

**LEGISLATIVE ASSEMBLY
OF THE
FALKLAND ISLANDS**



ORDER PAPER

09.00 AM

THURSDAY 25 AUGUST 2016

IN THE COURT & ASSEMBLY CHAMBERS

STANLEY

LEGISLATIVE ASSEMBLY

THURSDAY 25 AUGUST 2016

IN THE COURT & ASSEMBLY CHAMBERS

ORDER PAPER

09.00

1. Prayers
2. Confirmation of the Record of Legislative Assembly held on 28 July 2016
3. Papers to be laid on the Table by the Honourable Chief Executive
4. Questions for Oral Answer
5. Motions
6. Portfolio Reports:
 - The Honourable Roger Edwards
 - The Honourable Mike Summers OBE
7. Motion for Adjournment

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 25 AUGUST 2016

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.

- Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2016
- Criminal Justice (Police Codes of Practice) (Amendment) Order 2016

SUBSIDIARY LEGISLATION

CIVIL AVIATION

Civil Aviation (Investigations of Air Accidents and Incidents) Regulations 2016

S. R. & O. No. 19 of 2016

Made: 21 July 2016

Published: 27 July 2016

Coming into force: on publication

IN EXERCISE of the powers conferred by section 75 of the Civil Aviation Act 1982 as extended to the Falkland Islands by Article 4 of the Civil Aviation Act 1982 (Overseas Territories) Order 2001 and in accordance with Schedule 1 to that Order I make the following Regulations —

1. Citation and commencement

These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2016 and come into force on publication in the *Gazette*.

2. Interpretation

(1) In these Regulations, unless the context otherwise requires —

“accident” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft takes place between the time a person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which —

(a) a person is fatally or seriously injured as a result of being in the aircraft, or in direct contact with any part of the aircraft including parts which have become detached from the aircraft, or direct exposure to jet blast,

except when the injuries are from natural causes, self-inflicted or were inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

(b) the aircraft sustains damage or structural failure which —

(i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and

(ii) would normally require major repair or replacement of the affected component,

except for engine failure or damage when damage is limited to a single engine (including its cowlings or accessories), to propellers, wing tips, antennas, probes, tyres, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes) or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or

(c) the aircraft is missing or is completely inaccessible;

“accredited representative” means a person designated by a State, on the basis of his or her qualifications, for the purpose of participating in an investigation conducted by another State;

“adviser” means a person appointed by a State, on the basis of his or her qualifications, for the purpose of assisting its accredited representative in an investigation;

“aerodrome authority” means, in relation to an aerodrome, the person by whom the aerodrome is managed;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;

“cause” means an act, omission, condition or circumstance which if eliminated or avoided would have prevented the occurrence or would have mitigated the resulting injuries or damage;

“Chief Investigator” means the Chief Air Accident Investigator appointed under regulation 8;

“Contracting State” means any State which is party to the Chicago Convention;

“contributing factors” means actions, omissions, events, conditions, or a combination thereof, which, if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident;

“crew” includes every person employed or engaged by the operator in an aircraft in flight in relation to the operation of the aircraft including, where the operator and the pilot in command are the same person, the pilot in command;

“expert” means a person appointed by a State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens;

“fatal injury” means an injury which is sustained by a person in an accident and which results in his or her death within 30 days of the date of the accident;

“flight recorder” means any type of recorder installed in an aircraft for the purpose of complementing accident or incident investigation including a flight data recorder, cockpit voice recorder and image recorder;

“incident” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

“investigation” means a process conducted by a Safety Investigation Authority for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and/or contributing factors and, when appropriate, the making of safety recommendations;

“Investigator” means a person appointed as an Air Accident Investigator under regulation 8;

“Investigator-in-Charge” means a person charged, on the basis of his or her qualifications, with responsibility for the organisation, conduct and control of an investigation conducted pursuant to these Regulations;

“maximum mass” means certificated maximum take-off mass of an aircraft;

“operator” means a person, organisation or enterprise engaged in, or offering to engage in the operation of an aircraft, whether for valuable consideration or otherwise ;

“owner” means, where an aircraft is registered, the registered owner;

“pilot in command” means the pilot designated by the operator as being in command of an aircraft and charged with the safe conduct of its flight or, if no such designation has been made, the person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;

“preliminary report” means the communication used for the prompt dissemination of data obtained during the early stages of the investigation;

“safety recommendation” means a proposal of an accident investigation authority, based on information derived from an investigation, made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident;

“serious incident” means an incident involving circumstances indicating that there was a high probability of an accident and is associated with the operation of an aircraft; and

“serious injury” means an injury which is sustained by a person in an accident and which —

- (a) requires hospitalisation for more than 48 hours, commencing within seven days from the date the injury was received;
- (b) results in a fracture of a bone, excluding simple fractures of fingers, toes, or nose;
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
- (d) involves injury to an internal organ;

(e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; or

(f) involves verified exposure to infectious substances or harmful radiation;
and references to “seriously injured” in these Regulations is to be construed accordingly;

“State of Design” means the State having jurisdiction over the organisation responsible for the type design of an aircraft or aircraft engine;

“State of Manufacture” means the State having jurisdiction over the organisation responsible for the final assembly of an aircraft, aircraft engine, or major components of the aircraft;

“State of Occurrence” means the State in the territory of which an accident or serious incident occurs;

“State of the Operator” means the State in which the operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence; and

“State of Registry” means the State on whose register an aircraft is entered.

(2) A notice or other document required or authorised by a provision of these Regulations to be served on or given to a person may be served or given by —

(a) delivery to the person;

(b) leaving it at the person's usual or last-known residence or place of business, whether in the Falkland Islands or elsewhere;

(c) sending it to the person at the address referred to in paragraph (b) by post, telex, facsimile transmission, or other similar means which produce a document containing a text of the communication, where the document will be treated as served when it is received.

3. Application

These Regulations apply only to accidents and incidents involving aircraft engaged in civil aviation.

4. Purpose of the investigation of accidents and incidents

The sole objective of the investigation of an accident or incident under these Regulations is the prevention of accidents and incidents and it is not the purpose of this activity to apportion blame or liability.

5. Duty to furnish information relating to accidents and serious incidents

(1) Where an accident or a serious incident occurs the relevant person and, in case of an accident or a serious incident occurring on or adjacent to an aerodrome, the aerodrome authority must —

(a) give notice of the accident or incident to the Governor, the Chief Investigator and to the designated authority for civil aviation regulation in the Falkland Islands by the quickest means of communication available; and

(b) where an accident occurs in or over the Falkland Islands, notify forthwith the local police authorities of the accident and of the place where it occurred.

(2) The notice to the Chief Investigator referred to in paragraph (1) must contain, to the extent it is available —

(a) in the case of an accident, the identifying abbreviation 'ACCID' or, in the case of a serious incident 'INCID';

(b) the manufacturer, model, nationality and registration marks, and serial number of the aircraft;

(c) the name of the owner, operator and hirer or lessee, if any, of the aircraft;

(d) the qualifications of the pilot in command, and the nationality of the crew and passengers;

(e) the date and time (local time or UTC) of the accident or serious incident;

(f) the last point of departure and the point of intended landing of the aircraft;

(g) the position of the aircraft with reference to some easily defined geographical point and latitude and longitude;

(h) the number of —

(i) crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of crew killed or seriously injured as a result of the accident;

(ii) passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of passengers killed or seriously injured as a result of the accident; and

(iii) in the case of an accident, other persons killed or seriously injured as a result of the accident;

(i) a description of the accident or serious incident and the extent of the damage to the aircraft as far as is known as well as an indication of access difficulties or special requirements to reach the site; and

(j) the presence and description of any dangerous goods on board the aircraft.

(3) The Chief Investigator must forward a notification of an accident or serious incident in the ICAO ADREP format with the minimum of delay and by the most suitable and quickest means available to —

(a) the State of Registry;

(b) the State of the Operator;

(c) the State of Design;

(d) the State of Manufacture; and

(e) ICAO, when the aircraft involved is of a maximum mass of over 2,250kg or is a turbo-jet powered aircraft.

