



SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS

Ordinances,
Orders, Proclamations, etc.
together with relevant United Kingdom instruments
1985 – 1999

This is an informal document produced to assist researchers.
The only publication of record is the
South Georgia and South Sandwich Islands Gazette

PART I

ORDINANCES

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Notes:

1. Appropriation Ordinances and Supplementary Appropriation Ordinances are not reproduced



The Territories of South Georgia and the
South Sandwich Islands

WILLIAM HUGH FULLERTON, C. M. G.,
Commissioner.

The South Georgia Museum Trust Ordinance 1992

(No: 1 of 1992)

An Ordinance

To establish the South Georgia Museum Trust; to provide for the transfer to it of certain lands and objects in South Georgia; to define the functions of that Trust; and to provide for purposes connected with the matters aforesaid.

BE IT ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows -

1. This Ordinance may be cited as the South Georgia Museum Trust Ordinance 1992.

Short title.

2. In this Ordinance, unless the context otherwise requires -

Interpretation.

"the Commissioner" means the Commissioner for South Georgia and the South Sandwich Islands;

"the Crown" means Her Majesty the Queen in right of Her government of South Georgia and the South Sandwich Islands and includes Her Majesty's lawful successors in right of such government;

"the Trust" means the trust established by section 3.

3.(1) There is hereby established a trust to be called the South Georgia Museum Trust.

Establishment of the Trust.

(2) The Trust shall consist of not less than five and not more than seven members including the Attorney General and the Financial Secretary of the Territory who shall both be members of the Trust. All other members shall be appointed by the Commissioner by instrument under his hand.

(3) The incidental provisions contained in the Schedule to this Ordinance shall have effect with respect to the Trust.

4.(1) The Commissioner may by instrument under his hand and public seal transfer to the Trust -

Transfer to Trust of collections.

(a) any personalty belonging to the Crown and described in the instrument which, in his opinion, is associated with the use of South Georgia or any part or parts of South Georgia as a whaling station or sealing station or as whaling or sealing stations or the flora and fauna of South Georgia and the surrounding waters;

(b) any vessel or wreck of a vessel belonging to the Crown and lying within the waters of South Georgia or the territorial sea thereof which, in his opinion, is so associated;

(c) any land or building in South Georgia which, in his opinion is so associated.

(2) Any thing transferred under paragraph (a) or (d) or subsection (1) shall form part of the collection of the Trust for the purposes of the subsequent provisions of this Ordinance.

(3) Any land or building transferred under paragraph (c) of subsection (1) shall constitute the premises of the Trust for the purposes of this Ordinance and subject only to the provisions of this Ordinance relating to the premises of the Trust shall be held by the Trust upon trust for the Crown and the Trust shall not dispose of any such land or building or create any estate or interest therein without the prior consent of the Commissioner which may be given subject to such conditions as the Commissioner considers appropriate.

5.(1) So far as is practicable and subject to the following provisions of this Ordinance, it shall be the duty of the Trust -

*General functions
of the Trust.*

(a) to care for, preserve and add to the objects in its collection;

(b) to secure that those objects are exhibited to persons visiting South Georgia wishing to see them and are made available to persons seeking to inspect them in connection with study and research;

(c) generally to promote understanding and appreciation of the history of South Georgia, both by means of the Trust collection and by such other means as the Trust considers appropriate.

(2) The Trust may, subject to the provisions of this Ordinance, do all such things as the Trust considers necessary or expedient for those purposes and its functions under this Ordinance.

(3) Without prejudice to the generality of subsection (2), for the purposes mentioned in subsection (1) the Trust may -

(a) lend any object forming part of its collection to any museum or learned or scientific institution anywhere in the world;

(b) promote or co-operate with others in promoting research or investigations in connection with any matter appertaining to South Georgia or any activity in South Georgia or the flora or fauna of South Georgia or the waters surrounding South Georgia.

6.(1) Subject to this Ordinance, the Trust shall have power to acquire any objects which in its opinion it is desirable to add to its collection.

*Power of Trust to
acquire and dispose
of objects.*

(2) Subject to this Ordinance, the Trust may sell, exchange, give away or otherwise dispose of any object vested in it and comprised in its collection if the object is a duplicate of another such object or is for any other reason not, in its opinion, required for retention in that collection and the consent of the Commissioner to that disposal has been obtained by the Trust.

