

**LEGISLATIVE ASSEMBLY
OF THE
FALKLAND ISLANDS**



ORDER PAPER

09.00 AM

THURSDAY 17 DECEMBER 2015

IN THE COURT & ASSEMBLY CHAMBERS

STANLEY

LEGISLATIVE ASSEMBLY
THURSDAY 17 DECEMBER 2015
IN THE COURT & ASSEMBLY CHAMBERS

ORDER PAPER
09.00

1. Prayers
2. Confirmation of the Record of Legislative Assembly held on 26 November 2015
3. Papers to be laid on the Table by the Honourable Chief Executive
4. Questions for Oral Answer
5. Portfolio Reports:
 - The Honourable Michael Poole
 - The Honourable Phyl Rendell MBE
6. Order of the Day: Bills
7. Motion for Adjournment

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 17 DECEMBER 2015

PAPERS TO BE LAID ON THE TABLE BY THE HONOURABLE CHIEF EXECUTIVE

Copies of Subsidiary Legislation published in the Falkland Islands Gazette since the last sitting of the Legislative Assembly and Laid on the Table pursuant to section 35(1) of the Interpretation and General Clauses Ordinance 1977.

- Coins (No 2) Order 2015;
- Coins (No 3) Order 2015;
- Taxes and Duties (Defence Contractors' Employees Exemption) Order 2015
- Road Traffic (Stanley Speed Limit Zone) Regulations 2015;
- Ross Road (Clearway) (Amendment) Order 2015.
- Finance Ordinance 2015 (Correction) Order 2015;
- Pool Betting Ordinance 1994 (Correction) Order 2015

In accordance with Section 80 (2) of the Constitution the report of the Public Accounts Committee in respect of accounts:

- Stanley Services Directors' Report and Financial Statements Year End 30th June 2014
- Media Trust Report and Financial Statements 30 June 2014
- Falkland Landholdings Corporation Accounts year end 30 June 2014
- Falkland Islands Meat Company Accounts year end 30 June 2013 and 30 June 2014

SUBSIDIARY LEGISLATION

CURRENCY

Coins (No 2) Order 2015

S. R. & O. No: 15 of 2015

Made: 29 October 2015

Published: 30 November 2015

Coming into force: on publication

I make this order under section 22 of the Currency Ordinance (Title 25.1) on the advice of Executive Council.

1. Title

This order is the Coins (No 2) Order 2015.

2. Commencement

This order comes into force upon publication in the Gazette.

3. New coins

(1) The minting and issue of the coins described and specified in the schedule to this Order are authorised.

(2) The schedule specifies —

(a) the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1);

(b) the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of the coins; and

(c) the design of the obverse and reverse of the coins.

4. Deemed denomination of Crown coins and their value as legal tender

For the purposes of the Ordinance —

(a) the cupro-nickel Crown coins and sterling silver Crown coins authorised by this order are deemed to be of 25 pence denomination;

(b) the gold 1/5th Crown coins authorised by this order are deemed to be of £1.00 denomination;

(c) the gold 1/25th Crown coins authorised by this order are deemed to be of 20 pence denomination;

(d) the gold 1/32nd Crown coins authorised by this order are deemed to be of 15 pence denomination; and

(e) the gold 1/64th Crown coins authorised by this order are deemed to be of 10 pence denomination;

and those coins are legal tender in the Falkland Islands in the amount of their deemed denomination.

Made 29th October 2015

Colin Roberts C.V.O.,
Governor.

SCHEDULE
275th Anniversary of the Composition of Rule Britannia

Type	Cupro-nickel	Silver Proof	Gold Proof	Gold Proof	Gold Proof	Gold Proof
<i>Denomination</i>	1 Crown	1 Crown	1/64 th Crown	1/32 nd Crown	1/25 th Crown	1/5 th Crown
<i>Weight (grams)</i>	28.28	28.28	0.05	1.00	1.244	6.25
<i>Diameter (millimetres)</i>	38.60	38.60	11.00	13.92	13.92	22.00
<i>Fineness</i>	Cu 75% Ni 25%	925 Sterling silver	999 Gold	999 Gold	999 Gold	999 Gold
<i>Quality</i>	Brilliant Uncirculated	Proof	Proof	Proof	Proof	Proof
<i>Shape</i>	Round	Round	Round	Round	Round	Round
<i>Edge</i>	Milled	Milled	Milled	Milled	Milled	Milled
<i>Edition limit for each reverse design</i>	Unlimited	10,000	10,000	10,000	10,000	2,000
<i>Mint</i>	Pobjoy Mint Ltd.					
<i>Remedy</i>	Variations to be allowed of the tolerance permitted by the Pobjoy Mint Ltd.					
<i>Obverse design</i>	I.R.B. Effigy of Her Majesty Queen Elizabeth II.					
<i>Reverse design</i>	An image of Britannia in the foreground holding a trident with the waves of the sea in the background. The wording 'BRITANNIA RULES THE WAVES' appears in the surround and the denomination '1 CROWN' above the waves.					

SUBSIDIARY LEGISLATION

CURRENCY

Coins (No 3) Order 2015

S. R. & O. No: 16 of 2015

Made: 29 October 2015

Published: 30 November 2015

Coming into force: on publication

I make this order under section 22 of the Currency Ordinance (Title 25.1) on the advice of Executive Council.

1. Title

This order is the Coins (No 3) Order 2015.

2. Commencement

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

3. New coins

(1) The minting and issue of the coins described and specified in the schedule to this Order are authorised.

(2) The schedule specifies —

(a) the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1);

(b) the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of the coins; and

(c) the design of the obverse and reverse of the coins.

4. Deemed denomination of Crown coins and their value as legal tender

(1) For the purposes of the Ordinance —

(a) the cupro-nickel Crown coins and sterling silver Crown coins authorised by this order are deemed to be of 25 pence denomination;

(b) the gold 1/5th Crown coins authorised by this order are deemed to be of £1.00 denomination;

(c) the gold 1/25th Crown coins authorised by this order are deemed to be of 20 pence denomination;

(d) the gold 1/32nd Crown coins authorised by this order are deemed to be of 15 pence denomination; and

(e) the gold 1/64th Crown coins authorised by this order are deemed to be of 10 pence denomination.

(2) The coins specified under paragraph (1) are legal tender in the Falkland Islands in the amount of their deemed denomination.

Made 29th October 2015

Colin Roberts C.V.O.,
Governor.

SCHEDULE
Queen Elizabeth II – Longest Reigning Monarch

Type	Cupro-nickel	Silver Proof	Gold Proof	Gold Proof	Gold Proof	Gold Proof
<i>Denomination</i>	1 Crown	1 Crown	1/64 th Crown	1/32 nd Crown	1/25 th Crown	1/5 th Crown
<i>Weight (grams)</i>	28.28	28.28	0.05	1.00	1.244	6.25
<i>Diameter (millimetres)</i>	38.60	38.60	11.00	13.92	13.92	22.00
<i>Fineness</i>	Cu 75% Ni 25%	925 Sterling silver	999 Gold	999 Gold	999 Gold	999 Gold
<i>Quality</i>	Brilliant Uncirculated	Proof	Proof	Proof	Proof	Proof
<i>Shape</i>	Round	Round	Round	Round	Round	Round
<i>Edge</i>	Milled	Milled	Milled	Milled	Milled	Milled
<i>Edition limit for each reverse design</i>	Unlimited	10,000	10,000	10,000	10,000	2,000
<i>Mint</i>	Pobjoy Mint Ltd.					
<i>Remedy</i>	Variations to be allowed of the tolerance permitted by the Pobjoy Mint Ltd.					
<i>Obverse design</i>	I.R.B. Effigy of Her Majesty Queen Elizabeth II.					
<i>Reverse design 1</i>	An image of Her Majesty Queen Elizabeth II during the Coronation in 1953. A smaller image of Westminster Abbey is also shown. The wording 'HM					

QUEEN ELIZABETH II' appears in the surround with the value at the base of the coin.

Reverse design 2 An image based on a 1977 Silver Jubilee portrait of Her Majesty Queen Elizabeth II. A smaller image of Windsor Castle, where the portrait was painted, is also shown. The wording 'HM QUEEN ELIZABETH II' appears in the surround with the value at the base of the coin.

SUBSIDIARY LEGISLATION

TAXATION

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2015

S. R. & O. No. 17 of 2015

Made: 19 November 2015

Published: ... 30 November 2015

Coming into force: on publication

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

1. Title

This order is the Taxes and Duties (Defence Contractors' Employees Exemption) Order 2015.

2. Commencement

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

3. Interpretation

In this order —

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

“qualifying employee” means a person who —

- (a) satisfies the requirements of section 9A of the Ordinance; and
- (b) is employed by a designated employer;

“relevant employment” means —

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

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

“relevant income” means income from relevant employment; and

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

4. Application

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

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

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

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

5. Duration

Nothing in this order confers any exemption to pay either —

(a) income tax in relation to earnings after 31 December 2016; or

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

6. Revocation

The Taxes and Duties (Defence Contractors’ Employees Exemption) Order 2014 (No. 19 of 2014) is revoked.

SCHEDULE DESIGNATED EMPLOYERS

(article 3)

AAR International Inc.

Agrimarine Limited

Airbus DS Limited

Babcock Aerospace Limited

Babcock Communications Limited

BAE Systems (Military Air) Overseas Limited

British International Helicopter Services Limited

COLAS Limited

David Lomas Limited

Fujitsu Services Limited
Gifford Global Limited
Interserve Defence Limited
Mott MacDonald Limited
MPI Aviation Limited
Navy, Army and Air Force Institutes
Satec Limited
Serco Limited
Services Sound and Vision Corporation
Sodexo Defence Services Limited
Trant Construction Limited
Van Wijngaarden Marine Services b.v.
Westland Helicopters Limited
Made 19th November 2015

C. Roberts C.V.O.,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

Section 9A of the Taxes and Duties (Special Exemptions) Ordinance (Title 69.2) gives the Governor power to make orders granting exemptions from income tax and retirement pension contributions to certain individuals engaged in defence-based employment.

This order means that employees who work for one of the employers listed in the Schedule are exempt from income tax and retirement pension contributions until the end of 2016, provided that they are engaged in relevant employment (as defined) and the other requirements set out in section 9A of the Ordinance are met.

The effect of section 21(1)(e) of the Medical Services Tax Ordinance (No 13 of 2010) provides that the earnings and benefits in kind that are exempt from income tax under this order are also exempt from Medical Services Tax.

The effects of this order (which replaces a previous order) are:

- (a) to extend the life of the exemption (which was due to expire on 31 December 2015) for another year; and
- (b) to add Airbus DS Limited and AAR International Inc. to the list of designated employers

Under section 9A, orders have to be made on the advice of the Standing Finance Committee.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Road Traffic (Stanley Speed Limit Zone) Regulations 2015

S. R. & O. No: 18 of 2015

Made: 19 November 2015

Published: 30 November 2015

Coming into force: upon publication

I make these regulations under sections 29 and 59(1)(m) of the Road Traffic Ordinance (Title 63.1) on the advice of Executive Council.

1. Title and commencement

These regulations are the Road Traffic (Stanley Speed Limit Zone) Regulations 2015 and come into operation on publication in the *Gazette*.

2. Interpretation

In these regulations —

“the Stanley-Darwin Road” means the road from the junction of Sapper Hill Road and the Stanley Bypass, Stanley to the L’Antioja Stream; and

“the roads within the Stanley zone” means the roads within the area the boundaries of which are indicated in the map appearing in the Schedule as shown by the blue border.

3. Designation of roads and applicable speed limits

(1) Subject to subregulation (1), the roads within Stanley zone are declared to be urban roads for purposes of the Road Traffic Ordinance with a maximum speed limit of twenty-five miles per hour.

(2) Subregulation (1) does not apply to the following within Stanley zone —

(a) the public roads and public parking areas within Lookout Industrial Estate (which have a maximum speed limit of ten miles per hour);

(b) Pencil Lane (which has a maximum speed limit of ten miles per hour);

(c) St Mary’s Walk Car Park from its junction with St Mary’s Walk to the South, to its junction with the Malvina House Hotel private carpark at the top of the access ramp to the West side (which has a maximum speed limit of ten miles per hour);

(d) the Town Hall Car Park from its entrance and exit junctions on Ross Road (which has a maximum speed limit of ten miles per hour);

(e) the Stanley Bypass along its full length (which has a maximum speed limit of forty miles per hour and is a restricted road); and

(f) Stanley Airport Road from its westernmost part, to the southern side of its junction with the Cape Pembroke access track (which has a speed limit of forty miles per hour and is a restricted road).

(3) The Eliza Cove Road, along its full length from the southern boundary of the Stanley Zone to the boundary of Eliza Cove tip is designated as an urban road for purposes of the Road Traffic Ordinance with a maximum speed limit of twenty-five miles per hour.

(4) The access road to Rookery Bay, along its full length from the southern boundary of the Stanley Zone to Rookery Bay is designated as an urban road for purposes of the Road Traffic Ordinance with a maximum speed limit of twenty-five miles per hour.

(5) The structure known as FIPASS (Falklands Intermediate Port and Storage System) including the causeway fitted between the roll-on roll-off barge and the shore has a speed limit of ten miles per hour; and

(6) The Stanley-Darwin Road is designated as a restricted road with a maximum speed limit of forty miles per hour.

4. Revocation

The following are revoked —

(a) the Road Traffic (Designation of Roads) (Various) Order (Title 63.1.7);

(b) the Stanley-Darwin Road (Designation and Speed Limits) Order (Title 63.1.8);

(c) Road Traffic (Priority in Stanley) Order (Title 63.1.12);

(d) Lookout Industrial Estate (Speed Limit) Order 2007 (S.R. & O No. 11 of 2007); and

(e) Pony's Pass Quarry Bypass (Designation) Order (S.R. & O No. 21 of 1995).