(4) The owner, operator, pilot in command or hirer of the aircraft must, if so required by notice in writing given to him or her by the Chief Investigator, send to the Chief Investigator such information as is in his or her possession or control, in such form and at such times as may be specified in the notice.

(5) Upon receipt of notification of an accident or a serious incident occurring outside the Falkland Islands involving an aircraft registered in the Falkland Islands or of which the Falkland Islands is the State of the operator, the operator of the aircraft must, as soon as possible, provide the authorities of the State conducting the investigation with any relevant information available regarding the aircraft and flight crew involved in the accident or serious incident, and a copy of the passenger manifest and any dangerous cargo.

(6) Notwithstanding the provisions of paragraph (6), the Chief Investigator must inform the authorities of the State conducting the investigation whether the Falkland Islands intends to appoint an accredited representative.

(7) In this regulation “relevant person” means —

(a) in the case of an accident or serious incident occurring in or over the Falkland Islands, or occurring elsewhere to an aircraft registered in the Falkland Islands, the pilot in command of the aircraft involved at the time of the accident or serious incident or, if the pilot in command is killed or incapacitated, the operator of the aircraft; and

(b) in the case of a serious incident occurring in or over a country or territory other than a Contracting State to an aircraft registered elsewhere than in the Falkland Islands but operated by an undertaking established in the Falkland Islands, the undertaking.

6. Preliminary report on accident or incident to be published

Subject to regulations 11(2) and 18, the Chief Investigator may at any time publish, or cause to be published, a preliminary report or information relating to an accident or serious incident.

7. Protection and removal of damaged aircraft

(1) Subject to paragraphs (2) and (3) and regulation 9, where an accident or serious incident occurs in or over the Falkland Islands —

(a) no person other than an authorised person must have access to the aircraft involved in the accident or serious incident;

(b) neither the aircraft nor its contents must except under the authority of the Chief Investigator or the Investigator-in-Charge, be removed or otherwise interfered with;

(c) the Chief Investigator, the Investigator-in-Charge, or persons authorised on his or her behalf, must take all reasonable measures to protect the evidence and to maintain safe custody of the aircraft and its contents for such a period as may be necessary for the purposes of an investigation; and

(d) the Chief Investigator, the Investigator-in-Charge or person authorised on his or her behalf, must take all necessary steps to ensure that the aircraft, its contents, and any other evidence remain undisturbed pending inspection by an accredited representative, pursuant to a request from the State of Registry, State of Design, State of Manufacture or State of the Operator, so far as this is reasonably practicable and compatible with the proper conduct of the investigation and provided that it does not result in undue delay in returning the aircraft to service where this is practicable.

(2) Notwithstanding paragraph (1) —

(a) the aircraft may be accessed, moved or interfered with to the extent necessary to—

(i) extricate persons, animals, mail and valuables;

(ii) prevent destruction by fire or other causes;

(iii) eliminate any danger or obstruction to air navigation, to other transport or to the public; or

(iv) remove other property from the aircraft under the supervision of an Investigator or with the agreement of an Investigator or a police officer; and

(b) where an aircraft is in water, the aircraft or any of its contents may be removed to such extent as may be necessary for bringing the aircraft or the contents to a place of safety.

(3) The Chief Investigator or the Investigator-in-Charge must release custody of the aircraft, its contents or any parts of the aircraft as soon as they are no longer required in the investigation, to any person or persons duly designated by the State of Registry or the State of the Operator, as applicable.

(4) In this regulation “authorised person” means —

- (a) a person authorised by the Governor either generally or specially to have access to an aircraft involved in an accident or serious incident;
- (b) the Chief Investigator, the Investigator-in-Charge or a person authorised by him;
- (c) a police officer; or
- (d) an officer of the Customs and Excise Department.

8. Air Accident Investigators

(1) For the purpose of carrying out investigations into accidents and incidents to which these Regulations apply, the Governor must appoint a Chief Investigator who will appoint persons as air accident investigators, one of whom must be appointed as the Investigator in Charge.

(2) Subject to paragraphs (4) and (5), the Chief Investigator must carry out, or cause an Investigator to carry out, an investigation into —

(a) accidents and serious incidents which occur in or over the Falkland Islands;

(b) accidents and serious incidents which occur to aircraft registered in the Falkland Islands in or over a country or territory which is not a Contracting State or where the location of the accident or serious incident cannot definitely be established as being in the territory of any State;

(c) accidents and serious incidents which occur in or over a country or territory which is not a Contracting State to aircraft which are registered elsewhere than in the Falkland Islands but which are operated by an undertaking established in the Falkland Islands when such an investigation is not carried out by another State.

(3) Subject to paragraphs (4) and (5), the Chief Investigator may, where he expects to draw air safety lessons from it, carry out, or cause an Investigator to carry out, an investigation into an incident, other than a serious incident, which occurs—

(a) in or over the Falkland Islands; or

(b) otherwise than in or over the Falkland Islands to an aircraft registered in the Falkland Islands.

(4) The Chief Investigator may delegate the whole or any part of an investigation into an accident or incident to another State or a regional accident investigation organisation by mutual arrangement and consent.

(5) Where the Chief Investigator delegates the task of carrying out an investigation pursuant to paragraph (4), the Chief Investigator must to the extent possible facilitate inquiries by the Investigator-in-Charge appointed by the relevant State.

(6) Without prejudice to the power of an Investigator to seek such advice or assistance as the Investigator thinks fit in making an investigation, the Chief Investigator may appoint suitably qualified persons to assist an Investigator in a particular investigation.

(7) The Chief Investigator may invite the aviation authorities and suitably qualified persons or organisations from the Falkland Islands and other Contracting States to assist in the conduct of the investigation, so far as this is compatible with the proper conduct of the investigation.

(8) The Chief Investigator must designate a person as the Investigator-in-Charge of an investigation except where the investigation has been delegated under paragraph (4).

(9) If, in the course of an investigation, it becomes known, or it is suspected, that an act of unlawful interference to the aircraft was involved in the cause of the accident or serious incident the Investigator-in-Charge must immediately initiate action to ensure that the aviation security authorities of the Falkland Islands are informed.

9. Powers and duties of Investigators

(1) An Investigator is authorised, for the purpose of enabling him or her to carry out an investigation into an accident or incident in the most efficient way and within the shortest time, in co-operation with the authorities responsible for any judicial inquiry where appropriate, to—

(a) have unrestricted and unhampered access to and control over the site of the accident or incident, the aircraft, its contents or its wreckage, and all relevant material or evidence including the protection of the aircraft, debris or components for examination or analysis purposes;

(b) ensure an immediate listing of evidence and controlled removal of debris, or components, for examination or analysis purposes;

(c) have immediate access to and use of the contents of the flight recorders and any other recordings;

(d) arrange for the read out of the flight recorders without delay;

(e) arrange for an expeditious autopsy or medical examination of the crew, passengers and other persons and have immediate access to the results of examination of the bodies of victims or of tests made on samples taken from the bodies of victims;

(f) have immediate access to the results of examinations of the people involved in the operation of the aircraft or of tests made on samples taken from such people;

(g) call and examine witnesses and to require them to produce information or evidence relevant to the investigation; and

(h) have free access to any relevant information or records held by the owner, the operator or the manufacturer of the aircraft, by the authorities responsible for civil aviation, air navigation services or airport operations.

(2) For the purposes of paragraph (1), an Investigator has power —

(a) by summons under the Investigator's hand, to call before him or her and examine all persons as the Investigator thinks fit, require persons to answer questions or furnish information or produce books, papers, documents and articles which the Investigator may consider relevant, and to retain any such books, papers, documents and articles until the completion of the investigation;

(b) to take statements from all persons as the Investigator thinks fit and to require any person to make and sign a declaration of the truth of the statement made by him or her;

(c) on production of the Investigator's credentials, where these are required, to enter and inspect any place, building or aircraft the entry or inspection whereof appears to the Investigator to be requisite for the purposes of the investigation;

(d) on production of the Investigator's credentials, where these are required, to remove, test, take measures for the preservation of or otherwise deal with any aircraft, other than an aircraft involved in the accident or incident, where it appears to the investigating Investigator requisite for the purposes of the investigation; and

(e) to take such measures for the preservation of evidence as the Investigator considers appropriate.

