerodrome or port, officers of customs and excise,

shall have power to enter any premises, vessel or aircraft for the purpose of executing, or superintending the execution of, regulations under this section.

### **Repeal and revocation**

**28.**—(1) The definition of “contagious or infectious diseases” in section 2 of the Public Health Ordinance (Title 61.1) and section 19(1)(e) of that Ordinance and repealed.

(2) By-Laws 55 to 64 of the Board of Health By-Laws are revoked.



**Delegation by Chief Medical Officer**

29. The Chief Medical Officer may by writing delegate any of his powers or functions under this Ordinance, either generally or in any particular case, to any Government Medical Officer or any other public officer employed by the Crown in the Department of Health and Medical Services.

**Ordinance to bind the Crown**

30. This Ordinance binds the Crown.



**THE  
FALKLAND ISLANDS GAZETTE  
Supplement**

**PUBLISHED BY AUTHORITY**

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*Vol. 14*

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*No. 25*

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The following are published in this Supplement -

**Taxes (Amendment) Ordinance 2003, (No. 23 of 2003);**

**Car Parks Regulations Order 2003, (S. R. & O. No. 24 of 2003);**

**Ross Road (Temporary Clearway) (Amendment) Regulations Order 2003, (S. R. & O. No. 25 of 2003);**

**Defence Contractors' Employees Tax Exemption Order 2003, (S. R. & O. No. 26 of 2003);**

**Taxes (Benefits in Kind) Rules 2003, (S. R. & O. No. 27 of 2003);**

**Payments on Account of Tax (Amendment) Regulations 2003, (S. R. & O. No. 28 of 2003).**

# ELIZABETH II



## FALKLAND ISLANDS

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

### **Taxes (Amendment) Ordinance 2003**

(No: 23 of 2003)

#### ARRANGEMENT OF SECTIONS

##### Section

1. Short title, commencement and interpretation
2. Amendments to section 2
3. Taxation of non-cash income and benefits from employment and maintenance payments
4. Change of income tax rates
5. Change of corporation tax rates
6. Ending of certain income tax allowances
7. Increase in personal allowance
8. Taxation of commuted pensions
9. Abolition of ACT
10. POAT: power to impose civil or administrative penalties
11. Depreciation allowances: time when expenditure is incurred
12. Depreciation allowances: abolition of initial allowances and changes to writing-down allowances
13. Loss relief: carry back of losses
14. Group relief: extension to non-Falkland Islands groups
15. Non-cash remuneration: earned income

**ELIZABETH II**



**FALKLAND ISLANDS**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Governor.*

**TAXES (AMENDMENT) ORDINANCE 2003**

(No: 23 of 2003)

*(assented to: 19 December 2003)*  
*(commencement: in accordance with section 1)*  
*(published: 22 December 2003)*

**AN ORDINANCE**

To amend the Taxes Ordinance 1997

ENACTED by the Legislature of the Falkland Islands as follows —

**Short title, commencement and interpretation**

**1.—**(1) This Ordinance may be cited as the Taxes (Amendment) Ordinance 2003.

(2) This Ordinance shall come into force on 1st January 2004 and, subject to any provision to the contrary, shall have effect in relation to the charge to tax for corporation tax years beginning on or after that date and for years of assessment beginning on or after 1<sup>st</sup> January 2005.

(3) In this Ordinance “the 1997 Ordinance” means the Taxes Ordinance 1997.

**Amendments to section 2**

**2.—**(1) In subsection (1) of section 2 of the 1997 Ordinance (interpretation) the following definitions shall be inserted in the appropriate places —

“basic rate” means the rate of tax chargeable by virtue of section 10(a);”

“ “income” includes emoluments of an employment received otherwise than in cash and any amount in respect of which an employee is chargeable to tax by virtue of section 8(1)(c);”

(2) In that subsection the definition of “earned income relief” shall cease to have effect.

### **Taxation of non-cash income and benefits from employment and maintenance payments**

**3.—**(1) In section 8(1) of the 1997 Ordinance (taxable income) —

(a) for paragraphs (c) and (d) there shall be substituted —

“(c) the prescribed annual value of any prescribed benefit received otherwise than in money in respect of any employment (not being chargeable to tax under paragraph (b));”  
and

(b) paragraph (h) shall cease to have effect.

(2) For subsection (2) of that section there shall be substituted—

“(2) Rules may be made providing for the valuation of any emolument of employment received otherwise than in money in respect of which an employee is chargeable to tax under subsection (1)(b).

(2A) Rules made—

(a) for the purposes of subsection (1)(c) prescribing the value of any benefit received otherwise than in money, and prescribing benefits the receipt of which will not give rise to a charge to tax under subsection (1)(c), or

(b) for the purposes of subsection (2),

shall be made by the Governor, and shall not come into effect unless they were approved by the Legislative Council before they are made or are confirmed by the Legislative Council.

(2B) Rules for the purposes of subsection (1)(c) or (2) may provide that any non-cash emolument or benefit received by one individual is, in such cases as may be prescribed in the Rules, to be deemed to be received by another individual.”

(3) Subsections (3) and (4) of that section (definition of “maintenance payment” and rule-making power) shall cease to have effect.

