

Interpretation and General Clauses Ordinance

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Assented to in Her Majesty's name this 7th day of July 1977.

J. R. W. PARKER,
Governor.

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No. 14

1977

Colony of the Falkland Islands

IN THE TWENTY-SIXTH YEAR OF THE REIGN OF
Her Majesty Queen Elizabeth II.

JAMES ROLAND WALTER PARKER, O.B.E.
Governor.

An Ordinance

Title.

To consolidate and amend the law relating to the construction, application and interpretation of laws, to make general provisions with regard thereto, to define terms and expressions used in laws and public documents, to make general provision with regard to public officers, public contracts and civil and criminal proceedings and for purposes and for matters incidental thereto or connected therewith.

Date of commencement.

(11th July 1977)

Enacting clause.

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

PART I

SHORT TITLE AND APPLICATION

Short title.

1. This Ordinance may be cited as the Interpretation and General Clauses Ordinance.

Application.

2. (1) Save where the contrary intention appears either from this Ordinance or from the context of any other Ordinance or instrument, the provisions of this Ordinance shall apply to this Ordinance and to any other Ordinance in force, whether such other Ordinance came or comes into operation before or after the commencement of this Ordinance, and to any instrument made or issued under or by virtue of any such Ordinance.

(2) This Ordinance shall be binding on the Crown.

PART II

INTERPRETATION OF WORDS AND EXPRESSIONS

3. "act", when used with references to an offence or civil wrong, includes a series of acts, an illegal omission and a series of illegal omissions;
- "Act" and "Statute" mean an Act or Statute of Parliament;
- "adult" means a person who has attained the age of eighteen years;
- "aircraft" means any machine that can derive support in the atmosphere from the reactions of the air;
- "alien" means any person who is not a British subject, a British protected person or a citizen of the Republic of Ireland;
- "amend" means repeal, revoke, cancel, add to or vary and the doing of all or any of such things simultaneously or by the same Ordinance or instrument;
- "arrestable offence" means an offence for which the sentence is fixed by law or for which a person may under or by virtue of any law be sentenced to imprisonment for a term exceeding twelve months, and an attempt to commit any such offence;
- "Attorney General" means the Attorney General of the Falkland Islands;
- "British subject" means a person who is a British subject by virtue of any provision of the British Nationality Act 1948;
- "Christian name" means any name prefixed or suffixed to a surname, whether received in Christian baptism or otherwise;
- "Clerk of Councils" means the Clerk to the Executive Council and the Legislative Council and any person appointed by the Governor to be Deputy Clerk of Councils;
- "coin" means gold, silver, bronze, cupro-nickel or other coin in use as legal currency in the Falkland Islands;
- "The Colony" means the Colony of the Falkland Islands and shall be deemed to include the territorial waters thereof;
- "Colonial waters" include territorial waters;
- "Chief Secretary" means the Chief Secretary of the Falkland Islands and the Deputy Chief Secretary;
- "commencement", when used with reference to any Ordinance, means the date on which the Ordinance came or comes into operation;
- "committed for trial", when used in relation to any person, means —
 - (a) committed to prison with a view to his being tried before the Supreme Court; or
 - (b) admitted to bail upon recognizance to appear and stand his trial before the Supreme Court;
- "common law" means the common law of England;
- "consul" and "consular officer" mean any person, including the head of a consular post, recognized by the competent authority of the receiving state as entrusted in that capacity with the exercise of consular functions;

Interpretation of words and expressions.

(1948 c. 56)

"contravene" in relation to any requirement or condition prescribed in any Ordinance or in any grant, permit, licence, lease or authority granted under or by virtue of any Ordinance includes a failure to comply with that requirement or condition;

"court" means any court of the Colony of competent jurisdiction;

"Crown Agents" means the persons or body for the time being acting as Crown Agents for Oversea Governments and Administrations;

"Crown lease" means any lease granted by the Crown, any instrument whereby the term of a Crown lease may have been extended or the provisions thereof varied and any agreement for a Crown lease;

"daily penalty" means a penalty for each day on which the offence is continued after conviction therefor;

"definition" means the interpretation given by an Ordinance to any word or expression;

"The Dependencies" mean the Dependencies of the Colony of the Falkland Islands, and shall be deemed to include the territorial waters thereof;

"document" means any publication and any matter written, expressed or described upon any substance by means of letters, characters, figures or marks, or by more than one of these means;

"Dues" means rates, taxes and duties;

"Estate" means any estate, right, title, interest, claim or demand in to or upon property;

"Executive Council" means the Executive Council of the Falkland Islands;

"export" means to take out or cause to be taken out of the Colony by air, land or water;

"Financial Secretary" means the Financial Secretary of the Falkland Islands and the Deputy Financial Secretary;

"financial year" means the period from the 1st day of July in any year to the 30th day of June in the immediately succeeding year, both days inclusive;

"folio" means seventy-two words;

"Gazette" means —

- (a) the Falkland Islands Government Gazette and any supplement thereto; and
- (b) any Special Gazette or Gazette Extraordinary;

"Gazetted" means published in the Gazette;

"Government" means the Government of the Falkland Islands;

"Government Notice" or "General Notice" means an announcement not of a legislative character made by or with the authority of the Governor in the Gazette;

"Government Printer" means the Government Printer of the Falkland Islands and any other printer authorized by or on behalf of the Governor to print the Gazette, any Ordinance or any other document of the Government;

"Governor" means —

- (a) the Governor of the Falkland Islands;
- (b) the Acting Governor;
- (c) to the extent to which a deputy to the Governor is authorized to perform on behalf of the Governor any functions of the Governor, the Deputy to the Governor; and
- (d) the officer for the time being administering the Government of the Colony;

"Governor in Council", "Governor in Executive Council" and "Governor with the advice of the Executive Council" mean the Governor acting after consultation with the Executive Council in accordance with Royal Instructions but not necessarily in such Council assembled nor necessarily in accordance with such advice;

"Harbour" means any port declared a harbour by the Governor in Council;

"health officer" means —

- (a) the Senior Medical Officer;
- (b) any person appointed as a health officer by the Governor; and
- (c) any person for the time being performing the duties of a health officer under any Ordinance;

"immovable property" means —

- (a) land, whether covered by water or not;
- (b) any estate, right, interest or easement in or over any land; and
- (c) things attached to land or permanently fastened to anything attached to land;

"imperial enactment" means —

- (a) any Act;
- (b) any Order in Council;
- (c) any Letters Patent or Royal Instructions; and
- (d) any rule, regulation, proclamation, order, notice, rule of court, by-law, or other instrument made under or by virtue of any Act, Order in Council, Letters Patent or Royal Instructions;

"import" means to bring or cause to be brought into the Colony by air, land or water;

"infant" and "minor" mean a person who has not attained the age of eighteen years;

"instrument" includes any publication in the Gazette having legal effect;

"judge" means the person nominated or any judge appointed by the Governor under section 8 of the Administration of Justice Ordinance;

"justice" and "justice of the peace" mean a person appointed to be a justice of the peace for the Colony either by the Governor or by or under any Ordinance;

"land" means land and any messuages, houses, building or other constructions standing thereon;

"law" means any law for the time being in force in, having legislative effect in, extending to, or applicable in, the Colony;

Cap. 3.

