

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Members' Remuneration Ordinance 2009

(No: 13 of 2009)

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ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

MEMBERS' REMUNERATION ORDINANCE 2009

(No: 13 of 2009)

(assented to: 22 December 2009)
(commencement: in accordance with section 2)
(published: 31 December 2009)

AN ORDINANCE

To replace the Elected Councillors' Allowances Ordinance (Title 19.2) with new provision for the remuneration of Members of the Legislative Assembly and for connected purposes.

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

1. Title

This Ordinance is the Members' Remuneration Ordinance 2009.

2. Commencement

This Ordinance is deemed to have come into force on 6 November 2009.

3. Interpretation

In this Ordinance —

“Media Trust” means the Falkland Islands Media Trust, as established by section 3(1) of the Media Trust Ordinance (Title 59.1); and

“Member” means either —

- (a) an elected member of the Legislative Assembly; or

(b) during the period between a dissolution of the Legislative Assembly and the next meeting of the Legislative Assembly after that dissolution, a person who was an elected member of the Legislative Assembly immediately before that dissolution took place.

4. Amounts payable to Members

The amounts specified in the Schedule are payable to Members in respect of their allowances and expenses.

5. Apportionment

Where —

- (a) any amount is specified in the Schedule as being payable at an annual or monthly rate, but
- (b) that amount is only payable in respect of a shorter period,

the amount payable is the relevant proportion of the amount specified in the Schedule.

6. Determination of claims

(1) When claiming any amount under this Ordinance, a Member must certify that the amount claimed is properly capable of being claimed in accordance with —

- (a) the provisions of the Schedule; and
- (b) any procedural guidelines issued by the Clerk of the Assembly with the approval of the Director of Corporate Resources.

(2) Before making any payment to a Member, the Clerk of the Assembly must determine whether the amount claimed is payable in accordance with —

- (a) the provisions of the Schedule;
- (b) any procedural guidelines issued by the Clerk of the Assembly with the approval of the Director of Corporate Resources; and
- (c) any directions given to the Clerk of the Assembly by the Director of Corporate Resources.

(3) Any dispute between a Member and the Clerk of the Assembly in relation to the determination of a claim must be resolved by the Director of Corporate Resources.

7. Taxation of amounts paid to Members

Amounts paid to Members under this ordinance are taxable in accordance with the provisions of the Taxes Ordinance (Title 69.1), as if they had been earned on a self-employed basis.

8. Publication of amounts paid to and in respect of Members

(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 —
 - (i) annual allowances payable under paragraph 3 of the Schedule;
 - (ii) daily allowances claimed under paragraph 6 of the Schedule; and
 - (iii) daily allowances claimed under paragraph 7 of the Schedule;
- (b) the amounts deducted from the allowances payable to each Member during that year in accordance with —
 - (i) section 14 of the Retirement Pensions Ordinance; and
 - (ii) section 18B of the Falkland Islands Pensions Scheme Ordinance;
- (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 Parts 4 to 6 of the Schedule; and
- (f) a detailed breakdown of the amounts paid to each Member in respect of such expenses.

(2) The Clerk of Assembly must publish that information —

- (a) in the *Gazette*;
- (b) in any newspaper published by the Media Trust in accordance with section 5(1)(a) of the Media Trust Ordinance; and
- (c) in such other manner (if any), as —
 - (i) the Clerk of the Assembly may consider appropriate; or
 - (ii) the Director of Corporate Resources may direct.

9. Power to amend Schedule

(1) The Governor may amend the Schedule by order.

(2) Before making an order under sub-section (1), the Governor must carry out such consultation of Members as he considers appropriate in all of the circumstances.

10. Repeals

(1) The Elected Councillors' Allowances Ordinance (Title 19.2) is repealed.

(2) Section 57(1)(m) of the Taxes Ordinance is repealed.