7. The Commissioner may direct that all or any fees charged in respect of the landing of any passenger of any vessel in South Georgia shall be paid to the Trust and form part of the Trust's income, and may at any time vary or revoke any direction made under this subsection. *Landing fees.*

8.(1) The Trust may expend money for any purpose authorised by this Ordinance. *Finances of the Trust.*

(2) The Trust shall not borrow any money without the consent of the Commissioner.

(3) The Trust may accept gifts of money and property of any kind but shall not be obliged to accept any gift of property which in its opinion cannot usefully be held by it for the purposes of its functions under this Ordinance.

(4) The Trust shall in the month of April in each year submit to the Commissioner details of its estimated revenue and expenditure for the year commencing on the ensuing 1st July with information as to the purposes of such expenditure. The Trust shall not expend any money for any such purpose until the estimated expenditure has been approved by the Commissioner.

(5) The Commissioner may, subject to the same having been appropriated in accordance with law, grant moneys out of the funds of the Crown in aid of the expenditure of the Trust, and may upon granting any such moneys impose such conditions or limitations as to its expenditure as he considers appropriate and the Trust shall comply with any such conditions.

(6) The Trust may invest any of its funds surplus to its current requirements in any manner approved by the Commissioner.

9. The income of the Trust is not liable to income tax in South Georgia and the South Sandwich Islands. *Income Tax.*

10.(1) The Trust shall maintain good and adequate books of account and shall prepare annual accounts made up to the 30th day of June in each year. *Accounts.*

(2) The accounts of the Trust shall be audited by a person appointed by the Commissioner for the purpose.

(3) A copy of the accounts of the Trust audited in accordance with subsection (2) shall be delivered to the Commissioner within six months of the end of the accounting period to which they relate.

SCHEDULE

(section 3(3))

INCIDENTAL PROVISIONS WITH RESPECT TO THE TRUST

1. The Trust shall be a body corporate with perpetual succession and a common seal.

2.(1) Members of the Trust other than the Attorney General and the Financial Secretary shall be appointed to hold office for a period of three years, but are eligible for re-appointment.

(2) Members of the Trust other than the Attorney General and the Financial Secretary may -

(a) be removed from office as such at any time by instrument under the hand of the Commissioner;

(b) resign at any time by instrument delivered or sent to the Commissioner and taking effect not earlier than its receipt by the Commissioner;

(c) on expiry of his term of office as such be re-appointed as a member of the Trust.

3. The Commissioner shall be entitled to attend all meetings of the Trust and may speak to, but shall not vote in respect of, any matter at any such meeting.

4.(1) The Commissioner may by instrument under his hand appoint one of the members of the Trust to be the Chairman of the Trust. In default of any such appointment, the Commissioner shall preside at all meetings of the Trust at which he is present.

(2) If no appointment of a Chairman has been made and the Commissioner is not present at the meeting in question the members present at that meeting shall appoint one of their number to preside at that meeting.

5. The quorum of the Trust shall be three members personally present.

6. The Trust may act notwithstanding a vacancy amongst the members, and no act of the Trust shall be deemed to be invalid by reason only of a defect in the appointment of any of the members of the Trust.

7. The application of the seal of the Trust shall be authenticated by the signatures of the Attorney General or the Financial Secretary and of one other member of the Trust authorised to authenticate the application of the Trust's seal.

8. Subject to the foregoing the Trust may determine its own procedure.

Assented to this 18th day of May 1992.



W.H. FULLERTON,
Commissioner.



ELIZABETH II



The Territories of South Georgia
and the South Sandwich Islands

DAVID EVERARD TATHAM, C.M.G.,
Commissioner.

The Visitors Ordinance 1992

(No. 2 of 1992)

An Ordinance

to make further and better provision in relation to sums to be paid by persons arriving in South Georgia.

(assented to: 24th November 1992)
(published: 26th November 1992)
(commencement: on publication)

BE IT ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows -

Short title.

1. This Ordinance may be cited as the Visitors Ordinance 1992.

Interpretation.