"Legislative Council" means the Legislative Council of the Falkland Islands;

"Magistrate" means a person appointed by the Governor to be a Magistrate for the Colony;

"master", when used with reference to a vessel, means the person (except a pilot) having for the time being command or charge of the vessel;

"medical practitioner", "registered medical practitioner" and any words importing that a person is recognized by any Ordinance to be a medical practitioner in the Falkland Islands or a member of the medical profession in the Falkland Islands, mean a person duly registered as, or deemed to be registered as, a medical practitioner under the Medical Practitioners, Midwives and Dentists Ordinance;

Cap. 45.

"month" means calendar month;

"movable property" means property of every description except immovable property;

"oath" and "affidavit" include, in the case of persons allowed or required by law to affirm instead of swearing, affirmation; and "swear" in the like case includes affirm;

"occupy" includes use, inhabit, be in possession of or enjoy the land or premises to which the word relates, otherwise than as a mere servant or for the mere purpose of the care, custody or charge thereof;

"occupier" means any person who uses, inhabits, possesses, or enjoys the premises in respect of which that word is used otherwise than as a servant or caretaker;

"offence" includes any crime, treason, felony or misdemeanour and any contravention or other breach of, or failure to comply with, any provision of any Ordinance, for which a penalty is provided;

"or", "other" and "otherwise" shall be construed disjunctively and not as implying similarity, unless the word "similar" or some other word of like meaning is added;

"Order in Council" means an order made by Her Majesty in Her Privy Council;

"Ordinance" and "enactment" mean —

(a) any Ordinance enacted by the Governor by and with the advice and consent of the Legislative Council; and

(b) any subsidiary legislation made under any such Ordinance or proclamation;

"Owner" means a person receiving the rent of the property in respect of which that word is used either on his own account, or as trustee, agent, or manager, or who would receive the same if such property were let to a tenant;

"Parliament" and "Imperial Parliament" mean the Parliament of England, the Parliament of Great Britain and the Parliament of the United Kingdom;

"per cent", when used in relation to a rate of interest payable in any circumstances, means the rate of interest specified payable in respect of a year, unless it is expressly provided that it is payable in respect of any other period;

"person" includes any public body and any body of persons, corporate or unincorporate, and this definition shall apply notwithstanding that the word "person" occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation;

"personal name" means the names other than a surname which a person most commonly adopts in conjunction with his surname or, in the case of a person having no surname, the names which he commonly adopts;

"pier" includes every quay, wharf or jetty of whatever description connected to and having direct access to the shore and used or intended to be used for the purposes of a pier, quay, wharf or jetty;

"police officer" and terms or expression referring to ranks in the Falkland Islands Police Force shall bear the meanings respectively assigned to them by the Police Ordinance;

"power" includes any privilege, authority and discretion;

"prescribed" and "provided", when used in or with reference to any Ordinance, mean prescribed or provided by that Ordinance or by subsidiary legislation made under that Ordinance;

"prison" means any place or building or portion of a building set apart for the purpose of a prison under any Ordinance relating to prisons;

"Privy Council" means the Lords and others for the time being of Her Majesty's Most Honourable Privy Council;

"Proclamation" means a proclamation of the Governor under the Public Seal;

"property" includes —

(a) money, goods, choses in action and land; and

(b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a) of this definition;

"public" includes any class of the public;

"publication" means —

(a) all written and printed matter;

(b) any record, tape, wire, perforated roll, cinematograph film or other contrivance by means of which any words or ideas may be mechanically, electronically or electrically produced, reproduced, represented or conveyed;

(c) anything whether of a similar nature to the foregoing or not, containing any visible representation, or by its form, shape, or in any manner, capable of producing, reproducing, representing or conveying words or ideas; and

(d) every copy and reproduction of any publication as defined in paragraphs (a), (b) and (c) of this definition;

"public body" includes —

(a) the Executive Council;

(b) the Legislative Council;

(c) any department of the Government; and

(d) any undertaking by or of the Government;

"public holiday" and "general holiday" mean any day which is appointed to be a general holiday under the provision of section 73;

"public office" means any office or employment the holding or discharging of which by a person would constitute that person a public officer;

"public officer" and "public servant" mean any person holding an office of emolument under the Crown in right of the Government of the Falkland Islands, whether such office be permanent or temporary;

"public place" means —

- (a) any public street or pier, or any public garden; and
- (b) any theatre, place of public entertainment of any kind, or other place of general resort, admission to which is obtained by payment or to which the public have or are permitted to have access;

"public seal" means the public seal of the Falkland Islands;

"registered", when used with reference to a document, means registered under the provisions of any law applicable to the registration of such document;

"Registrar" means the Registrar of the Supreme Court;

"repeal" includes rescind, revoke, cancel or replace;

"rules of court", when used in relation to any court, means rules made by the authority having for the time being power to make rules and orders regulating the practice and procedure of such court;

"Secretary of State" means one of Her Majesty's Principal Secretaries of State for the time being;

"sell" includes exchange and barter;

"ship" includes every description of vessel used in navigation not exclusively propelled by oars;

"sign" includes, in the case of a person unable to write, the affixing or marking of a seal, mark or thumbprint;

"Stanley" means the area defined in the Stanley Rates Ordinance;

"standard time" means standard time as defined in section 68;

"statutory declaration", if made —

- (a) in the Colony, means a declaration under the Statutory Declaration Act 1835;
- (b) in any part of the Commonwealth except the Colony, means a declaration made before a justice of the peace, notary public, or other person having authority therein under any legal provision for the time being in force in such part to take or receive a declaration;
- (c) in any other place, means a declaration before a British consul or person having authority under any Act for the time being in force to take or receive a declaration;

"street" and "road" mean —

- (a) any highway, street, road, bridge, thoroughfare, parade, square, court, alley, lane, bridle-way, footway, passage, tunnel; and

- (b) any open place, whether situate on land leased from the Crown or not, used or frequented by the public or to which the public have or are permitted to have access;

"Suburban land" or "suburbs" means (1) land outside Stanley bounded on the north by the Murrel River and Port William, on the south and east by Port Harriet and the sea and on the west by a line drawn from a point on the Murrel River commonly known as "Furze Bush" to the summit of Mount Harriet and thence along the eastern boundary of No. 1 section to the west of Port Harriet, and (2) land outside the limit or boundary of any place declared to be a town but not more than six miles from the centre of such town;

"subsidiary legislation" and "regulations" mean any proclamation, rule, regulation, order, resolution, notice, rule of court, by-law or other instrument made under or by virtue of any Ordinance and having legislative effect;

"summary conviction" means a summary conviction by a magistrate in accordance with the provisions of the Administration of Justice Ordinance;

"Supreme Court" means the Supreme Court of the Falkland Islands;

"territorial waters" means such part of the sea adjacent to the coast of the Colony as is deemed by international law to constitute the territorial waters of the Falkland Islands;

"Town" means land within the limits of any place declared to be a Town under section 103 of this Ordinance;

"treaty" means a treaty, convention or agreement made with a foreign state, and any protocol or declaration attached thereto or independent thereof but referring thereto;

"triable summarily" means triable by a magistrate, in accordance with the provisions of the Administration of Justice Ordinance;

"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;

"vessel" means any ship or boat and any description of vessel used in navigation;

"waters of the Colony" and "Colonial waters" mean —

- (a) all waters, whether navigable or not, included in the Colony; and
- (b) territorial waters;

"will" includes any testamentary instrument;

"words" includes figures and symbols;

"writing" and "printing" include writing, printing, lithography, photography, typewriting and any other mode of representing words in a visible form;

"year" means a year according to the Gregorian calendar;

"years of age" and words of a like meaning, when used with reference to the age of any person, mean years of age according to the English reckoning of ages.