SCHEDULE AMOUNTS PAYABLE TO MEMBERS

(section 4)

Part 1 – General provisions

1. Interpretation

In this Schedule —

“Assembly duties” means one or more of the activities listed in paragraph 2;

“Management Code” has the same meaning as in section 85 of the Constitution;

“partner” means one of a married couple, one of an unmarried couple, or one of a civil partnership, who is living with the other party in the relationship;

“senior officer of the Falkland Islands Government” means any of the following officers —

(a) the Chief Executive appointed in accordance with section 83 of the Constitution;

(b) any officer —

(i) for whose appointment the prior approval of the Governor was required in accordance with section 84(3) of the Constitution; and

(ii) who holds office as a Director within the Falkland Islands Government;

(c) any of the officers appointed by the Governor in accordance with section 84(4) of the Constitution; and

“unmarried couple” means two persons who habitually live together in a relationship with some or all of the characteristics of a marriage or of a civil partnership, the relationship having existed for at least three years.

2. Assembly duties

The following activities are Assembly duties for the purposes of this Schedule —

(a) attending any meeting of —

- (i) the Executive Council;
 - (ii) the Legislative Assembly;
 - (iii) any of the following committees of the Legislative Assembly —
 - (aa) the Standing Finance Committee;
 - (bb) a Committee of the Whole House;
 - (cc) any Select Committee;
 - (iv) the committee known as the General Purposes Committee;
- (b) attending any briefing of Members by the Governor or the Chief Executive (or both, as the case may be);
- (c) attending any meeting of a committee to which the Member has been appointed in that capacity by the Governor on the advice of the Executive Council or in accordance with the provisions of any Ordinance;
- (d) attending any meeting of —
- (i) the board of the Falkland Islands Development Corporation; or
 - (ii) any committee or sub-committee created by that board and consisting in whole or in part of members of that board;
- (e) attending —
- (i) any meeting of —
 - (aa) a board of directors of a company to which the Member has been appointed by virtue of any shareholding of the Falkland Islands Government in that company or in any other company connected with it; or
 - (bb) any committee or sub-committee of such a board of directors; or
 - (ii) any other meeting related to the business of the company which the elected member reasonably attends in his capacity as a director of such a company;
- (f) attending any meeting to which the Member is invited or attends in that capacity and which has been organised by or on behalf of —
- (i) a senior officer of the Falkland Islands Government; or

- (ii) the Office of the Legislative Assembly;
- (g) carrying out any other duties (other than attending any meeting, meal or function) in connection with the hosting of —
 - (i) official visitors to the Falkland Islands who are official guests of any of the following—
 - (aa) the Governor;
 - (bb) any senior officer of the Falkland Islands Government;
 - (cc) the Falkland Islands Branch of the Commonwealth Parliamentary Association;
or
 - (dd) the Commander British Forces or any other senior officer of the British Forces;
or
 - (ii) other visitors to the Falkland Islands in relation to whom the Governor approves the carrying out of hosting duties as Assembly duties (and such approval may be given retrospectively);
- (h) carrying out any work in relation to the Member's portfolio responsibilities within the Legislative Assembly; and
- (i) travelling in connection with any other Assembly duties, provided that such travel is reasonably undertaken.

Part 2 – Annual allowances

3. Annual allowances

Annual allowances are payable to Members at the following rates —

- (a) in the case of each Member who is not also serving as an elected member of the Executive Council, £4,250.75; and
- (b) in the case of each Member who is also serving as an elected member of the Executive Council, £6,239.05.

Part 3 – Daily allowances

4. Daily allowances

Daily allowances are payable to Members in accordance with the remaining provisions of this Part.

5. Amount of daily allowance

The amount of the daily allowance is £126.

6. Claiming daily allowances for Assembly duties

(1) A Member may claim the full amount of the daily allowance for each day on which the Member spends four hours or more on Assembly duties.

(2) A Member may claim 50% of the daily allowance for each day on which the Member carries out Assembly duties but spends less than four hours on those duties.

(3) A Member may not claim more than 60 times the daily allowance in any calendar year for the total amount of time spent on the Assembly duties listed in sub-paragraphs 2(f), (g) and (h).

7. Claiming daily allowances for overseas business

(1) Subject to the remaining provisions of this paragraph, a Member may claim the full amount of the daily allowance for each day on which the Member —

(a) travels to or from the Falkland Islands on overseas business reasonably undertaken in the Member's capacity as such; or

(b) stays outside the Falkland Islands on such business.