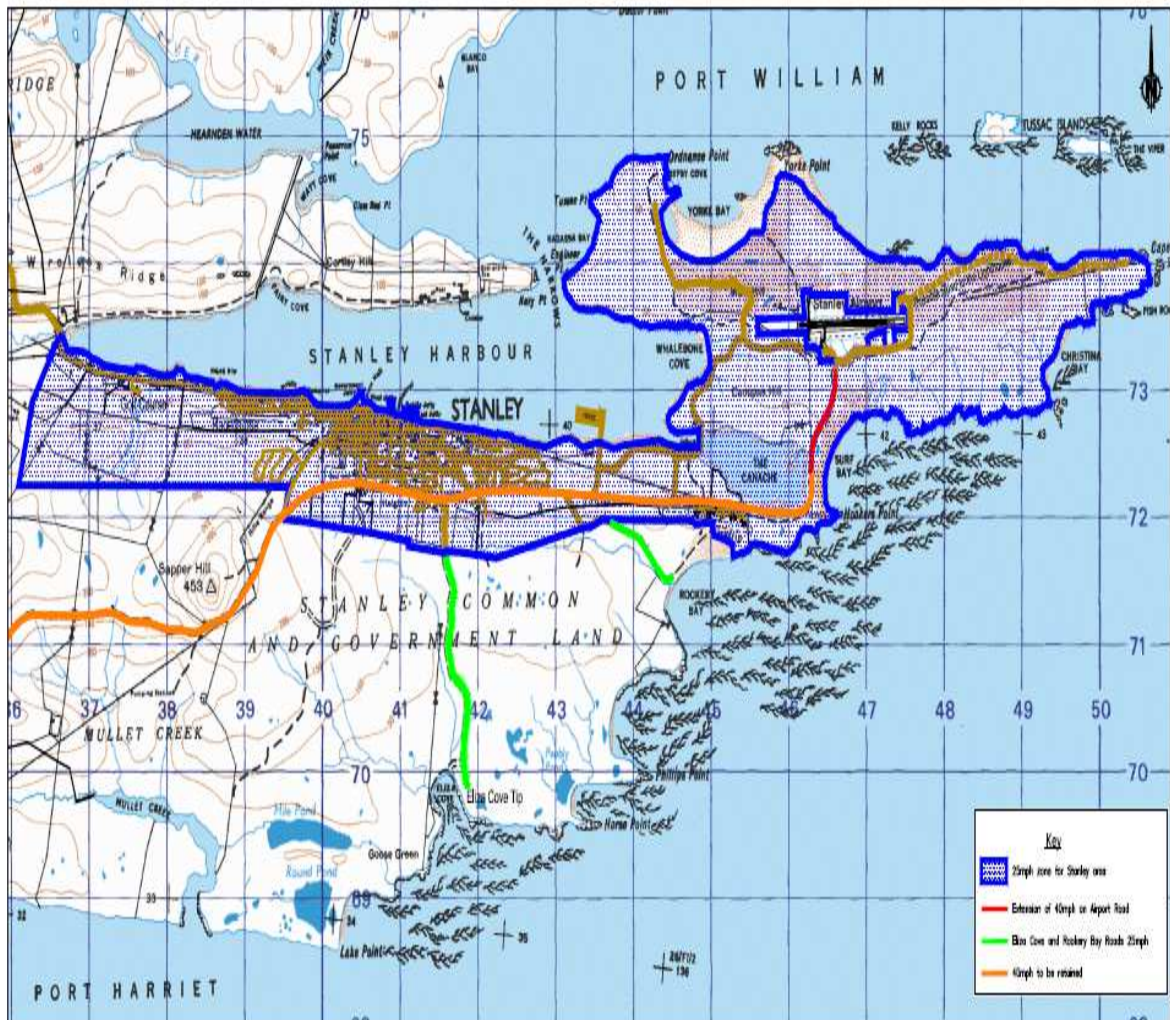
SCHEDULE *(regulation 2, 3(1))*

URBAN ROAD

(a) All roads within Stanley Zone as shown by the diagram below (as shown in blue).

(b) The Eliza Cove Road, along its full length from the southern boundary of the Stanley Zone to the boundary of Eliza Cove tip (as shown in green).

(c) The Rookery Bay road, along its full length from the southern boundary of the Stanley Zone to Rookery Bay (as shown in green).



Stanley Area 25mph Speed Limit Zone

Made 19th November 2015

C. Roberts C.V.O.,
Governor.

EXPLANATORY NOTE

(not forming part of the regulations)

These regulations are made under sections 29 and 59 of the Road Traffic Ordinance (Title 63.1). The regulations provide for all the different speed limits to be prescribed under one piece of

legislation. The regulations therefore prescribe the speed limits for the different roads and areas within Stanley as shown in the map set out in the Schedule;

Regulation 1 and 2 provide for introductory matters with regulation 2 defining the Stanley zone;

Regulation 3 provides for the speed limit on roads within an area designated as “Stanley speed zone” to be 25 miles per hour. It also specifies certain roads within the zone which have different speed limits ranging from 10mph to 40mph. It also prescribes different speed limits for roads outside the Stanley zone; and

Regulation 4 provides for the revocation of various Orders which provide for speed limits within different parts of Stanley which will now be provided for under these regulations. The revoked orders are the Road Traffic (Priority in Stanley) Order, the Lookout Industrial Estate (Speed Limit) Order, the Stanley-Darwin Road (Designation and Speed Limits) Order, Pony’s Pass Quarry Bypass (Designation) Order and the Road Traffic (Designation of Roads) (Various) Order.

SUBSIDIARY LEGISLATION

ROAD TRAFFIC

Ross Road (Clearway) (Amendment) Order 2015

S. R. & O. No: 19 of 2015

Made:..... 19 November 2015

Published: 30 November 2015

Coming into force: upon publication

I make this order under section 59(1)(m) of the Road Traffic Ordinance (Title 63.1) on the advice of Executive Council.

1. Title and commencement

This order is cited as the Ross Road (Clearway) (Amendment) Order 2015 and comes into operation on publication in the *Gazette*.

2. Article 3 amended — Clearway

The Ross Road (Clearway) Regulations Order (S. R. & O. No. 5 of 2004) is amended in article 3 by adding the following new paragraph immediately after paragraph (e)(iii) —

“(f) is necessary for the maintenance or repair of the road or any other public road, or of public utilities,”.

Made 19th November 2015

C. Roberts C.V.O.,
Governor.

EXPLANATORY NOTE
(not forming part of the order)

This order amends the Ross Road (Clearway) Regulations Order (S. R. & O. No. 5 of 2004).

It provides an exception to the effect that it is not an offence for motor vehicles to wait on Ross Road where those vehicles are carrying out maintenance or doing any repair work of road or any public utility alongside Ross Road. This is to ensure that there is consistency and uniformity with other legislation which provides the same exception.

SUBSIDIARY LEGISLATION

FIREARMS AND AMMUNITION

Finance Ordinance 2015 (Correction) Order 2015

S. R. & O. No: 20 of 2015

Made: 19 November 2015

Published: 30 November 2015

Coming into force: see article 2

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

1. Title

This order is the Finance Ordinance 2015 (Correction) Order 2015.

2. Commencement

This order is deemed to have come into force on 1 July 2015.

3. Correction of Finance Ordinance 2015

The Finance Ordinance 2015 (No 5 of 2015) is amended —

(a) in section 15 by omitting subsection (b) and renumbering subsection (c) accordingly; and

(b) by inserting the following section 15A after section 15:

“15A. Amendment of Firearms and Ammunition Ordinance

Section 4A(3) of the Firearms and Ammunition Ordinance (Title 23.2) is amended by omitting “£7.00” and substituting “£7.25”.”

Made 19th November 2015

C. P. Judge M.B.E.,
Attorney General.

EXPLANATORY NOTE

(not forming part of the order)

This order corrects a typographical error.

SUBSIDIARY LEGISLATION

GAMBLING

Pool Betting Ordinance 1994 (Correction) Order 2015

S. R. & O. No: 21 of 2015

Made: 19 November 2015

Published: 30 November 2015

Coming into force: see article 2

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

1. Title

This order is the Pool Betting Ordinance 1994 (Correction) Order 2015.

2. Commencement

This order is deemed to have come into force on 21 December 1994.

3. Correction of Pool Betting Ordinance 1994

The Pool Betting Ordinance 1994 (Title 40.2) is amended by renumbering subsection 3(8) to be numbered subsection 3(7).

Made 19th November 2015

C. P. Judge M.B.E.,
Attorney General.

EXPLANATORY NOTE
(not forming part of the order)

This order corrects a typographical error.

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Public Accounts Committee

Shackleton House PO Box 420 Stanley Falkland Islands FIQQ1ZZ
Tel +500 22905 Email: pacsecretary@horizon.co.fk Website:
www.pac.org.fk

Ref: PAC/15/11/04

25th November 2015

Mrs C Prior
Clerk to the Legislative Assembly
Gilbert House
Stanley

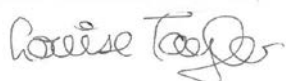
Dear Claudette

Stanley Services Directors' Report and Financial Statements Year End 30th June 2014

In accordance with Section (80) of the Constitution I am pleased to report to the Assembly that the Public Accounts Committee has examined the above accounts and have no further matters to bring to your attention.

These will now be been published on our website.

Yours sincerely,



Louise Taylor
Secretary

cc: General Manager, SSL

Public Accounts Committee

Shackleton House PO Box 420 Stanley Falkland Islands FIQQ1ZZ
Tel +500 22905 Email: pacsecretary@horizon.co.fk Website:
www.pac.org.fk

Ref: PAC/15/11/03

25th November 2015

Mrs C Prior
Clerk to the Legislative Assembly
Gilbert House
Stanley

Dear Claudette

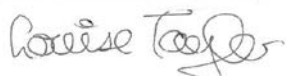
Media Trust Report and Financial Statements 30 June 2014

In accordance with Section (80) of the Constitution I am pleased to report to the Assembly that the Public Accounts Committee has examined the above accounts.

Members noted that the accounts were similar to the previous year and that there were no concerns from the auditors. They have no further matters to bring to your attention.

These will now be published on our website.

Yours sincerely,



Louise Taylor
Secretary

cc: Chair, Media Trust

Public Accounts Committee

Shackleton House PO Box 420 Stanley Falkland Islands FIQQ1ZZ
Tel +500 22905 Email: pacsecretary@horizon.co.fk Website:
www.pac.org.fk

Ref: PAC/15/11/02

25th November 2015

Mrs C Prior
Clerk to the Legislative Assembly
Gilbert House
Stanley

Dear Claudette

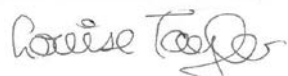
Falkland Landholdings Corporation Accounts year end 30 June 2014

In accordance with Section (80) of the Constitution I am pleased to report to the Assembly that the Public Accounts Committee has examined the above accounts.

Members were pleased to see the growth in retained profit and have no further matters to bring to your attention.

These will now be published on our website.

Yours sincerely,



Louise Taylor
Secretary

cc: General Manager, FLH

Public Accounts Committee

Shackleton House PO Box 420 Stanley Falkland Islands FIQQ1ZZ
Tel +500 22905 Email: pacsecretary@horizon.co.fk Website:
www.pac.org.fk

Ref: PAC/15/11/01

25th November 2015

Mrs C Prior
Clerk to the Legislative Assembly
Gilbert House
Stanley

Dear Claudette

Falkland Islands Meat Company Accounts year end 30th June 2013 and 30th June 2014

In accordance with Section (80) of the Constitution I am pleased to report to the Assembly that the Public Accounts Committee has examined the above accounts.

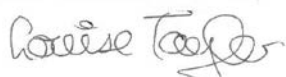
It was noted that, in respect of the 2013 Accounts, there had been slow payments from debtors but a suitable explanation had been given.

With regard to the 2014 Accounts, members would like to congratulate the Falkland Islands Meat Company on the improvement of losses.

Members have no further matters to bring to your attention.

These will now be published on our website.

Yours sincerely,



Louise Taylor
Secretary

cc: General Manager, FIMCO

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 17 DECEMBER 2015

QUESTIONS FOR ORAL ANSWER

Question Number 16/15 by the Honourable Gavin Short

Could the Honourable Michael Poole please inform the house whether work has started on the review of the Workers Protection Ordinance and whether he is confident that the finished product will be ready for presentation to this House before its dissolution?

Question Number 17/15 by the Honourable Gavin Short

Can the Honourable Mike Summers please tell the house whether the Medical Department are actively trying to source medical staff from countries other than the UK please?

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 17 DECEMBER 2015

Portfolio Reports:

The Honourable Gavin Short

The Honourable Mike Summers OBE

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 17 DECEMBER 2015

Order of the Day: Bills

Taxes (Amendment) Bill 2015

Proposed by: The Honourable Financial Secretary

Seconded by: The Honourable Roger Edwards

Livestock and Meats Products (Amendment) Bill 2015

Proposed by: The Honourable Phyl Rendell MBE

Seconded by: The Honourable Ian Hansen

Land (Non-residents) (Amendment) Bill 2015

Proposed by: The Honourable Michael Poole

Seconded by: The Honourable Jan Cheek

Endangered Species Protection Bill 2015

Proposed by: The Honourable Michael Poole

Seconded by: The Honourable Jan Cheek

Marine Farming (Amendment) Bill 2015.