4. (1) "Commonwealth" means collectively —
- (a) the United Kingdom;

Definitions of "Commonwealth" and "British" territory.

- (b) any British territory; and
(c) any other state or territory which may be specified by the Governor in accordance with the provisions of subsection (3).

(2) "British territory" and "British possession" mean any state or territory which may be specified by the Governor in accordance with the provisions of subsection (3).

(3) The Governor may, by notice in the Gazette, order that any state or territory shall be a state or territory specified for the purposes of paragraph (c) of subsection (1) or of subsection (2).

Grammatical variations and cognate expressions.

5. Where any word or expression is defined in any Ordinance, such definition shall extend to the grammatical variations and cognate expressions of such word or expression.

References to Government property.

6. Where reference is made in any Ordinance to property and the expressions used in relation thereto imply that such property is owned by, or belongs to, the Government, or convey a similar meaning, such reference shall be deemed to refer to such of the property of the Crown of the description mentioned as has been appropriated to the use of the Government.

Provisions for gender and number.

7. (1) Words and expressions importing the masculine gender include the female.

(2) Words and expressions in the singular include the plural and words and expressions in the plural include the singular.

Service by post.

8. Where any Ordinance authorizes or requires any documents to be served or any notice to be given by post or by registered post, whether the expression "serve" or "give" or "send" or any other expression is used, the service or notice shall be deemed to be effected by properly addressing, pre-paying the postage thereon and dispatching it by post or by registered post, as the case may be, to the last known postal address of the person to be served or given notice, and, unless the contrary is proved, such service or notice shall be deemed to have been effected at the time at which the document or notice would be delivered in the ordinary course of post.

PART III

GENERAL PROVISIONS AS TO ORDINANCES

Ordinance to be public Ordinance.

9. Every Ordinance shall be a public Ordinance and shall be judicially noticed as such.

Sections and schedules.

10. (1) Every section of an Ordinance shall have effect as a substantive enactment without introductory words.

(2) Every schedule to or table in any Ordinance and any notes to such schedule or table shall be construed and have effect as part of such Ordinance.

Citation of Ordinance.

11. (1) Where any Ordinance is referred to, it shall be sufficient for all purposes to cite such Ordinance by—

- (a) the title, short title or citation thereof;
(b) its number among the Ordinances of the year in which it was enacted; or
(c) by any chapter number lawfully given to it under the authority of any Ordinance providing for the issue of a revised or other edition of the laws of the Falkland Islands.

(2) Any reference made to any Ordinance, in accordance with the provisions of subsection (1), may be made according to the title, short title, citation, number or chapter number used in copies of Ordinances printed by the Government Printer.

12. The printing by the Government Printer of any duly enacted Ordinance, or of any official document countersigned by the Chief Secretary or by any person duly authorized by the Governor, shall be a sufficient publication and promulgation thereof.

Government publications.

13. (1) Where it is provided that any Ordinance may, as to the whole or any part thereof, be cited with any other Ordinance or with any group of Ordinances, all such Ordinances shall be read and construed together, and any such group shall be construed as including such first mentioned Ordinance.

Collective citation.

(2) Where it is provided that two or more Ordinances may together be cited by a collective short title or citation containing therein the years of the first and last of such Ordinances, such short title or citation shall be construed to include all the Ordinances covered by the same, or any of them.

14. (1) Where in any Ordinance a reference is made to another Ordinance, such reference shall be deemed to include a reference to such last mentioned Ordinance as the same may from time to time be amended.

Reference to Ordinance as amended.

(2) Where any Ordinance repeals and re-enacts, with or without modification, any provision of a former Ordinance, references in any other Ordinance to the provision so repealed shall be construed as references to the provision so re-enacted.

15. In any Ordinance a description or citation of a portion of an Ordinance shall be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Citation of part of Ordinance.

16. (1) Any reference in any Ordinance to "any Ordinance" or to "any enactment" shall be construed as a reference to any Ordinance for the time being in force.

Construction of reference to Ordinance, section, etc.

(2) Where in any Ordinance there is a reference to a section, Part, Chapter or schedule by number or letter only, and not in conjunction with the title or short title of any other Ordinance, such reference shall be construed as a reference to the section, Part, Chapter, or schedule of that number or letter contained in the Ordinance in which such reference occurs.

(3) Where in any section of any Ordinance there is a reference to a subsection, paragraph, sub-paragraph or other division by number or letter only, and not in conjunction with the number of any section of that or of any other Ordinance, such reference shall be construed as a reference to the subsection, paragraph, sub-paragraph or other division of that number or letter contained in the section in which such reference occurs.

(4) The provisions of subsections (2) and (3) shall apply *mutatis mutandis* to subsidiary legislation.

(5) Any reference to an Ordinance in any Ordinance shall include a reference to any subsidiary legislation made under the Ordinance to which reference is made.

17. (1) Where any section, subsection or paragraph of any Ordinance is taken verbatim from, or is substantially similar to, a section, subsection or paragraph of any imperial enactment, there may be added to the marginal note of the section, subsection or paragraph of the Ordinance a reference, in abbreviated form, to such section, subsection or paragraph of the imperial enactment.

Marginal notes.

(2) A reference added under subsection (1) shall not have any legislative effect and shall not in any way vary, limit or extend the interpretation of any Ordinance.

(3) A marginal note to any provision of any Ordinance shall not have any legislative effect and shall not in any way vary, limit or extend the interpretation of any Ordinance.

General principles of interpretation.

18. An Ordinance shall be deemed to be remedial and shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Ordinance according to its true intent, meaning and spirit.

Inspection of Ordinances.

19. A copy of any Ordinance shall be available for inspection during office hours at any place appointed by the Governor.

PART IV

COMMENCEMENT, DISALLOWANCE, AMENDMENT AND REPEAL

Commencement of Ordinance.

20. Every Ordinance shall —

- (a) be published in the Gazette; and
- (b) come into operation on the expiration of the day next preceding the day of such publication or, if it is provided in the Ordinance or in some other law that such Ordinance shall come into operation on some other day, then it shall come into operation on the expiration of the day next preceding such other day.

Disallowance.

21. (1) Where any Ordinance is disallowed by Her Majesty, such disallowance shall be notified by the Governor by notice in the Gazette; and from and after the date of publication of such notice the Ordinance shall cease to have effect.

(2) Where notice of disallowance of any Ordinance is notified in accordance with the provisions of subsection (1), the provisions of section 23 shall apply in respect of such disallowance as if the words "disallowance" and "disallowed" were substituted therein for the words "repeal" and "repealed" respectively.

(3) Any Ordinance repealed or amended by any Ordinance disallowed shall revive and continue in force in its original form with effect from the date of publication of the notice referred to in subsection (1).

Ordinance and amending Ordinance to be read as one.

22. Any Ordinance which amends any other Ordinance shall be read and construed as one with the amended Ordinance, and the amended Ordinance may, in the amending Ordinance, be referred to as the "principal Ordinance", "principal regulations" or as the case may be.

Effect of repeal generally.

23. Where an Ordinance repeals in whole or in part any other Ordinance, the repeal shall not —

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any Ordinance so repealed or anything duly done or suffered under any Ordinance so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any Ordinance so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any Ordinance so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty,

forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.

24. Where any Ordinance repealing in whole or in part any former Ordinance is itself repealed, such last repeal shall not revive the Ordinance or provision previously repealed, unless provision is made to that effect.

Repealed Ordinance not revived.