(2) In order for this paragraph to apply to a trip on which such business is undertaken, both that trip and the business must be approved by the Governor.

(3) A Member may, by arrangement with the Clerk of the Assembly, claim an advance in respect of any daily allowances to be claimed under this paragraph.

8. No “double payment”

(1) A Member may not claim a daily allowance under both paragraph 6 and paragraph 7 for the same day.

(2) Subject to sub-paragraph (3), a Member may not claim a daily allowance for activities undertaken during time for which the Member is paid as an employee or office holder of —

(a) any of the following —

(i) the Falkland Islands Government;

(ii) the Falkland Islands Development Corporation; or

(iii) Falklands Landholdings Limited; or

(b) a company or body owned or controlled by any of them.

(3) A Member may claim a daily allowance for activities undertaken during paid annual leave from the Member's employment or office.

(4) A Member may not claim a daily allowance for attending any meeting within the scope of paragraph 2(e) if —

(a) the Member receives any payment from the company for attending the meeting; unless

(b) the Member pays the amount received to the Office of the Legislative Assembly.

Part 4 – Travelling expenses

9. Travel within the Falkland Islands

(1) A Member is entitled to claim reimbursement of any sums reasonably and actually spent on travel within the Falkland Islands, provided that such travel is undertaken wholly and exclusively in connection with Assembly duties.

(2) Where a Member's own car is used for such travel, the Member is entitled to claim an allowance of 40 pence per mile in lieu of reimbursement.

(3) Where a Member's own aircraft is used for such travel, the amount that may be claimed by the Member for that is limited to the cost that would have been incurred had the Member instead flown as a fare-paying passenger with the Falkland Islands Government Air Service.

(4) A Member is entitled to claim reimbursement of any sums reasonably and actually spent on accommodation within the Falkland Islands, provided that such accommodation is required wholly and exclusively for the purpose of carrying out Assembly duties.

(5) The amount payable under sub-paragraph (4) may not exceed £55 per night, unless approval for a higher amount is given by the Director of Corporate Resources.

(6) Where a Member stays as a guest of a resident of the Falkland Islands, the Member is entitled to claim an allowance of £20 per night for payment to the Member's host in lieu of reimbursement.

10. Overseas travel

(1) This paragraph applies to expenditure reasonably and actually incurred by or for a Member in connection with overseas business reasonably undertaken in the Member's capacity as such.

(2) In order for this paragraph to apply to a trip on which such business is undertaken, both that trip and the business must be approved by the Governor.

(3) Other than in exceptional circumstances, the Member's travel (including flights and car hire) and accommodation (including pre-booked meals at such accommodation) must be —

(a) booked for the Member through the Office of the Legislative Assembly or the Falkland Islands Government Office in London;

(b) paid for by either or both of them on the Member's behalf.

(4) Other than in exceptional circumstances, before any travel or accommodation is booked through the Falkland Islands Government Office in London, it must first have been approved by the Clerk of the Assembly.

(5) A Member is entitled to claim reimbursement for expenses reasonably and actually incurred on —

(a) meals (other than any pre-booked at the accommodation);

(b) local travel at the destination, including train, bus and taxi fares;

(c) laundry; and

(d) travel and accommodation, where exceptional circumstances exist and it is not possible for this to be booked and paid for by either the Clerk of the Assembly or the Falkland Islands Government Office in London in accordance with sub-paragraph (3).

(6) The Director of Corporate Resources may restrict the amount paid in respect of any claim under sub-paragraph (5) where the amount claimed is more than is reasonable in all of the circumstances.

(7) Hotel accommodation booked by or for Members is to be of the same standard normally allowable in accordance with the Management Code for a senior officer of the Falkland Islands Government.

(8) Subject to sub-paragraph (9), air travel undertaken by Members in accordance with this paragraph must be in economy class or equivalent.

(9) A Member may only travel by air in a premium class (such as Premium Economy, Club, Business, Executive or similar) —

(a) on those legs (if any) of the journey for which the scheduled flying time exceeds eight hours; and

(b) it is not possible for the Member to arrive at the destination more than 24 hours before the start of the first business approved by the Governor that the Member is due to undertake after arriving.