(3) A person summoned by an Investigator under paragraph (2)(a) is allowed such expenses as the Governor may determine.

10. Form and conduct of investigations

The extent of investigations and the procedure to be followed in carrying out investigations required or authorised under these Regulations must be—

(a) wholly independent of, and separate from, any judicial or administrative proceedings to apportion blame or liability;

(b) coordinated with any investigation conducted by the judicial authorities;

(c) determined by the Chief Investigator taking account of the purpose described in regulation 4 and the lessons the Chief Investigator expects to draw from the accident or incident for the improvement of aviation safety.

11. Investigation report

(1) On completion of an investigation into an accident or incident, the Investigator-in-Charge must prepare a Final Report of the investigation in a form, prescribed in the Appendix to Annex 13 of the Convention, appropriate to the type and seriousness of the accident or incident.

(2) On completion of an investigation, the Chief Investigator must send a copy of the draft final report to the following States, inviting their significant and substantiated comments on the report as soon as possible —

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design;
- (d) the State of Manufacture; and
- (e) any other State that participated in the investigation,

and must take account of such comments received within 60 days on technical aspects of the report and either amend the report to include the substance of the comments or, at the request of the State that provided the comments, append the comments upon which no agreement could be reached, to the Final Report.

(3) Where it appears to the Investigator-in-Charge that the investigation of an accident or incident —

- (a) involving a collision between a civil aircraft and a military aircraft, or
- (b) occurring while a civil aircraft was on, or in the course of taking off from or landing on, an aerodrome controlled by a naval, military or air force or by the naval, military or air forces of any country,

has been completed, except for the investigation of matters affecting the discipline or internal administration of naval, military or air forces which are more appropriate for the investigation by some other person or body —

- (i) the investigation may be treated for the purpose of paragraph (1) as if it had been completed without such matters being investigated under these regulations; and
- (ii) where sub-paragraph (i) applies, the report of the investigation into the accident or incident must state the matters to which the investigation, by reason of this paragraph, has not extended.

(4) The report of an investigation into an accident or incident must state the sole objective of the investigation as described in regulation 4 and, where appropriate, contain a list of findings, causes, causal factors or contributing factors and safety recommendations.

(5) The Chief Investigator must submit a copy of every report prepared pursuant to paragraph (1) to the Governor without delay.

12. Notice of investigation report and representations

(1) Where, in the Chief Investigator's opinion, publication of a report required by regulation 13 to be published is likely to adversely affect the reputation of a person, the Chief Investigator must not submit the Final Report to the Governor for publication until the Chief Investigator has—

(a) where it appears to him or her practicable to do so, served a notice on the person or, where the person is deceased, on the person who appears to him or her to best represent the interest of the deceased at the time he or she proposes to serve the notice; and

(b) made such changes to the report as he or she thinks fit following consideration of representations made to him or her in accordance with paragraph (3) by or on behalf of the person served with the notice under sub-paragraph (a).

(2) The notice referred to in paragraph (1)(a) must include particulars of any proposed analysis of facts and conclusions as to the cause or causes of the accident or incident which may affect the person on whom or in respect of whom the notice is served.

(3) Subject to paragraph (5), representations made pursuant to paragraph (1)(b) must be in writing and served on the Chief Investigator within 28 days of service of the notice or such longer period as the Chief Investigator may allow.

(4) A person must not disclose or permit to be disclosed any information contained in a notice or report served on such person pursuant to paragraphs (1) or (4) to any other person without the prior consent in writing of the Chief Investigator.

(5) The Chief Investigator may, notwithstanding that the period has expired, extend the period of 28 days referred to in paragraph (3).

(6) A person who contravenes or fails to comply with paragraph (4) commits an offence.

(7) A person must not circulate, publish or give access to a draft report or any part of a report, or any documents obtained during an investigation of an accident or incident conducted by another State without the consent of that State, unless the reports or documents have been released by that State.

13. Publication of reports

The Governor must cause the Final Report of an investigation into an accident or incident to be made public —

(a) in the shortest time possible;

(b) where possible, within 12 months of the date of the accident or incident; and

(c) in such a manner as the Governor thinks fit.

14. Safety recommendations

(1) The Chief Investigator must cause the report referred to in regulation 13, and the safety recommendations contained in it, to be communicated to ICAO and to all of the relevant undertakings or aviation authorities concerned in the States referred to in regulation 11(2).

(2) A safety recommendation must in no case create a presumption of blame or liability for an accident or incident.

(3) Without prejudice to the investigation or publication of the Final Report, at any stage of an investigation of an accident or incident, the Chief Investigator may recommend in a dated transmittal communication to the appropriate authorities, including those in other States and where appropriate ICAO, any preventative action that he considers necessary to be taken promptly to enhance aviation safety.

(4) An undertaking or authority to which a safety recommendation is communicated pursuant to paragraph (1) must, without delay —

(a) consider the safety recommendation and, where it considers it to be appropriate, act upon it; and

(b) send to the Chief Investigator one of the following —

(i) full details of the measures, if any, it has taken or proposes to take to implement the recommendation without delay and, where it proposes to implement measures, the timetable for securing that implementation; or

(ii) a full explanation as to why the recommendation is not to be the subject of measures to be taken to implement it; and

(c) give written notice to the Chief Investigator where at any time information provided to him or her pursuant to sub-paragraph (b)(i), concerning the measures it proposes to take or the timetable for securing their implementation, is rendered inaccurate by any change of circumstances.

15. Reopening of investigation

(1) If, after an investigation has been closed, new and significant evidence becomes available, the Chief Investigator may cause the investigation of an accident or incident to be reopened.

(2) An investigation that is reopened must be subject to and conducted in accordance with these Regulations.

16. Accredited representatives, advisers and experts

(1) Where an investigation of an accident or serious incident is being carried out by an Investigator pursuant to regulation 8, accredited representatives may be appointed by—

(a) the State of Registry;

(b) the State of Design;

(c) the State of Manufacture;

(d) the State of the Operator; and

(e) a Contracting State which has, on request, furnished information, facilities or experts to the Investigator in connection with the accident or serious incident.

(2) Where an investigation of an accident or serious incident is being carried out by an Investigator pursuant to regulation 8, an 'expert' may be appointed by a State which has a special interest in the accident by virtue of fatalities or serious injuries to its citizens.

(3) Accredited representatives may participate in the investigation and are permitted to —

(a) visit the scene of the accident;

(b) examine the wreckage;

(c) obtain witness information and suggest areas of questioning;

(d) receive copies of all pertinent documents, saving all just exceptions; have full access to all relevant evidence as soon as possible;

(e) participate in read outs of recorded media;

(f) participate in off-scene investigative activities such as component examinations, technical briefings, tests and simulations;

(g) participate in investigation progress meetings, including deliberations related to analysis, findings, causes and safety recommendations;

(h) make submissions in respect of the various elements of the investigation; and

(i) be accompanied by such advisers as may be considered necessary by the authorities of the State by which the accredited representative is appointed.

(4) An 'expert' representative may participate in the investigation and be permitted to —

(a) visit the scene of the accident;

(b) have access to the relevant factual information which is approved for public release by the State conducting the investigation, and information on the progress of the investigation; and

(c) receive a copy of the Final Report;

(d) assist in the identification of victims and in meetings with survivors from their State.

17. Obstruction of investigation

(1) A person must not obstruct or impede an Investigator or any person acting under the authority of the Chief Investigator in the exercise of any powers or duties under these Regulations.

(2) A person must not without reasonable excuse fail, after having had the expenses, if any, to which he or she is entitled under these Regulations tendered to him or her, to comply with any summons of an Investigator holding an investigation.