Proposed by: The Honourable Phyl Rendell MBE

Seconded by: The Honourable Ian Hansen

LEGISLATIVE COUNCIL
PROCEDURE FOR TAKING GOVERNMENT BILLS WHICH HAVE NOT BEEN PUBLISHED
IN THE GAZETTE
(NOT READ FOR THE FIRST TIME)

- CLERK** "Orders of the day – Bills"
- CLERK** **Taxes (Amendment) Bill 2015, this Bill has not been published in the Gazette and therefore requires a first reading.**
- MOVER** "Mr Speaker, this Bill etc....(explanation) I beg to move the first reading of the Bill
- SECONDER** "I second the Motion"
- SPEAKER** "The Motion is that the Bill be read a first time – any objection to the Motion? No objection the Bill will be read a first time"
- CLERK** **Taxes (Amendment) Bill 2015**
- MOVER** "I beg to move that the bill will be read a second time"
- SPEAKER** "The Motion is that the Bill be read a second time – does and Honourable Member wish to speak to this Motion?"
- Debate if any -----
- or** "No objection, the Bill will be read a second time"
- CLERK** Reads the SHORT TITLE of the Bill
- SPEAKER** Declares the Council to be in Committee
- CLERK** "Clauses1-4"
- MOVER** "I beg to move that Clauses 1-4 stand part of the Bill"
- SPEAKER** "The Motion is that Clauses 1-4 stand part of the Bill – any objection to the Motion? No objection, Clauses1-4 stand part of the Bill"
- CLERK** "There are no Schedules"
- MOVER**
- SPEAKER**

SPEAKER	“The Council resumes”
MOVER	“I beg to move the Bill be read a third time and do pass”
SPEAKER	“The Motion is that the Bill be read a third time and do pass – any objection to the Motion? No objection – the Bill will be read a third time and passes”
CLERK	Taxes (Amendment) Bill 2015

SHORT TRACK PROCEDURE

- 2a) Immediately after an exposition has been given on the contents of the Bill the President may, if he thinks fit, enquire as to whether any Member other than the proposer and seconder wish to speak in relation to the Bill. If no such member indicates a desire to speak, the President may indicate that the Bill will be dealt with in accordance with the short procedure. Otherwise the Bill shall be dealt with thereafter in accordance with paragraph 3 to 6 of this Standing orders and standing orders 43 to 46, the long procedure.
- 2b) Where a Bill is to be dealt with by the short procedure, the President shall enquire whether any amendments of the Bill are desired if there are, any councillors shall straightaway be informed of them, if there are any, Council shall straightaway be informed of them and ask whether they will be agreed to. If any Member so requires they shall individually be put to the vote and accepted or rejected accordingly. Immediately after any desired amendments have to be dealt with, and if none are desired straightaway, the President shall declare the Bill to be read a third time and to have passed

Taxes (Amendment) Bill 2015
(No: of 2015)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Section 106 amended — Interpretation for purposes of Chapter II
4. Section 116 amended — Initial allowances and writing-down allowances for capital expenditure

Taxes (Amendment) Bill 2015

(No: of 2015)

(assented to: 2015)
(commencement: in accordance with section 2)
(published: 2015)

A BILL

for

AN ORDINANCE

To amend the Taxes Ordinance (No. 14 of 1997) to provide for depreciation allowances for roads.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Taxes (Amendment) Ordinance 2015.

2. Commencement

This Ordinance comes into force on 1 January 2016.

3. Section 106 amended — Interpretation for purposes of Chapter II

Section 106(4) is amended as follows —

(c) inserting immediately after the definition of “market value” the following —

““road” means a path built for traffic by motor vehicles with a durable surface material that has been sealed to the ground in a manner which prevents it from being extracted without the surfacing being destroyed.”

4. Section 116 amended — Initial allowances and writing-down allowances for capital expenditure

Section 116 is amended as follows —

(a) in subsection (1) by adding the following new paragraphs immediately after paragraph

(d) —

“(e) a road,”

(e) by deleting subsection (14) and replacing it with the following —

“(14) The writing-down allowance —

(a) for a car park or hard standing is 2 per cent of the expenditure incurred in constructing or purchasing it; and

(b) for a road is 2 per cent of the expenditure incurred in constructing the road up to £100,000 per kilometre of road.”

OBJECTS AND REASONS

This Bill amends the Taxes Ordinance (No. 14 of 1997).

Clauses 1 and 2 provides for introductory matters.

Clause 2 provides the Ordinance to come into force on 1 January 2016.

Clause 3 amends section 106 to add a new definition for “road”.

Clause 4 amends section 116 to provide for depreciation allowances for roads.

LEGISLATIVE ASSEMBLY

PROCEDURE FOR TAKING GOVERNMENT BILLS WHICH HAVE BEEN PUBLISHED IN THE GAZETTE

CLERK	“Orders of the Day – Bills”
CLERK	Then reads the SHORT TITLE of the Bill
MOVER	“Mr Speaker, this Bill etc.....(explanation) I beg to move the second reading of the Bill”
SECONDER	“I second the motion”.
MR SPEAKER	“Does any Honourable Member wish to speak on the Bill?”
	“There is no debate”
	Is there any objection to dealing with this Bill by the short procedure?
	No Objection
	Does any Member wish to propose any amendments to the wording of the Bill?
	No Amendments
	“I declare that the Bill will be read for a third time and do Pass”
Debate	
MR SPEAKER	The Motion is that the Bill be read a second time – any objection to the Motion?
	No Objection – the Bill will be read a second time.
CLERK	Reads the short title of the Bill
MR SPEAKER	Declares that the Assembly is in Committee
CLERK	Clauses 1 and/to.....
MOVER	I beg to move the Clauses 1 and/to.....stand part of the Bill

MR SPEAKER “The Motion is that Clauses 1 and/to...stand part of the Bill. Is there any objection to the Motion?”

 No objection, Clauses 1 and/to....stand part of the Bill”

CLERK Schedules (if any)

MOVER I beg to move the Schedule(s) stand part of the Bill.

MR SPEAKER The Motion Is that Schedule(s) stand part of the Bill – any objection? No Objection, the schedule stands part of the Bill.

MR SPEAKER Declares that the **Assembly resumes.**

MOVER “I beg to move the Bill be read a third time and do Pass”

MR SPEAKER “The Motion is that the Bill be read a third time and do Pass – any objection to the Motion?”

 No objection, the Bill will be read a third time and do Pass”

CLERK Reads the short title of the Bill

Livestock and Meat Products (Amendment) Bill 2015

(No: of 2015)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 - INTRODUCTION

1. Title
2. Commencement

PART 2 – AMENDMENT OF LIVESTOCK AND MEAT PRODUCTS ORDINANCE

3. Amendment of Livestock and Meat Products Ordinance
4. Section 3 amended — Interpretation
5. Section 4 amended — Power to make regulations
6. Section 7 amended — Officials
7. New sections inserted — sections 8A and 8B
8. Section 9 amended — Enforcement
9. Insertion of new sections — sections 9A, 9B and 9C

PART 3 – AMENDMENT OF MEDICINES ORDINANCE

10. Amendment of Medicines Ordinance
11. Part 2 amended — Dealings with medicinal products

PART 4 – REPEAL OF ABATTOIRS ORDINANCE

12. Repeal of Abattoirs Ordinance

PART 5 – REPEAL OF SLAUGHTERING AND INSPECTION ORDINANCE

13. Repeal of Slaughtering and Inspection Ordinance

LIVESTOCK AND MEAT PRODUCTS (AMENDMENT) BILL 2015

(No: of 2015

(assented to: 2015)
(commencement: on publication)
(published: 2015)

A BILL

for

AN ORDINANCE

To amend the Livestock and Meat Products Ordinance (No. 14 of 2010) to provide for the regulation of veterinary medicinal products, the power to impose fees, the appointment of inspectors to monitor and examine residues and other matters; and make consequential amendments to the Medicines Ordinance (No. 13 of 2006) to allow the Livestock and Meat Products Ordinance to provide for the regulation of veterinary medicinal products administered to animals kept for slaughter for human consumption; and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 INTRODUCTION

1. Title

This Ordinance is the Livestock and Meat Products (Amendment) Ordinance 2015.

2. Commencement

This Ordinance comes into force on publication in the Gazette.

PART 2 AMENDMENT OF LIVESTOCK AND MEAT PRODUCTS ORDINANCE

3. Amendment of Livestock and Meat Products Ordinance

This Part amends the Livestock and Meat Products Ordinance.

4. Section 3 amended – Interpretation

Section 3 is amended —

(a) under subsection (3) by omitting the definition of “designated abattoir” and replacing it with the following —

““designated abattoir” means an abattoir designated by Notice for the purpose of producing meat for human consumption;”;

(b) by inserting in their correct alphabetical order the following new definitions —

““authorised official” means an inspector or official referred to under section 7;”;

““authorised person” means a person authorised in writing by the Senior Veterinary Officer to be an authorised person for the purposes of this Ordinance or regulations made under it;”;

““inspector” means a person authorised by the Senior Veterinary Officer under section 7(7);”;

““fresh meat” means meat that has not undergone any preserving process other than chilling, freezing or quick-freezing, including meat that is vacuum-wrapped or wrapped in a controlled atmosphere;”;

““livestock” means any animal that is kept, fattened or bred for the production of food, wool, fur, feathers, hides and skins or any other product obtained from that animal or an animal that is kept for other farming purposes;”;

““meat products” means processed products resulting from the processing of meat or from the further processing of such processed products, so that the cut surface shows that the product no longer has the characteristics of fresh meat;”;

““official controls” means the tasks and activities undertaken by the competent authority aimed towards ensuring there is compliance with the requirements of this Ordinance and regulations made under it as set out under section 7A;” and

““veterinary medicinal product” means any substance or combination of substances —

(a) presented as having properties for treating or preventing disease in animals; or

(b) that may be used in, or administered to, animals with a view to —

(i) restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action; or

(ii) making a medical diagnosis;”.

5. Section 4 amended — Power to make regulations

Section 4(1) is amended by —

(a) deleting the full stop after paragraph (k) and replacing it with a semicolon; and

(b) inserting the following new paragraphs after paragraph (k) —

“(l) the use, sale, import and export of veterinary medicinal products; and

(m) the payment of fees.”.

6. Section 7 amended – Officials

Section 7 is amended as follows —

(a) by inserting the following new subsection after subsection (6) —

“(7) The persons authorised under subsection (6) may include inspectors who are responsible for the following —

- (a) carrying out official controls in relation to the enforcement of regulations made under this Ordinance;
- (b) monitoring of animals and animal products to check for diseases, residues, chemicals and other substances as may be specified in the regulations;
- (c) taking, registering and checking of all official control samples as required under regulations made under section 4; and
- (d) any other functions required to give effect to this Ordinance as may be specified in the authorisation .”

(b) by inserting the following new section 7A —

“7A. Powers of competent authority – official controls

In order to carry out its functions under this Ordinance the competent authority may —

- (a) put in place official controls aimed at ensuring there is compliance with feed and food requirements and animal health and welfare rules for the protection of public health;
- (b) conduct checks and audits to verify and ensure there is compliance with animal health and welfare rules for the protection of animals; and
- (c) carry out specific tasks aimed at ensuring corrective procedures are followed as may be specified in regulations made under this Ordinance.”

7. New sections inserted — sections 8A and 8B

The Ordinance is amended by inserting the following new sections after section 8 —

“8A. Examination and monitoring of chemicals, residues, etc.

(1) The regulations under section 4(1)(c) and (h) may make provision as to the manner in which —

- (a) samples may be taken, transported and submitted for analysis;
- (b) tests on animals, meat and meat products may be undertaken; and
- (c) official controls and checks in relation to the monitoring of chemicals and residues may be carried out.

(2) Regulations referred to under subsection (1) may also make provision for the method of analysis as well as other relevant matters to be taken into consideration in examining and monitoring chemicals and residues.

8B. Sale, import and use of veterinary medicinal products

(1) Regulations under section 4(1)(l) may —

- (a) make provision for the sale, distribution, import or export of veterinary medicinal products through permits;
- (b) include restrictions on the sale and distribution of veterinary medicinal products; and
- (c) make provision for the licensing of establishments that can sell and distribute veterinary medicinal products.

(2) Subject to any circumstances or conditions as may be included in a permit issued in accordance with regulations made in accordance with subsection (1)(a), the regulations may prohibit any person from doing any of the activities listed in subsection (3).

(3) The activities referred to in subsection (2) are, in the course of a business carried on by the person —

- (a) selling by retail;
- (b) offering or exposing for sale by retail; or
- (c) supplying in circumstances corresponding to retail sale,

a veterinary medicinal product, unless that product meets any of the requirements in subsection (4).

(4) The requirements referred to in subsection (3) are that the veterinary medicinal product is —

- (a) sold or supplied in accordance with a prescription given by a qualified veterinarian, a registered pharmacist, or a suitably qualified person; and
- (b) complies with such conditions as may be prescribed.

(5) Regulations made in accordance with subsection (1) may make provision for controlling, restricting, licensing or prohibiting the following activities —

- (a) selling, supplying or otherwise placing the veterinary medicinal products on the market;
- (b) manufacturing or assembling any veterinary medicinal product;

- (c) distributing any veterinary medicinal product;
 - (d) procuring the sale, supply or placing on the market of the veterinary medicinal products otherwise than by sale or supply, manufacture, assembly or distribution;
 - (e) importing or exporting of any veterinary medicinal product;
 - (f) possessing any veterinary medicinal product, with a view to selling or supplying it or otherwise placing it on the market; or
 - (g) issuing, sending or delivering any advertisement, or making any representation or recommendation in the course of a business, relating to any veterinary medicinal product.
- (6) Regulations made in accordance with subsection (1) may impose any requirements as the Governor considers necessary or expedient for any of the purposes specified in subsection (7) with respect to —
- (a) the labelling of containers of veterinary medicinal products;
 - (b) the labelling of packages of veterinary medicinal products;
 - (c) the display of distinctive marks on containers and packages of veterinary medicinal products;
 - (d) the supply of leaflets with veterinary medicinal products;
- (7) The purposes referred to in subsection (6) are —
- (a) to ensure that veterinary medicinal products are correctly described and readily identifiable;
 - (b) to ensure that any appropriate warning or other appropriate information or instruction is given, and that false or misleading information is not given, with respect to veterinary medicinal products; and
 - (c) to promote safety in relation to veterinary medicinal products.”