11. Overseas travel: accommodation in London

(1) A Member travelling to or via London on an overseas trip to which paragraph 10 applies may, instead of staying in hotel accommodation, stay in the flat at Falkland House in London, provided that it is available for the stay.

(2) Such a stay must be arranged in advance through the Office of the Legislative Assembly.

(3) No charge will be made to the Member for such a stay and the Member may be accompanied without charge by —

(a) the Member's partner; and

(b) any child or children aged 12 years or over of which the Member or the Member's partner are the parent or guardian.

(4) A Member may claim a subsistence allowance of £25 for each day of such a stay.

(5) If a Member claims a subsistence allowance for a day, the Member may not claim reimbursement under paragraph 10(5)(a) for any meals on the same day.

12. Overseas travel by Member's partner

(1) Subject to the remaining provisions of this paragraph, each Member may be accompanied by the Member's partner at the expense of the Legislative Assembly on one overseas trip to which paragraph 10 applies during any four year period.

(2) For such a trip, paragraph 10 applies (with such variations as are necessary) to expenditure reasonably and actually incurred by or the Member's partner as well as to that incurred by or for the Member.

(3) If a Member is elected to the Legislative Assembly at a by-election that takes place more than two years after the first meeting of the Legislative Assembly to which the Member was elected, this paragraph does not apply to that Member until the next General Election to the Legislative Assembly.

Part 5 – Information and communications technology

13. Laptop computers

(1) Each Member is entitled to be provided with a laptop computer on loan for the purpose of carrying out Assembly duties.

(2) A laptop provided in accordance with sub-paragraph (1) remains the property of the Falkland Islands Government and must be returned by the Member at the end of the Member's tenure in office.

14. Telephone and internet expenses

(1) A Member may claim the following allowances in respect of telephone and internet expenses—

- (a) the cost of line rental for a telephone line at the Member's home address;
- (b) one-third of the cost of all local calls made from that line;
- (c) the full cost of any overseas calls made from that line that the Member certifies were made in connection with either —
 - (i) Assembly duties; or
 - (ii) overseas business to which paragraph 10 applies;
- (d) either —
 - (i) £33 per month towards the cost of broadband internet service; or
 - (ii) if lower, the amount actually incurred in respect of the monthly fee for such service; and
- (e) either —
 - (i) £25 per month towards the cost of mobile telephone service; or
 - (ii) if lower, the amount actually incurred in respect of the monthly fee for such service on a contract basis.

Part 6 – Other expenses

15. Other expenses

(1) Subject to the remaining provisions of this paragraph, a Member may claim reimbursement of any other expenses wholly and necessarily incurred in the course of that Member's Assembly duties.

(2) Where it is reasonable to do so, a Member may claim a payment in lieu of reimbursement.

(3) In order for any payment to be made to a Member under this paragraph (either by way of or in lieu of reimbursement), it must be approved by the Director of Corporate Resources on the basis of a recommendation by the Clerk of the Assembly.

(4) If it is reasonably possible for the Member to do so, the Member must seek approval before incurring the expense.

(5) No household or personal expenses may be claimed under this paragraph.

(6) Any asset acquired using a payment made under this paragraph is the property of the Falkland Islands Government.

Passed by the Legislature of the Falkland Islands on 18 December 2009.

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.

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Retirement Pensions (Amendment) Ordinance 2009

(No: 14 of 2009)

ARRANGEMENT OF PROVISIONS

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4. Interpretation
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6. Contributions by employers
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**PART 3 – AMENDMENT OF RETIREMENT PENSIONS (GENERAL PROVISIONS)
REGULATIONS**

8. Amendment of Retirement Pensions (General Provisions) Regulations
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ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

RETIREMENT PENSIONS (AMENDMENT) ORDINANCE 2009

(No: 14 of 2009)

(assented to: 22 December 2009)

(commencement: in accordance with section 2)

(published: 31 December 2009)

AN ORDINANCE

To amend the Retirement Pensions Ordinance (No. 20 of 1996) and subsidiary legislation made under that Ordinance to provide for retirement pension contributions to be made by and on behalf of Members of the Legislative Assembly not already in receipt of a retirement pension and for connected purposes.