18. Disclosure of relevant records

In this regulation —

“judicial proceedings” includes any proceedings before a court, tribunal or person having by law power to hear, receive and examine evidence on oath;

“Governor” includes any Investigator or officer appointed by the Governor;

“relevant court” in the case of judicial proceedings or an application for disclosure means the Magistrate’s Court; and

“relevant record” means cockpit voice and flight data recordings and airborne image recordings and any transcripts from such recordings and any other records in the possession, custody or power of the Chief Investigator which includes —

- (a) all statements taken from persons by an Investigator or supplied to an Investigator in the course of his investigation, together with any notes or voice recordings of interviews;
- (b) all communications between persons having been involved in the operation of the aircraft;
- (c) medical or private information regarding persons involved in the accident or incident;
- (d) recordings and transcriptions of recordings from air traffic control units;
- (e) analysis of and opinions expressed about information, including flight recorder information, made in the investigation in relation to the accident or incident; and
- (f) the draft final report, except as mentioned in regulation 11(1).

(2) Subject to paragraphs (3), (4), (5) and (6), no relevant record must be made available by the Chief Investigator or the Governor to any person for purposes other than an accident or incident investigation conducted under these Regulations.

(3) The records listed in paragraph (1) must be included in the Final Report or its appendices only when pertinent to the analysis of the accident or incident and parts of the records not relevant to the analysis must not be disclosed.

(4) The names of persons involved in an accident or incident must not be disclosed to the public by an Investigator.

(5) Nothing in paragraph (2) precludes the Governor or the Chief Investigator from making a relevant record available to any other person where —

(a) in a case where the other person is a party to or otherwise entitled to appear at judicial proceedings, the relevant court has ordered that the relevant record must be made available to that person for the purpose of those proceedings; or

(b) in any other circumstances, the relevant court has ordered that the relevant record must be made available to that person for any other purpose.

(6) Subject to paragraph (2), no order must be made under paragraph (5) unless the relevant court is satisfied that the interests of justice in the circumstances in question outweigh any adverse domestic and international impact which disclosure may have on the investigation into the accident or incident to which the record relates or on any future accident or incident investigation undertaken in the Falkland Islands.

(7) A relevant record or part of the record must not be treated as having been made available contrary to paragraph (2) in any case where that record or part is included in the Final Report or the appendices to the Final Report, of the accident or incident included in a notice served under regulation 12.

(8) The provisions of this regulation apply without prejudice to any rule of law, which authorises or requires the withholding of any relevant record or any part of the record on the ground that the disclosure of it would be injurious to the public interest.

19. Revocation

(1) The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1997 (S. R. & O. No. 8 of 1997) are revoked.

(2) Any investigation commenced under the Regulations revoked by paragraph (1), which has not been completed, will continue as if it had been commenced under these Regulations.

Made 21 July 2016

June Sandra Tyler-Haywood,
Acting Governor.

EXPLANATORY NOTE *(not part of the regulations)*

These Regulations replace the Civil Aviation (Investigation of Air Accidents) Regulations 1997 which were modelled on the UK Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996.

SUBSIDIARY LEGISLATION

CRIMINAL PROCEDURE

Criminal Justice (Police Codes of Practice) (Amendment) Order 2016

S. R. & O. No. 20 of 2016

Made: 27 July 2016
Published: 27 July 2016
Coming into force: on publication

I make this Order under section 206 of the Criminal Justice Ordinance (Title 24.1) on the advice of Executive Council.

1. Title

This order is the Criminal Justice (Police Codes of Practice) (Amendment) Order 2016.

2. Commencement

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

3. Police Codes of Practice amended — Code of Practice E

The Criminal Justice (Police Codes of Practice) Order 2014 (S.R. & O. No. 6 of 2014) is amended by repealing Code of Practice E and replacing it with the following —

“CODE OF PRACTICE E THE TAPE OR DIGITAL RECORDING OF INTERVIEWS

1 General

1.1 This code of practice must be readily available for consultation by police officers, detained persons and members of the public at every police station.

1.2 The notes for guidance included are not provisions of this code. They form guidance to police officers and others about its application and interpretation.

1.3 Nothing in this code shall be taken as detracting in any way from the requirements of the Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (Code C). [See Notes 1A and 1B.]

1.4 In this code:

“digital recording” means a recording made using recording media;

“recorder” means a tape or recording media; and

“recording media” means any removable, physical audio recording medium (such as magnetic tape, optical disc or solid state memory) which can be played and copied.

Notes for Guidance

1A. Reserved.

1B. As in Code C, references to responsible officers include those carrying out the functions of a responsible officer.

2 Recording and the sealing of master tapes or digital recordings

2.1 Tape or digital recording of interviews shall be carried out openly to instil confidence in its reliability as an impartial and accurate record of the interview.

[See Note 2A]

2.2 One tape or digital recording, referred to in this code as the master tape or digital recording, will be sealed before it leaves the presence of the suspect. A second tape or digital recording will be used as a working copy. The master tape or digital recording is either one of the two tapes or digital recordings used in a twin deck/drive machine or the only tape or digital recording used in a single deck/drive machine. The working copy is either the second tape or digital recording used in a twin deck/drive machine or a copy of the master tape or digital recording made by a single deck/drive machine.

[See Notes 2B and 2C]

Notes for Guidance

2A. Police Officers will wish to arrange that, as far as possible, tape or digital recording arrangements are unobtrusive. It must be clear to the suspect, however, that there is no opportunity to interfere with the tape or digital recording equipment or the tapes or digital recordings.

2B. The purpose of sealing the master tape or digital recording before it leaves the presence of the suspect is to establish his confidence that the integrity of the tape or digital recording is preserved. Where a single deck machine is used the working copy of the master tape or digital recording must be made in the presence of the suspect and without the master tape or digital recording having left his sight. The working copy shall be used for making further copies where the need arises. The recorder will normally be capable of recording voices and have a time coding or other security device.

2C. Throughout this code any reference to "tapes" shall be construed as "tape", as appropriate, where a single deck machine is used.

3 Reserved

4 The interview

Commencement of interviews

4.1 When the suspect is brought into the interview room the police officer shall without delay, but in the sight of the suspect, load the recorder with previously unused tapes or recording media and set it to record. The tapes or recording media must be unwrapped or otherwise opened in the presence of the suspect.

[See Note 4A.]

4.2 The police officer shall then tell the suspect formally about the tape or digital recording. He shall say:

- a. that the interview is being tape or digitally recorded;
- b. his name and rank and the name and rank of any other police officer present;
- c. the name of the suspect and any other party present (eg a solicitor);
- d. the date, time of commencement and place of the interview; and
- e. that the suspect will be given a notice about what will happen to the tapes or recording media.

[See Note 4B.]

4.3 The police officer shall then caution the suspect in the following terms:

"You do not have to say anything unless you wish to do so, but what you say may be given in evidence."

Minor deviations do not constitute a breach of this requirement provided that the sense of the caution is preserved.

[See Notes 4C and 4D.]

Interviews with the deaf

4.4 If the suspect is deaf or there is doubt about his hearing ability, the police officer shall take a contemporaneous note of the interview in accordance with the requirements of Code C, as well as tape or digitally record it in accordance with the provisions of this code.

[See Notes 4E and 4F.]

Objections and complaints by the suspect

4.5 If the suspect raises objections to the interview being tape or digitally recorded either at the outset or during the interview or during a break in the interview, the police officer shall explain the fact that the interview is being tape or digitally recorded and that the provisions of this code require that the suspect's objections should be recorded on tape or recording media. When any objections have been recorded on tape or recording media or the suspect has refused to have his objections recorded, the police officer may turn off the recorder. In this eventuality he shall say that he is turning off the recorder and give his reasons for doing so and then turn it off. The police officer shall then make a written record of the interview in accordance with section 11 of

Code C. If, however, the police officer reasonably considers that he may proceed to put questions to the suspect with the recorder still on, he may do so.

[See Note 4G]

4.6 If in the course of an interview a complaint is made by the person being questioned, or on his behalf, concerning the provisions of this code or of Code C, then the officer shall act in accordance with paragraph 12.8 of Code C.

[See Notes 4H and 4J]

4.7 If the suspect indicates that he wishes to tell the police officer about matters not directly connected with the offence of which he is suspected and that he is unwilling for these matters to be recorded on tape or recording media, he shall be given the opportunity to tell the police officer about these matters after the conclusion of the formal interview.