8. Section 9 amended - Enforcement

Section 9 is repealed and replaced with the following —

“9. Inspections generally

- (1) For carrying out the functions under this Ordinance or regulations made under it, an authorised official may —
- (a) conduct searches and inspections;
 - (b) take photographs and recordings;

(c) conduct tests;

(d) require the production of livestock, meat products and other relevant substances for inspection;

(e) require, for inspection, the production of records which a person is required to keep under this Ordinance or any regulations made under it; and

(f) request any other information as may be necessary.

(2) If records which a person is required to keep are stored in electronic form, the power under subsection (1) includes power to require the records to be made available for inspection in —

(a) a visible and legible form; or

(b) a form from which they can readily be produced in a visible and legible form.

(3) An authorised official may inspect and take copies of any records produced for inspection as required under this Ordinance or any regulations made under it.

(4) An authorised official may carry out an inspection in order to check compliance with any requirement to inspect as provided by or under this Ordinance or any regulations made under it.”

9. Insertion of new sections — sections 9A, 9B and 9C

The Ordinance is amended by inserting the following new sections after section 9 —

“9A. Authorised persons - Entry

(1) An authorised person may enter premises or land with the consent of the owner or occupier or on the authority of a warrant issued under section 9B.

(2) An authorised official may, for the purpose of carrying out any function under this Ordinance, enter at a reasonable time and with the consent of the owner —

(a) premises or land on which the carrying on of an activity regulated under this Ordinance is authorised;

(b) premises or land on which the authorised official reasonably believes an activity to which a permit or a licence relates is being carried on;

(c) any premises or land on which livestock is kept, or where the authorised official believes any livestock is kept.

(3) Subject to subsection (2), an authorised official may enter into any premises or land in order to —

- (a) check for compliance with regulations made under this Ordinance;
- (b) carry out official controls including appropriate tests, checks and other requirements of this Ordinance and regulations made under it;
- (c) ascertain whether any offence under or by virtue of this Ordinance or any regulations made under it has been or is being committed.

(4) An authorised official may enter premises or land which the official reasonably believes to be premises or land on which livestock is kept in order to carry out an inspection under section 9.

9B. Entry and search under warrant

(1) Subject to subsection (3), a justice of the peace may, on the application of an authorised person or a police officer, issue a warrant authorising the authorised person or a police officer to enter at any reasonable hour, premises or land in order to search for evidence of the commission of an offence under this Ordinance or any regulations made under it.

(2) A warrant issued under subsection (1) may authorise —

(a) the authorised person or a police officer to be accompanied by any person or persons;
and

(b) the use of reasonable force, where necessary.

(3) The power to issue a warrant under subsection (1) is exercisable only if the justice of the peace is satisfied that there are reasonable grounds for believing that —

(a) an offence under this Ordinance or any regulations made under it has been committed on the premises or land; or

(b) evidence of the commission of an offence under this Ordinance is to be found on the premises or land.

(4) A person who wilfully hinders or obstructs the lawful execution of a warrant issued under subsection (1) by an authorised person or police officer or any person authorised by that warrant to accompany the authorised person or police officer, commits an offence.

9C. Enforcement

(1) Regulations under section 4(1) may include provision for enforcement.

(2) In particular, the regulations may —

(a) create criminal offences;

(b) provide for the imposition of civil penalties;

- (c) confer power to serve notices and make provision about the consequences of the service of notices;
 - (d) confer jurisdiction on a court or tribunal;
 - (e) include provision for forfeiture of goods or equipment;
 - (f) confer powers of entry, search and seizure;
 - (g) require the provision of information; and
 - (h) confer powers to require the provision of information.
- (3) If the regulations create an offence they may provide for a maximum penalty of —
- (a) 12 months imprisonment,
 - (b) a fine of level 8 on the standard scale, or
 - (c) a combination.”.

PART 3 AMENDMENT OF MEDICINES ORDINANCE

10. Amendment of Medicines Ordinance

This Part amends the Medicines Ordinance.

11. Part 2 amended — Dealings with medicinal products

The Medicines Ordinance is amended in section 11 by —

- (a) deleting the full stop after paragraph (b) and replacing it with a semicolon; and
- (b) inserting the following new paragraph after paragraph (b) —
 - “(c) where the veterinary medicinal products referred to above relate to veterinary medicinal products that are administered to livestock or animals slaughtered or killed for human consumption the Livestock and Meat Products Ordinance (No. 14 of 2010) applies.”.

PART 4 REPEAL OF ABATTOIRS ORDINANCE

12. Repeal of Abattoirs Ordinance

- (1) This Part amends the Abattoirs Ordinance (Title 5.8).
- (2) The Abattoirs Ordinance is repealed.

(3) Notwithstanding subsection (2) any subsidiary legislation made under the repealed Ordinance which is in force immediately before the commencement of this section continue in force until revoked.

PART 5

REPEAL OF SLAUGHTERING AND INSPECTION ORDINANCE

13. Repeal of Slaughtering and Inspection Ordinance

- (1) This Part amends the Slaughtering and Inspection Ordinance (Title 5.5).
- (2) The Slaughtering and Inspection Ordinance is repealed.

OBJECTS AND REASONS

This Bill amends the Livestock and Meat Products Ordinance (No. 14 of 2010) and the Medicines Ordinance (No 13 of 2006).

Part 1 provides for introductory matters.

Part 2 amends the Livestock and Meat Products Ordinance to provide for the regulation of the sale, distribution and import of veterinary medicinal products as well as the imposition of fees by the competent authority.

Clause 4 amends section 3 by replacing the definition of ‘designated abattoir’; and providing for the definition of ‘authorised official’ and ‘inspector’. It also defines ‘veterinary medicinal product’ which is the same as the definition under the Medicines Ordinance;

Clause 5 amends section 4 to insert new paragraphs for making regulations that cover the sale , import and use of veterinary medicinal products; and the power to impose fees;

Clause 6 amends section 7 to add a new subsection to provide for the Senior Veterinary Officer to appoint inspectors and confer functions on them. It also adds a new section 7A to give the competent authority power to carry out official controls aimed at ensuring there is compliance with feed and food requirements and animal health and welfare rules for the protection of public health;

Clause 7 amends the Ordinance to add two new sections to give further details about regulations to be made in relation to the use of veterinary medicinal products as well as the testing for chemicals, examining and monitoring of residues as well as other tests as may be necessary to undertake;

Clause 8 amends section 9 to replace it with a new section dealing with inspections generally (which are to be carried out by inspectors and other authorised officials appointed under section 7);

Clause 9 amends the Ordinance to add three new sections (9A, 9B and 9C). The new section 9A provides for entry for authorised officials, section 9B provides for entry and search under warrant and regulation 9C provides for regulation making powers to allow for other enforcement mechanisms as well as to increase the maximum level of penalties to recognise the seriousness of any contravention and its impact on public health;

Part 3 amends the Medicines Ordinance to make consequential amendments in order to provide for veterinary medicinal products to be dealt with under the Livestock and Meat Products Ordinance. This means that the Medicines Ordinance will only deal with veterinary medicinal products relating to all other animals except animals kept for slaughter for human consumption as provided for under *Clause 11*; and

Parts 4 and 5 repeal the Abattoirs Ordinance and the Slaughtering and Inspection Ordinance as the matters they dealt with are covered under the Livestock and Meat Product Ordinance and the regulations made under it. *Clause 12* repeals the Abattoirs Ordinance and provides a savings clause for any subsidiary legislation made under the repealed Ordinance.

Land (Non-Residents) (Amendment) Bill 2015

(No: of 2015)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Section 2 amended — Interpretation

LAND (NON-RESIDENTS) (AMENDMENT) BILL 2015

(No: of 2015)

(assented to: 2015)
(commencement: on publication)
(published:)

A BILL

for

AN ORDINANCE

To amend the Land (Non-Residents) Ordinance (No. 14 of 1999) to remove the requirement that a company is to be regarded as resident in the Falkland Islands as provided by the Taxes Ordinance 1997.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Land (Non-Residents) (Amendment) Ordinance 2015.

2. Commencement

This Ordinance comes into force on publication.

3. Section 2 amended — Interpretation

Section 2(2) is amended as follows —

(a) by deleting paragraph (b)(ii); and

(b) in paragraph (b)(i) by —

(i) deleting the words “; or”; and

(ii) renumbering the remaining words to fit into paragraph (b).

OBJECTS AND REASONS

This Bill amends the Land (Non-Residents) Ordinance to remove the requirement that a company is to be regarded as resident in the Falkland Islands as provided by the Taxes Ordinance 1997. This is necessary because the test of residence contained within section 201 of the Taxes Ordinance 1997 is a simple test of whether the company is incorporated in the Falkland Islands. The test of central control and management for management and control of a

company in section 201 of the Taxes Ordinance 1997 applies only to companies which are not incorporated in the Falkland Islands.

Clause 1 provides for the title while *clause 2* provides for commencement on publication.

Clause 3 deletes section 2(2)(b)(ii) (the cross-reference to the Taxes Ordinance 1997 where a company is considered to be resident if its central control and management are done from the Falklands Islands).

It also makes minor consequential amendments in paragraph (b).

Endangered Species Protection Bill 2015

(No: of 2015)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 – PRELIMINARY

1. Title and commencement
2. Interpretation

PART 2 – THE MANAGEMENT AUTHORITY

3. Management Authority
4. Functions of the Management Authority
5. Confiscation of specimens
6. Records and reports

PART 3 – THE SCIENTIFIC AUTHORITY

7. Scientific Authority
8. Functions of the Scientific Authority

PART 4 – PERMITS AND CERTIFICATES

General provisions

9. Permits and certificates

Species under Appendix I

10. Regulation of trade in specimens of species included in Appendix I
11. Export permits – Appendix I
12. Import permits – Appendix I
13. Re-export permits – Appendix I
14. Certificates authorising introduction from the sea – Appendix I

Species under Appendix II

15. Regulation of trade in specimens of species included in Appendix II
16. Export permits – Appendix II
17. Import permits – Appendix II
18. Re-export certificates – Appendix II
19. Certificates authorising introduction from the sea – Appendix II

Species under Appendix III

20. Regulation of trade in specimens of species included in Appendix III
21. Export permits – Appendix III
22. Import permits – Appendix III

PART 5 – MISCELLANEOUS

23. Exemptions and other special provisions relating to trade
24. Resolution of disputes
25. Offences by company, etc
26. Stop and search powers
27. Duty to show proof of lawful importation or exportation
28. Obstruction
29. Administration and enforcement
30. Confiscation of specimens
31. Offences relating to false statements
32. Appeals
33. Subsidiary legislation
34. Repeal

SCHEDULE – Text of the Articles of CITES

ENDANGERED SPECIES PROTECTION BILL 2015

(No: of 2015)

(assented to: 2015)

(commencement: on publication)

(published: 2015)

A BILL

for

AN ORDINANCE

To repeal and re-enact the Endangered Species Protection Ordinance 2003; to incorporate into the written law of the Falkland Islands the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 – PRELIMINARY

1. Title and commencement

This Ordinance is the Endangered Species Protection Ordinance 2015 and comes into force on publication in the *Gazette*.

2. Interpretation

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

“Appendix I, Appendix II, Appendix III or Appendix IV” means the appendices to CITES as amended from time to time;

“CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora that was concluded at Washington D.C. on 3 March 1973, and references to any particular provision of CITES are references to that provision as it appears in the version of CITES, as in force at the relevant time, that is published in the Treaty Series issued by Her Majesty’s Stationery Office in the United Kingdom);

“competent authority” means, as may be appropriate in accordance with CITES, the Management Authority or the Scientific Authority of a Party to which the Falkland Islands is importing or exporting from other than the Falkland Islands;

“export” means to take, or cause to be taken, out of the Falkland Islands or out of Falkland Islands waters;

“import” means to bring, or cause to be brought, into the Falkland Islands or into Falkland Islands waters, including for the purpose of export;

“introduction from the sea” means transportation into the Falkland Islands waters or to any port in the Falkland Islands of specimens of any species which were taken in the marine environment not under the jurisdiction of any State, including the seabed and subsoil;

“Management Authority” means the Management Authority for the Falkland Islands appointed by the Governor under section 3; (designated for the purposes of Article IX of CITES);

“Party” means a State in which CITES is in force;

“protected goods” means any specimen of a species that is for the time being included in Appendix I, Appendix II or Appendix III of the Convention;

“re-export” means export of any specimen of a species that has previously been imported;

“rescue centre” means an institution designated by the Management Authority under section 4;

“Scientific Authority” means the scientific authority of the Falkland Islands appointed by the Governor under section 7 (so designated in accordance with Article IX of CITES);

“Secretariat” means the Secretariat provided by the Executive Director of the United Nations Environment Programme upon the entry into force of CITES, in accordance with Article XII of CITES;

“species” means any species, subspecies, or geographically separate population of a species;

“specimen” means —

(a) any animal or plant, whether alive or dead;

(b) in the case of an animal—

(i) for species included in Appendices I and II to CITES, any readily recognizable part or derivative of that species, and

(ii) for species included in Appendix III of CITES, any readily recognizable part or derivative of that species (specified in Appendix III in relation to the species); and

(c) in the case of a plant,

(i) for species included in Appendix I to CITES, any readily recognizable part or derivative of that species; and

(ii) for species included in Appendices II and III of CITES, any readily recognizable part or derivative of that species (specified in Appendices II and III of CITES in relation to the species);

“State of export” means a State from which specimen are taken out from;

“State of import” means a State to which specimen are sent to or received;

“State of re-export” means a State which exports (sends out) imported specimen;

“trade” means export, re-export, import and introduction from the sea.

(2) For the purposes of this Ordinance “State” includes the Falkland Islands.

(3) Every reference in this Ordinance to an Appendix is a reference to an Appendix to CITES.

(4) The full text of all the Articles of CITES is set out in the Schedule as it appears in the version of CITES, as in force at the relevant time, that is published in the Treaty Series issued by Her Majesty’s Stationery Office in the United Kingdom and may be updated by the Governor under section 33(2).