2. In this Ordinance -

"passenger landing fee" means the fee prescribed by section 3 or by regulations under section 6;

"South Georgia Museum Trust" means the Trust established by section 3(1) of the South Georgia Museum Trust Ordinance 1992.

"visitor" means any person landing at any place in the island of South Georgia other than -

(a) a servant of Her Majesty in right of Her Government in South Georgia and the South Sandwich Islands or in right of Her Government in the United Kingdom and any person

performing services in South Georgia to Her Majesty;

(b) a member of Her Majesty's armed forces or of the Royal Fleet Auxiliary service;

(c) a person who is the spouse or dependent child of any person referred to in (a) or (b);

(d) a person in the employment of the South Georgia Museum Trust or who lands in South Georgia for the purpose, or principally for the purpose of providing services of any kind to that Trust;

(e) a person who is a member of the crew of any ship and who lands in South Georgia for purposes only of the working, mooring, victualling, provisioning of or taking cargo aboard or discharging cargo from that ship and, for the purposes of this subparagraph, a person who is bona fide employed as a tour guide or to accompany and look after the needs of fare-paying passengers from aboard that ship shall, so long as he accompanies such passengers, be regarded as working that ship; and

(f) a person excluded by the Commissioner from the operation of section 3.

Passenger landing fees.

3.(1) There shall be paid in respect of every visitor to South Georgia a passenger landing fee of fifty dollars (or such other sum as may be prescribed by regulations under section 6) in the currency of the United States of America.

(2) Payment of landing fees in the equivalent in another currency approved for the purpose shall be accepted.

(3) For the purposes of this section, the currencies of the United Kingdom and of the Falkland Islands shall always be approved currencies but any other currency may be revocably approved in writing signed by the Commissioner.

Payment of passenger landing fees.

4.(1) Payment of passenger landing fees shall be made to a person approved by the Commissioner and shall be paid in cash or some other way approved by the Commissioner.

(2) All passenger landing fees paid shall be paid into and form part of the general revenues of the Territories.

(3) Unless otherwise approved by the Commissioner, passenger landing fees shall be paid at the time of disembarkation.

Saving for immigration laws.

5. Nothing in this Ordinance shall be construed as permitting any person to land in South Georgia contrary to any provision of the immigration laws of the Territories from time to time in force.

Regulations.

6. (1) The Commissioner may by regulations under this subsection -

- (a) provide that the passenger landing fee shall be such sum other than that mentioned in section 3(1) as is prescribed in such regulations;
- (b) make such provision as appears to be necessary or expedient for the purposes of this Ordinance.
- (c) revoke, with or without replacement, or amend any regulations previously made under this section.

Repeal.

7. Section 7 of the South Georgia Museum Trust Ordinance is repealed.

I assent,

D. E. TATHAM,
Commissioner.

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

(No: 3 of 1993)

The Fisheries (Conservation and Management) Ordinance 1993

Enacted:	23rd July	1993
Published in the Official Gazette:		1993
Coming into force:		1993

An Ordinance

to make fresh provision for the regulation, conservation and management of the fishing waters of South Georgia and the South Sandwich Islands and matters incidental thereto.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows :

PART I

INTRODUCTORY

Short title, commencement and interpretation

1. This Ordinance may be cited as the Fisheries (Conservation and Management) Ordinance 1993 and shall come into force on such day as the Commissioner may by notice in the Gazette appoint and the Commissioner may appoint different days for the coming into force of different provisions. *Short title and commencement.*

2. In this Ordinance unless the context otherwise requires:- *Interpretation.*

"Convention" means the Convention on the Conservation of Antarctic Marine Living Resources made in Canberra on 20th May 1980, as amended from time to time, and includes any Protocol to that Convention and any Agreement or Measure adopted pursuant to that Convention between State Parties to that Convention which is for the time being in force;

"Director of Fisheries" means the Director of Fisheries provided for by section 4(1);

"Fisheries Protection Officer" means the Director of Fisheries and any of the Fisheries Protection Officers provided for in section 4(4);

"fish" means any sea fish and any marine animal other than a bird;

"fishing boat" means any vessel of whatever size, and in whatever way propelled, which is for the time being employed in fishing operations;