25. Where any Ordinance repeals in whole or in part any other Ordinance and substitutes other provisions therefor, the repealed Ordinance shall remain in force until the substituted provisions come into operation.

Repeal and substitution.

26. Where any Ordinance which has been amended by any other Ordinance is repealed, such repeal shall include the repeal of all those provisions of such other Ordinance by which such first mentioned Ordinance was amended.

Repeal of amended Ordinance to include amendments.

27. Upon the expiry or lapse of any Ordinance, the provisions of section 23 shall apply as if such Ordinance had been repealed.

Effect of expiry of Ordinance.

PART V

SUBSIDIARY LEGISLATION

28. Where an Ordinance confers power on any authority to make subsidiary legislation, the following provisions shall have effect with reference to the making thereof —

General provision with regard to power to make subsidiary legislation.

- (a) when any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made in exercise of all other powers thereunto enabling;
- (b) no subsidiary legislation shall be inconsistent with the provisions of any Ordinance;
- (c) subsidiary legislation may at any time be amended by the same authority and in the same manner by and in which it was made:

Provided that where such authority has been replaced wholly or in part by another authority, the power conferred hereby upon the original authority may be exercised by the replacing authority concerning all matters or things within its jurisdiction as if it were the original authority;

- (d) where any Ordinance confers power on any authority to make subsidiary legislation for any general purpose, and also for any special purpose incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
- (e) subsidiary legislation may provide that a contravention or breach thereof shall be punishable on summary conviction by such fine not exceeding two hundred pounds or by such term of imprisonment not exceeding six months as may be specified in the subsidiary legislation or by both such fine and imprisonment;
- (f) subsidiary legislation may amend any forms contained in the Ordinance under which such subsidiary legislation is made and may prescribe new forms for the purpose thereof and for the purposes of such subsidiary legislation; and

(g) subsidiary legislation may provide for the imposition of fees and charges in respect of any matter with regard to which provision is made in such subsidiary legislation or in the Ordinance under which such subsidiary legislation is made.

Fees and charges.

29. (1) Where provision is made by any subsidiary legislation in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters —

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances;
- (e) the exemption of any person or class of persons from the payment of fees or charges; and
- (f) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by any subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specially —

- (a) in respect of certain matters or transactions or classes of matters or transactions;
- (b) in respect of certain documents or classes of documents;
- (c) in respect of the occurrence or the termination of any event;
- (d) in respect of certain persons or classes of persons; or
- (e) in respect of any combination of such matters, transactions, documents, events or persons,

and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.

30. Subsidiary legislation shall be judicially noticed.

Effect of subsidiary legislation.

Construction of subsidiary legislation.

31. Where any Ordinance confers power to make any subsidiary legislation, expressions used in the subsidiary legislation shall have the same meaning as in the Ordinance conferring the power, and any reference in such subsidiary legislation to "the Ordinance" shall be construed as a reference to the Ordinance conferring the power to make such subsidiary legislation.

Exercise of statutory powers between enactment and commencement of Ordinance.

32. Where an Ordinance is not to come into operation on or before the expiration of the day next preceding the day of the publication thereof and confers power to make any appointment, to make any subsidiary legislation, to issue notices, to prescribe forms or to do any other thing for the purposes of the Ordinance, such power may be exercised at any time after the publication of the Ordinance in the Gazette:

Provided that any appointment, subsidiary legislation, instrument, notice, form or thing made, granted, issued, prescribed, given or done under such power shall not, unless the appointment, subsidiary legislation, instrument, notice, form or thing is necessary for bringing the Ordinance into operation, come into operation or have any effect until the Ordinance comes into operation.

Acts done under subsidiary legislation deemed done under Ordinance.

33. An act shall be deemed to be done under an Ordinance or by virtue of the powers conferred by an Ordinance or in pursuance or execution of the provisions of or under the authority of an Ordinance, if it is done under or by virtue of or in pursuance or execution

of or under the authority of subsidiary legislation made under any power contained in that Ordinance.

34. (1) All rules, regulations and by-laws shall be laid on the table of the Legislative Council at the next sitting thereof after the publication in the Gazette of such rules, regulations or by-laws.

Placing of rules, regulations and by-laws before Legislative Council.

(2) Where rules, regulations or by-laws have been laid on the table of the Legislative Council, in accordance with the provisions of subsection (1), the Legislative Council may, by resolution passed at the next sitting of the Legislative Council held after the sitting at which they were so laid, provide that any such rules, regulations or by-laws shall be amended in any manner whatsoever and if any such resolution is so passed, the said rules, regulations or by-laws shall, without prejudice to anything done thereunder, be deemed to be amended as from the date of publication in the Gazette of such resolution.

(3) Any resolution passed by the Legislative Council in accordance with subsection (2) shall be published in the Gazette not later than fourteen days after the passing thereof or within such further period as the Governor may allow in any particular case.

35. Where any Ordinance provides that subsidiary legislation shall be subject to the approval of the Legislative Council or of any other authority, or contains words to the like effect, then —

Approval of Legislative Council to subsidiary legislation.

- (a) the subsidiary legislation shall be submitted for the approval of the Legislative Council or other authority; and
- (b) the Legislative Council may by resolution or the other authority may by order amend the whole or any part of the subsidiary legislation.

36. (1) Where any Ordinance —

Effect of repeal on subsidiary legislation.

- (a) repeals any former Ordinance and substitutes other provisions therefor; or
- (b) repeals any former Ordinance and re-enacts such former Ordinance with or without modification,

any subsidiary legislation made under the former Ordinance and in force at the commencement of the repealing Ordinance shall, so far as it is not inconsistent with the repealing Ordinance, continue in force and have the like effect for all purposes as if made under the repealing Ordinance.

(2) Where any subsidiary legislation is continued in force by virtue of subsection (1), such subsidiary legislation may be from time to time amended as if it had been made under the repealing Ordinance.

37. Where any form is prescribed by or under any Ordinance, deviations therefrom, not affecting the substance of such form shall not invalidate it.

Forms.

PART VI

POWERS

38. Where any Ordinance confers power upon any person to —

Presumption of lawful exercise of power.

- (a) make any subsidiary legislation;
- (b) make any instrument; or
- (c) exercise any power,

and the Ordinance conferring the power prescribes conditions, subject to the observance, performance or existence of which any such power may be exercised, such conditions shall be presumed to have been

duly fulfilled if in the subsidiary legislation or instrument exercising the power there is a statement that the subsidiary legislation or instrument is made, or the power exercised, in exercise of, or in pursuance of, the power conferred by such Ordinance, or a statement to the like effect.

Exercise of powers.

39. (1) Where any Ordinance confers any power or imposes any duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where any Ordinance confers any power or imposes any duty on the holder of any public office as such, then the power may be exercised and the duty shall be performed by the holder for the time being of that public office.

Construction of enabling words.

40. (1) Where any Ordinance confers upon any person power to do or enforce the doing of any act or thing, all such powers shall be deemed to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

(2) Without prejudice to the generality of subsection (1), where any Ordinance confers power —

- (a) to provide for, prohibit, control or regulate any matter, such power shall include power to provide for the same by the licensing thereof and power to prohibit acts whereby the prohibition, control or regulation of such matter might be evaded;
- (b) to grant a licence, Crown lease, permit, authority, approval or exemption, such power shall include power to impose reasonable conditions subject to which such licence, Crown lease, permit, authority, approval or exemption may be granted;
- (c) to approve any person or thing, such power shall include power to withdraw approval thereof;
- (d) to give directions, such power shall include power to couch the same in the form of prohibitions.