(4) Section 101(1) to (3) of the 1997 Ordinance (cost of excess benefits not deductible by employer) shall cease to have effect.

### **Change of income tax rates**

**4.** In section 10(1) of the 1997 Ordinance the following shall be substituted for paragraph (a)

(income tax rates) —

“(a) on the first £12,000 of his chargeable income, at 20 per cent.; and

(b) on the remainder, at 25 per cent.”

### **Change of corporation tax rates**

**5.—**(1) In section 28 of the 1997 Ordinance (corporation tax rates) for subsections (1) to (5) there shall be substituted —

“(1) Corporation tax shall be charged on the chargeable income of a company for an accounting period at the following rates—

(i) on so much of its chargeable income as does not exceed the threshold amount, at 20 per cent.; and

(ii) on its chargeable income not falling within paragraph (a), at 25 per cent.

(2) For the purposes of subsection (1)—

(a) if at any time in that period the company has any associated companies the threshold amount is—

$$\frac{\pounds 1,000,000}{1 + A}$$

where A is the number of associated companies; or

(b) if paragraph (a) does not apply, the threshold amount is £1,000,000.

(3) In subsection (1)(a) above the reference to a company’s chargeable income for any period is a reference to the amount of that income less the amount of any ring fence income and any franked investment income of the company for that period.”

(2) In section 28(6) for “subsection (5)(a) and (b)” there shall be substituted “subsection (2)”.

(3) In section 28(7) the words “the higher maximum amount and” shall cease to have effect.

(4) This section shall have effect in relation to accounting periods beginning on or after 1<sup>st</sup> January 2004.

### **Ending of certain income tax allowances**

**6.—**(1) The following provisions in section 15 of the 1997 Ordinance (which provides for various allowances) shall cease to have effect —

(a) subsection (1) (earned income relief);

(b) subsection (3)(a) (maintenance payments); and

(c) subsection (3)(b) (interest on housing loans deductible) and subsection (6) (definition of "housing loan")

(2) The following provision in section 16 of the 1997 Ordinance (which provides for various allowances) shall cease to have effect—

(a) subsection (2) (allowance for dependent relatives) and subsection (4) (definition of "dependent relative"); and

(b) subsection (3) (allowance for dependency on son or daughter).

(3) Section 17 (married man's allowance and wife's earnings relief) shall cease to have effect.

(4) Section 18 (age allowance) shall cease to have effect.

(5) Sections 19 and 20 (allowances in respect of children) shall cease to have effect.

(6) In section 57(1)—

(a) paragraph (h) (tax exemption for defence contractors) shall not apply in relation to accounting periods beginning on or after 1<sup>st</sup> January 2004; and

(b) paragraph (p) (maintenance payments) shall cease to have effect.

(7) The following shall be substituted for section 58 (certain payments of interest and rent and other amounts deductible)—

"58. In computing a person's income for any period from an employment, all outgoings and expenses wholly, necessarily and exclusively incurred by him during that period in the production of that income may be deducted."

(8) Sections 66 and 82(1)(a) (relief in respect of life assurance premiums) shall cease to have effect.

#### **Increase in personal allowance**

7. The following shall be substituted for subsection (1) of section 16 of the 1997 Ordinance (personal allowance)—

"(1) In computing the chargeable income of an individual there shall be allowed a deduction of £12,000."

### **Taxation of commuted pensions**

8.—(1) In section 74 of the 1997 Ordinance (taxation of sums paid out in commutation of pensions) at the end of subsection (2) there shall be added —

“at the rate which, at the time the sum becomes receivable, is the basic rate.

(2A) The administrator shall account to the Commissioner for any tax deducted under subsection (2) in accordance with such rules as may be prescribed, and the employee shall not be entitled to recover any such amount of tax from the administrator.

(2B) Where the whole or any part of any sum is chargeable to tax under subsection (1), that sum shall not be treated as income for the purposes of any other provision of this Ordinance.”

### **Abolition of ACT**

9.—(1) This section shall have effect for the purpose of ending the charge to ACT and abolishing tax credits for companies.

(2) The following sections of the 1997 Ordinance shall not apply in relation to any distribution or payment made on or after 1<sup>st</sup> January 2004 —

(a) section 35(1) and (2) (which impose the charge to ACT);

(b) section 47 (which makes provision with respect to distributions which are not payments and payments of uncertain character);

(c) section 56 (provision relating to dividends paid before introduction of corporation tax).

(3) The following sections of the 1997 Ordinance shall not apply in relation to accounting periods beginning on or after 1<sup>st</sup> January 2004 —

(a) section 39 (ACT where franked investment income received);

(b) sections 45 and 46 (receipt of franked investment income after payment of ACT).

(4) Section 49 (tax credits) shall have effect in relation to any distribution received on or after 1<sup>st</sup> January 2004 subject to the following amendments—

(a) the words “another such company or” shall cease to have effect, and for the words following “corresponds” there shall be substituted “to the basic rate of income tax for the year of assessment in which the distribution is made”; and

(b) subsection (3) shall cease to have effect.

(5) Section 50 (group income) shall not apply in relation to any distribution received on or after 1<sup>st</sup> January 2004.