ENACTED by the Legislature of the Falkland Islands, as follows —

PART 1
GENERAL PROVISIONS

1. Title

This Ordinance is the Retirement Pensions (Amendment) Ordinance 2009.

2. Commencement

This Ordinance is deemed to have come into force on 6 November 2009.

PART 2
AMENDMENT OF RETIREMENT PENSIONS ORDINANCE

3. Amendment of Retirement Pensions Ordinance

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

4. Interpretation

(1) This section amends section 2.

(2) In section 2(2) —

(a) the definition of “employee” is repealed and the following definition substituted —

““employee” —

(a) means any person over the age of 17 years and gainfully occupied in the Falkland Islands under a contract of service or as an office-holder; but

(b) for the avoidance of doubt, does not include an MLA”;

(b) the following definition is inserted after the definition of “employer” —

““MLA” means either —

(a) an elected member of the Legislative Assembly, or

(b) during the period between a dissolution of the Legislative Assembly and the next meeting of the Legislative Assembly after that dissolution, a person who was an elected member of the Legislative Assembly immediately before that dissolution took place;” and

(c) the following definition is inserted after the definition of “regulation” —

““relevant MLA” means an MLA other than one who is entitled to a pension under section 4;”.

(3) The following sub-section is inserted after section 2(3) —

“(3A) While a person is an MLA, that person will not be taken for the purposes of this Ordinance to be either an employee or a self-employed person during that period (whether or not they are an employee or self-employed person).”

5. Compulsory contributions

Section 10 is amended by inserting the following paragraph after section 10(3)(c) —

“(d) every relevant MLA;”.

6. Contributions by employers

Section 11 is amended by inserting the following sub-section after section 11(1) —

“(1A) The Office of the Legislative Assembly must pay contributions at the prescribed rate for each relevant MLA.”

7. Payment and collection of contributions

(1) This section amends section 14.

(2) The following sub-sections are inserted after section 14(1) —

“(1A) The contributions payable by relevant MLAs under section 10 are payable in the first instance by the Office of the Legislative Assembly on behalf of the relevant MLAs.

(1B) For the purposes of this Ordinance, the contributions paid by the Office of the Legislative Assembly on behalf of each relevant MLA under subsection (1A) are to be treated as contributions paid by that relevant MLA.”

(3) The following sub-section is inserted after section 14(2) —

“(2A) The Office of the Legislative Assembly must deduct from the allowances payable to each relevant MLA the amount of any contributions paid by the Office of the Legislative Assembly under this section on behalf of that relevant MLA.”

PART 3

AMENDMENT OF RETIREMENT PENSIONS (GENERAL PROVISIONS) REGULATIONS

8. Amendment of Retirement Pensions (General Provisions) Regulations

This Part amends the Retirement Pensions (General Provisions) Regulations (S.R. & O. No. 38 of 1996).

9. Interpretation

Regulation 2(3) is amended by inserting “(other than a relevant MLA)” after “person” in the first place where it appears.

10. New regulation 5A inserted

The following regulation is inserted after regulation 5 —

“5A. Office of the Legislative Assembly: monthly and annual returns and payment of contributions

(1) The Office of the Legislative Assembly must for each calendar month —

(a) make a monthly return to the Board, in such form as the Board may require; and

(b) remit to the Board together with the monthly return an amount equal to the sum of all contributions due by and on behalf of the relevant MLAs in respect of the weeks beginning in the month to which the return refers.

(2) The monthly return required to be made by the Office of the Legislative Assembly must—

(a) be submitted to the Board before the 14th day of the month following the month to which the return refers, and

(b) contain particulars of —

(i) contributions due to be made by the Office of the Legislative Assembly under section 11 in respects of the weeks beginning in the month to which the return refers; and

(ii) deductions made in accordance with section 14 from allowances payable to the relevant MLAs.

(3) The Office of the Legislative Assembly must also make an annual return to the Board before the 1st of April in the following pension year.

(4) The annual return required to be made by the Office of the Legislative Assembly must —

(a) be in such form as the Board may require; and

(b) contain such information relating to the relevant MLAs as the Board may require.”