PART 2 – THE MANAGEMENT AUTHORITY

3. Management Authority

(1) The Management Authority for the Falkland Islands is the Chief Executive or such other public officer as the Governor may from time to time appoint.

(2) Subject to subsection (3), the Management Authority must obtain the advice of the Scientific Authority before exercising any of its functions under this Ordinance.

(3) Despite subsection (2), the exercise of any power by the Management Authority will not be invalidated by reason only of the Management Authority’s failure to obtain the advice of the Scientific Authority.

4. Functions of the Management Authority

(1) The general function of the Management Authority is to monitor the activities of Falkland Islands importers, exporters and re-exporters to ensure their compliance with CITES and with this Ordinance.

(2) The Management Authority must, in accordance with sections 9 to 22 —

(a) consider applications for permits or certificates relating to —

(i) import;

(ii) export; or

(iii) re-export,

of any specimen of a species included in Appendix I, Appendix II or Appendix III to CITES;
and

(b) approve or deny applications and, where it approves an application, issue a control number in respect of each permit or certificate it approves, in compliance with section 9(4).

(c) designate a rescue centre for purposes of any confiscated living specimens and may designate one or more rescue centres as necessary.

(3) The Management Authority must satisfy itself —

(a) where the Falkland Islands is the State of export —

(i) that the specimen was not obtained in contravention of the law relating to the protection of fauna and flora;

(ii) that any living specimen will be prepared and shipped to minimise the risk of injury, damage to health or cruel treatment to the specimen;

(iii) that an import permit has been granted for the specimen by the competent authority in the State of import;

(b) where the Falkland Islands is the State of import, that any protected goods that are being imported into the Falkland Islands are not to be used for primarily commercial purposes;

(c) where the Falkland Islands is the State of re-export —

(i) that the specimen was imported into the Falkland Islands in accordance with the provisions of CITES;

(ii) that any living specimen will be prepared and shipped to minimise the risk of injury, damage to health or cruel treatment to the specimen;

(iii) that an import permit for any living specimen has been obtained from the competent authority in the State to which the protected goods are to be re-exported; and

(iv) that the specimen was not obtained in contravention of the law relating to the protection of fauna and flora;

(d) where the Falkland Islands is the State of introduction —

(i) that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

(ii) that the specimen is not to be used for primarily commercial purposes; and

(iii) that any living specimen will be handled to minimise the risk of injury, damage to health or cruel treatment.

(4) The Management Authority must take appropriate measures to enforce the provisions of CITES and to prohibit trade in specimens in violation of CITES, and this duty includes —

- (a) to penalise trade in, or possession of, such specimens, or both; and
- (b) the confiscation or return to the State of export of such specimens
- (c) taking such supplementary measures as may be set out in regulations made by the Governor.

(5) The Governor may, in regulations made under subsection (4), also prescribe a method by which the Management Authority may reimburse all persons who incurred expenses as a result of lawfully participating in the confiscation of a specimen traded in violation of the measures taken pursuant to provisions in the regulations that comply with paragraphs (a) and (b) of subsection (4).

(6) As far as possible, the Management Authority must ensure that specimens pass through any formalities required for trade with a minimum of delay and, in this connection —

- (a) to facilitate such passage, may designate ports of exit and ports of entry at which specimens must be presented for clearance; and
- (b) must ensure that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimise the risk of injury, damage to health or cruel treatment.

5. Confiscation of specimens

Where a living specimen is confiscated under subsections (4), the Management Authority —

- (a) has custody of the specimen and is responsible for the care of it;
- (b) must, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of CITES; and
- (c) may obtain the advice of the Scientific Authority, or may, whenever it considers it desirable, consult the Secretariat in order to facilitate the decision under paragraph (b), including the choice of a rescue centre or other place.

6. Records and reports

(1) The Management Authority must maintain records of trade in specimens of species included in Appendices I, II and III to CITES, which must cover —

- (a) the names and addresses of exporters and importers; and
- (b) each of the following —
 - (i) the number and type of permits and certificates granted;

- (ii) the States with which such trade occurred;
- (iii) the numbers or quantities and types of specimens;
- (iv) names of species as included in Appendices I, II and III to CITES; and
- (v) where applicable, the size and gender of the specimens in question.

(2) The Management Authority must prepare periodic reports on its implementation of the CITES and must transmit to the Secretariat —

(a) an annual report containing a summary of the information specified in paragraph (b) of subsection (1); and

(b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of CITES.

(3) The information referred to in subsection (2) must be made available to the public, subject to the contrary provisions of any other written law of the Falkland Islands.

PART 3 – THE SCIENTIFIC AUTHORITY

7. Scientific Authority

The Scientific Authority for the Falkland Islands for the purpose of CITES is such person or persons or body of persons as the Governor from time to time appoints.

8. Functions of the Scientific Authority

The functions of the Scientific Authority are —

(a) to advise the Management Authority or, as appropriate, the Governor —

- (i) on the exercise of the Management Authority's functions under sections 4 and 5;
- (ii) 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
- (iii) on whether the export or import of a specimen of a species will be detrimental to the survival of that species;
- (iv) on whether the proposed recipient of a living specimen is suitably equipped to house and care for it;
- (v) of suitable measures to be taken to limit the grant of export permits for specimens of species referred to in paragraphs (b) and (c); and

(vi) generally, on matters falling within the scope of CITES on which its advice is sought or on which it wishes to tender advice;

(b) to monitor both the export permits granted by the Management Authority for specimens of species included in Appendix II and the actual exports of those specimens;

(c) to determine whether the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I; and

(d) in accordance with paragraph 7 of Article IV of CITES, to consult with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in specified periods.

PART 4 – PERMITS AND CERTIFICATES

General provisions

9. Permits and certificates (*Article VI of CITES*)

(1) Permits and certificates granted under the provisions of section 4(2) must be in accordance with the provisions of this section.

(2) An export permit must contain the information specified in the model set out in Appendix IV to CITES, and may only be used for export within a period of six months from the date on which it was granted.

(3) Each permit or certificate must contain the title of CITES, the name and any identifying stamp of the Management Authority and a control number assigned by the Management Authority.

(4) Any copies of a permit or certificate issued by a Management Authority must be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed on the copy.

(5) A separate permit or certificate is required for each consignment of specimens.

(6) Where the Falkland Islands is the State of import of any specimen, the Management Authority (in order to ensure that any permit or certificate is not used in relation to more than one consignment of specimens) must cancel and retain —

(a) the export permit or re-import certificate issued, respectively, by the State of export or the State of re-import; and

(b) any corresponding import permit presented in respect of the import of that specimen.

(7) Where appropriate and feasible, the Management Authority may affix a mark upon any specimen to assist in identifying the specimen.

(8) For the purposes of subsection (7), “mark” means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorised persons as difficult as possible.

(9) For the purposes of this Part, any reference to a person being requested or required to present or produce a permit or certificate is to be construed as a reference to the person being so requested or required, as the case may be, by a customs officer, a police officer or an officer of the Management Authority.

Species under Appendix I

10. Regulation of trade in specimens of species included in Appendix I (Article III of CITES)

All trade in specimens of species included in Appendix I must be in accordance with sections 11 to 14.

11. Export permits – Appendix I

(1) Before a person exports from the Falkland Islands any specimen of a species included in Appendix I, the person must first obtain an export permit from the Management Authority, which the person must present when required to do so.

(2) In order to obtain an export permit, a person referred to in subsection (1) must submit an application to the Management Authority in the prescribed form and must pay the prescribed fee.

(3) The Management Authority must not grant the export permit unless the following conditions have been met —

(a) the Scientific Authority has advised that such export will not be detrimental to the survival of that species; and

(b) the Management Authority is satisfied that —

(i) the specimen was not obtained in contravention of any law for the protection of fauna and flora;

(ii) any living specimen will be prepared and shipped to minimise the risk of injury, damage to health or cruel treatment of the specimen; and

(iii) an import permit has been granted for the specimen.

(4) A person who —

(a) exports from the Falkland Islands any specimen of a species included in Appendix I without having obtained an export permit as required by subsection (1); or

(b) having obtained an export permit, fails to produce it in accordance with subsection (1),

commits an offence and is liable on conviction to a fine not exceeding level 12 on the standard scale.

12. Import permits – Appendix I

(1) Before a person imports into the Falkland Islands any specimen of a species included in Appendix I, the person must first obtain —

(a) an import permit from the Management Authority; and

(b) either, as the case may be, —

(i) an export permit from the competent authority of the State of export; or

(ii) a re-export certificate from the State of re-export,

and must, when requested, present both permits or the import permit and the re-export certificate, as the case may be.

(2) In order to obtain an import permit a person referred to in subsection (1) must submit an application to the Management Authority in the prescribed form and pay the prescribed fee.

(3) The Management Authority must not grant an import permit unless the following conditions have been met —

(a) the Scientific Authority —

(i) has advised that the import will be for purposes which are not detrimental to the survival of the species involved;

(ii) is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

(b) the Management Authority is satisfied that the specimen is not to be used for primarily commercial purposes.

(4) A person who —

(a) imports into the Falkland Islands any specimen of a species included in Appendix I without having obtained an import permit and either an export permit or a re-export certificate as required by subsection (1); or

(b) having obtained an import permit and either an export permit or a re-export certificate, fails to produce any or both of them in accordance with subsection (1),

commits a separate offence in respect of each item that the person has not obtained or, as the case may be, that the person fails to produce, and is liable in respect of a conviction for each offence to a fine not exceeding level 12 on the standard scale.

13. Re-export certificates – Appendix I

(1) Before a person re-exports from the Falkland Islands any specimen of a species included in Appendix I, the person must first obtain a re-export certificate from the Management Authority, which the person must present upon request.

(2) In order to obtain a re-export certificate, a person referred to in subsection (1) must submit an application to the Management Authority in the prescribed form and pay the prescribed fee.

(3) The Management Authority must not grant a re-export certificate unless a Management Authority is satisfied that —

(a) the specimen was imported into the Falkland Islands in accordance with the provisions of CITES;

(b) any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment; and

(c) an import permit for any living specimen has been granted by the competent authority in the State of import.

(4) A person who —

(a) re-exports from the Falkland Islands any specimen of a species included in Appendix I without having obtained a re-export certificate as required by subsection (1); or

(b) having obtained a re-export certificate, fails to produce it in accordance with subsection (1),

commits an offence and is liable on summary conviction to a fine not exceeding level 12 on the standard scale.

14. Certificates authorising introduction from the sea – Appendix I

(1) Before a person introduces from the sea into the Falkland Islands any specimen of a species included in Appendix I, the person must first obtain from the Management Authority a certificate for that purpose, which the person must present when requested to do so.

(2) In order to obtain a certificate under this section, a person referred to in subsection (1) must submit an application to the Management Authority in the prescribed form and pay the prescribed fee.

(3) The Management Authority must not grant a certificate under this section unless the following conditions have been met —

(a) a Scientific Authority advises that the introduction will not be detrimental to the survival of the species involved; and

(b) a Management Authority is satisfied that —

(i) the proposed recipient of a living specimen is suitably equipped to house and care for it; and

(ii) the specimen is not to be used for primarily commercial purposes.

(4) A person who —

(a) introduces from the sea into the Falkland Islands any specimen of a species included in Appendix I without having obtained a certificate as required by subsection (1); or

(b) having obtained a certificate, fails to present it in accordance with subsection (1),

commits an offence and is liable on conviction to a fine not exceeding level 12 on the standard scale.

Species under Appendix II

15. Regulation of trade in specimens of species included in Appendix II (Article IV of *CITES*)

All trade in specimens of species included in Appendix II must be in accordance with sections 16 to 19.

16. Export permits – Appendix II

(1) Before a person exports from the Falkland Islands any specimen of a species included in Appendix II, the person must first obtain an export permit from the Management Authority, which the person must present when required to do so.

(2) In order to obtain an export permit, a person referred to in subsection (1) must submit an application to the Management Authority in the prescribed form and must pay the prescribed fee.

(3) The Management Authority must not grant the export permit unless the following conditions have been met —

(a) the Scientific Authority has advised that such export will not be detrimental to the survival of that species;

(b) the Management Authority is satisfied that —

(i) the specimen was not obtained in contravention of the law for the protection of fauna and flora; and

(ii) any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment.

(4) When complying with this section, the Management Authority and the Scientific Authority must have regard to paragraphs (a)(v), (b) and (c) of section 8.

(5) A person who —

(a) exports from the Falkland Islands any specimen of a species included in Appendix II without having obtained an export permit as required by subsection (1); or

(b) having obtained an export permit, fails to present it in accordance with subsection (1),

commits an offence and on conviction is liable to a fine not exceeding level 12 on the standard scale.

17. Import permits – Appendix II

(1) Before a person imports into the Falkland Islands any specimen of a species included in Appendix II, the person must first obtain from the competent authority of the State of export or re-export either an export permit or a re-export certificate, which the person must present when required to do so.

(2) A person referred to in subsection (1) must comply with —

(a) section 16(2) in order to obtain an export permit;

(b) section 18(2) in order to obtain a re-export certificate.

(3) A person who —

(a) imports into the Falkland Islands any specimen of a species included in Appendix II without having obtained an export permit or a re-export certificate as required by subsection (1); or

(b) having obtained an export permit or a re-export certificate, fails to present it in accordance with subsection (1),

commits an offence and is liable on conviction to a fine not exceeding level 12 on the standard scale.

18. Re-export certificates – Appendix II

(1) Before a person re-exports from the Falkland Islands any specimen of a species included in Appendix II, the person must first obtain from the Management Authority a re-export certificate, which the person must present when required to do so.

(2) In order to obtain a re-export certificate, a person referred to in subsection (1) must submit an application to the Management Authority in the prescribed form and must pay the prescribed fee.

(3) The Management Authority must not grant a re-export certificate unless it is satisfied that —

(a) the specimen was imported into the Falkland Islands in accordance with the provisions of CITES; and

(b) any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment.