(6) In section 53(1) (tax credits for non-residents) the word “qualifying” shall cease to have effect.

**POAT: power to impose civil or administrative penalties in regulations**

10. In section 91(10) of the 1997 Ordinance (scope of POAT regulations) after paragraph (b) there shall be inserted—

“(ba) impose civil or administrative penalties for failure to comply with the regulations, and”.

**Depreciation allowances: time when expenditure is incurred**

11.—(1) The following section shall be inserted after section 106 of the 1997 Ordinance—

**“Time when capital expenditure is deemed to be incurred**

106A.—(1) For the purposes of this Chapter, the general rule is that an amount of capital expenditure is to be treated as incurred as soon as there is an unconditional obligation to pay it.

(2) The general rule applies even if the whole or a part of the expenditure is not required to be paid until a later date, but this is subject to subsection (3).

(3) If under an agreement—

(a) an amount of capital expenditure is not required to be paid until a date more than 6 months after the unconditional obligation to pay has come into being, and

(b) the unconditional obligation to pay relates to expenditure which in total is not less than £30,000,

then the amount mentioned in paragraph (a) is to be treated as incurred on the date mentioned in that paragraph.”

(2) This section shall have effect in relation to expenditure incurred on or after 1<sup>st</sup> January 2004.

**Depreciation allowances: abolition of initial allowances and changes to writing-down allowances**

12.—(1) Section 116 of the 1997 Ordinance (initial and writing-down allowances) shall have effect, in relation to expenditure incurred on or after 1<sup>st</sup> January 2004, subject to the following amendments.

(2) For subsection (1) (right to initial and writing-down allowances) there shall be substituted—

“(1) Where in the basis period for a chargeable period a person carrying on a business incurs expenditure in the acquisition of—

- (a) any plant, machinery or vehicle, including aircraft but not including ships,
- (b) any building, or
- (c) any ship,

which is or is to be used for the purposes of the business, then in computing that person's chargeable income for that and subsequent chargeable periods a writing-down allowance shall be made in accordance with the provisions of this section, but subject to subsections (2) and (3) below and sections 105 and 106."

(3) In subsection (2) (exclusion of allowances in certain cases) for "subsections (6) to (9) below" there shall be substituted "this section".

(4) Subsection (3) (initial allowances) shall cease to have effect.

(5) For subsections (6), (7) and (8) (initial and writing-down allowances) there shall be substituted—

"(6) In the case of any ship, a writing-down allowance equal to 20 per cent. of the expenditure incurred in acquiring the ship shall be made.

(6A) In the case of plant or machinery (including aircraft) writing-down allowances shall be made under section 117."

(6) In subsection (9) (writing-down allowances for buildings) for the words from the beginning to "shall be made" there shall be substituted—

"(9) Subject to subsection (10), in the case of any building a writing down allowance equal to 10 per cent. of the expenditure incurred in the acquisition of the building shall be made,".

(7) In section 117 (pooling for plant and machinery) in subsection (2)(a) (rate of allowance) for "25 per cent." there shall be substituted "40 per cent."

#### **Loss relief: carry back of losses**

13.—(1) In section 126 (carry forward of losses of individuals and partnerships) for subsection (1) there shall be substituted—

"(1) Where a loss is sustained in any period of account of a business carried on (either alone or in partnership) by any person who is within the charge to income tax for the relevant year of assessment in respect of that business and the loss cannot be wholly set off against that person's income from other sources chargeable to tax for the same year, the amount of the loss shall, to the extent to which it is not set off against his income from other sources chargeable to tax for the same year—

(a) be carried back and—

(i) set off against the profits of that business arising in the immediately preceding period of account, and

(ii) provided that person was carrying on that business in the preceding year, in so far as it cannot or cannot wholly be set off against such profits, it shall be set off against income of that person from other sources chargeable to tax for the year of assessment immediately preceding the relevant year; or

(b) be carried forward and (so long as he continues to carry on the business)—

(i) shall be set off against the profits of that business arising in the following period of account, and in so far as it cannot or cannot wholly be set off against such profits, it shall be set off against income of that person from other sources chargeable to tax for the year of assessment following the relevant year

(ii) in so far as it cannot or cannot wholly be set off against such profits, it shall be set off against income of that person from other sources chargeable to tax for the year of assessment following the relevant year,

and so on for subsequent years in succession until the amount of such loss is exhausted.”

(2) In section 128 of the 1997 Ordinance (loss relief for companies) at the end of subsection (1) (losses set-off against income of period in which they are incurred) there shall be added “or of the immediately preceding accounting period.”

#### **Group relief: extension of non-Falkland Islands groups**

14.—(1) In section 131 of the 1997 Ordinance (group relief) the following shall be substituted for subsection (2) (exclusion of companies not resident in the Falkland Islands)—

“(2) Group relief shall not be available unless the claimant company and the surrendering company are resident in the Falkland Islands throughout the whole of the surrendering company's accounting period to which the claim relates, and throughout the whole of the corresponding accounting period of the claimant company.”

(2) In section 139(5) of the 1997 Ordinance (disregard of ownership of non-resident companies) the word “or” at the end of paragraph (b) and paragraph (c) shall cease to have effect.