PART 4 AMENDMENT OF RETIREMENT PENSIONS (PRESCRIBED RATES) REGULATIONS

11. Amendment of Retirement Pensions (Prescribed Rates) Regulations

This Part amends the Retirement Pensions (Prescribed Rates) Regulations (S.R. & O. No. 39 of 1996).

12. Rates of contributions

(1) This section amends regulation 5.

(2) Regulation 5(1) is amended by adding “; and” and also by adding the following subparagraph —

“(c) for a relevant MLA under section 10(3)(d) is —

(i) £11.50 until 31 December 2009; and

(ii) £12.50 from 1 January 2010.”

(3) The following paragraph is added after regulation 5(2) —

“(2A) For the purposes of the Pensions Ordinance, the weekly rate of contributions by the Office of the Legislative Assembly under section 10(1A) is —

(a) £11.50 until 31 December 2009; and

(b) £12.50 from 1 January 2010.”

13. The earnings limit

Regulation 6 is amended by inserting the words “(other than a relevant MLA)” after “person”.

Passed by the Legislature of the Falkland Islands on 18 December 2009.

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.

ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

Falkland Islands Pensions Scheme (Amendment) Ordinance 2009

(No: 15 of 2009)

ARRANGEMENT OF PROVISIONS

Section

PART 1 – GENERAL PROVISIONS

1. Title
2. Commencement

**PART 2 – AMENDMENT OF FALKLAND ISLANDS PENSION SCHEME
ORDINANCE**

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6. Membership of the Scheme
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8. Section 18 amended

9. New section 18B inserted
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ELIZABETH II



FALKLAND ISLANDS

ALAN EDDEN HUCKLE,
Governor.

FALKLAND ISLANDS PENSIONS SCHEME (AMENDMENT) ORDINANCE 2009

(No: 15 of 2009)

(assented to: 22 December 2009)
(commencement: in accordance with section 2)
(published: 31 December 2009)

AN ORDINANCE

To amend the Falkland Islands Pensions Scheme Ordinance (No. 18 of 1997) and subsidiary legislation made under that Ordinance to provide for contributions to be made to the Falkland Islands Pensions Scheme by and on behalf of Members of the Legislative Assembly.

ENACTED by the Legislature of the Falkland Islands, as follows —

PART 1
GENERAL PROVISIONS

1. Title

This Ordinance is the Falkland Islands Pensions Scheme (Amendment) Ordinance 2009.

2. Commencement

This Ordinance is deemed to have come into force on 6 November 2009.

PART 2
AMENDMENT OF FALKLAND ISLANDS PENSIONS SCHEME ORDINANCE

3. Amendment of Falkland Islands Pensions Scheme Ordinance

This Part amends the Falkland Islands Pensions Scheme Ordinance (No. 18 of 1997).

4. Interpretation

(1) This section amends section 2.

(2) Section 2(1) is amended by —

(a) inserting the following definition after the definition of “additional voluntary contributions” —

““annual and daily allowances” means the allowances payable to MLAs under Parts 2 and 3 of the Schedule to the Members’ Remuneration Ordinance (No. of 2009);”;

(b) inserting the following definition after the definition of “member’s individual account”—

““MLA” means either —

(a) an elected member of the Legislative Assembly; or

(b) during the period between a dissolution of the Legislative Assembly and the next meeting of the Legislative Assembly after that dissolution, a person who was an elected member of the Legislative Assembly immediately before that dissolution took place;”;

(c) inserting the following definitions after the definition of “the Old Scheme Fund” —

(i) “opted-in MLA” means an MLA in respect of whom an opting-in election is in effect;” and

(ii) “opting-in election” means an election made by an MLA in accordance with section 17A(1);”.

(3) The following sub-section is inserted after section 2(2) —

“(2A) For the avoidance of doubt —

(a) an MLA is not (in that capacity) employed in government service; and

(b) any reference to an employee or a self-employed person does not include a reference to an MLA (in that capacity).”

(4) Section 2(4) is repealed and the following sub-section substituted —

“(4) In this Ordinance, any reference to employment is —

(a) a reference to —

(i) employment as an employee;

- (ii) employment as a self-employed person; or
 - (iii) holding office as an MLA (which is to be treated as if it were employment for the purposes of this Ordinance); or
- (b) where the context permits, a reference to employment in one or more of those capacities.”