(4) A person who —

(a) re-exports from the Falkland Islands any specimen of a species included in Appendix II without having obtained a re-export certificate as required by subsection (1); or

(b) having obtained a re-export certificate, fails to present it in accordance with subsection (1),

commits an offence and is liable on conviction to a fine not exceeding level 12 on the standard scale.

19. Certificates authorising introduction from the sea – Appendix II

(1) Before a person introduces from the sea into the Falkland Islands any specimen of a species included in Appendix II, the person must first obtain from the Management Authority a certificate for that purpose, which the person must present when requested to do so.

(2) In order to obtain a certificate under this section, a person referred to in subsection (1) must submit an application to the Management Authority in the prescribed form and pay the prescribed fee.

(3) The Management Authority must not grant a certificate under this section unless the following conditions have been met —

(a) the Scientific Authority advises that the introduction will not be detrimental to the survival of the species involved;

(b) the Management Authority is satisfied that any living specimen will be so handled as to minimise the risk of injury, damage to health or cruel treatment.

(4) The Management Authority may grant certificates referred to in subsection (3) on the advice of the Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced during such periods.

(5) A person who —

(a) introduces from the sea into the Falkland Islands any specimen of a species included in Appendix II without having obtained a certificate as required by subsection (1);

(b) having obtained a certificate, fails to present it in accordance with subsection (1),

commits an offence and is liable on conviction to a fine not exceeding level 12 on the standard scale.

Species under Appendix III

20. Regulation of trade in specimens of species included in Appendix III (*Article V of CITES*)

All trade in specimens of species included in Appendix III must be in accordance with sections 21 and 22.

21. Export permits – Appendix III

(1) Subject to subsection (2), before a person exports from the Falkland Islands any specimen of a species included in Appendix III, the person must first obtain an export permit from the Management Authority, which the person must present when required to do so.

(2) This section only applies if the United Kingdom has included any species to which subsection (1) refers in Appendix III in respect of the Falkland Islands.

(3) Where this section applies a person referred to in subsection (1) must, in order to obtain an export permit, submit an application to the Management Authority in the prescribed form and must pay the prescribed fee.

(4) The Management Authority must not grant the export permit unless it is satisfied that —

(a) the specimen was not obtained in contravention of the law for the protection of fauna and flora; and

(b) any living specimen will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment.

(5) A person who —

(a) exports from the Falkland Islands any specimen of a species included in Appendix III without having obtained an export permit as required by subsection (1); or

(b) having been granted an export permit, fails to present it in accordance with subsection (1),

commits an offence and is liable on conviction to a fine not exceeding level 12 on the standard scale.

22. Import permits – Appendix III

(1) Before a person imports into the Falkland Islands any specimen of a species included in Appendix III, the person must, except in circumstances to which subsection (2) applies, first —

- (a) present to the Management Authority a certificate of origin; and
- (b) where the import is from a State which has included that species in Appendix III, an export permit,

granted by the competent authority of that State.

(2) Where a specimen of a species included in subsection (1) is being imported into the Falkland Islands by way of re-export, a certificate granted by the competent authority of the State of re-export that the specimen was processed in that State or is being re-exported must be accepted by the Management Authority as evidence that the provisions of CITES have been complied with in respect of the specimen concerned, and the submission to the Management Authority of the aforementioned certificate obviates the requirement to comply with paragraphs (a) and (b) of subsection (1).

(3) In the case of re-export from the Falkland Islands, the Management Authority must (in accordance with and in reliance on paragraph 4 of Article V of CITES) grant to the prospective re-exporter a certificate that the specimen was processed in the Falkland Islands or is being re-exported from the Falkland.

(4) A person who imports into the Falkland Islands any specimen of a species included in Appendix III without having complied with —

- (a) paragraph (a) of subsection (1); or
- (b) where appropriate, both paragraphs (a) and (b) of subsection (1),

commits an offence and is liable on conviction to a fine not exceeding level 12 on the standard scale.

PART 5 - MISCELLANEOUS

23. Exemptions and other special provisions relating to trade (*Article VII of CITES*)

(1) The provisions of sections 10 to 22 do not apply to the following —

- (a) the transit or transshipment of specimens through Falkland Islands waters or in the territory of the Falkland Islands while the specimens remain in Customs control;
- (b) the export or re-export of a specimen by the Falkland Islands where the Management Authority is satisfied that the specimen was acquired before the provisions of CITES applied to that specimen, and where the Management Authority issues a certificate to that effect; or
- (c) where the following circumstance exist —

- (i) the competent authority of a State of export or re-export is satisfied that a specimen was acquired before the provisions of CITES applied to that specimen; and
- (ii) issues a certificate to that effect by virtue of which the provisions of Articles III, IV and V of CITES (or, as the case may be, provisions of the Party's domestic legislation giving effect to those Articles of CITES) have been rendered inapplicable to that specimen,

the Management Authority must recognise such a certificate.

(2) The provisions of sections 10 to 22 do not apply to specimens that are personal or household effects.

(3) Subsection (2) does not apply where —

(a) in the case of specimens of a species included in Appendix I, they were acquired by the owner outside the owner's State of usual residence, and are being imported into the Falkland Islands; or

(b) in the case of specimens of species included in Appendix II —

- (i) they were acquired by the owner outside the owner's State of usual residence and in a State where removal from the wild occurred;
- (ii) they are being imported into the owner's State of usual residence; and
- (iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens,

unless the Management Authority is satisfied that the specimens were acquired before the provisions of CITES applied to such specimens.

(4) Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, must be deemed to be specimens of species included in Appendix II.

(5) Where —

(a) the following circumstances exist, namely —

- (i) the Falkland Islands is the State of export; and
- (ii) the Management Authority is satisfied that —
 - (aa) any specimen of an animal species was bred in captivity;

(bb) any specimen of a plant species was artificially propagated; or

(cc) any specimen of an animal or plant species is a part of an illegally propagated specimen or was derived therefrom,

a certificate by the Management Authority to that effect must, in reliance on Article VII of CITES, be presented in lieu of any permits or certificates required under the provisions of sections 10 to 22; or

(b) the following circumstances exist —

(i) the Falkland Islands is not the State of export; and

(ii) the Falkland Islands is the State of import,

the Management Authority must accept, in lieu of a permit or certificate required by Article III, IV, or V of CITES (or, as the case may be, provisions of the Party's domestic legislation giving effect to those Articles of CITES), a certificate that the competent authority of the State of export issued upon being satisfied of the facts set out in paragraph (a).

(6) The provisions of sections 10 to 22 do not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by the Management Authority and scientists or scientific institutions registered by the competent authorities of other Parties, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material, which carry a label issued or approved by the Management Authority or by the competent authority of another Party.

(7) The Management Authority may waive the requirements of sections 10 to 22 and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that —

(a) the exporter or importer registers full details of such specimens with the Management Authority;

(b) the specimens are either of the categories specified in subsection (3) or subsection (6); and

(c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimise the risk of injury, damage to health or cruel treatment.

(8) The Management Authority must recognise and allow movement based on waivers of the requirements of Article III, IV or V of CITES (or, as the case may be, provisions of the Party's domestic legislation giving effect to those Articles of CITES) granted by the competent authorities of other Parties in circumstances identical to those set out in subsection (7).

24. Resolution of disputes (*Article XVIII of CITES*)

(1) Any dispute which may arise between the Falkland Islands and any one or more of the other Parties with respect to the interpretation or application of the provisions of CITES must be made the subject of negotiation between the Parties involved in the dispute.

(2) If the dispute cannot be resolved in accordance with subsection (2), the Management Authority must, subject to securing the consent of the other Parties, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Management Authority will, on behalf of the Falkland Islands, be bound by the arbitral decision.

25. Offences by company, etc

(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;

(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.

26. Stop and search powers

(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;

(b) stop 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 premise 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.

27. Duty to show proof of lawful importation or exportation

(1) 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 lawful.

(2) Any person who fails or refuses to submit proof as required under subsection (1) commits an offence and is 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.

(3) Where any person is convicted of an offence under subsection (2) the goods in respect of which the offence was committed will, without further order, be forfeited to the Crown and will be disposed of in such manner as the Governor may direct.

28. Obstruction

A person who obstructs a customs officer or any police officer —

(a) in the exercise of the powers under this Ordinance; or

(b) in the execution of a warrant granted under section 26(3),

commits an offence and is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale.

29. Administration and enforcement

The provisions in this Ordinance relating to the functions of the Management Authority and the Scientific Authority are to be administered by the officers provided for in Part II of the Customs Ordinance, and such officers have in respect of this Ordinance all the powers and duties that they have in relation to the Customs Ordinance, in so far as those powers and duties are relevant to this Ordinance.

30. Confiscation of specimens

(1) Subject to section 5, the Prohibited Goods Ordinance applies to this Ordinance subject to the following qualifications —

(a) every mention in that Ordinance of the term “prohibited goods” must for the purposes of this Ordinance be construed as a reference to “protected goods”;

(b) the provisions in that Ordinance relating to destruction of prohibited goods or forfeited goods, as the case may be, do not automatically apply to confiscated specimens of species that are living; rather —

- (i) all such confiscated specimens are to be brought to the attention of the Scientific Authority;
- (ii) the Scientific Authority must advise on how the specimens are to be dealt with and on who is to be made to pay for any manner in which it determines that the specimens are to be dealt with;
- (iii) compliance with the Scientific Authority's advice is mandatory; and
- (iv) the directive by the Scientific Authority as to who is required to pay for the manner in which the specimens are to be dealt with —
 - (aa) must be accompanied by reasons; and
 - (bb) may be enforced by legal process and is judicially reviewable.

(2) This Ordinance must be construed in conjunction with the Customs Ordinance generally, and particular regard must be had to the following provisions of the Customs Ordinance —

- (a) section 44(e), which must be construed with respect to this Ordinance as referring specifically to protected goods;
- (b) section 134(1);
- (c) section 139; and
- (d) section 143.

31. Offences relating to false statements

Any person who, for the purpose of obtaining, whether for himself or for another, the issue of a permit or a certificate under Part 4 —

- (a) makes any statement which the person knows to be false in a material particular; or
- (b) furnishes a document or information which the person 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 is liable, on conviction, to a fine not exceeding level 9 on the standard scale or to imprisonment for a period not exceeding 18 months or to both such fine and imprisonment.

32. Appeals

Any person aggrieved by the Management Authority's refusal to grant the person a permit or a certificate under any section of this Ordinance may appeal to the Governor in Council in such manner and within such time as is prescribed in regulations made by the Governor in Council.

33. Subsidiary legislation

(1) In addition to the powers to make regulations that are conferred on the Governor by preceding provisions of this Ordinance, the Governor may make regulations generally for giving effect to the purposes or provisions of this Ordinance, and may prescribe forms and fees referred to under this Ordinance.

(2) The Governor may by order publish an amended Schedule.

(3) If no primary legislation is enacted to amend any section of this Ordinance so as to complement any amendments made to CITES or the Appendices every effort must be made, to the fullest extent permitted by the rules of statutory interpretation, to interpret the sections of this Ordinance in a manner that is consistent with all the Articles of CITES taken together in the light of the amendments made to any such Article.

34. Repeal

(1) The Endangered Species Protection Ordinance 2003 is repealed.

(2) Any appointment made or licence issued under the repealed Ordinance remains in force.

SCHEDULE

section 2(4)

Text of the Articles of CITES

Convention on International Trade in Endangered Species of Wild Fauna and Flora

Signed at Washington, D.C., on 3 March 1973

Amended at Bonn, on 22 June 1979

Amended at Gaborone, on 30 April 1983

The Contracting States,

Recognizing that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come;

Conscious of the ever-growing value of wild fauna and flora from aesthetic, scientific, cultural, recreational and economic points of view;

Recognizing that peoples and States are and should be the best protectors of their own wild fauna and flora;

Recognizing, in addition, that international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;

Convinced of the urgency of taking appropriate measures to this end;

Have agreed as follows:

Article I: Definitions

For the purpose of the present Convention, unless the context otherwise requires:

- (a) “Species” means any species, subspecies, or geographically separate population thereof;
- (b) “Specimen” means:
 - (i) any animal or plant, whether alive or dead;
 - (ii) in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix III in relation to the species; and
 - (iii) in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species;
- (c) “Trade” means export, re-export, import and introduction from the sea;
- (d) “Re-export” means export of any specimen that has previously been imported;
- (e) “Introduction from the sea” means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;
- (f) “Scientific Authority” means a national scientific authority designated in accordance with Article IX;
- (g) “Management Authority” means a national management authority designated in accordance with Article IX;
- (h) “Party” means a State for which the present Convention has entered into force.

Article II: Fundamental principles

1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.

2. Appendix II shall include:

- (a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and
- (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.

4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

Article III: Regulation of trade in specimens of species included in Appendix I

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

- (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
- (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;
- (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
- (d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.

3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:

- (a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;
- (b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
- (c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.

4. The re-export of any specimen of a species included in Appendix I shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:

- (a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;
- (b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
- (c) a Management Authority of the State of re-export is satisfied that an import permit has been granted for any living specimen.

5. The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

- (a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved;
- (b) a Management Authority of the State of introduction is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
- (c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.

Article IV: Regulation of trade in specimens of species included in Appendix II

1. All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

- (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
- (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
- (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

4. The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate.

5. The re-export of any specimen of a species included in Appendix II shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:

- (a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention; and
- (b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

- (a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and
- (b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.

7. Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

Article V: Regulation of trade in specimens of species included in Appendix III

1. All trade in specimens of species included in Appendix III shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

- (a) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
- (b) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. The import of any specimen of a species included in Appendix III shall require, except in circumstances to which paragraph 4 of this Article applies, the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.

4. In the case of re-export, a certificate granted by the Management Authority of the State of re-export that the specimen was processed in that State or is being re-exported shall be accepted by the State of import as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.

Article VI: Permits and certificates

1. Permits and certificates granted under the provisions of Articles III, IV, and V shall be in accordance with the provisions of this Article.