Changing tapes or digital recordings

4.8 When the recorder indicates that the tape or recording media has only a short time left to run, the police officer shall tell the suspect that the tapes or recording media are coming to an end and round off that part of the interview. If the police officer wishes to continue the interview but does not already have a second set of tapes or recording media, he shall obtain a set. The suspect shall not be left unattended in the interview room. The police officer will remove the tapes or recording media from the recorder and insert the new tapes or recording media which shall be unwrapped or otherwise opened in the suspect's presence. The recorder shall then be set to record on the new tapes or recording media. Care must be taken, particularly when a number of sets of tapes or recording media have been used, to ensure that there is no confusion between the tapes or recording media. This may be done by marking the tapes or recording media with an identification number immediately they are removed from the recorder.

Taking a break during the interview

4.9 When a break is to be taken during the course of an interview and the interview room is to be vacated by the suspect, the fact that a break is to be taken, the reason for it and the time shall be recorded on tape or recording media. The tapes or recording media shall then be removed from the recorder and the procedures for the conclusion of an interview set out in paragraph 4.15 below followed.

4.10 When a break is to be short one and both the suspect and a police officer are to remain in the interview room the fact that a break is to be taken, the reasons for it and the time shall be recorded on tape or recording media. The recorder may be turned off; there is, however, no need to remove the tapes or recording media and when the interview is recommenced the tape or recording media recording shall be continued on the same tapes or recording media. The time at which the interview recommences shall be recorded on tape or recording media.

4.11 When there is a break in questioning under caution the interviewing officer must ensure that the person being questioned is aware that he remains under caution. If there is any doubt the caution must be given again in full when the interview resumes.

[See Notes 4K and 4L.]

Failure of recording equipment

4.12 If there is a failure of equipment which can be rectified quickly, for example by inserting new tapes or recording media, the appropriate procedures set out in paragraph 4.8 shall be followed, and when the recording is resumed the officer shall explain what has happened and record the time the interview recommences. If, however, it will not be possible to continue recording on that particular recorder and no replacement recorder or recorder in another interview room is readily available, the interview may continue without being tape or digitally recorded. In such circumstances the procedures in paragraph 3.3 above for seeking the authority of the custody officer will be followed.

[See note 4M.]

Removing tapes or digital recordings from the recorder

4.13 Where tapes or recording media are removed from the recorder in the course of an interview, they shall be retained and the procedures set out in paragraph 4.15 below followed.

Conclusion of interview

4.14 At the conclusion of the interview, the suspect shall be offered the opportunity to clarify anything he has said and to add anything he may wish.

4.15 At the conclusion of the interview, including the taking and reading back of any written statement, the time shall be recorded and the tape recorder or recording media switched off. The master tape or digital recording shall be sealed with a master tape or digital recording label and treated as an exhibit in accordance with the force standing orders. The police officer shall sign the label and ask the suspect and any third party present to sign it also. If the suspect or third party refuses to sign the label, an officer of at least the rank of sergeant, or if one is not available the responsible officer, shall be called in to the interview room and asked to sign it.

4.16 The suspect shall be handed a notice which explains the use which will be made of the tape or digital recording and the arrangements for access to it.

Notes for Guidance

4A. The police officer should attempt to estimate the likely length of the interview and ensure that the appropriate number of unused tapes or recording media and labels with which to seal the master copies are available in the interview room.

4B. It will be helpful for the purpose of voice identification if the officer asks the suspect and any other persons present to identify themselves.

4C. If it appears that a person does not understand what the caution means, the officer who has given it should go on to explain it in his own words.

4D. In case anyone who is given a caution is unclear about its significance, the officer concerned should explain that the caution is given in pursuance of the general principle of English law that

a person need not answer any question or provide any information which might tend to incriminate him, and that no adverse inferences from this silence may be drawn at any trial that takes place. The person should not, however, be left with a false impression that non co-operation will have no effect on his immediate treatment as, for example, his refusal to provide his name and address may render him liable to detention.

4E. This provision is intended to give the deaf equivalent rights of first hand access to the full interview record as other suspects.

4F. The provisions of paragraphs 14.1, 14.4 and 14.7 of code C on interpreters for the deaf or for interviews with suspects who have difficulty in understanding English continue to apply. In a tape or digitally recorded interview there is no requirement on the interviewing officer to ensure that the interpreter makes a separate note of interview as prescribed in section 14 of Code C.

4G. The officer should bear in mind that a decision to continue recording against the wishes of the suspect may be the subject of comment in court.

4H. Where the responsible officer is called immediately to deal with the complaint, wherever possible the tape or digital recorder should be left to run until he has entered the interview room and spoken to the person being interviewed. Continuation or termination of the interview should be at the discretion of the interviewing officer pending action by an inspector under paragraph 9.1 of Code C.

4J. Where the complaint is about a matter not connected with this code of practice or Code C, the decision to continue with the interview is at the discretion of the interviewing officer. Where the interviewing officer decides to continue with the interview the person being interviewed shall be told that the complaint will be brought to the attention of the responsible officer at the conclusion of the interview. When the interview is concluded the interviewing officer must, as soon as practicable, inform the responsible officer of the existence and nature of the complaint made.

4K. In considering whether to caution again after a break, the officer should bear in mind that the may have to satisfy a court that the person understood that he was still under caution when the interview resumed.

4L. The officer should bear in mind that it may be necessary to show to the court that nothing occurred during a break in an interview or between interviews which influenced the suspect's recorded evidence. The officer should consider, therefore, after a break in an interview or at the beginning of subsequent interview summarising on tape or recording media the reason for the break and confirming this with the suspect.

4M. If one of the tapes or recording media breaks during the interview it should be sealed as a master tape or digital recording in the presence of the suspect and the interview resumed where it left off. The unbroken tape or digital recording should be copied and the original sealed as a master tape or digital recording in the suspect's presence, if necessary after the interview. If equipment for copying the unbroken tape or digital recording is not readily available, both tapes or digital recording should be sealed in the suspect's presence and the interview begun again. If the tape or digital recording breaks when a single deck/drive machine is being used and the

machine is one where a broken tape or digital recording cannot be copied on available equipment, the tape or digital recording should be sealed as a master tape or digital recording in the suspect's presence and the interview begun again.

5 After the interview

5.1 The police officer shall make a note in his notebook of the fact that the interview has taken place and has been recorded on tape or recording media, its time, duration and date and the identification number of the master tape or digital recording.

5.2 Where no proceedings following respect of the person whose interview was recorded the tapes or digital recording must nevertheless be kept securely in accordance with paragraph 6.1 and Note 6.4.

5.3 Where such proceedings do follow the officer shall prepare a written record of the interview which will be signed by the officer. The interview record shall be exhibited to any written statement prepared by the officer.

[See Notes 5A and 5B]

5.4 Where the police officer's evidence of the interview is accepted by the defence the evidence shall refer to the fact that the interview was tape or digitally recorded and may be presented to the court in the form of the interview record. Where the police officer's evidence of the interview is not accepted by the defence the police officer shall refer to the fact that the interview was tape or digitally recorded and shall produce the master tape or digital recording as an exhibit. The officer shall inform the court of any transcription which has been made of which he is aware.

[See Note 5C.]

Notes for Guidance

5A. Prior to preparing the record of the interview, the officer may refresh his memory by listening to the working copy of, the tape or digital recording. The purpose of using the tape or digital recording will be to act as a check on the accuracy of the interview record.

5B. The interview record shall be prepared on the basis that it shall be used first to enable the prosecutor to make informed decisions about the case on the basis of what was said at the interview; secondly, to be exhibited to the officer's witness statement and used pursuant to section 9 the Criminal Justice Act 1967 and section 102 of The Magistrates Courts Act 1980; thirdly, to enable the prosecutor to comply with the rules of advance disclosure; and fourthly, where the record is accepted by the defence, to be used for the conduct of the case by the prosecution, the defence, and the court. The record shall, therefore comprise a balanced account of the interview including points in mitigation and/or defence made by the suspect. Where an admission is made the question as well as the answer containing the admission shall be recorded verbatim in the record. Care should be taken to bring to the attention of the prosecutor, by means of a covering report, any material on the tape or digital recording which might be regarded by a court as prejudicial or inadmissible.