"fishing licence" means a licence provided for under section 5;

"fishing operations" means -

- (a) the taking of fish;
- (b) the processing, storage, carriage or trans-shipment of fish aboard any vessel; and
- (c) any other operations at sea ancillary to any of the foregoing;

"fishing waters" means the fishing waters of the South Georgia and the South Sandwich Islands provided for in section 3;

"internal waters" means those seawaters on the landward side of the baseline from which the territorial sea is measured;

"Maritime Zone" means the zone of that name established by and defined in the Proclamation by the Commissioner as amended by any subsequent proclamation defining the zone;

"this Ordinance" includes any regulations made under section 23 of this Ordinance which are for the time being in force;

"processing" (in relation to fish) includes preserving or preparing fish or processing any article or substance obtained from fish, by any method whatever and for whatever purpose;

"master" includes, in relation to a fishing boat, the person appearing to be the person who is for the time being in command or in charge of the boat or the person in charge of fishing operations on board the fishing boat;

"sea fish" includes

- (a) any fish found in the fishing waters or in any specified area, and include salmon and migratory trout and any shellfish; and
- (b) any part of any sea fish as defined in (a)

"shellfish" includes crustaceans and molluscs of any kind, and includes any (or any part of any) brood, ware, half-ware or spat of shellfish and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish;

"specified area" means any area of the fishing waters for the time being the subject of an Order under section 5(1);

"take", and its correlatives, in relation to fish, include the catching or capturing of fish;

"trans-shipment licence" means a licence so described provided for in section 6;

"trans-shipment of fish" includes the passing of fish from one fishing boat to another whether or not the fish has first been taken on board the boat from which the fish is passed.

Administration

3. The fishing waters of South Georgia and the South Sandwich Islands comprise-

Fishing waters.

- (a) the internal waters;
- (b) the territorial sea; and
- (c) the Maritime Zone.

4.(1) This Ordinance shall be administered by the Director of Fisheries appointed by the Commissioner and such Director shall be responsible for-

*Director of Fisheries and
Fisheries Protection Officers.*

- (a) the conservation of fish stocks;
- (b) the assessment of fish stocks and the collection of data, statistics and any other relevant information;
- (c) the development and management of fisheries;
- (d) the monitoring, control and surveillance of fishing operations;
- (e) the regulation of the conduct of fishing operations and operations ancillary thereto;
- (f) the issue, variation, suspension and revocation of licences for fishing, trans-shipment, export and ancillary operations;
- (g) the collection of fees in respect of licences;
- (h) the making of such reports to the Commissioner as the latter, acting in his discretion, may require;
- (i) other matters referred to in this Ordinance.

(2) In the performance of his duties under this Ordinance the Director of Fisheries shall be subject to the direction of the Commissioner except that in the performance of such of his duties as relate to the prosecution or non-prosecution of offences arising under this Ordinance he shall act in accordance with such directions as the Attorney General may give to him.

(3) This Ordinance and regulations made hereunder shall be enforced by Fisheries Protection Officers acting (except as provided in subsection (2)) subject to the direction of the Director of Fisheries, and for that purpose Fisheries Protection Officers shall have the powers set out in section 10.

(4) The following persons shall be Fisheries Protection Officers, that is to say every person appointed in that behalf by the Commissioner, every Police Officer, Customs Officer, Marine Officer or Harbour Master of any harbour in South Georgia and the South Sandwich Islands, commissioned officers of any of Her Majesty's ships and persons in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

(5) In the performance of their several duties under this Ordinance the Director of Fisheries and every Fisheries Protection Officer shall have regard to the provisions of the Convention but the question as to whether the Director of Fisheries or any Fisheries Protection Officer has done so in any particular instance shall not be inquired into in any court.

Restriction of fishing and trans-shipping

5.(1) The Commissioner may by Order provide that in any area of the fishing waters lying to the north of sixty degrees south of latitude specified in the Order (a "specified area") fishing is prohibited unless it is authorised by a licence granted by the Director of Fisheries or is permitted under subsection (14).

Licensing of fishing boats.

(2) Such an Order may apply to fishing generally in the specified area or to fishing-

- (a) for a specified description of fish;
- (b) by a specified method; or
- (c) during a specified season of the year or other period.