(3) Without prejudice to the generality of subsection (1), whenever in any Ordinance the expression "as the Governor may appoint" or "as the Governor may direct" or "as the Governor may specify" or "as the Governor may prescribe" or "as may be designated by the Governor", or any similar expression referring to the Governor, appears and no power is expressly conferred upon the Governor to make the appointment, give the direction or specification, prescribe or make the designation, as the case may be, such power shall nevertheless be deemed to be conferred.

(4) Subsection (3) shall have effect in relation to the Governor in Council, a public officer, a public body or other person as it has effect in relation to the Governor.

Power to issue licences, etc., discretionary.

41. (1) Where any Ordinance confers power upon any person to issue, grant, give or renew any licence, Crown lease, authority, approval or permit, the person so empowered shall have a discretion either to issue, grant, give or renew or to refuse to issue, grant, give or renew such licence, Crown lease, authority, approval or permit.

(2) Nothing in this section shall affect any right which may be conferred by any Ordinance upon any person to appeal against a refusal to issue, grant, give or renew any licence, Crown lease, authority, approval or permit.

Power to appoint includes power to suspend, dismiss, re-appoint, etc.

42. Where any Ordinance confers a power or imposes a duty upon any person to make any appointment or to constitute or establish any board, tribunal, commission, committee or similar body, then the person having such power or duty shall also have the power —

- (a) to remove, suspend, dismiss or revoke the appointment of, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;
- (b) to revoke the appointment, constitution or establishment of, or to dissolve, any board, tribunal, commission, committee or similar body appointed, constituted or established, in exercise of such power or duty, and to re-appoint, reconstitute or re-establish the same; and
- (c) to specify the period for which any person appointed in exercise of such power or duty shall hold such appointment:

Provided that where the power or duty of such person so to act is only exercisable upon the recommendation, or is subject to the approval or consent, of some other person, then such power shall only be exercisable upon such recommendation or subject to such approval or consent.

43. (1) Where any Ordinance confers powers or imposes duties upon a specified public officer, such officer may delegate any other public officer or the person for the time being holding any office designated by him to exercise such powers or perform such duties on his behalf and thereupon, or from the date specified by such specified public officer, the person delegated shall have and may exercise such powers and perform such duties.

Delegation by specified public officers.

(2) Nothing in subsection (1) shall authorize a specified public officer to delegate any person to making subsidiary legislation or to hear any appeal.

(3) Where any Ordinance confers any power or imposes any duty upon a specified public officer and such power is exercised or such duty is performed by any other public officer, the specified public officer shall, unless the contrary is proved, be deemed to have delegated the latter public officer under subsection (1) to exercise the power or perform the duty.

(4) In this section "specified public officer" means the person for the time being holding any public office which has been specified, either generally or for the purposes of any particular Ordinance, under this section by the Governor by notice in the Gazette.

44. (1) Where any Ordinance confers power upon any person to delegate the exercise on his behalf of any of the powers or the performance of any of the duties conferred or imposed upon him under any Ordinance —

Effect of delegation of powers and duties.

- (a) such delegation shall not preclude the person so delegating from exercising or performing at any time any of the powers or duties so delegated;
- (b) such delegation may be conditional, qualified or limited in such manner as the person so delegating may think fit;
- (c) where the delegation may be made only with the approval of some person, such delegation may be conditional, qualified or limited in such manner as the person whose approval is required may think fit;
- (d) the delegation may be to a named person or to the person for the time being holding any office designated by the person so delegating; and
- (e) any delegation may be amended by the person so delegating.

(2) The delegation of any power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of any duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.

Exercise of powers in special cases.

45. Where any Ordinance confers any power or imposes any duty upon the holder of any public office and either —

- (a) that office has been abolished; or
- (b) no person has been appointed to discharge the functions of that office;

those powers and duties may be exercised or performed —

- (i) in the case of making subsidiary legislation, by the Governor; and
- (ii) in any other case, by the holder of such other public office as the Governor may by order direct.

Power to make public instruments and perform acts.

46. Where any Ordinance confers power upon any person to make, issue or approve any proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list, such power shall include power —

- (a) to amend or suspend such proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list;
- (b) to substitute another proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list for one already made, issued or approved;
- (c) to withdraw approval of any proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list so approved; and
- (d) to declare the date of the coming into operation, and the period of operation, of any such proclamation, order, notice, declaration, instrument, notification, licence, permit, register or list.

Power to relate back appointment.

47. Any appointment made under the provisions of any Ordinance may be declared to have effect as from the date upon which the person appointed in fact began to exercise the powers and perform the duties of his appointment, not being a date earlier than the commencement of the Ordinance under which the appointment is made.

PART VII

BOARDS AND COMMITTEES

Power to appoint chairman.

48. Where any Ordinance confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so appointed may appoint a chairman, a deputy chairman, a vice-chairman and a secretary of such board, tribunal, commission, committee or similar body.

Power to appoint public officer to board, etc.

49. Where any Ordinance confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so empowered may appoint any public officer, by his official designation, to be a member of such board, tribunal, commission, committee or similar body, and, on such appointment and until such appointment shall be revoked or otherwise determined, the person for the time being holding the public office in question shall be a member of such board, tribunal, commission, committee or similar body.

Appointment of alternates.

50. Where any board, tribunal, commission, committee or similar body is established by or under any Ordinance, any person who is empowered by such Ordinance to appoint any or all of the members thereof may —

- (a) appoint one or more duly qualified persons to be alternate members of the same, and any one such alternate member

may attend any meeting of the same when a substantive member is temporarily unable to attend for any reason; and

- (b) appoint a duly qualified person to be a temporary member of the same in the place of any substantive member who is precluded by illness, absence from the Colony or any other cause from exercising his functions as such,

and when attending any meeting of such board, tribunal, commission, committee or similar body, such alternate or temporary member shall be deemed for all purposes to be a member of the same.

51. Where any board, tribunal, commission, committee or similar body is established by or under any Ordinance, the powers of such board, tribunal, commission, committee or similar body shall not be affected by —

- (a) any vacancy in the membership thereof;
- (b) any defect in the appointment or qualification of a person purporting to be a member thereof; or
- (c) any minor irregularity in the convening of any meeting thereof.

52. (1) Where any Ordinance confers a power or imposes a duty upon a body or number of persons consisting of or being not less than three, such power may be exercised or duty performed in the name of that body or number of persons by a majority of those persons.

(2) Whenever such body or number of persons is assembled, the chairman or other member presiding shall have a casting as well as a deliberative vote, in all matters in which a decision is taken by vote by whatever name such vote may be called.

(3) The exercise of any power vested in such body or number of persons may be signified either by the chairman or other person presiding at the meeting or other deliberation at which such power was exercised or at which, as the case may be, authority to exercise it was conferred, or by any person from time to time authorized by such body or persons to signify the exercise of such power.

53. Where any Ordinance constitutes any board, tribunal, commission, committee or similar body to be a body corporate having perpetual succession and a common seal, and any document requires to be sealed with such common seal, then such common seal shall be affixed by the chairman of such board, tribunal, commission, committee or similar body, or by any member thereof appointed by the chairman for that purpose, and shall be authenticated by the signature of the chairman or such member.