#### **Non-cash remuneration: earned income**

15.—(1) Section 206 of the 1997 Ordinance (earned income) shall be amended as follows.

(2) After subsection (2) there shall be inserted—

“(2A) In this Ordinance, except section 83(2), “earned income” also includes, in relation to

any individual—

(a) an amount equal to the value of any emolument received otherwise than in cash by that individual in respect of any office or employment held by the individual, and

(b) any amount in respect of which the individual is chargeable to tax by virtue of section 8(1)(c).”

Passed by the Legislature of the Falkland Islands this 19<sup>th</sup> day of December 2003.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council and is found by me to be a true and correctly printed copy of the said Bill.

C. ANDERSON M.B.E.,  
*Clerk of Councils.*

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## SUBSIDIARY LEGISLATION

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### ROAD TRAFFIC

#### Car Parks Regulations Order 2003

S. R. & O. No: 24 of 2003

*Made: ..... 12 December 2003*

*Published: .... 22 December 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 59(1)(j), (m) and (r) of the Road Traffic Ordinance (Title 63.1) and of all other powers enabling me in that behalf, I make the following Order —

#### **Citation and commencement**

1. This Order may be cited as the Car Parks Regulations Order 2003.

#### **Interpretation**

2. In this Order —

“the Department of Mineral Resources car park” means the parking bays lying to the north of the building occupied by the Department of Mineral Resources in Ross Road Stanley between that building and Ross Road;

“the Town Hall car park” means the car park to the west, north and east of the Town Hall, Ross Road Stanley.

#### **Restrictions on parking**

3.—(1) Except as otherwise directed by a police officer in uniform and as provided in paragraph (2), no person shall during the applicable hours —

(a) cause a motor vehicle to park or wait for a period exceeding one hour in a restricted bay;  
or

(b) cause a motor vehicle to park or wait in any restricted bay within two hours of previously parking or waiting in a restricted bay.

(2) Paragraph (1) does not apply to any bay —

(a) in the Department of Mineral Resources car park over which a sign with the legend “Director” or “Visitor” appears; or

(b) in the Town Hall car park marked on the surface "SCB",

which are hereinafter called "the reserved bays" to which paragraph (3) applies.

(3) Except in so far as may be permitted by or on behalf of the —

(a) Director of Mineral Resources to do so in respect of the reserved bays in the Mineral Resources car park; or

(b) Manager of the Standard Chartered Bank to do so in respect of the reserved bays in the Town Hall car park,

no person shall in the applicable hours cause a motor vehicle to park or wait in those reserved bays.

(4) In this Article —

(a) "the applicable hours" means any time between eight o'clock in the morning and five o'clock in the afternoon on Mondays to Fridays, public holidays excepted.

(b) "restricted bay" means —

(i) the first four parking bays north of Ross Road in the Town Hall car park immediately to the west of the premises occupied by the Standard Chartered Bank, and

(ii) any parking bay except a reserved bay in the Department of Mineral Resources car park.

(5) A person who contravenes paragraph (2) or paragraph (3) commits an offence.

#### **Offences**

4. A person who commits an offence under this Order is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

Made this 12<sup>th</sup> day of December 2003

H J S Pearce CVO  
Governor

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EXPLANATORY NOTE  
(not forming part of the above Order)

The principal purpose of this Order is to reserve a small number of parking bays for use by customers of Standard Chartered Bank and of the Post Office.

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**SUBSIDIARY LEGISLATION**

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**ROAD TRAFFIC**

**Ross Road (Temporary Clearway)(Amendment) Regulations Order 2003**

S. R. & O. No: 25 of 2003

*Made: .....19 December 2003*

*Published: .....22 December 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 59 of the Road Traffic Ordinance (Title 63.1) and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Ross Road (Temporary Clearway)(Amendment) Regulations Order 2003.

**Further amendment of the Ross Road (Temporary Clearway) Regulations Order 2003**

2. The Ross Road (Temporary Clearway) Regulations Order 2003(a) is further amended in the definition of “a no waiting day” in article 2 by adding the words “public holidays,” between the words “except” and “Saturdays”.

Made this 19<sup>th</sup> day of December 2003

H. J. S. Pearce C.V.O.,  
*Governor*

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**EXPLANATORY NOTE**

*(not forming part of the above Order)*

This Order provides for public holidays to be excepted from the “no waiting days” imposed by the temporary clearway in Ross Road.

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## SUBSIDIARY LEGISLATION

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### TAXATION

#### Defence Contractors' Employees Tax Exemption Order 2003

S. R. & O. No: 26 of 2003

*Made:..... 19 December 2003*

*Published:.....22 December 2003*

*Coming into force: on publication*

IN EXERCISE of my powers under section 9A of the Taxes and Duties (Special Exemptions) Ordinance 1987(a) and of all other powers enabling me in that behalf, I make the following Order —

#### **Citation and commencement**

1. This Order may be cited as the Defence Contractors' Employees Tax Exemption Order 2003.

#### **Application and duration**

2.—(1) Subject to paragraph (2), this Order shall have effect so as to exempt qualifying employees from liability (whether arising before or after the coming into force of this Order) under any law of the Falkland Islands to pay income tax in respect of earnings in relevant employment by a designated employer and from liability under any such law to pay old age pensions contributions by reason of such employment.