(3) Where any fishing boat is used in contravention of any prohibition imposed by an Order under this section, the master, the owner and the charterer (if any) each commit an offence under this subsection and are each liable on conviction thereof to a fine without limit.

(4) An Order under this section may authorise the charging of a fee for any licence granted under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(5) Where an Order under this section authorises the charging of a fee for a licence-

- (a) the Commissioner may waive or reduce that fee if he sees fit to do in the circumstances of any particular case;
- (b) any such fee may be expressed so as to be variable in relation to all or any of the following matters-
 - (i) the size of the fishing boat;
 - (ii) the equipment in relation to fishing affixed to or employed upon the fishing boat;

- (iii) the facilities aboard the fishing boat for the storage, freezing or processing of fish;
- (iv) the area within which fishing is authorised;
- (v) the periods, times or particular voyage during which fishing is authorised;
- (vi) the description and quantities of fish which may be taken; and
- (vii) the method or methods of fishing authorised to be used.

(6) A Order under this section may be amended, modified, revoked or replaced by a further Order under this section.

(7) A licence under this section may authorise fishing either unconditionally or subject to such conditions-

- (a) as the Director of Fisheries may have been directed by the Commissioner to impose;
- (b) as may in the opinion of the Director of Fisheries be necessary or expedient to regulate the conduct of fishing operations by the licensee under the authority of licence;
- (c) as to the use to which the fish taken may be put;
- (d) prohibiting or restricting the use of any equipment which might kill or harm any aquatic bird or mammal to be found or likely to be found in the area to which the licence relates;
- (e) as to the disposal of any waste, effluvia or deleterious matter by the fishing boat to which the licence relates; and
- (f) otherwise as in the opinion of the Director of Fisheries may be necessary or expedient to secure the fulfilment of any obligation under or objective of the Convention,

as are contained in or specified in the licence, and the conditions subject to a licence may be granted under this section may differ between different fishing boats or fishing boats of different descriptions.

(8) Subsection (7) has effect without prejudice to any power under section 23 to make regulations as to any matter as to which under subsection (7) conditions can be imposed.

(9) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or of any class of fishing boats, engaged in fishing in any area, or in fishing in any area for any description of fish in any manner which appears to the Director of Fisheries to be expedient or necessary for the regulation of fishing.

(10) The Director of Fisheries-

- (a) may from time to time vary a licence granted under this section;

(b) may revoke or suspend such a licence if he considers it to be necessary for the regulation of fishing or to be appropriate having regard to the conduct of the licensee, and whether that conduct was within a specified area or elsewhere.

(11) Where the Director of Fisheries varies, revokes or suspends a licence, he may, if he considers it appropriate in all the circumstances of the case, refund the whole or any part of any fee paid in respect of that licence.

(12) If a licence condition is broken, the master, the owner and the charterer (if any) of the fishing boat named in the licence each commit an offence under this subsection and are each liable on conviction of that offence to a fine not exceeding £100,000.

(13) Any person who-

(a) for the purpose of obtaining a licence under this section; or

(b) in purported compliance with any condition contained in a licence requiring the provision to the Director of Fisheries any person on his behalf of statistical information,

furnishes information which he knows to be false or recklessly furnishes information which is false in a material particular, commits an offence under this section and is liable on conviction of that offence to a fine not exceeding £100,000 and where a person other than the owner or charterer (if any) of the fishing boat in question furnished that information in question that owner and that charterer as well as the person who actually furnished the information shall be deemed to have furnished it and also to have committed the offence and shall be liable to be dealt with in relation to it unless he or they shall prove that the person who actually furnished the information was not authorised to act on his or their behalf.

(14) Nothing in the foregoing provisions of this section or of any Order under it shall apply to fishing which is undertaken for the purpose of genuine scientific research which has been notified in advance to the Secretariat provided for by the Convention.

6.(1) In the subsequent provisions of this section, "fish" includes fish products.

*Receiving and trans-shipping
of fish.*

(2) The Commissioner may by Order provide that in any specified area (that is to say an area to which an Order under section 5(1) relates) or any part of any specified area described in the Order under this section the receiving by any vessel of fish trans-shipped from any other vessel is prohibited unless authorised by a licence granted by the Director of Fisheries.

