

ELIZABETH II



FALKLAND ISLANDS

NIGEL ROBERT HAYWOOD C.V.O.,
Governor.

Members' Remuneration (Amendment) Ordinance 2013

(No: 12 of 2013)

ARRANGEMENT OF PROVISIONS

Section

PART 1 - INTRODUCTION

1. Title
2. Commencement

PART 2 - AMENDMENT OF MEMBERS' REMUNERATION ORDINANCE

3. Amendment of Members' Remuneration Ordinance
4. Amendment of section 4
5. New section 4A inserted – Resettlement grant
6. Amendment of section 7 – Income Tax and Medical Services Tax on amounts paid to Members
7. Amendment of section 8 – Publication of amounts paid to and in respect of Members
8. Amendment of Schedule

PART 3 - AMENDMENT OF MEDICAL SERVICES TAX ORDINANCE

9. Amendment of Medical Services Tax Ordinance
10. Amendment of section 3 – Interpretation
11. New section 13A inserted – MLAs to be treated as employees
12. Section 15 repealed
13. Amendment of section 19 - Each business separate
14. Amendment of section 37 - Assessment of Medical Services Tax for employees, self-employed persons and MLAs

PART 4 - AMENDMENT OF FALKLAND ISLANDS PENSION SCHEME ORDINANCE

15. Amendment of Falkland Islands Pension Scheme Ordinance - General Amendment
16. Amendment of section 2 – Interpretation
17. Amendment of section 17 – Membership of the Scheme
18. Section 17A – repealed
19. Amendment of section 18 – Contributions to the Scheme by the Director of Corporate Resources
20. Amendment of section 18B – Contributions by opted-in MLAs

PART 5 - AMENDMENT OF RETIREMENT PENSIONS ORDINANCE

21. Amendment of Retirement Pensions Ordinance
22. Amendment of section 2 – Interpretation
23. Amendment of section 14 – Payment and collection of contributions

PART 6 – AMENDMENT OF FALKLAND ISLANDS PENSION SCHEME (GENERAL PROVISIONS) REGULATIONS

24. Amendment of Falkland Islands Pension Scheme (General Provisions) Regulations

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NIGEL ROBERT HAYWOOD C.V.O.,
Governor.

MEMBERS' REMUNERATION (AMENDMENT) ORDINANCE 2013

(No: 12 of 2013)

(assented to: 2 August 2013)

(commencement: see section 2)

(published: 6 August 2013)

AN ORDINANCE

To amend the Members' Remuneration Ordinance (No 13 of 2009); and for connected purposes.

ENACTED by the Legislature of the Falkland Islands

**PART 1
INTRODUCTION**

1. Title

This Ordinance is the Members' Remuneration (Amendment) Ordinance 2013.

2. Commencement

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

(2) The Governor may appoint different dates for different provisions to come into force.

**PART 2
AMENDMENT OF MEMBERS' REMUNERATION ORDINANCE**

3. Amendment of Members' Remuneration Ordinance

This Part amends the Members' Remuneration Ordinance.

4. Amendment of section 4

Section 4 is repealed and replaced with the following —

“4. Amounts payable to Members

(1) The amounts specified in the Schedule are payable to Members in respect of their salaries and expenses.

(2) The payment or a part of the payment of any Member may be withheld in accordance with the procedure laid out in the Standing Rules and Orders of the Legislative Assembly.”

5. New section 4A inserted – Resettlement grant

The following new section is inserted after section 4 —

“4A. Resettlement grant

A resettlement grant equivalent to one month’s salary is payable to a Member who, at the general election following a full term in which the Member has served —

(a) stands for election and is not re-elected; or

(b) does not stand for election.