(2) Nothing in this Order shall have effect so as to confer any exemption from liability to pay income tax in relation to earnings after 31<sup>st</sup> December 2006 in relevant employment or to confer any exemption from liability to pay old age pensions contributions by reasons of such employment after that date.

#### **Interpretation**

3. For the purposes of this Order —

(a) a person is a qualifying employee in relation to any period of employment in which —

(i) the conditions specified in paragraphs (a) and (b) of section 9A(2) of the Ordinance are satisfied in relation to him; and

(ii) he is in the employment of a designated employer;



(b) "relevant employment" has the same meaning as it has for the purposes of section 9A of the Ordinance;

(c) a person is employed by a designated employer if he is employed by an employer specified in the Schedule to this Order;

(d) "old age pensions contributions" means contributions which an employee is required to pay under the provisions of the Retirement Pensions Ordinance 1996(b);

(e) "earnings" has the same meaning as "relevant income" has for the purposes of section 9A of the Ordinance;

(f) "the Ordinance" means the Taxes and Duties (Special Exemptions) Ordinance 1987.

## **SCHEDULE**

(Article 3(c))

### **Designated Employers**

**INTERSERVE**

Turner GCMS (TGCMS) Ltd

Turner Power Generation Ltd

SODEXHO Defence Services

NAAFI

British International Helicopter Ltd

MARCONI Communications Ltd

Services Sound and Vision Corporation

British Forces Broadcasting Service

MPI Aviation

Royce Communications Ltd

EADS Defence Systems and Electronics (UK) Ltd

Trant Construction Ltd

Made this 19<sup>th</sup> day of December 2003

H.J.S. Pearce C.V.O.,  
*Governor*

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(b) No 20 of 1996

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## **SUBSIDIARY LEGISLATION**

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### **TAXES**

#### **Taxes (Benefits In Kind) Rules 2003**

S. R. & O. No: 27 of 2003

#### **ARRANGEMENT OF RULES**

1. Citation and commencement
2. Interpretation
3. Benefits prescribed for section 8(1)(c) of 1997 Ordinance
4. Annual values of prescribed benefits
5. Exceptions from rules 3 and 4
6. Reduction of annual values in certain cases
7. Revocation of earlier Rules

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## SUBSIDIARY LEGISLATION

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### TAXES

#### Taxes (Benefits In Kind) Rules 2003

S. R. & O. No: 27 of 2003

*Made: .....19 December 2003*

*Published: .....22 December 2003*

*Coming into force: 1<sup>st</sup> January 2004*

IN EXERCISE of my powers under sections 8(1)(c) and 204(1) of the Taxes Ordinance 1997(a) and all other powers in that behalf enabling me, I hereby make the following Rules —

#### Citation and commencement

1.—(1) These Rules may be cited as the Taxes (Benefits in Kind) Rules 2003.

(2) These Rules shall come into force on 1<sup>st</sup> January 2004 and shall have effect for the computation of chargeable income for years of assessment beginning on or after 1<sup>st</sup> January 2005.

#### Interpretation

2.—(1) In these Rules “prescribed benefit” means a benefit prescribed by these Rules for the purposes of section 8(1)(c) of the Taxes Ordinance 1997.

(2) For the purposes of these Rules, unless the context otherwise requires —

(a) “the employer”, in relation to an employee, means the employer of that employee;

(b) “the employee”, in relation to an employer, means an employee of that employer;

(c) any reference to a loan includes a reference to any form of credit and to any arrangement, guarantee or other facility connected with the provision of a loan;

(d) any reference to a member of the family of an employee includes the spouse, parent, child, grandparent, grandchild, brother or sister of the employee and any person living with the employee as his partner and any child of such a person living with the employee;

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(a) No 14 of 1997

(e) any reference to a child of any person includes a reference to a stepchild of his, an illegitimate child of his if he has married the other parent after the child's birth and an adopted child of his if the child was under the age of 18 years when he was adopted;

(f) anything done on behalf of or by arrangement with or at the direction of an employer shall be deemed to have been done by that employer; and

(g) anything done to, by or for a member of the family of any employee shall be deemed to have been done to, by or for the employee.

(3) In these Rules "motor vehicle" means any mechanically propelled road vehicle other than —

(a) a vehicle of a construction primarily suited for the conveyance of goods or burden of any description the design weight of which exceeds 3,500 kilograms;

(b) an invalid carriage, that is to say, a vehicle which is specially designed and constructed (not merely adapted) for the use of a person with a disability and has an unladen weight not exceeding 254 kilograms;

(c) a motor cycle, that is to say, a vehicle, not being an invalid carriage, with fewer than 4 wheels and an unladen weight which does not exceed 410 kilograms;

(d) a moped or motor scooter.

(4) In these Rules —

"agriculture" means arable farming, dairy farming and livestock breeding and keeping, the use of land as grazing land and meadow land, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes; and

"horticulture" means the production of horticultural produce for sale, and "horticultural produce" means fruit, flowers, vegetables and herbs, trees and shrubs, other than trees grown for the purpose of afforestation, and seeds for the reproduction of any such produce.