(3) With effect from the commencement of this section, and until they are revoked by an Order made under this section, the Fisheries (Trans-shipment and Export) Regulations 1990, in so far as they make provision which could be made by an Order under this section, shall continue to have effect as if they had been made as an Order under this section and except as hereinbefore provided, in so far as they make provision which could be made as regulations under section 23 of this Ordinance, they shall continue to have effect as if they had been made as regulations made under that section.

(4) An Order made under this section may apply to the receiving of fish generally or to the receiving of-

- (a) a specified description of fish; or
- (b) fish taken by a specified method;
- (c) fish taken in an area described in the Order (and whether within the fishing waters, the area to which the Convention relates or otherwise); or
- (d) fish taken or trans-shipped during a specified season of the year or other period,

but it shall not prohibit the receiving of fish in circumstances to which subsection (12) applies and may provide for exemptions from the prohibitions contained in it.

(5) An Order made under this section may authorise the charging of a fee for any licence granted under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(6) Where an Order made under this section authorises the charging of a fee for a licence-

(a) the Commissioner may waive or reduce that fee if he sees fit to do in the circumstances of any particular case;

(b) any such fee may be expressed so as to be variable in relation to all or any of the factors-

(i) the size of the vessel;

(ii) the facilities aboard the vessel for the storage, freezing, processing or other treatment of fish;

(iii) the area in which (and whether within the fishing waters, the area to which the Convention relates or otherwise) the fish were taken or the place within a specified area (that is to say an area to which an order under section 5(1) relates) in which the fish is trans-shipped;

(iv) the periods, times or particular voyages during which the fish was caught or is trans-shipped;

(v) the descriptions and quantities of fish that may be received; or

(vi) the description of the fishing boat or method by which the trans-shipped fish was caught.

(7) An Order made under this section may be amended, modified, revoked or replaced by a further Order under this section.

(8) A licence granted under this section may authorise the receiving of fish either unconditionally or subject to such conditions-

- (a) as the Director of Fisheries may have been directed by the Commissioner to impose;
- (b) as in the opinion of the Director of Fisheries may be necessary or expedient to regulate the receiving of fish by, or the processing or treatment of fish aboard, the receiving vessel;
- (c) as to the use to which fish received may be put;
- (d) prohibiting or restricting the use of any equipment or apparatus which might kill or harm any aquatic bird or mammal to be found or likely to be found in or in the vicinity of any place where receiving of fish is authorised;
- (e) as to the disposal of any waste, effluvia or deleterious matter by the vessel to which the licence relates; and
- (f) otherwise as may in the opinion of the Director of Fisheries be necessary or expedient to secure the fulfilment of any obligation under or objective of the Convention.

(9) Subsection (7) has effect without prejudice to any power under section 23 to make regulations as to any matter as to which under subsection (7) conditions may be imposed.

(10) Subsection (10), (11), (12) and (13) of section 5 apply in relation to a licence granted under this section as they do in relation to a licence granted under section 5, substituting in those subsections wherever appropriate a reference to this section for any reference to that section.

(11) Where any vessel is used in contravention of any provision imposed by an Order under this section or of any condition of any licence granted under this section, the master, the owner and the charterer (if any) each commit an offence under this subsection and are each liable on conviction thereof to a fine without limit.

(12) Section 5(14) applies in respect of trans-shipping of fish (with which this section deals) as it does in relation to fishing (with which section 5 deals), and with the substitution for the purposes of this section of the words "trans-shipping of fish" for the word "fishing" in section 5(14).

7.(1) In relation to such parts of the fishing waters as are not for the time being the subject of an Order under section 5(1) (that is to say, are not for the time being part of a specified area, with the effect that no licence under this Ordinance is required in relation to the undertaking of any fishing operation in them), the Commissioner may take or concur or assist in the taking of such measures for the conservation, increase or improvement of marine living resources therein as may be required so as to give effect to the Convention or so as to meet any obligation under, or objective of, the Convention.

Fishing waters outside specified areas.