PART VIII

PUBLIC OFFICERS AND PUBLIC CONTRACTS

54. In any Ordinance, instrument, warrant or process of any kind, any reference to a public officer, or to a person holding a public office by a term designating his office, shall include a reference to any person for the time being lawfully discharging the functions of that office, or of any part of such functions, and any person appointed to act in or perform the duties of such office, or any part of such duties, for the time being.

55. (1) The Legislative Council may by resolution provide for the transfer to any public officer of any functions exercisable by virtue of any Ordinance by another public officer.

Powers of board, etc., not affected by vacancy.

Power of majority and exercise of powers.

Seal.

References to public officer.

Power to transfer functions of public officers.

(2) A resolution under this section may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the resolution.

(3) A certificate issued by the Chief Secretary that any property vested in a public officer immediately before a resolution under this section takes effect has been transferred by virtue of the resolution to another public officer shall be conclusive evidence of the transfer.

(4) In this section —

“functions” includes powers and duties;

“public officer” includes any corporation created for the purpose of incorporating a person for the time being holding a public office.

Change of title of office.

56. The Chief Secretary may, by notice (which may be given retrospective effect) in the Gazette, declare a change in title of any public officer or public body, or of any person referred to in any Ordinance, and the notice may contain provisions substituting the new title in any Ordinance relating to the public officer, public body or person and in any instrument, contract or legal proceedings made or commenced before the date on which the notice takes effect.

Appointment of officers by name or office.

57. Where any Ordinance confers power upon any person to appoint or name a person to have and exercise any powers or perform any duties, the person so empowered may either appoint a person by name or direct the person for the time being holding any office designated by him to have and exercise such powers or perform such duties; and thereupon, or from the date specified by the person so empowered, the person appointed by name or the person holding the office aforesaid shall have and may exercise such powers or perform such duties accordingly until such appointment be revoked or otherwise determined.

Filling vacancy.

58. (1) When any Ordinance confers a power or imposes a duty upon a public officer and such public officer is unable to exercise the powers or perform the duties of his office, owing to absence or inability to act from illness or any other cause, the Governor may, by notice in the Gazette, direct that such power shall be had and may be exercised and such duty shall be performed by a public officer named by, or by a public officer holding the office designated by, the Governor, subject to such conditions, exceptions and qualifications as the Governor may direct.

(2) Any direction by the Governor under subsection (1) may be given —

- (a) in anticipation of any absence or inability occurring; or
- (b) subsequently thereto and may relate back to the commencement of such absence or inability.

(3) Where any Ordinance confers powers or imposes duties upon a public officer and a new post is subsequently created in the same or another Government department, the Governor may, by notice in the Gazette, direct that the said powers and duties or any of them shall be exercised by any holder of the new post so created, either to the exclusion of or in addition to the first named public officer or otherwise.

Power to appoint while holder on retirement leave.

59. (1) Where the holder of any public office is on leave of absence pending the relinquishment by him of such office, another person may be appointed to the same public office.

(2) Where two or more persons are holding the same public office by reason of an appointment made in accordance with subsection (1), then, for the purposes of any Ordinance and in respect of

any power conferred or duty imposed upon the holder of such office, the person last appointed to the office shall be deemed to be the holder thereof.

60. In any contract or other document, signed, executed or made by the Governor or by any public officer on behalf of the Governor or the Government or of any Government department, it shall not be necessary to name the Governor or such public officer, but it shall be sufficient to name the office held by the Governor or such public officer, and the Governor or public officer shall be deemed to be a party thereto as if the Governor or such public officer were a corporation sole with perpetual succession for this purpose.

Contracts by public officer.

61. Any contract or other document signed, executed or made before the commencement of this Ordinance by the Governor or by any public officer on behalf of the Governor or the Government or of any Government department shall be enforceable as if the office of Governor or such public officer had, at the time of such execution or making, been a corporation sole with perpetual succession for this purpose.

Effect of past contracts by public officer.

62. The omission to add the title of the public office held by the Governor or any public officer signing or executing any contract or other document after the signature of such officer shall not exclude such contract or other document from the operation of sections 60 and 61.

Omission of title after signature of public officer immaterial.

PART IX

CROWN, GOVERNOR AND GOVERNOR IN COUNCIL

63. (1) Where any Ordinance confers a power or imposes a duty upon the Governor or the Governor in Council to make any subsidiary legislation or appointment, give any directions, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty, or exercise any other power or perform any other duty, the exercise of such power or the performance of such duty may be signified —

Signification of orders of Governor and Governor in Council.

- (a) in the case of the Governor, under the hand of the Chief Secretary;
- (b) in the case of the Governor in Council, under the hand of the Clerk of Councils.

(2) Notwithstanding the provisions of subsection (1), proclamations shall be made or issued only under the hand of the Governor himself.

64. (1) Where any Ordinance confers powers or imposes duties upon the Governor, he may delegate any person by name or the person holding any office designated by him to exercise such powers or perform such duties on his behalf and thereupon, or from the date specified by the Governor, the person so delegated shall have and may exercise such powers and perform such duties.

Delegation by Governor.

(2) Without prejudice to the provisions of any Letters Patent or Royal Instructions relating to the appointment of a deputy to the Governor, nothing in subsection (1) shall authorize the Governor to delegate any person to make subsidiary legislation, issue proclamations or to determine any appeal.

(3) Where any Ordinance confers powers or imposes duties upon the Governor and such power is exercised or such duty is performed by any public officer, the Governor shall, unless the contrary is proved, be deemed to have delegated such public officer under subsection (1) to exercise the powers or perform the duty.

Appeals and objections to Governor in Council.

65. (1) Where any Ordinance confers upon any person a right of appeal or objection to the Governor in Council, such appeal or objection shall be governed by rules made in accordance with subsection (2).

(2) The Governor in Council may make rules governing the procedure to be followed in appeals or objections to the Governor in Council.

(3) The conferring by any Ordinance of a right of appeal or objection to the Governor in Council shall not prevent any person from applying to the Supreme Court for an order of mandamus, certiorari, prohibition, injunction or any other order, instead of appealing or making an objection to the Governor in Council, where an application for such an order would lie, but no proceedings by way of mandamus, certiorari, prohibition, injunction or other order shall be taken against the Governor in Council in respect of any such appeal or objection to the Governor in Council or any proceedings connected therewith.

(4) The Governor in Council, when considering any appeal or objection to him (whether by way of petition or otherwise, and whether such appeal or objection is made by virtue of any Ordinance or otherwise) shall act in an administrative or executive capacity and not in a judicial or quasi-judicial capacity and shall be entitled to consider and take into account any evidence, material, information or advice in his absolute discretion.

(5) The Governor in Council, when considering any appeal or objection to him (whether by way of petition or otherwise and whether such appeal or objection is made by virtue of any Ordinance or otherwise) against any decision of any person, public officer or public body, may confirm, vary or reverse such decision or substitute therefor such other decision or make such other order as the Governor in Council may think fit.

References to the Sovereign.

66. Any reference to the Sovereign or to the Crown shall be construed as a reference to the Sovereign for the time being.

Saving of rights of Crown.

67. No Ordinance shall in any manner whatsoever affect the right of or be binding on the Crown unless it is therein expressly provided or unless it appears by necessary implication that the Crown is bound thereby.

PART X

TIME AND DISTANCE

Time.

68. When any expression of time occurs the time referred to shall, unless it is otherwise expressly provided, be held to signify the standard time adopted for the Colony by order of the Governor.

References to "am" and "pm".