### **Benefits prescribed for section 8(1)(c) of 1997 Ordinance**

**3.—(1)** The following benefits are prescribed benefits for the purposes of section 8(1)(c) of the Taxes Ordinance 1997 —

(a) the payment by an employer of or in respect of any travel expenses incurred by or in respect of an employee;

(b) the use by an employee of a motor vehicle provided by the employer;

(c) the provision by an employer of a loan to the employee;

(d) the provision by an employer of any living accommodation, including heating and

lighting of the accommodation, for the use of the employee.

(2) Paragraph (1) has effect subject to the following provisions of these Rules.

**Annual values of prescribed benefits**

4.—(1) The annual value of a benefit consisting of the payment of or in respect of any travel expenses is the amount of the payment.

(2) The annual value of a benefit consisting of the use of a motor vehicle is £40 for each day the employee enjoys the use of the vehicle but subject to a maximum value of £3,000.

(3) The annual value of a loan in a year during which it is written off in whole or in part is the amount written off in that year.

(4) The annual value of a loan in a year during which the loan subsists and is not written off, or is written off in part only, is an amount equal to the amount of interest which would have been paid in respect of the loan during the year if it had borne interest at the rate equal to the base lending rate plus 3 per cent less the amount of any interest actually paid in that year.

(5) The annual value of a loan which falls within both paragraphs (3) and (4) in any year of assessment is the higher of the values found in accordance with those paragraphs.

(6) The annual value of a dwelling house provided to or for the benefit of a person by reason of his employment shall be calculated from Table A below, read with paragraph (7).

(7) The annual value shown in the third column of Table A is the value for each room in a house, and, accordingly, in relation to any particular house, that value is to be multiplied by the number of rooms in the house, but for the purposes of the Table —

(a) the maximum number of rooms which may be taken into account in calculating the annual value of any house is 7; and

(b) garages, outbuildings, porches, bathrooms, lavatories, larders, halls and passages shall be disregarded.

**TABLE A**

**Dwelling houses**

<b>Recipient</b>	<b>Description of Dwelling House</b>	<b>Annual value per room</b>
Any employee	A dwelling house which is substantially furnished	£1,000.00
Any employee	A dwelling house which is not substantially furnished	£750.00

(8) The annual value of the use or occupation of any accommodation, other than a dwelling house, with or without the provision of any meals, shall be the corresponding value in the third column of Table B increased in accordance with paragraph (9) in cases where that paragraph applies.

**TABLE B**

**Board and accommodation**

<b>Recipient</b>	<b>Benefit</b>	<b>Annual Value</b>
A domestic servant	Board and accommodation	£2,700.00
Any other person	Accommodation	£2,700.00
	Food or meals	£2,700.00
	Heating	£1,200.00
	Lighting	£540.00

(9) In any case where the accommodation is used by an employee and also by the spouse or child of that person by reason of his employment, the annual value for that benefit shall be increased —

(a) in respect of the spouse, by an amount equal to 20 per cent. of the amount specified in Table B as the annual value of that benefit, and

(b) in respect of each child, by an amount equal to 10 per cent. of that amount.

Rule 2(2)(f) does not apply for the purposes of this paragraph.

**Exceptions from rules 3 and 4**

5.—(1) Rule 3 does not apply to the following benefits, which accordingly are not prescribed benefits for the purposes of section 8(1)(c) of the Taxes Ordinance 1997 —

(a) the benefit of a loan the annual value of which is less than £500 or where an employee has more than one loan outstanding in the same year, the benefit of those loans to the extent that the aggregate annual value of all the loans is less than £500;

(b) any benefit not within sub-paragraph (a), the annual value of which, calculated in accordance with rule 4, is less than £50

(c) the provision of any sum which in the hands of the employee is (or would be, if the employee had defrayed the expenses) deductible in computing the employee's chargeable income;

(d) the provision of a motor vehicle which—

(i) is provided for an employee who is necessarily obliged to use the vehicle in the performance of the duties of his employment, and

(ii) is not used for any other purpose.

Rule 2(2)(g) does not apply for the purposes of this sub-paragraph.

(2) Where, at any time an employee is employed in the Falkland Islands and, immediately before the commencement of the employment, the employee was not normally resident in the Falkland Islands, any benefit the employee, or the spouse or any child of the employee, enjoys of having the costs of any travel wholly or partly met or reimbursed by the employer by reason of the employment in the Falkland Islands shall not be a prescribed benefit.

Rule 2(2)(g) does not apply for the purposes of this paragraph.

(3) Paragraph (2) does not apply to the aggregate amount met or reimbursed by the employer in any year in relation to any employee to the extent that the aggregate amount exceeds the cost of economy class flights (or equivalent) between the Falkland Islands and that employee's country of origin (or vice versa, as the case may require), at the same time (or as nearly as may be at the same time) as the actual journey takes place.

In this paragraph "country of origin" means the place where the employee was usually resident immediately before the employment in the Falkland Islands began.

(4) Paragraph (2) does not apply to the cost of journeys taken by an employee's child aged 18 or over at the beginning of the journey to the Falkland Islands or to the country of origin.