5C. Production of the tape or digital recording as an exhibit will have the effect in court proceedings of producing the content of the whole interview (subject to any decision on editing carried out on the direction of the crown prosecutor).

6 Tape or digital recording security

6.1 The Chief Police Officer shall make arrangements for master tapes or digital recordings to be kept securely and their movements accounted for on the same basis as other material which may be used for evidential purposes, in accordance with force standing orders.

[See Note 6A.]

6.2 A police officer has no authority to break the seal on a master tape or digital recording which is required for criminal proceedings. If it is necessary to gain access to the master tape or digital recording, the police officer shall arrange for its seal to be broken in the presence of a representative of the Attorney General. The defendant or his legal adviser shall be informed and given a reasonable opportunity to be present. If the defendant or his legal representative is present he shall be invited to re-seal and sign the master tape or digital recording. If either refuses or neither is present this shall be done by the representative of the Attorney General.

[See Notes 6B and 6C.]

6.3 Where no criminal proceedings result it is the responsibility of the Chief Police Officer to establish arrangements for the breaking of the seal on the master tape or digital recording, where this becomes necessary.

Notes for Guidance

6A. This section is concerned with the security of the master tape or digital recording which will have been sealed at the conclusion of the interview. Care should, however, be taken of working copies of tapes or digital recordings since their loss or destruction may lead unnecessarily to the need to have access to master tapes or digital recordings.

6B. If the tape or digital recording has been delivered to the court for their keeping after committal for trial the crown prosecutor will apply to the court for the release of the tape or digital recording for unsealing by the crown prosecutor.

6C. Reserved.”.

Made 27 July 2016

J. S. Tyler-Haywood,
Acting Governor.

EXPLANATORY NOTE

(not part of the order)

This order amends the Criminal Justice (Police Codes of Practice) Order 2014 (S.R. & O. No. 6 of 2014) by replacing Code of Practice E with a new code to provide for the recording of interviews to be done by other digital means and not just through tape.

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 25 AUGUST 2016

QUESTIONS FOR ORAL RESPONSE

Question Number 14/16 by the Honourable Jan Cheek

Can the Honourable Roger Edwards please detail what lump sums have been paid into each of the pension funds in the past three years to decrease deficits and what the actuaries calculated as increased contributions required to narrow the gap?

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 25 AUGUST 2016

MOTION

Motion No 14 of 2016 by the Honourable Phyl Rendell MBE

That this House, pursuant to section 1A(2) of the Protection of Animals Act 1911 (as it applies in the Falkland Islands), resolves that the revised Code of Practice for the Welfare of Sheep, and the revised Code of Practice for the Welfare of Cattle are approved.

Proposed: The Honourable Phyl Rendell

Seconded: The Honourable Ian Hansen

Code of Practice for the Welfare of Sheep

FINALISED 07/12/2015

1. Food and Water

1.1 Food

Sheep should have access to a diet which is nutritionally adequate to maintain health and meet the appropriate physiological requirements for growth, pregnancy, lactation and to withstand cold exposure. They should not be deprived of food for periods in excess of 24 hours and **MUST** not be deprived of food for more than 48 hours.

In all systems of management, continual assessment should be made of the needs of the sheep in relation to the amount, quality and continuity of the food supply.

Sheep should be excluded, as far as possible, from toxic plants and other substances suspected of being deleterious to their health.

1.2 Water

Sheep should preferably have ad lib access to water and in any case at least twice daily. This is especially important in lactating ewes. Regular assessment should be made of the quality and quantity of the water supply.

Mechanical equipment controlling the delivery of water should be inspected regularly, and frequently in hot weather, and be maintained in good working order. It is also essential that a water supply is maintained in freezing weather when pipes are liable to freeze up.

The quality of water provided should be adequate to maintain sheep health. Drinking water which contains potentially toxic levels of salts, or other deleterious substances, should be monitored and managed to minimise deleterious effects.

When sufficient good quality water to maintain health cannot be provided, the sheep should be moved to other areas where an adequate supply is available. Sheep should not be deprived of water for a period of more than 24 hours under normal conditions and 12 hours in hot weather. This is particularly important in lactating ewes.

It is essential that sheep confined in areas where foraging is not possible (e.g. shearing sheds) are not deprived of water for a period in excess of 24 hours.

2. Protection from Climatic Extremes

All reasonable precautions should be taken to minimise the effects of weather that produces cold stress in sheep. **Farmers should listen to the local weather forecast and, in particular, the sheep chill factor before deciding to proceed with shearing or not.** Confined sheep, for example those being held in shearing sheds and pens must not be allowed to remain in areas where they may suffer from heat stress. It is essential that adequate feed, water and shelter be provided, particularly in early lambing flocks or freshly shorn sheep.

3. Supervision

Owners and managers, including absentee owners and managers should ensure that sheep are inspected with sufficient frequency to confirm that they are in sound and healthy condition. The frequency and

thoroughness of inspection should be related to the likelihood of risk to welfare of the sheep. Sheep require variable supervision according to the density of stocking, availability of suitable feed, reliability of water supply, age, pregnancy status, climatic conditions and management practices.

4. Handling Facilities

4.1 General

It is a requirement when owning sheep that there is access to appropriate facilities for handling and shearing them.

All sheds, pens, yards, ramps and other areas where sheep are handled should be constructed and maintained so as to minimise stress and injury to the animals.

Objects such as water and feed troughs, gate hinges and latches should be designed and located so as to avoid injury to sheep. Sharp projections must be avoided.

Yard designs should avoid sudden changes in floor level, poor lighting, narrow passages and awkward or 90 degree turns. Yard pens should be lamb proof.

Holding pens should be designed to minimise stress or injury and to allow animals space to lie down , stand up and turn around.

4.2 Handling and Restraint

Sheep should be handled and moved quietly with the minimum of excitement. The use of sticks and dogs should be limited to the minimum necessary to complete the procedures. Sheep should not be prodded with sharpened sticks or pieces of metal. Electric goads should not be used.

It is essential that handlers catch sheep gently to reduce stress to individual sheep and to other sheep nearby.

Restraint used on sheep should be the minimum necessary to efficiently carry out the required procedures. Using unreasonable force to the extent of causing injury, breakage or dislocation is unacceptable.

If drafting facilities are not available, sheep may be caught, but not pulled, by one leg. If carrying is necessary, they should not be lifted by the wool.

Precautions should be taken to prevent smothering of closely yarded sheep. Lambs and weaners are at particular risk.

Dogs that bite should be effectively muzzled while working and restrained when not working.

5. Management Practices

5.1 General

Management procedures carried out on sheep should be performed by competent persons or under the direct supervision of an experienced operator.

Restraint should be the minimum necessary to perform management procedures efficiently.

Procedures and practices that cause pain should not be carried out if painless and practical methods of husbandry can be adopted to achieve the same result.

Any injury or distress observed should be treated at the earliest opportunity. If the stockman is unsure of the best treatment then veterinary assistance should be sought promptly.

5.2 Shearing

All adult sheep should be shorn annually. Additional limited shearing in the form of wiggling and crutching may be required at other times of the year to minimise impairment of vision, and the incidence of stained wool, respectively.

Sheep should be handled sympathetically during shearing by a competent shearer. Owners and managers have a duty to make it clear to shearers that the use of excessive force is not permitted.

Heavily pregnant sheep should not be shorn within 3 weeks of lambing and ewes with lambs at foot should not be shorn for 6 weeks post lambing.

Because shearing is stressful, managers should attempt to avoid undue handling and exposure to adverse weather. Sheep should be returned to food and water as soon as possible after shearing, and certainly not spend longer than 24 hours without at least water and preferably food as well.

Where circumstances indicate, shearing cuts should be treated to prevent infection and fly strike.

Cover combs must be used from 15th September until 31st October and from 1st March until 31st March.

Shearing is permitted from 1st November to 28th February (29th February in a leap year) using standard combs.

For shearing using hand shears only it is permissible to shear earlier than 15th September provided that the farmer first seeks permission from the veterinary service. The farmer will be expected to provide the following information: number of sheep to be shorn and dates on which shearing will take place. At least 15mm of wool must be left on the sheep after shearing.