6. Amendment of section 7 – Income Tax and Medical Services Tax on amounts paid to Members

Section 7 is repealed and replaced with the following —

“7. Members not employees

For the avoidance of doubt Members are not employees but they are to be treated as employees for purposes of —

(a) income tax, under the Taxes Ordinance (Title 69.1);

(b) medical services tax, under the Medical Services Tax Ordinance (No 13 of 2010);

(c) contributions under the Retirement Pensions Ordinance (No 20 of 1996); and

(d) contributions under the Falkland Islands Pensions Scheme Ordinance (No 18 of 1997).”.

7. Amendment of section 8 – Publication of amounts paid to and in respect of Members

Section 8(1) of the Ordinance is repealed and replaced with the following —

“(1) As soon as possible after the end of each calendar year, the Clerk of the Assembly must publish the following information —

(a) the amounts paid to each Member during that year in respect of annual salaries made under paragraph 3 of the Schedule;

(b) the amounts deducted from the payments made to each Member during that year in accordance with —

- (i) section 23 of the Medical Services Tax Ordinance;
 - (ii) section 14 of the Retirement Pensions Ordinance;
 - (iii) section 18B of the Falkland Islands Pensions Scheme Ordinance; and
 - (iv) regulation 8 of the Payments on Account of Tax (Employees' Deductions) Regulations;
- (c) the amounts paid in respect of each Member in accordance with section 11 of the Retirement Pensions Ordinance;
- (d) the amounts contributed to the Falkland Islands Pensions Scheme in respect of each Member in accordance with section 18 of the Falkland Islands Pensions Scheme Ordinance;
- (e) the amounts paid to each Member in respect of expenses claimed under the Schedule; and
- (f) a detailed breakdown of the amounts paid to each Member in respect of such expenses.”

8. Amendment of Schedule

The Schedule to the Ordinance is amended as follows —

- (a) in paragraph 1 by inserting at the end of the definition of “Assembly duties” the words, “or such other duties as may be specified in the Standing Rules and Orders of the Legislative Assembly”;
- (b) by omitting the heading to Part 2 and replacing it with “Annual salaries”;
- (c) by repealing paragraph 3 of the Schedule and replacing it with the following —
 - “3. Annual salaries**
 - (1) Annual salaries are payable to Members at £40,000.00.
 - (2) The salary under sub-paragraph (1) is payable in 12 equal instalments.”; and
- (d) by inserting the following new paragraph after paragraph 3 —
 - “3A. No double payment**
 - A Member may not receive any payment for attending any meeting within the scope of paragraph 2(e).”
- (e) by deleting Part 3 (paragraphs 4,5, 6, 7 and 8).

PART 3
AMENDMENT OF MEDICAL SERVICES TAX ORDINANCE

9. Amendment of Medical Services Tax Ordinance

This Part amends the Medical Services Tax Ordinance.

10. Amendment of section 3 - Interpretation

Section 3 is amended as follows —

(a) in the definition of “employee” by omitting paragraph (b)(ii) and replacing it with the following —

“(ii) as the holder of an office (including that of an MLA)”;

(b) in the definition of “employer” by omitting paragraph (b) and replacing it with the following new paragraph —

“(b) in relation to employment of the holder of another office (including that of an MLA), the person or body responsible for paying the earnings and benefits in kind of the holder of the office;”;

(c) in the definition of “self-employed person” by omitting paragraph (b) and replacing it with the following —

“(b) in business as a sole trader or partner.”

11. New section 13A inserted - MLAs to be treated as employees

The following new section is inserted after section 13 —

“13A. MLAs to be treated as employees

MLAs are liable for Medical Services Tax on amounts paid to them under the Members’ Remuneration Ordinance (No 13 of 2009), as if they earned the amounts as employees.”

12. Section 15 repealed

Section 15 is repealed.

13. Amendment of section 19 - Each business separate

Section 19 is repealed and replaced with the following —

“19. Each business separate

(1) Subsection (2) applies to an individual if the individual carries on more than one business.

(2) If this subsection applies —

(a) the relevant profits of each business are separate; and

(b) losses from one business may not be set off against relevant profits from another business.”