(5) Paragraph (2) only applies in relation to one return journey in each calendar year for each individual within paragraph (2) except in the last year of the employment when (subject to paragraph (3)) it also applies to the final journey back to the country of origin.

(6) Rule 3(1)(c) does not apply to —

(a) a loan made by an employer carrying on a business which includes the making of loans if the loan was made in the ordinary course of that business and is of an amount and on terms comparable to loans available generally to customers of that business;

(b) a loan made by an individual and shown to have been made in the normal course of his domestic, family or personal relationships.

(7) Rule 3(1)(d) does not apply—

(a) if the employee is employed in agriculture or horticulture, (but otherwise they apply in relation to all employees); or

(b) in any case where the Commissioner is satisfied that it is necessary for the employee to live in the accommodation in order to carry out the duties of his employment; or

(c) if the accommodation is not situated on-shore in the Falkland Islands.

Rule 2(2)(g) does not apply for the purposes of this paragraph.

**Reduction of annual values in certain cases**

6.—(1) Where a person is in receipt of a prescribed benefit for part only of a year, the annual value of the benefit found in accordance with Rule 4(6), (7) (8) or (9) shall be reduced by a corresponding proportion.

(1) The annual value of any benefit shall be reduced by an amount equivalent to any amount which the employee pays in respect of the benefit (but shall not be reduced below zero to produce a loss).

(2) The Commissioner may determine that the annual value of a benefit shall be reduced to a figure specified in the determination in any case where he considers such a reduction to be just and equitable.

**Revocation of earlier Rules**

7. The Income Tax (Annual Values) Rules 1997(b) and the Taxes (Excess Benefits) Rules 1994(c) are revoked but without prejudice to their application in relation to the computation of chargeable income for any chargeable period ending before 1<sup>st</sup> January 2004.

Made this day of 19<sup>th</sup> December 2003

H. J. S. Pearce C.V.O.,  
Governor

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(b) SR&O No 21 of 1997  
(c) SR&O No 18 of 1994



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**EXPLANATORY NOTE**  
*(not forming part of the Rules)*

These Rules are made under section 8(1)(c) of the Taxes Ordinance 1997 which brings into the charge to tax certain benefits enjoyed by employees and members of their families by reason of the employees' employment. The Rules prescribe the benefit to be brought within the charge to tax and the annual value for that benefit which is the amount the employee will pay tax on. The Rules replace the Income Tax (Annual Values) Rules 1997 under which the only benefit prescribed for the purposes of section 8 of the Taxes Ordinance was accommodation, board and lodging, including heating and lighting.

In the main the Rules give effect to the recommendations relating to benefits in kind of the Falkland Islands Tax Policy Review 2001-2003.

Rule 1 provides the title of the Rules and their commencement. They will apply for tax purposes to benefits received by individuals on or after 1 January 2004.

Rule 2 includes definitions which apply for the purposes of the Rules. Amongst other things the definitions will ensure that benefits enjoyed by members of the family of an employee will be taxed as if they had been provided directly to the employee. All motor cars and motor bikes will be within the new Rules other than goods vehicles, invalid carriages and motor scooters and mopeds.

Rule 3 prescribes the benefits which will fall to be taxed under section 8(1)(c) of the Taxes Ordinance. Paragraph (1) prescribes four different benefits: payment of travel expenses, use of motor vehicles, loans and accommodation including board and lodging, heating and lighting.

The annual values of these benefits are prescribed by Rule 4. The annual value of the use of a motor vehicle is £40 per day of use up to a maximum of £3,000. The annual value of a loan is the higher of the amount written off in the year in question (if any) and the amount of interest which would have been payable if interest on the loan had been payable at base rate plus 3%. This ensures that only low interest loans are taxable under section 8(1)(c). The annual values for accommodation, board, lodging, heating and lighting are increased from the values set in 1997 and are set out in the Rules. The exemption for agriculture and horticulture is maintained.

Rule 5 sets out certain exceptions from the charge to tax. The following are the exceptions—

First in the case of loans, any loan of which the annual value is less than £500, or if there is more than one loan, so much of the annual aggregate annual value as is less than £500.

In the case of any other benefit, any benefit of which the annual value is less than £50.

Where the benefit consists of any sum reimbursed to or in respect of the employee which, if the employee had paid the money, would have been deductible in calculating his chargeable income, the benefit is outside the charge,

Any motor vehicle which is needed by the employee for his work and is not used for any other purpose is also outside the charge.

There are exceptions from the charge for certain travel expenses for employees who were based outside the Falkland Islands before starting to work in the Islands. The Rules will allow one journey a year for the employee, his spouse and children anywhere in the world to the extent that the cost does not exceed the cost of travel between the country of origin and the Falkland Islands. In the last year of the employment 2 journeys including the final return to the country of origin will be allowed. These exceptions are only available for children until they reach 18 years of age.

Paragraph (7) of Rule 5 exempts loans made in the ordinary course of business by the employer on normal commercial terms. This will apply for example in the case of a bank making loans on non-discriminatory terms to its employees.

Paragraph (8) exempts accommodation which the Commissioner is satisfied the employee has to live in for the purposes of his employment and any accommodation offshore in ships.