No shearing is allowed in April except for sheep going for immediate slaughter or small numbers of "straggler" sheep. In the case of the latter the farmer should first contact the veterinary section to give notice of his intention to shear such sheep. All sheep shorn in April, except those going for immediate slaughter, must be shorn using cover combs.

The only shearing permitted outside these periods will be of animals which are slaughtered off the shears. The slaughter should take place within 2 hours if the animals are not penned in the building and in any case not later than 24 hours post shearing.

5.3 Mating

Other than in a managed and defined breeding season, rams should be kept in a securely fenced area away from ewes to prevent unseasonal or unplanned mating. It is generally undesirable for lambs to be born any earlier than mid-September because by this time the weather should be starting to improve and more feed is becoming available for the ewes which helps their milk production.

Ewes should be mated only when they have reached a sufficient size and maturity (ideally 40kg or above but will depend on ewe frame size).

Female sheep should not be mated to rams whose lambs are likely to be too large to be born without difficulty.

Artificial insemination should only be carried out by a veterinary surgeon or a trained inseminator.

5.4 Lambing

Minimal interruption during lambing in order to reduce mismothering is acceptable if it is well planned beforehand. The camp chosen should have adequate shelter and sufficient quality and quantity of food available to last the flock for the duration of lambing. The ewes going into this camp for lambing should be strong and healthy enough to be expected to lamb unassisted.

If these criteria are not able to be met beforehand or if there are significant risk factors increasing the chances of lambing difficulty, then flocks of lambing ewes would need to be checked on a regular basis, preferably daily. Some of the things increasing lambing risks are poor condition and health of ewes, inadequate nutritional levels available, ewes that have been mated to an oversized ram, ewes mated when not fully mature and grown, and double fleeced ewes.

Lambs must have colostrum preferably within 6 hours of birth and certainly within 12 hours.

5.5 Orphan Lambs

Artificially reared lambs should be given milk or milk substitute until they are at least six weeks old. Roughage should be introduced into their diet from one week of life as should a good quality concentrate mix. Water should be provided ad lib. Warmth and shelter should be provided. Weak lambs with very little chance of survival, or orphans that will not be cared for should be destroyed humanely and not left to die.

6. Husbandry Procedures - Surgical

6.1 General

Surgical procedures by their nature cause pain and stress, but this can be reduced with minimal restraint and competent operators. All surgical procedures, must be carried out by a Veterinary Surgeon or under the direct supervision of a Veterinary Surgeon apart from:

Castration of sheep as detailed below;
Surface wound care;
Horn trimming;
Feet trimming.

Strict attention should be paid to the suitability of the work area in which the operation is to be performed, the catching facilities and the type and amount of restraint. Instruments should be adequately maintained and sterilised prior to use. Proper hygiene should be practised and the animals given adequate after care with regard to housing and drug therapy.

6.2 Identification

Ear marking instruments should be sharp, with the cutting edges undamaged, so as to prevent tearing of the ear. Careful technique should be employed.

6.3 Paring of feet

Sheep with poor hoof conformation, or habitually on soft ground require regular foot paring to prevent overgrowth and deformation of the hoof.

6.4 Horn Trimming

The horns of rams, and some wethers may need to be cut back to avoid injury from an ingrown horn. The amount of horn removed should be limited to avoid damage to soft tissue and associated bleeding.

6.5 Castration

Castration by knife, rubber ring or burdizzo is acceptable. Castration without the use of local anaesthetic should be confined to animals less than five months of age. Animals over this age should be castrated only with the use of local anaesthetic either injected into the testicle or into the spermatic cord. If in doubt veterinary advice should be sought.

For lambs from the age of 24 hours to ten weeks old castration is permitted by rubber ring or rubber ring + burdizzo.or the tip of the scrotum cut with a sharp knife and the testicles removed.

For lambs over ten weeks to five months castration must be carried out using rubber ring/burdizzo method.

6.6 Tail Docking

Tail docking should be carried out as early as management practices allow, preferably before ten weeks of age.

For lambs from ten weeks to five months tails can be removed by the rubber ring, cut method or a gas hot iron. With lambs of this age group the gas hot iron is the recommended method of tail docking

Above 20 weeks of age these procedures may only be carried out with local anaesthetic by an operator who has undergone an effective veterinary training programme.

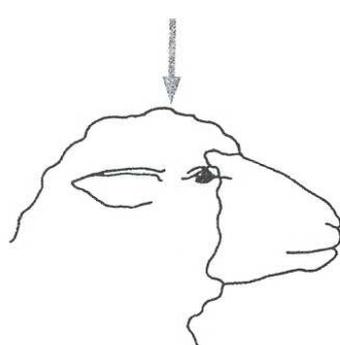
7. Health

Sick, injured or diseased sheep should be treated promptly and appropriately or be humanely slaughtered. If the stockman is unsure of the best course of action then veterinary advice should be sought.

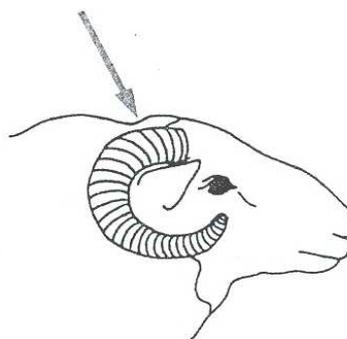
8. Euthanasia

8.1 Culling

The preferred methods of euthanasia or slaughter for home consumption are shooting using a free bullet or captive bolt pistol. The position of the shot is shown below:



Hornless sheep



Horned sheep and all goats

An animal stunned with a captive- bolt pistol must have bleeding commenced within 15 seconds after the stun. Blood lost must be rapid, profuse and complete. There are two methods:

- 1) Chest stick – the knife is inserted in the mid-line of the neck at the depression just in front of the breast bone. This will sever all blood vessels arising from the heart and is the preferred method.
- 2) Throat cut – the throat must be cut, near the head, from ear to ear so that both left and right carotid arteries and jugulars veins are severed.

The operator should take care to avoid injury from the animal's involuntary leg movements.

In certain conditions when a firearm is not readily available exceptions to the recommended practices may be necessary. In such cases adequate restraint with throat cutting is permissible when there is genuine concern for the animals' welfare. The cut must be made with a sharp knife and cause the most rapid bleeding out as possible.

If throat cutting is not carried out in e.g. mass cull with free bullet situations then it is essential that a careful check is made to ensure that each animal is in fact dead. In any animal where there is any degree of uncertainty it should be shot again. Complete dilation of the pupils and the absence of regular breathing movements are useful indicators of death.

8.2 Clubbing

Lambs (less than 1 month of age) may be stunned by a heavy blow to the back of the head to render them unconscious followed by bleeding out.

Code of Practice for the Welfare of Cattle

FINALISED 07/12/2015

1. Food and Water

1.1 Food

Cattle should have access to a diet which is nutritionally adequate to maintain health and meet the appropriate physiological requirements for growth, pregnancy, lactation and to withstand cold exposure. They should not be deprived of food for periods in excess of 24 hours.

In all systems of management, continual assessment should be made of the needs of the cattle in relation to the amount, quality and continuity of the food supply.

Cattle should be excluded, as far as possible, from toxic plants and other substances suspected of being deleterious to their health.

1.2 Water

Cattle should preferably have ad lib access to water and in any case at least twice daily. This is especially important in lactating cows. Regular assessment should be made of the quality and quantity of the water supply.

Mechanical equipment controlling the delivery of water should be inspected regularly, and frequently in hot weather, and be maintained in good working order. It is also essential that a water supply is maintained in freezing weather when pipes are liable to freeze up.

The quality of water provided should be adequate to maintain cattle health. Drinking water which contains potentially toxic levels of salts, or other deleterious substances, should be monitored and managed to minimise deleterious effects.

When sufficient good quality water to maintain health cannot be provided, the cattle should be moved to other areas where an adequate supply is available. Cattle should not be deprived of water for a period of more than 24 hours under normal conditions and 12 hours in hot weather. This is particularly important in lactating cows.