2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.

3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.

4. Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.

5. A separate permit or certificate shall be required for each consignment of specimens.

6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.

7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen to assist in identifying the specimen. For these purposes "mark" means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.

Article VII: Exemptions and other special provisions relating to trade

1. The provisions of Articles III, IV and V shall not apply to the transit or transshipment of specimens through or in the territory of a Party while the specimens remain in Customs control.

2. Where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.

3. The provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects. This exemption shall not apply where:

(a) in the case of specimens of a species included in Appendix I, they were acquired by the owner outside his State of usual residence, and are being imported into that State; or

(b) in the case of specimens of species included in Appendix II:

(i) they were acquired by the owner outside his State of usual residence and in a State where removal from the wild occurred;

(ii) they are being imported into the owner's State of usual residence; and

(iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens; unless a Management Authority is satisfied that the specimens were acquired before the provisions of the present Convention applied to such specimens.

4. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.

5. Where a Management Authority of the State of export is satisfied that any specimen of an animal species was bred in captivity or any specimen of a plant species was artificially propagated, or is a part of such an animal or plant or was derived therefrom, a certificate by that Management Authority to that effect shall be accepted in lieu of any of the permits or certificates required under the provisions of Article III, IV or V.

6. The provisions of Articles III, IV and V shall not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label issued or approved by a Management Authority.

7. A Management Authority of any State may waive the requirements of Articles III, IV and V and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that:

- (a) the exporter or importer registers full details of such specimens with that Management Authority;
- (b) the specimens are in either of the categories specified in paragraph 2 or 5 of this Article; and
- (c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

Article VIII: Measures to be taken by the Parties

1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:

- (a) to penalize trade in, or possession of, such specimens, or both; and
- (b) to provide for the confiscation or return to the State of export of such specimens.

2. In addition to the measures taken under paragraph 1 of this Article, a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.

3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.

4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:

- (a) the specimen shall be entrusted to a Management Authority of the State of confiscation;
- (b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as

the Management Authority deems appropriate and consistent with the purposes of the present Convention; and

(c) the Management Authority may obtain the advice of a Scientific Authority, or may, whenever it considers it desirable, consult the Secretariat in order to facilitate the decision under subparagraph (b) of this paragraph, including the choice of a rescue centre or other place.

5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.

6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:

(a) the names and addresses of exporters and importers; and

(b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.

7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:

(a) an annual report containing a summary of the information specified in sub-paragraph (b) of paragraph 6 of this Article; and

(b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.

8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned.

Article IX: Management and Scientific Authorities

1. Each Party shall designate for the purposes of the present Convention:

(a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and

(b) one or more Scientific Authorities.

2. A State depositing an instrument of ratification, acceptance, approval or accession shall at that time inform the Depositary Government of the name and address of the Management Authority authorized to communicate with other Parties and with the Secretariat.

3. Any changes in the designations or authorizations under the provisions of this Article shall be communicated by the Party concerned to the Secretariat for transmission to all other Parties.

4. Any Management Authority referred to in paragraph 2 of this Article shall, if so requested by the Secretariat or the Management Authority of another Party, communicate to it impression of stamps, seals or other devices used to authenticate permits or certificates.

Article X: Trade with States not party to the Convention

Where export or re-export is to, or import is from, a State not a Party to the present Convention, comparable documentation issued by the competent authorities in that State which substantially conforms with the requirements of the present Convention for permits and certificates may be accepted in lieu thereof by any Party.

Article XI: Conference of the Parties

1. The Secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of the present Convention.

2. Thereafter the Secretariat shall convene regular meetings at least once every two years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.

3. At meetings, whether regular or extraordinary, the Parties shall review the implementation of the present Convention and may:

- (a) make such provision as may be necessary to enable the Secretariat to carry out its duties, and adopt financial provisions;
- (b) consider and adopt amendments to Appendices I and II in accordance with Article XV;
- (c) review the progress made towards the restoration and conservation of the species included in Appendices I, II and III;
- (d) receive and consider any reports presented by the Secretariat or by any Party; and
- (e) where appropriate, make recommendations for improving the effectiveness of the present Convention.

4. At each regular meeting, the Parties may determine the time and venue of the next regular meeting to be held in accordance with the provisions of paragraph 2 of this Article.

5. At any meeting, the Parties may determine and adopt rules of procedure for the meeting.

6. The United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.

7. Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one third of the Parties present object:

- (a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and
- (b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located.

Once admitted, these observers shall have the right to participate but not to vote.

Article XII: The Secretariat

1. Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora.

2. The functions of the Secretariat shall be:

- (a) to arrange for and service meetings of the Parties;
- (b) to perform the functions entrusted to it under the provisions of Articles XV and XVI of the present Convention;
- (c) to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties as will contribute to the implementation of the present Convention, including studies concerning standards for appropriate preparation and shipment of living specimens and the means of identifying specimens;
- (d) to study the reports of Parties and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention;
- (e) to invite the attention of the Parties to any matter pertaining to the aims of the present Convention;
- (f) to publish periodically and distribute to the Parties current editions of Appendices I, II and III together with any information which will facilitate identification of specimens of species included in those Appendices;
- (g) to prepare annual reports to the Parties on its work and on the implementation of the present Convention and such other reports as meetings of the Parties may request;
- (h) to make recommendations for the implementation of the aims and provisions of the present Convention, including the exchange of information of a scientific or technical nature;
- (i) to perform any other function as may be entrusted to it by the Parties.

Article XIII: International measures

1. When the Secretariat in the light of information received is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.

2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.

3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.

Article XIV: Effect on domestic legislation and international conventions

1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:

- (a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or
- (b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III.

2. The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.

3. The provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external Customs control and removing Customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.

4. A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.

5. Notwithstanding the provisions of Articles III, IV and V, any export of a specimen taken in accordance with paragraph 4 of this Article shall only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.

6. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

Article XV: Amendments to Appendices I and II

1. The following provisions shall apply in relation to amendments to Appendices I and II at meetings of the Conference of the Parties:

- (a) Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at

least 150 days before the meeting. The Secretariat shall consult the other Parties and interested bodies on the amendment in accordance with the provisions of subparagraphs (b) and (c) of paragraph 2 of this Article and shall communicate the response to all Parties not later than 30 days before the meeting.

(b) Amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes “Parties present and voting” means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

(c) Amendments adopted at a meeting shall enter into force 90 days after that meeting for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

2. The following provisions shall apply in relation to amendments to Appendices I and II between meetings of the Conference of the Parties:

(a) Any Party may propose an amendment to Appendix I or II for consideration between meetings by the postal procedures set forth in this paragraph.

(b) For marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties. It shall also consult intergovernmental bodies having a function in relation to those species especially with a view to obtaining scientific data these bodies may be able to provide and to ensuring co-ordination with any conservation measures enforced by such bodies. The Secretariat shall communicate the views expressed and data provided by these bodies and its own findings and recommendations to the Parties as soon as possible.

(c) For species other than marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties, and, as soon as possible thereafter, its own recommendations.

(d) Any Party may, within 60 days of the date on which the Secretariat communicated its recommendations to the Parties under sub-paragraph (b) or (c) of this paragraph, transmit to the Secretariat any comments on the proposed amendment together with any relevant scientific data and information.

(e) The Secretariat shall communicate the replies received together with its own recommendations to the Parties as soon as possible.

(f) If no objection to the proposed amendment is received by the Secretariat within 30 days of the date the replies and recommendations were communicated under the provisions of subparagraph (e) of this paragraph, the amendment shall enter into force 90 days later for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

(g) If an objection by any Party is received by the Secretariat, the proposed amendment shall be submitted to a postal vote in accordance with the provisions of sub-paragraphs (h), (i) and (j) of this paragraph.

(h) The Secretariat shall notify the Parties that notification of objection has been received.

(i) Unless the Secretariat receives the votes for, against or in abstention from at least one-half of the Parties within 60 days of the date of notification under sub-paragraph (h) of this paragraph, the proposed amendment shall be referred to the next meeting of the Conference for further consideration.

(j) Provided that votes are received from one-half of the Parties, the amendment shall be adopted by a two-thirds majority of Parties casting an affirmative or negative vote.

(k) The Secretariat shall notify all Parties of the result of the vote.

(l) If the proposed amendment is adopted it shall enter into force 90 days after the date of the notification by the Secretariat of its acceptance for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

3. During the period of 90 days provided for by sub-paragraph (c) of paragraph 1 or subparagraph (l) of paragraph 2 of this Article any Party may by notification in writing to the Depositary Government make a reservation with respect to the amendment. Until such reservation is withdrawn the Party shall be treated as a State not a Party to the present Convention with respect to trade in the species concerned.

Article XVI: Appendix III and amendments thereto

1. Any Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific names of the species so submitted, and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of subparagraph (b) of Article I.

2. Each list submitted under the provisions of paragraph 1 of this Article shall be communicated to the Parties by the Secretariat as soon as possible after receiving it. The list shall take effect as part of Appendix III 90 days after the date of such communication. At any time after the communication of such list, any Party may by notification in writing to the Depositary Government enter a reservation with respect to any species or any parts or derivatives, and until such reservation is withdrawn, the State shall be treated as a State not a Party to the present Convention with respect to trade in the species or part or derivative concerned.

3. A Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication.

4. Any Party submitting a list under the provisions of paragraph 1 of this Article shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species, together with any interpretations which the Party may deem appropriate or the Secretariat may request. The Party shall, for as long as the species in question is included in Appendix III, submit any amendments of such laws and regulations or any interpretations as they are adopted.

Article XVII: Amendment of the Convention

1. An extraordinary meeting of the Conference of the Parties shall be convened by the Secretariat on the written request of at least one-third of the Parties to consider and adopt amendments to the present Convention. Such amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

2. The text of any proposed amendment shall be communicated by the Secretariat to all Parties at least 90 days before the meeting.

3. An amendment shall enter into force for the Parties which have accepted it 60 days after two thirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment.

Article XVIII: Resolution of disputes

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute.

2. If the dispute cannot be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

Article XIX: Signature

The present Convention shall be open for signature at Washington until 30th April 1973 and thereafter at Berne until 31st December 1974.

Article XX: Ratification, acceptance, approval

The present Convention shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Swiss Confederation which shall be the Depositary Government.

Article XXI: Accession

1. The present Convention shall be open indefinitely for accession. Instruments of accession shall be deposited with the Depositary Government.

2. This Convention shall be open for accession by regional economic integration organizations constituted by sovereign States which have competence in respect of the negotiation, conclusion and implementation of international agreements in matters transferred to them by their Member States and covered by this Convention.

3. In their instruments of accession, such organizations shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary Government of any substantial modification in the extent of their competence. Notifications by regional economic integration organizations concerning their competence with respect to matters governed by this Convention and modifications thereto shall be distributed to the Parties by the Depositary Government.

4. In matters within their competence, such regional economic integration organizations shall exercise the rights and fulfil the obligations which this Convention attributes to their Member States, which are Parties to the Convention. In such cases the Member States of the organizations shall not be entitled to exercise such rights individually.

5. In the fields of their competence, regional economic integration organizations shall exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Convention. Such organizations shall not exercise their right to vote if their Member States exercise theirs, and vice versa.

6. Any reference to “Party” in the sense used in Article I (h) of this Convention to “State”/“States” or to “State Party”/“State Parties” to the Convention shall be construed as including a reference to any regional economic integration organization having competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

Article XXII: Entry into force

1. The present Convention shall enter into force 90 days after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, with the Depositary Government.

2. For each State which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force 90 days after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article XXIII: Reservations

1. The provisions of the present Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Articles XV and XVI.

2. Any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:

- (a) any species included in Appendix I, II or III; or
- (b) any parts or derivatives specified in relation to a species included in Appendix III.

3. Until a Party withdraws its reservation entered under the provisions of this Article, it shall be treated as a State not a Party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.

Article XXIV: Denunciation

Any Party may denounce the present Convention by written notification to the Depositary Government at any time. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

Article XXV: Depositary

1. The original of the present Convention, in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary Government, which shall transmit certified copies thereof to all States that have signed it or deposited instruments of accession to it.

2. The Depositary Government shall inform all signatory and acceding States and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of the present Convention, amendments thereto, entry and withdrawal of reservations and notifications of denunciation.

3. As soon as the present Convention enters into force, a certified copy thereof shall be transmitted by the Depositary Government to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations. *In witness whereof* the undersigned Plenipotentiaries, being duly authorized to that effect, have signed the present Convention. *Done* at Washington this third day of March, One Thousand Nine Hundred and Seventy-three.

OBJECTS AND REASONS

This Bill seeks to incorporate into the written law of the Falkland Islands the provisions of the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (“the Convention”). In doing so it seeks to meet 4 basic requirements identified by the Department for Environment, Food & Rural Affairs (DEFRA) in the United Kingdom. The Bill therefore seeks to repeal and replace the Endangered Species Protection Ordinance 2003, which has been adjudged by DEFRA to not meet the 4 basic requirements.

Clause 3 sets out the identity of the Management Authority, which the Convention requires every State Party to have one of. The Management Authority is the Chief Executive or such other officer as the Governor may from time to time appoint in accordance with the Convention. The Management Authority must obtain the advice of the Scientific Authority before exercising any of its powers, but failure to obtain such advice before exercising a power will not by itself invalidate any of the Management Authority’s lawful actions.

Clause 4 sets out the functions of the Management Authority. It is required to receive and determine applications for permits and certificates which the Convention requires to be issued as a prerequisite for lawful importation, exportation and re-exportation of specimens of species covered by the Convention. Among the powers and duties of the Management Authority is the responsibility to confiscate specimens of species in appropriate circumstances in accordance with the Convention.

Clause 5 designates the Management Authority the custodian and responsible agency for specimens confiscated as authorised in the preceding clause and prescribes the actions that must be taken by the Management Authority in respect of confiscated specimens of species.