Rule 6 reduces the annual value in certain cases. If the beneficiary is not resident in the Falkland Islands for all the year, then the annual value of accommodation, board and lodging is to be proportionately reduced. If the employee pays any of the cost of the benefit himself or herself or reimburses the employer any part of the cost, the amount so paid or reimbursed is to be deducted from the annual value of the benefit. And if the Commissioner considers it just and equitable in any case he may reduce the annual value of any benefit.

Rule 7 revokes the Income Tax (Annual Values) Rules 1997 and the Taxes (Excess Benefits) Rules 1994.

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**SUBSIDIARY LEGISLATION**

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**TAXES**

**Payments on Account of Tax (Amendment) Regulations 2003**

S. R. & O. No: 28 of 2003

*Made: .....19 December 2003*  
*Published: .....22 December 2003*  
*Coming into operation: in accordance with regulation 1*

IN EXERCISE of my powers under section 91 of the Taxes Ordinance 1997(a) and of all other powers enabling me in that behalf, I make the following regulations —

**Citation and commencement**

1. These Regulations may be cited as the Payments on Account of Tax (Amendment) Regulations 2003, and shall apply in relation to POAT deductions required to be made, or deemed to have been made, under Part IV of the Taxes Ordinance 1997 on or after 1st January 2004.

**Amendment of regulation 5**

2. For paragraph (2) and (2A) of regulation 5 of the Payments on Account of Tax (Employees' Deductions) Regulations 1997(b) there shall be substituted —

“(2) The formula which may be used instead of the tables is —

(a) if R is equal to or less than  $W_0$ —

$$PD = 0;$$

(b) if R is greater than  $W_0$  but equal to or less than  $W_1$ —

$$PD = (R - W_0)T_{R1}$$

(c) if R is greater than  $W_1$  —

$$PD = [(R - W_0)T_{R1} + (R - W_1)(T_{R2} - T_{R1})];$$

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(a) No 14 of 1997

(b) SR&O No 23 of 1997; regulation 5 was amended by the Payments on Account of Tax (Amendment) Regulations 1999 SR&O No 35 of 1999

In each case PD is the POAT deduction required to be found, rounded down to the nearest whole number.

(2A) The key to these formulae is as follows —

$$W_0 = \frac{A}{D}$$

$$W_1 = \frac{U_{L1} + A}{D}$$

- D is the result of dividing the number of days in the year in which the remuneration is payable by the number of days in the pay period, rounded down to the nearest whole number;
- R is the relevant remuneration, rounded down to the nearest whole number;
- T<sub>R1</sub> is the lower rate of income tax expressed as a decimal;
- T<sub>R2</sub> is the higher rate of income tax expressed as a decimal;
- U<sub>L1</sub> is the maximum amount of income which is chargeable to income tax at the lower rate at the time the remuneration is payable;
- A is equal to the amount specified in section 16(1) at the time the remuneration is payable.”

### **Amendment of regulation 10**

3. For paragraphs (3) and (4) of regulation 10 of the Payments on Account of Tax (Employees' Deductions) Regulations 1997(c) there shall be substituted —

“(3) Subject to regulation 11, in any case where the remuneration is payable wholly net or free of tax, then the amount by reference to which the POAT deduction is to be calculated is to be found as follows —

(a) if R does not exceed Z<sub>0</sub>—

$$G = R;$$

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(c) SR&O No 23 of 1997; regulation 10 was amended by the Payments on Account of Tax (Amendment) Regulations 1999 SR&O No 35 of 1999

(b) if R exceeds  $Z_0$  but is equal to or less than  $Z_1$ —

$$G = \left[ \frac{R - T_{R1}A}{1 - T_{R1}} \right]$$

(c) if R exceeds  $Z_1$  —

$$G = \left[ \frac{R - T_{R2}(A + U_{L1}) + T_{R1}U_{L1}}{1 - T_{R2}} \right]$$

G is then divided by D to determine the grossed up amount of any particular amount of remuneration payable at any time during the year in question.

(4) The key to subsection (3) is as follows —

$$Z_0 = [A]$$

$$Z_1 = [U_{L1} + A] - T_{R1}U_{L1}$$

D is the result of dividing the number of days in the year in which the remuneration is payable by the number of days in the pay period, rounded down to the nearest whole number;

R is the net remuneration, but subject to subsection (5) below;

$T_{R1}$  is the lower rate of income tax expressed as a decimal;

$T_{R2}$  is the higher rate of income tax expressed as a decimal;

$U_{L1}$  is the maximum amount of income which is chargeable to income tax at the lower rate at the time the remuneration is payable;

A is equal to the amount specified in section 16(1) at the time the remuneration is payable.”

Made this 19<sup>th</sup> day of December 2003

H. J. S. Pearce C.V.O.,  
Governor

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#### EXPLANATORY NOTE

*(not forming part of the Regulations)*

These Regulations replace the formulae in regulations 5 and 10 of the Payments on Account of Tax Regulations 1997 (as previously replaced in 1999) consequential upon the tax changes coming into force on 1 January 2004 under the Taxes (Amendment) Ordinance 2003.