It is essential that cattle confined in areas where foraging is not possible (e.g. cattle yards) are not deprived of water for a period in excess of 24 hours.

2. Protection from Climatic Extremes

All reasonable precaution should be taken to minimise the effects of weather that produces cold stress in cattle. Confined cattle, for example those being held in cattle yards must not be allowed to remain in areas where they may suffer from heat stress. It is essential that adequate feed, water and shelter be provided, particularly for calving cows or those with young calves.

3. Supervision

Owners and managers, including absentee owners and managers should ensure that cattle are inspected with sufficient frequency to confirm that they are in sound and healthy condition. The frequency and thoroughness of inspection should be related to the likelihood of risk to welfare of the cattle. Cattle require variable supervision according to the density of stocking, availability of suitable feed, reliability of water supply, age, pregnancy status, climatic conditions and management practices.

4. Handling Facilities

4.1 General

It is a requirement when owning cattle that there is access to an appropriate handling facility.

All sheds, pens, yards, ramps and other areas where cattle are handled should be constructed and maintained so as to minimise stress and injury to the animals.

Objects such as water and feed troughs, gate hinges and latches should be designed and located so as to avoid injury to cattle. Sharp projections must be avoided.

Yard designs should avoid sudden changes in floor level, poor lighting, narrow passages and awkward or 90 degree turns. Yard pens should be calf proof.

Holding pens should be designed to minimise stress or injury and to allow animals space to lie down, stand up and turn around.

4.2 Handling and Restraint

Facilities for restraining cattle should allow for safe inspection and treatment of cattle. Races and crushes should be constructed in a way that minimises the danger to animals and handlers. Head restraints should allow for quick release to avoid choking.

Cattle should be handled quietly with the minimum of excitement. The use of sticks and dogs should be limited to the minimum necessary to complete the procedures. Cattle should not be prodded with sharpened sticks or pieces of metal.

Electric goads should only be used on the hindquarters of cattle over 1 year of age and only then when the way ahead of the animal is clear

Using unreasonable force to the extent of causing injury, breakage or dislocation is unacceptable.

5. Management Practices

5.1 General

Management procedures carried out on cattle should be performed by competent persons or under the direct supervision of an experienced operator.

Restraint should be the minimum necessary to perform management procedures efficiently.

Procedures and practices that cause pain should not be carried out if painless and practical methods of husbandry can be adopted to achieve the same result.

Any injury or distress observed should be treated at the earliest opportunity. If the stockman is unsure of the best treatment then veterinary assistance should be sought promptly.

5.2 Milking Practices

Cows in full milk (particularly early in lactation) should be milked at least twice daily unless they have a calf running with them.

Correct milking machine function and management of the milking procedure are essential to the welfare of dairy cattle. Milking machines should be checked and correctly adjusted by a competent person at least annually. Milking technique should minimise the risks of discomfort or injury to the cow and the development or transmission of disease.

5.3 Mating

Other than in a managed and defined breeding season, bulls should be kept in a securely fenced area away from cows to prevent unseasonal or unplanned mating.

Heifers should be mated only when they have reached a sufficient size and maturity.

Female cattle should not be mated to bulls whose calves are likely to be too large to be born without difficulty.

Artificial insemination should only be carried out by a veterinary surgeon or a trained inseminator.

5.4 Calving

Cows should be checked at least daily coming up to calving so that difficulties can be promptly detected and attended to.

If traction is needed during calving this should only be applied by up to four men pulling. A calving machine or a rope with pulleys should be used only by stockmen with previous experience. Other means of traction are not acceptable. If the stockman is unsure of the best course of action then veterinary assistance should be sought.

Calves should receive colostrum preferably within 6 hours of birth and certainly within 12 hours.

5.5 Artificial rearing of calves

Artificially reared calves should be given milk or milk substitute until they are at least six weeks old. Roughage should be introduced into their diet from one week of life as should a good quality concentrate mix. Water should be provided ad lib.

6 .Husbandry Procedures - surgical

6.1 General

Surgical procedures by their nature cause pain and stress, but this can be reduced with minimal restraint and competent operators. All surgical procedures must be carried out by a Veterinary Surgeon or under the direct supervision of a Veterinary Surgeon, apart from:

The castration of cattle as detailed below

Surface wound care

Horn trimming

Feet trimming

Strict attention should be paid to the suitability of the work area in which the operation is to be performed, the catching facilities and the type and amount of restraint. Instruments should be adequately maintained and sterilised prior to use. Proper hygiene should be practised and the animals given adequate after care with regard to housing and drug therapy.

6.2 Identification

Ear marking instruments should be sharp, with the cutting edges undamaged, so as to prevent tearing of the ear. Careful technique should be employed.

Ear tagging, notching, or tattooing and freeze branding are the only acceptable methods of identification.

Hot branding is unacceptable.

6.3 Paring of feet

Cattle with poor hoof conformation, or habitually on soft ground require regular foot paring in order to prevent overgrowth and deformation of the hoof.

6.4 Horn Trimming

If performed, de-horning should preferably be carried out before six months of age and always with the use of a local anaesthetic. 'Tipping' (removing the non-sensitive end of the horn) can be carried out without local anaesthetic.

Calves can be dehorned using disbudding scoops or heat cautery. Caustic paste must not be used in calves over 2 weeks of age and great care must be taken during its use to avoid the eyes and non-horn related tissue.

Whenever animals are gathered, horned cattle should be inspected for any signs of horns curling back into the skin and any overgrown horns tipped accordingly.

After de-horning cattle and calves should be regularly checked for the first 5 days and any wound infection or fly worry dealt with.

6.5 Castration

Castration by knife, burdizzo or emasculator without the use of local anaesthetic should be confined to animals less than five months of age. Animals over this age should be castrated only with the use of local anaesthetic either injected into the testicle or into the spermatic cord. If in doubt veterinary advice should be sought.

Castration with rubber rings should be limited to calves up to four weeks of age.

6.6 Tail Docking

Tail docking is unacceptable except on medical grounds on the advice of a veterinary surgeon

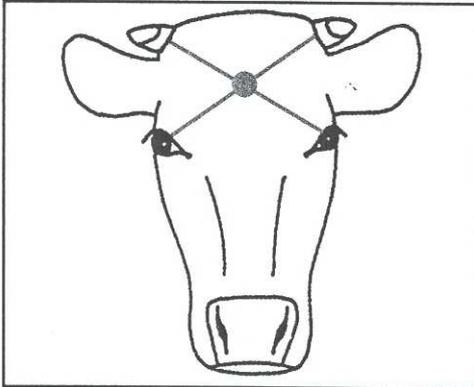
7. Health

Sick, injured or diseased cattle should be treated promptly and appropriately or be humanely slaughtered. If the stockman is unsure of the best course of action then veterinary advice should be sought.

Cattle with cancer eye should be culled/treated at the earliest opportunity. The condition should not be allowed to progress simply to permit the cow to complete raising a calf.

8. Euthanasia

The preferred methods of euthanasia or slaughter for home consumption are shooting using a free bullet or captive bolt pistol by the frontal method. The shot should be positioned just to one side of the point of intersection of lines taken from the base of each ear to the opposite eye as shown below.



An animal stunned with a captive- bolt pistol must have bleeding commenced within 60 seconds after the stun. Blood lost must be rapid, profuse and complete. There are two methods:

- 1) Chest stick – the knife is inserted in the mid-line of the neck at the depression just in front of the breast bone. This will sever all blood vessels arising from the heart and is the preferred method.
- 2) Throat cut – the throat must be cut, near the head, from ear to ear so that both left and right carotid arteries and jugulars veins are severed.

The operator should take care to avoid injury from the animal's involuntary leg movements.

In certain extreme conditions when a firearm is not readily available exceptions to the recommended practices may be necessary. In such cases adequate restraint with throat cutting is permissible when there is genuine concern for the animals' welfare.

9. Feral Cattle

When feral cattle are to be culled or slaughtered for food they should be shot by a competent marksman using a bullet of suitable size and velocity to ensure a humane kill.

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 28 JULY 2016

Portfolio Reports:

The Honourable Roger Edwards

The Honourable Mike Summers OBE

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 25 AUGUST 2016

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