69. The expression "am" indicates the period between midnight and the following noon, and the expression "pm" indicates the time between noon and the following midnight. Where two such expressions occur conjunctively in relation to any specified hour or in conjunction with the word "sunset" or "sunrise", they shall be construed as relating to a consecutive period of time.

Provision where no time prescribed.

70. Where no time is prescribed or allowed within which any thing shall be done, such thing shall be done without unreasonable delay, and as often as due occasion arises.

Computation of time.

71. In computing time for the purposes of any Ordinance —

(a) a period of days from the happening of any event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;

(b) if the last day of the period is a public holiday the period shall include the next following day, not being a public holiday;

(c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day is a public holiday, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next following day, not being a public holiday;

(d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, no public holiday shall be reckoned in the computation of that time.

72. Where in any Ordinance a time is prescribed for doing any act or taking any proceeding and power is given to a court, public body, public officer or other authority to extend such time, then the power may be exercised by the court, public body, public officer or other authority although the application for the same is not made until after the expiration of the time prescribed.

Power to extend time.

73. The Governor in Council may from time to time, by notice in the Gazette, appoint any day to be a public holiday.

Public holidays.

74. In the measurement of any distance for the purposes of any Ordinance, that distance shall be measured in a straight line on a horizontal plane.

Distance.

75. Any summons, notice, warrant or other process may be issued, served or executed and any arrest, search or seizure may be carried out or made on any day, whether a public holiday or not, and at any hour of the day or night.

Warrants, etc., valid on public holiday.

PART XI

IMPERIAL ENACTMENTS

76. An imperial enactment shall be judicially noticed as such and shall be read with such modifications as to names, localities, courts, officers, persons, moneys, penalties or otherwise as may be necessary to make the same applicable to the circumstances of the Colony.

Modifications.

77. An imperial enactment may be cited by a short title or citation, if any, or by reference to the reign or calendar year in which it was passed or by the number assigned to any statutory instrument or statutory rule and order.

Citation of imperial enactments.

78. A reference in any law to an imperial enactment or to any provision, part or division thereof shall be construed as a reference to the same as the same may be from time to time amended and as a reference to any imperial enactment or to any provision, part or division of an imperial enactment, substituted therefor.

Construction of reference to imperial enactment.

79. A reference in any law to any imperial Act shall include a reference to any Order in Council, rule, regulation, proclamation, order, notice, rule of court, by-law or other instrument made under or by virtue thereof and having legislative effect.

References to subsidiary legislation under imperial Acts.

80. Any imperial enactment shall be construed in accordance with the terms thereof and of any interpretation statute applicable thereto and, to the extent to which no provision is made in the imperial enactment or in such statute for the interpretation thereof, in accordance with provisions of this Ordinance as if such imperial enactment were itself an Ordinance; and any reference in this Ordinance to an Ordinance shall, in the interpretation of an imperial enactment, include a reference to imperial enactments.

Construction of imperial enactments.

Copies of imperial enactments.

81. A copy of an imperial enactment shall, if it —
(a) is published in the Gazette or purports to be printed by the Government Printer; or
(b) is contained in any printed collection purporting to be published or printed by authority,
be deemed, until the contrary is proved, to be an authentic copy of the imperial enactment as at the date of such publication or printing.

PART XII

FEES, PENALTIES OFFENCES AND PROCEEDINGS

Attempts to commit offences.

82. (1) A provision in any Ordinance which creates or results in the creation of an offence shall be deemed to include a provision that an attempt to commit such an offence shall itself constitute an offence which may be dealt with and punished in like manner as if the offence had been committed.

(2) Where a person is charged with an offence, he may be convicted of having attempted to commit that offence although he was not charged with the attempt.

(3) Nothing in this section shall affect any law relating to attempts to commit offences at common law.

Reference to an offence to include attempts, etc.

83. (1) Where —
(a) any Ordinance confers a power or imposes a duty which is to be exercised or performed consequent upon a conviction of an offence or in relation to a person who is detained in custody for an offence; or
(b) a reference is otherwise made in any Ordinance to an offence,
then that power or duty or that reference shall be deemed to be also exercisable or performable consequent upon a conviction of, or include a reference to, as the case may be —
(i) an attempt to commit that offence;
(ii) aiding, abetting, counselling or procuring that offence; and
(iii) a conspiracy to commit that offence.

(2) Subsection (1) shall apply to powers of imposing pecuniary penalties and of forfeiture, seizure and search, and to powers and discretions to cancel, suspend or refuse to issue any licence, permit or other authorization, but nothing in this section shall apply to any offence for which a sentence of death may be imposed, or be deemed to authorize the imposition of any sentence of imprisonment otherwise than in default of payment of any pecuniary penalty which may be imposed by virtue of this section.

Acts constituting two or more offences.

84. Where any act constitutes two or more offences, whether under the same Ordinance or otherwise, the offender shall be liable to be prosecuted and punished for any or all such offences but shall not be liable to be punished twice for the same offence.

Liability of directors, etc.

85. Where a person by whom an offence under any Ordinance has been committed is a company and it is proved that the offence was committed with the consent or connivance of a director or other officer concerned in the management of the company, or any person purporting to act as such director or officer, the director or other officer shall be guilty of the like offence.

Imposition of penalty not to bar civil action.

86. The imposition of a penalty or fine by or under any Ordinance shall not relieve any person from liability to answer in damages to a person injured.

87. Where in any Ordinance a penalty is prescribed for an offence under that Ordinance, such provision shall imply —

- Penalties prescribed to be deemed maximum penalties.
- (a) that such offence shall be punishable upon conviction by a penalty not exceeding the penalty prescribed; and
 - (b) if the amount of the fine is unspecified, that such offence shall, without prejudice to any law against excessive or unreasonable fines or assessments, be punishable by a fine of any amount.

88. Where in any Ordinance a penalty is set out at the foot of any section or part thereof the same shall mean that any contravention of that section or part shall be an offence under such Ordinance punishable upon conviction by a penalty not exceeding the penalty so set out.

Statement of penalty at end of section.

89. Where in any Ordinance more than one penalty is prescribed for an offence, the use of the word "and" shall mean that the penalties may be inflicted alternatively or cumulatively.

Certain penalties may be cumulative.

90. (1) Where any provision in any Ordinance creates, or results in the creation of, an offence, the offence shall be triable summarily only, unless —

Trial of offences.

- (a) the offence is declared to be treason, felony or misdemeanour;
- (b) the words "upon indictment" appear; or
- (c) the offence is declared to be a "misdemeanour triable summarily".

(2) Where any provision in any Ordinance creates, or results in the creation of, an offence and —

- (a) the offence is declared to be treason, felony or misdemeanour; or
- (b) subject to subsection (4), the words "upon indictment" appear,

the offence shall be triable only upon indictment.

(3) Where any provision in any Ordinance creates, or results in the creation of, an offence and the offence is declared to be a "misdemeanour triable summarily", the offence shall be triable either on indictment or summarily.

(4) Where any provision in any Ordinance creates, or results in the creation of, an offence and the offence is declared to be triable either summarily or upon indictment or to be punishable on summary conviction or on indictment, the offence shall be triable either on indictment or summarily.

(5) Nothing in this section shall affect the powers conferred upon a magistrate by the Administration of Justice Ordinance or by any other law to try an indictable offence summarily.

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91. Where an offence is a misdemeanour by any law and no punishment is provided therefor, that offence shall be punishable by imprisonment for seven years or a fine of £2,000.

Punishment of misdemeanour.