5. General purpose of Ordinance

Section 4 is amended by repealing “employees and self-employed persons” and substituting “employees, self-employed persons and MLAs”.

6. Membership of the Scheme

(1) This section amends section 17.

(2) Section 17(2) is amended by inserting the following provision after paragraph (b) —

“(ba) any MLA;

(3) The following sub-section is inserted after section 17(3) —

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

- (i) any period before 6 November 2009
- (ii) any period during which the MLA is not an opted-in MLA.”

7. New section 17A inserted

The following section is inserted after section 18A —

“17A. Opting-in elections

(1) An MLA may become an opted-in MLA at any time by —

- (a) making an election to do so in writing;
- (b) sending that election to the Board; and
- (c) providing a copy of the election to the Office of the Legislative Assembly.

(2) An MLA may specify in an opting-in election that it is to take effect from one of the following dates —

- (a) the date on which the opting-in election is made; or

(b) the date on which the MLA was elected to the Legislative Assembly, but only if the opting-in election is made within 3 months of the date on which the MLA was elected to the Legislative Assembly; or

(c) 6 November 2009, but only if —

(i) the MLA making the opting-in election was an MLA on that date; and

(ii) the opting-in election is made within 3 months of the date on which this Ordinance is published in the *Gazette*.

(3) An MLA may cease to be an opted-in MLA at any time by —

(a) revoking the MLA's opting-in election in writing;

(b) sending that revocation to the Board; and

(c) providing a copy of the revocation to the Office of the Legislative Assembly.

(4) A revocation made under sub-section (3) takes effect from the date on which it is made.

(5) An MLA who has revoked an opting-in election under sub-section (3) may only make a further opting-in election with the consent of the Governor.”.

8. Section 18 amended

(1) This section amends section 18.

(2) The heading above section 18 is omitted and the following heading substituted —

“18. Contributions to the Scheme by the Director of Corporate Resources”.

(3) Section 18(1) is amended by inserting “or an opted-in MLA” after “section 17(2)(b),”.

(3) Section 18(2) is amended by inserting “employed in government service” after “person”.

(4) The following sub-section is inserted after section 18(2) —

“(2A) The contribution made by the Director of Corporate Resources in respect of each opted-in MLA must be paid at the end of each month at the rate of 10% of the amount received by the opted-in MLA in respect of annual and daily allowances for that month.”

9. New section 18B inserted

The following section is inserted after section 18A —

“18B. Contributions by opted-in MLAs

(1) A contribution must be made by each opted-in MLA at a rate of 5% of the amount received by the opted-in MLA in respect of annual and daily allowances for each month.

(2) The contributions payable by each opted-in MLA must be —

(a) deducted by the Office of the Legislative Assembly from the allowances payable to the opted-in MLA; and

(b) accounted for by the Office of the Legislative Assembly to the Board.

(3) Contributions made under this section are to be treated as if they were employees’ contributions.”

10. Contributions to the Scheme by other persons

Section 21(1) is amended by inserting “(ba),” after “(a),”.

11. Annual notifications to members of value of individual accounts

Section 25(1) is amended by inserting the following paragraph after paragraph (b) —

“(ba) if the member is or has been an opted-in MLA, the aggregate amount of any contributions made in respect of the member under section 18B;”.

12. Refund of contributions in certain cases

Section 26(1)(a) is amended —

(a) by inserting “(ba),” after “(a),”; and

(b) by repealing “employee” in the second place where it is used and substituting “that member”.

13. References to Financial Secretary amended

The provisions listed in the Schedule are amended by omitting “Financial Secretary” in each place where it appears and substituting “Director of Corporate Resources”.

PART 3

AMENDMENT OF FALKLAND ISLANDS PENSIONS SCHEME (SCHEME ACCOUNTS) REGULATIONS

14. Amendment of Falkland Islands Pensions Scheme (Scheme Accounts) Regulations

This Part amends the Falkland Islands Pensions Scheme (Scheme Accounts) Regulations (S.R. & O. No. 1 of 1999).

15. Requirement to keep Schedule of Payments and other books and records

Regulation 3(1) is amended by adding “; and” and also by adding the following sub-paragraph—

“(e) contributions made in respect of opted-in MLAs under sections 18 and 18B.”