14. Amendment of section 37 - Assessment of Medical Services Tax for employees, self-employed persons and MLAs

The heading to section 37 is omitted and replaced with the following —

“37. Assessment of Medical Services Tax for employees (including MLAs) and self-employed persons”

PART 4

AMENDMENT OF FALKLAND ISLANDS PENSION SCHEME ORDINANCE

15. Amendment of Falkland Islands Pension Scheme Ordinance - General Amendment

(1) This Part amends the Falkland Island Pension Scheme Ordinance (No 18 of 1997).

(2) The Ordinance is amended by omitting —

(a) “opted-in MLA” in each place it appears and substituting “eligible MLA” ; and

(b) “opting-in election” in each place it appears.

16. Amendment of section 2 – Interpretation

Section 2 is amended as follows —

(a) by omitting the following definitions —

(i) “opted-in MLA”;

(ii) “opting-in election”; and

(iii) “annual and daily allowances”

(b) by inserting the following new definition after the definition “the Board” —

““eligible MLA” means an MLA who has not yet attained the age of 70 years;”

(c) in subsection (2) by omitting paragraph (b) and replacing it with the following –

“(b) any reference to an employee is to a person who –

(i) works under a contract of service,

(ii) is employed in government service,

(iii) is a director or other officer of an incorporated or unincorporated body, or

(iv) is an eligible MLA,

and references to an employer shall be construed accordingly.”

(d) by omitting subsection (2A) and replacing it with the following –

“(2A) For the avoidance of doubt an MLA is not (in that capacity) employed in government service.”.

17. Amendment of section 17 – Membership of the Scheme

Section 17 is amended by omitting subsection (3A) and replacing it with the following —

“(3A) A contribution may not be made in respect of any MLA (in that capacity) in respect of either of the following periods —

- (a) any period before 6 November 2009;
- (b) any period during which the MLA was an opted-in MLA before the date of commencement of the Members’ Remuneration (Amendment) Ordinance (No 00 of 2013); or
- (c) beginning on or after the Member’s 70th birthday.”

18. Section 17A repealed

Section 17A is repealed.

19. Amendment of section 18 – Contributions to the Scheme by the Director of Corporate Resources

Section 18(2A) is amended by replacing “annual and daily allowances for that month” with “their salary for that month.”

20. Amendment of section 18B – Contributions by opted-in MLAs

Section 18B is amended as follows —

- (a) in subsection (1) by replacing “annual and daily allowances for each month” with “their monthly salary.”; and
- (b) in subsection (2) by replacing “allowances” with “monthly salary”.

PART 5

AMENDMENT OF RETIREMENT PENSIONS ORDINANCE

21. Amendment of Retirement Pensions Ordinance

This Part amends the Retirement Pensions Ordinance (No 20 of 1996).

22. Amendment of section 2 – Interpretation

Section 2 is amended as follows —

- (a) in the definition of “employee” by omitting paragraph (b);
- (b) by omitting subsection (3A).

23. Amendment of section 14 – Payment and collection of contributions

Section 14(2A) is amended by replacing “allowances” with “salary”.

PART 6
AMENDMENT OF FALKLAND ISLANDS PENSION SCHEME (GENERAL PROVISIONS) REGULATIONS

24. Amendment of Falkland Islands Pension Scheme (General Provisions) Regulations

The Falkland Islands Pension Scheme (General Provisions) Regulations (SR&O No 2 of 1999) are amended as follows —

(a) by omitting “opted-in MLA” in each place it appears and substituting “eligible MLA”; and

(b) in regulation 13 —

(i) by omitting article (1)(da); and

(ii) by inserting “or eligible MLAs” after “opted-in MLAs” in each place it appears.

Passed by the Legislature of the Falkland Islands on 25 July 2013.

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.

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

C. PRIOR M.B.E.,
Clerk of the Legislative Assembly.