(2) Nothing in subsection (1) shall be construed so as to permit the Commissioner to do, concur or assist in doing anything which, if subsection (1) had not been enacted, would be invalid or unlawful under the laws of South Georgia and the South Sandwich Islands.

(3) The Commissioner may exercise in such manner as he considers necessary or expedient to give effect to any obligation under, or objective of, the Convention such of his powers under section 23 to make regulations as are not solely related to the licensing of fishing boats and other vessels.

PART II
PROVISIONS APPLYING IN OR IN RELATION TO
SPECIFIED AREAS OF THE FISHING WATERS
Introductory

8.(1) The provision of this Part (that is to say, this section and sections 9 to 16 of this Ordinance) apply only in respect of- *Application and interpretation of this part.*

(a) every area which is a specified area that is to say, an area of the fishing waters in respect of which an Order under section 5(1) is for the time being in force (in the subsequent provisions of this Part called "a specified area")

(b) fishing operation within a specified area; and

(c) fishing boats licensed to fish within a specified area under section 5 and vessels licensed to receive fish within a specified area under section 6.

(2) In this Part, "fish", where the context so admits, includes fish products.

Powers of Fishery Protection Officers

9.(1) For the purposes of enforcing and administering the provisions of this Part or any regulations under section 23 so far as such regulations apply to any matter to which by virtue of section 8(1) the provisions of this Part apply, Fishery Protection Officers have the powers conferred upon them by section 10(1) and they also have those powers so far as they may be necessary or expedient for the enforcement or administration of any Order section 5 or under section 6. *Powers of Fishery Protection Officers: introductory provisions.*

(2) So far as is in accord with international law and practice, the powers referred to in subsection (1) may be exercised outside, as well as within, South Georgia and the South Sandwich Islands and the fishery waters and irrespective of the whether the vessel is for the time being in question engaged in fishing operations.

(3) In exercising the powers conferred by section 10(1), a Fisheries Protection Officer may-

(a) use such force as may reasonably be necessary; and

(b) engage the assistance of any person who may have been assigned to assist him in the exercise of those powers, provided that in such a case the Fisheries Protection Officer shall, subject to subsection (4), be liable for any thing done by any such person if he would be liable had he himself done it.

(4) A Fisheries Protection Officer shall not be liable in any civil or criminal proceedings for any thing done in the purported exercise of any of the powers conferred upon him by this Part, if the court is satisfied that the thing was done in good faith and that there were reasonable grounds for doing it.

10.(1) The powers referred to in section 9(1) are-

Powers referred to in section 9 and provisions related to those powers.

(a) a power to stop any fishing boat or any other vessel which it reasonably appears to him has been or may have been engaged in any fishing operation in a specified area;

(b) a power to require any such fishing boat or other vessel to do anything else which may facilitate the boarding of that boat or vessel;

(c) a power to board any such fishing boat or other vessel accompanied by such person or persons as may have been assigned to assist him as may he may engage to accompany him ;

(d) a power to require the attendance of the master and other persons aboard any such fishing boat or other vessel;

(e) a power to make any examination and inquiry which appears to him to be necessary for any of the purposes mentioned in section 9(1) and, in particular-

(i) to examine any fish aboard the fishing boat or other vessel concerned and the equipment thereof, including the fishing gear and any other equipment related to, or possibly related to, any fishing operation and for that purpose to require any person aboard the fishing boat or other vessel concerned to do anything which appears to him to be necessary for facilitating the examination;

(ii) to require any persons on board the fishing boat or other vessel concerned to produce any document relating thereto, to its fishing operations or to the persons on board which is in that person's custody or possession and to take copies of any such document;

(iii) for the purpose of ascertaining whether the master, owner or charterer (if any) of the fishing boat or other vessel concerned, has or may have committed an offence under this Ordinance, a power to search the fishing boat or other vessel concerned for any such documents and to require any person on board to do anything which appears to him to be necessary for facilitating the search;

(iv) where the fishing boat or other vessel is one in relation to which he has reason to suspect that an offence under this Ordinance has been committed, a power to seize and detain any document for use as evidence in proceedings for that offence,

but nothing in subparagraph (iv) shall permit any document required, or appearing to be required, by the law of fishing boat's or other vessel's State of registry to be carried on board it to be seized and detained except where the boat is detained in a port;