PART 4
AMENDMENT OF FALKLAND ISLANDS PENSIONS SCHEME (GENERAL PROVISIONS) REGULATIONS

16. Amendment of Falkland Islands Pensions Scheme (General Provisions) Regulations

This Part amends the Falkland Islands Pensions Scheme (General Provisions) Regulations (S.R. & O. No. 2 of 1999, as amended).

17. New regulation 9A inserted

The following regulation is inserted after regulation 9 —

“9A. Particulars to be provided by the Office of the Legislative Assembly

(1) The Office of the Legislative Assembly must provide the Board with the full name, date of birth, sex and address of each opted-in MLA.

(2) The Office of the Legislative Assembly must comply with paragraph (1) in relation to each opted-in MLA not later than 30 days after the date on which the first normal contribution to that opted-in MLA is payable to the Scheme.

(3) The Office of the Legislative Assembly must notify the Board of any change of address of an opted-in MLA of which it becomes aware.”

18. Employers’ returns, and payment of employers’ and employees’ contributions

Regulation 12 is amended by adding the following paragraph —

“(7) The Office of the Legislative Assembly must comply with this regulation in relation to contributions made by and on behalf of opted-in MLAs as if it were the opted-in MLAs’ employer.”

19. Registers of members and employers

(1) This section amends regulation 13.

(2) Regulation 13(1) is amended by —

(a) inserting the following sub-paragraph after sub-paragraph (c) —

“(ca) in the case of the case of a member who is (or has been) an opted-in MLA, a full history of contributions made by or on behalf of the member under sections 18 and 18B;”

(b) inserting the following sub-paragraph after sub-paragraph (d) —

“(da) in the case of a member who is (or has been) an MLA, a full history of any opting-in elections and revocations of such elections made by the MLA;”

(3) The following paragraph is inserted after regulation 13(2) —

“(2A) The Board must include the Office of the Legislative Assembly in the register of employers as if it were the employer of all members who are (or have been) opted-in MLAs.”

(4) The following paragraph is added —

“(8) Paragraphs (4) and (6) apply to the Office of the Legislative Assembly as if it were the employer of members who are (or have been) opted-in MLAs.”

PART 5
AMENDMENT OF FALKLAND ISLANDS PENSIONS SCHEME (COMPLAINTS PROCEDURES) REGULATIONS

20. Amendment of Falkland Islands Pensions Scheme (Complaints Procedures) Regulations

This Part amends the Falkland Islands Pensions Scheme (Complaints Procedures) Regulations (S.R. & O. No. 16 of 2004).

21. Complaints

Regulation 4(3) is amended by omitting “Financial Secretary” in each place where it appears and substituting “Director of Corporate Resources”.

22. Persons who can make complaints

Regulation 5 is amended by inserting the following paragraph after paragraph (d)—

“(da) the Office of the Legislative Assembly;”.

23. Complaints: procedure

Regulation 7(2) is amended by inserting “or the Office of the Legislative Assembly” after “employer” in the each place where it appears.

SCHEDULE
AMENDMENT OF REFERENCES TO FINANCIAL SECRETARY:
LIST OF PROVISIONS

(section 13)

Section 5(1)

Sections 18(1), (2) and (3)

Section 24(4)

Section 27(3)

Sections 33(2), (2A) and (2C)

Section 33A(4), (7), (10), (11) and (12)

Section 43

Paragraph 2(2) of Schedule 1
Paragraphs 7(1) and (2) of Schedule 1
Paragraphs 3(1) and (2) of Schedule 3
Paragraph 4(1) of Schedule 3
Paragraph 5(2) of Schedule 3
Paragraphs 5A(3B), (3C), (3D) and (3F) of Schedule 3
Paragraphs 6(3) and (6) of Schedule 3
Paragraphs 2(1), (2), (3) and (4) of Schedule 4
Paragraph 3(1) of Schedule 4
Paragraph 2(3) of Schedule 5
Paragraphs 4(1), (3), (4) and (5) of Schedule 5
Paragraph 9(2) of Schedule 5

Passed by the Legislature of the Falkland Islands on 18 December 2009.

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.