92. Where the fiat, authorization, sanction, consent or authority of the Governor or any other public officer is necessary before any prosecution or action is commenced, or for any purpose whatsoever in connection with any proceeding, any document purporting to bear the fiat, authorization, sanction, consent or authority of the Governor, or such public officer, as the case may be, shall, until the contrary is proved, be received as evidence in any proceeding without proof being given that the signature to such fiat, authorization, sanction, consent or authority is that of the Governor or such public officer.

Evidence of signature or fiat, etc.

Prosecution of offences.

93. Where any Ordinance provides that no prosecution for an offence shall be commenced without the consent of some person other than the Attorney General, such a provision shall not derogate from the powers of the Attorney General in respect of the prosecution of that offence.

Amendment of penalty.

94. Where an act or omission constitutes an offence and the penalty for such offence is varied between the time of the commission of such offence and the conviction thereof, the offender shall be liable to the penalty prescribed at the time of the commission of the offence.

Disposal of fines and penalties.

95. Any fine or penalty imposed by or under the authority of any Ordinance shall be paid into the general revenue of the Colony:

Provided that the Governor may direct the payment to any aggrieved person, or to any person whose information or evidence has led to the conviction of the offender or to the recovery of the fine or penalty, of such proportion of the fine or penalty as he may think fit.

Disposal of forfeits.

96. (1) Where under any Ordinance any movable property is adjudged by any court or other authority to be forfeited, it shall be forfeited to the Crown, and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into the general revenue of the Colony.

(2) Nothing in this section shall affect any provision in any Ordinance whereby any portion of any forfeit or of the proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.

Award of compensation.

97. (1) The Legislative Council may by resolution award compensation, by way of either a single payment or periodical payments, from the general revenue of the Colony to any person injured in the execution of a moral or legal duty to assist in the prevention of or resistance to crime or any offence, or to the dependants of a person so injured who dies as a result of such injury.

(2) Any award made under this section may be made subject to such conditions as may be specified in such resolution and may at any time be varied or revoked by the Legislative Council by resolution.

(3) No award made under this section shall be assignable or transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever other than a debt due to the Government.

Reduction, etc., of fees and charges.

98. Any fee or charge made payable by or under any Ordinance to the Crown or the Government or to any public body or public officer, not being a fee or charge which is regulated by rules of court—

(a) may be reduced or varied by order of the Governor:

Provided that no variation thereof shall cause such fee or charge to exceed the original figure;

(b) may be remitted or refunded, in whole or in part, in any particular case and on any special ground by the Governor;

(c) subject as aforesaid shall be paid into or from the general revenue of the Colony.

Collection of fees.

99. (1) Where by any Ordinance the signature of the Governor or of any public officer is required to any certificate, authorization, consent, licence, permit or exemption, or any alteration, transfer or renewal thereof, addition thereto or endorsement thereon, or any copy of the same, and no fee for such signature is prescribed by law, there shall be payable for such signature such fee as the Governor may prescribe by notice in the Gazette.

(2) Where any Ordinance requires or authorizes the issue of any document by a public officer, such public officer may, subject to any directions of the Governor, issue a duplicate of such document, upon payment of such fee as may be prescribed by law or as the Governor may prescribe by notice in the Gazette if no fee is prescribed by law.

(3) Where any Ordinance requires or authorizes any alteration, transfer, or endorsement of or addition to any certificate, authorization, consent, licence, permit or exemption by a public officer, such fee shall be payable therefor as may be prescribed by law or as the Governor may prescribe by notice in the Gazette if no fee is prescribed by law.

(4) Where an extract of any document, book, record or instrument may be properly certified by a public officer as a true extract of such document, book, record or instrument, such fee shall be payable for the certifying of the extract by such officer as may be prescribed by law or as the Governor may prescribe by notice in the Gazette if no fee is prescribed by law.

PART XIII

MISCELLANEOUS

100. (1) A copy of an Ordinance shall, if published in the Gazette or purporting to be printed by the Government Printer, be deemed to be an authentic copy of that Ordinance as at the date of such publication or printing.

Copies of Ordinances, etc., in Gazette.

(2) A copy of any other instrument shall, if published in the Gazette or purporting to be printed by the Government Printer, on its production be admitted as prima facie evidence thereof in all courts and for all purposes whatsoever without any further proof.

101. (1) The Attorney General may, by order published in the Gazette, rectify any clerical or printing error appearing in any Ordinance, not being an Ordinance contained in a booklet prepared under the authority of the Revised Edition of the Laws Ordinance.

Rectification of errors.

(2) Every order made under this section shall be laid on the table of the Legislative Council without unreasonable delay, and, if a resolution is passed at the next sitting of the Legislative Council held after the sitting at which the order is so laid that the order be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of a new order.

102. (1) Where any person, public officer, Government department or public body is required to do anything for which a fee is to be paid or a charge made under any Ordinance, such person, public officer, Government department or public body may decline to do that thing until the fee or charge is paid or, where the precise amount of the payment to be made cannot be ascertained until the thing is done, until there be paid such amount as may be estimated to be the correct amount by the person, public officer or the responsible officer of the Government department or public body required to do the thing.

Performance of acts for which payment is required.

(2) Where a thing has been done for which an estimated amount shall have been paid, such amount shall be adjusted to the correct amount either by means of a further payment or by a refund of the amount overpaid.

103. The Governor in Council may, with the approval of the Secretary of State, declare any place to be a town, and define the extent, limits, and boundaries of such town and of its suburbs, and vary or alter such extent, limits and boundaries:

Declaration of town.

Provided that no part of the boundaries of the town shall be more than two miles, nor the suburbs more than six miles from the centre of the town.

Division of Colony into districts.

104. The Governor in Council may, when it is considered convenient for the more efficient operation of any Ordinance or any other purpose, divide, subdivide and re-divide the Colony into districts, or alter the boundaries of any such districts.

Authority to print copies.

105. The Government Printer may, with the authority of the Governor, print copies of any Ordinance with all additions, omissions, substitutions and amendments effected by any amending Ordinances, and such copies shall be deemed to be authentic copies of the Ordinance as amended as at the date of such printing.

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106. The Interpretation and General Law Ordinance is hereby repealed.

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

W. A. ETHERIDGE,
Clerk of the Legislative Council.

Ref. LEG/10/5.

Assented to in Her Majesty's name this 7th day of July 1977.

J. R. W. PARKER,
Governor.

LS



No. 15

1977

Colony of the Falkland Islands

IN THE TWENTY-SIXTH YEAR OF THE REIGN OF

Her Majesty Queen Elizabeth II.

JAMES ROLAND WALTER PARKER, O.B.E.

Governor.

An Ordinance

Further to amend the Legislative Council (Elections) Ordinance 1948.

Title.

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

Enacting clause.

1. This Ordinance may be cited as the Legislative Council (Elections) (Amendment) Ordinance 1977, and shall come into operation on a date to be notified by His Excellency the Governor by publication in the official Gazette.

Short title and commencement.

2. Section 2 of the Legislative Council (Elections) Ordinance (hereinafter referred to as the principal Ordinance) is amended —

Amendment of section 2.

(a) by the deletion of the definition of "Order in Council";

(b) by inserting after the definition of "Council" the following new definition —

"Qualifying day" means the 15th day of July in each year".

(c) by the deletion of the definition of "Qualifying period" and the substitution of the following —

"Qualifying period" means —

(i) in the case of a person born in the Colony twelve months' continuous residence preceding the qualifying day; or

(ii) in the case of a person not born in the Colony three years' continuous residence preceding the qualifying day."