Clause 6 sets out the records and reports required to be kept and maintained by the Management Authority. It also requires the Management Authority to prepare periodic reports on its implementation of the Convention and to transmit reports on a specified periodic basis to the Secretariat for the Convention. The reports so submitted are also to be made available for public perusal.

Clause 7 confers on the Governor power to appoint a Scientific Authority, which the Convention requires every State Party to have one of.

Clause 8 sets out the functions of the Scientific Authority. Its role is mainly advisory in respect of the Management Authority, but it is also required to liaise with the Scientific Authorities of other States Parties as appropriate.

Clause 9 sets out general provisions in relation to permits and certificates.

Clause 10 declares that clauses 11 to 14 aim to give effect to Article III of the Convention.

Clause 11 sets out Convention based rules for the issue of export permits in respect of specimens of species included in Appendix I of the Convention.

Clause 12 sets out Convention based rules for the issue of import permits in respect of specimens of species included in Appendix I of the Convention.

Clause 13 sets out Convention based rules for the issue of re-export certificates in respect of specimens of species included in Appendix I of the Convention.

Clause 14 sets out Convention based rules for the issue of certificates authorising introduction from the sea into the Falkland Islands of specimens of species included in Appendix I of the Convention.

Clause 15 declares that clauses 16 to 19 aim to give effect to Article IV of the Convention.

Clause 16 sets out Convention based rules for the issue of export permits in respect of specimens of species included in Appendix II of the Convention.

Clause 17 sets out Convention based rules for the issue of import permits in respect of specimens of species included in Appendix II of the Convention.

Clause 18 sets out Convention based rules for the issue of re-export certificates in respect of specimens of species included in Appendix II of the Convention.

Clause 19 sets out Convention based rules for the issue of certificates authorising introduction from the sea into the Falkland Islands of specimens of species included in Appendix I of the Convention.

Clause 20 declares that clauses 21 and 22 aim to give effect to Article V of the Convention.

Clause 21 sets out Convention based rules for the issue of export permits in respect of specimens of species included in Appendix III of the Convention.

Clause 22 sets out Convention based rules for the issue of import permits in respect of specimens of species included in Appendix III of the Convention.

Clause 23 sets out several Convention based exceptions and other special provisions relating to trade in specimens of species covered by the Convention. Among these are the requirement imposed on the Falkland Islands Management Authority to recognise certificates issued by Management Authorities in other States Parties to the Convention in prescribed circumstances.

Clause 24 makes Convention based provisions for the resolution of disputes between the Falkland Islands and other States Parties to the Convention. Negotiation and, as a last resort, binding arbitration, are the prescribed methods of dispute resolution.

Clause 25 makes Convention based provisions regarding offences committed by companies, firms or other associations of individuals whether they are incorporated or not. Directors, partners, officers and members, as the case may be, are all severally liable provided the offence did not take place without that person's knowledge, consent or connivance. Such persons may be prosecuted even if the company, etc. is not prosecuted.

Clause 26 confers powers of stop and search on customs officers and police officers for the purposes of enforcing the Convention. These powers include power to enter specified seize appropriate items. These powers must in some circumstances be exercised in accordance with a warrant issued by a justice of the peace.

Clause 27 imposes on importers and exporters a duty to show evidence of lawful importation or exportation, as the case may be, of specimens of species covered by the Convention. This evidence is to be produced to any customs officer or police officer who asks.

Clause 28 cross refers to and relies on the Prohibited Goods Ordinance in making it an offence for anyone to obstruct a customs officer or police officer in the execution of his or her duties under the Convention.

Clause 29 makes provisions for administration and enforcement of the provisions of the Convention. In so doing it cross refers to and relies on the Customs Ordinance.

Clause 30 buttresses the provisions regarding confiscation of specimens of species by cross referring to and relying on the Prohibited Goods Ordinance and specified sections of the Customs Ordinance.

Clause 31 creates offences in relation to the giving of false statements.

Clause 32 confers a right of appeal on any person aggrieved by a decision of the Management Authority under the provisions of the Bill. It also empowers the Governor in Council to prescribe by regulations rules relating to appeals.

Clause 33 makes provisions regarding subsidiary legislation. It empowers the Governor to make regulations generally for giving effect to the purposes or provisions of the Bill. Notably, it empowers the Governor to amend by order the Schedule to the Bill so as to give effect to amendments made to the Convention after the passage of the Bill. The exercise of this power is expressly stated to have the effect of precluding the need for primary legislation to be passed to give effect to such amendments and decrees that every attempt is to be made (to the fullest extent

consistent with the rules of statutory interpretation) to construe the provisions of the Bill in accordance with the Convention as amended by order as authorised.

Clause 34 repeals the Endangered Species Protection Ordinance 2003.

The Schedule sets out in full the current text of the Articles of the Convention for the purposes of reference and as an aid to interpretation of the provisions of the Bill.

Marine Farming (Amendment) Bill 2015

(No: of 2015)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 - INTRODUCTION

1. Title
2. Commencement

PART 2 – AMENDMENT OF MARINE FARMING ORDINANCE

3. Amendment of Marine Farming Ordinance
4. Section 2 amended — Interpretation
5. Section 3 amended — Issue of marine farming licences
6. Section 20 amended — Enforcement: general
7. Section 23 amended — Amendments
8. Schedule amended — Powers of entry and search

PART 3 – AMENDMENT OF FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE

9. Amendment of Fisheries (Conservation and Management) Ordinance
10. Section 2 amended — Interpretation
11. Section 92 amended — Disposal of fish by commercial fishers

PART 4 – AMENDMENT OF PLANNING ORDINANCE

12. Amendment of Planning Ordinance
13. Section 3A amended — Meaning of “determine”
14. Section 36 amended — Determination of applications
15. Section 39 amended — Applications for planning permission in respect of minerals
16. Section 115 amended — Notices

PART 5 — AMENDMENT OF PLANNING (GENERAL) REGULATIONS

17. Amendment of Planning (General) Regulations
18. Regulation 6 amended — Publicity for environmental impact statements

MARINE FARMING (AMENDMENT) BILL 2015

(No of 2015)

(assented to: 2015)
(commencement: on publication)
(published:)

A BILL

for

AN ORDINANCE

To amend the Marine Farming Ordinance (No 20 of 2006), the Fisheries (Conservation and Management) Ordinance (No 14 of 2005), the Planning Ordinance (Title 55.3) and the Planning Regulations to provide for marine fishing licences, determination of planning permission for applications for marine farming legislation as well as other related matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 - INTRODUCTION

1. Title

This Ordinance is the Marine Farming (Amendment) Ordinance 2015.

2. Commencement

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

PART 2 – AMENDMENT OF MARINE FARMING ORDINANCE

3. Amendment of Marine Farming Ordinance

(1) This Part amends the Marine Farming Ordinance.

(2) The Ordinance is amended as follows —

(a) by deleting the long title to the Ordinance and replacing it with the following —

“To provide for the licensing and regulation of fish farming; and for connected purposes.”;

(b) by deleting the title to the Ordinance and replacing it with the following new title —

“**Fish Farming Ordinance**”;

(c) by replacing “relevant Community legislation” wherever it appears in the Ordinance with “relevant EU legislation”; and

(d) by inserting the words “or freshwater” immediately after the words “marine waters” in the following —

- (i) section 4(1)(a);
- (ii) section 5(b)(iii) and (d)(ii);
- (iii) section 8(1)(a);
- (iv) section 9(1)(b)(i) and (7)(a);
- (v) section 10(2) and (3);
- (vi) section 12(1) and (4);
- (vii) section 15(1)(a) and (9);
- (viii) section 16(1);
- (ix) section 18(3) and (5);
- (x) section 21; and
- (xi) paragraph 1 of the Schedule.

4. Section 2 amended — Interpretation

Section 2 is amended as follows —

- (a) in the definition of “licence” by omitting the word “marine” and replacing it with the word “fish”;
- (b) by deleting the definition of “fish farming” and replacing it with the following —
 - ““fish farming” means the breeding, rearing or keeping of fish, whether or not for profit, with a view to their sale or transfer to marine waters or freshwater;”
- (c) in the definition of “qualifying company” by omitting the word “marine” and replacing it with the word “fish”.

5. Section 3 amended — Issue of marine farming licences

Section 3 is amended as follows —

- (a) by deleting the heading to the section and replacing it with the following —
 - “3. Issue of fish farming licences”;**

(b) by omitting the words “marine farming licence” and replacing them with the words “fish farming licence”; and

(c) by inserting immediately after the words “marine waters” the words “or the freshwater”.

6. Section 20 amended — Enforcement: general

Section 20(5) is amended by inserting the words “and veterinary officers” immediately after the words “fishery officers” wherever they appear in that subsection.

7. Section 23 amended — Amendments

Section 23 is repealed.

8. Schedule amended — Powers of entry and search

The Schedule is amended by inserting the words “and veterinary officers” immediately after the words “fishery officers” wherever they appear in the Schedule.

PART 3 – AMENDMENT OF FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE

9. Amendment of Fisheries (Conservation and Management) Ordinance

This part amends the Fisheries (Conservation and Management) Ordinance.

10. Section 2 amended — Interpretation

Section 2 is amended as follows —

(a) deleting the definition of “fish farmer”;

(b) inserting in its correct alphabetical place the following new definition —

““fish farming” means the breeding, rearing or keeping of fish, whether or not for profit, with a view to their sale or transfer to marine waters or freshwater;” and

(c) inserting in the definition of “fishing” after paragraph (f) the following —

“but does not include fish farming or any activity which is part of a business of fish farming;”.

11. Section 92 amended — Disposal of fish by commercial fishers

Section 92(6) is amended by inserting the following new paragraph after paragraph (c) —

“(ca) produced in the course of a lawful fish farming operation, except fish (other than shellfish) which have been released from captivity;”.

PART 4 – AMENDMENT OF PLANNING ORDINANCE

12. Amendment of Planning Ordinance

This Part amends the Planning Ordinance.

13. Section 3A amended — Meaning of “determine”

Section 3A(c) is amended by replacing the words “for exploration for or winning and working minerals” with the words “under section 39,”.

14. Section 36 amended — Determination of applications

Section 36(1) is amended by replacing the words “sections 37 and 38” with the words “sections 37, 38 and 39”.

15. Section 39 amended — Applications for planning permission in respect of minerals

Section 39 is repealed and replaced with the following —

“39. Applications for planning permission in respect of minerals and marine farming

(1) Subject to the following subsections, an application for planning permission for exploration for or winning and working of minerals or an application for planning permission for fish farming must be determined by the Governor.

(2) Before transmitting an application under subsection (1) to the Governor for determination the Committee must make written recommendations to the Governor giving reasons for those recommendations.

(3) Where an application under subsection (1) is made by the Crown and the Governor grants it, section 43 applies subject to conditions.

(4) This section does not apply in respect of an application relating to winning and working peat.

(5) In subsection (1) “fish farming” has the same meaning as in section 26(6).”.

16. Section 115 amended — Notices

Section 115(4) is amended by replacing the words “section 30(2)” with “section 30(1)”.

PART 5 — AMENDMENT OF PLANNING (GENERAL) REGULATIONS

17. Amendment of Planning (General) Regulations

This Part amends Planning Regulations

18. Regulation 6 amended — Publicity for environmental impact statements

Regulation 6 is deleted.

OBJECTS AND REASONS

This Bill amends the Marine Farming Ordinance (No 20 of 2006), the Fisheries (Conservation and Management) Ordinance (No 14 of 2005) as well as the Planning Ordinance (Title 55.3) and the Planning (General) Regulations (Title 55.3.3).

Part 1 provides for introductory matters.

Part 2 provides for the amendment of the Marine Farming Ordinance as follows —

Clause 3 makes a general amendment to the Ordinance to —

- (a) replace the long title to the Ordinance to reflect that the Ordinance deals with fish farming generally;
- (b) replace the title of the Ordinance from Marine Farming Ordinance to Fish Farming Ordinance;
- (c) replace “relevant Community legislation” with relevant EU legislation” to bring it in line with other legislation and to reflect the correct reference to the European Community;
- (d) to include freshwater within several provisions of the Ordinance as fish farming involves farming in both marine waters and freshwater;

Clause 4 amends section 2 to include “freshwater” across different definitions;

Clause 5 amends section 3 to make corrections to reflect the new title to the Ordinance to reflect that fish farming also includes freshwater;

Clause 6 amends section 20 to include veterinary officers within the enforcement of the Ordinance alongside fishery officers as is currently provided;

Clause 7 repeals section 23 which provided for amendments to the Planning Ordinance and the Fisheries (Conservation and Management) Ordinance which are now being directly amended through this Bill;

Clause 8 amends the Schedule to include veterinary officers in line with clause 6 so that they can have the same powers as fishery officers in enforcing the Ordinance.

Part 3 amends the Fisheries (Conservation and Management) Ordinance as follows —

Clause 10 replaces the definition of “fish farmer” with one for “fish farming”;

Clause 11 amends section 92 to add a new paragraph under subsection (6) to include fish from fish farming operations;

Part 4 amends the Planning Ordinance as follows —

Clause 13 amends section 3A to remove the specific reference to planning permissions for exploration of minerals so that it is more general and refers to application under section 39;

Clause 14 amends section 36 to update the references to include section 39;

Clause 15 amends section 39 to include planning permission application for marine fish farming which together with planning permission for minerals are determined by the Governor; the clause also provides for definitions alongside other matters which are excluded;

Clause 16 amends section 115 to correct the cross reference in subsection (4);

Part 5 amends the Planning (General) Regulations to delete regulation 6 as there are separate regulations which deal and provide for environmental impact assessments.

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LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 17 DECEMBER 2015

PROCEDURE FOR THE MOTION FOR ADJOURNMENT

CLERK	“Motion for Adjournment”
CHIEF EXECUTIVE	“Mr Speaker I beg to move that House stands adjourned sine die.” Honourable Members may speak to the Motion.
THE SPEAKER	“The House stands adjourned accordingly.” Mr Speaker then departs