(f) where it appears to a Fisheries Protection Officer that an offence of a kind mentioned in paragraph (e)(iv) has been committed, the following powers-

(i) to require the master and any person under the master's command to take the fishing boat or other vessel to any place nominated by the Fisheries Protection Officer in South Georgia and the South Sandwich Islands or the Falkland Islands;

(ii) to detain or require the master to detain the fishing boat or other vessel in that place;

(iii) to take steps, or require any person aboard the fishing boat or other vessel, and having regard always to the safety of the fishing boat or other vessel, to immobilise it so as to prevent it being taken or navigated other than as he or another Fisheries Protection Officer may permit and until such time as it may be released by him or another Fisheries Protection Officer or by a court;

(iv) to seize and detain any fishing gear, instruments or appliances which appear to him to have been, or may have been used in the commission of the offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court;

(v) to seize and detain any fish which appear to him to have been taken as a result of such offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court.

(2) It shall not be an excuse or reason for any person to refuse to answer, or fail to answer, any question, or to refuse to do, fail to do to or to prevent another person from doing anything required by a Fisheries Protection Officer in the exercise of his powers under subsection (1) that to answer that question or to do that thing might or would tend to incriminate that person or any other person.

(3) Any information document or other thing obtained by a Fisheries Protection Officer by the lawful exercise of his powers under subsection (1) shall not be excluded from admissibility in evidence in any proceedings in relation to an offence under this Ordinance on the ground that it was unfairly obtained.

(4) Any person who on any fishing boat or other vessel-

(a) fails without reasonable excuse to comply with any requirement imposed, or to answer any question asked, by a Fisheries Protection Officer in the exercise of his powers under subsection (1);

(b) prevents, obstructs or attempts to prevent or obstruct, any other person from complying with any such requirement or answering any such question;

(c) assaults any Fisheries Protection Officer, or any person engaged to assist him, while that Officer is exercising any of those powers,

commits an offence under this subsection and is liable on conviction of that offence to a fine not exceeding £50,000.

(5) For the purposes of paragraph (a) of subsection (4), an excuse is not reasonable if it is an excuse or reason of a kind referred to in subsection (2).

Release of things seized or detained

11.(1) Where a fishing boat, other vessel or thing has been seized or detained under any power conferred by section 10(1), a Fisheries Protection Officer may at any time release it if no proceedings have been commenced in relation to any offence in respect of any offence in respect of which that fishing boat, other vessel or thing could lawfully have been seized or detained under any power conferred by section 10(1). *Release of fishing boat, other vessel or thing if no proceedings are instituted.*

(2) In any case where-

(a) a fishing boat, other vessel or thing has been seized or detained under a power conferred by section 10(1); and

(b) no proceedings in respect of such an offence have been commenced within fourteen days of the arrival of that fishing boat or other vessel at a place in South Georgia and the South Sandwich Islands or in the Falkland Islands to which it has, in accordance with section 10(1) (f) (i) been required to proceed or, in the case of any other thing, within fourteen days of its arrival in South Georgia and the South Sandwich Islands or the Falkland Islands, or at any earlier time at which the Director of Fisheries is satisfied that no such offence has been committed,

the Director of Fisheries shall release the fishing boat, other vessel or thing.

(3) Where a fishing boat, other vessel or thing has been seized or detained by a Fisheries Protection Officer under a power conferred by section 10(1) and-

(a) has been brought to a place in South Georgia and the South Sandwich Islands or in the Falkland Islands; and

(b) no proceedings in relation to an offence in respect of which the power could have been exercised have been commenced within fourteen days of its arrival in South Georgia and the South Sandwich Islands or in the Falkland Islands,

a court may on the application of the master, owner, charterer (if any) or of any other person appearing to it to have a sufficient interest in the matter, order that it be released, whereupon it shall be released.

(4) In subsection (3), "a court" means a court having jurisdiction under section 18(1) to try and determine proceedings in respect of an offence under this Ordinance.

12.(1) Where proceedings in respect of an offence under this Ordinance have been commenced against any person, but have not been determined, the court in which such proceedings have been commenced may on the application of the master, owner or charterer (if any) of a fishing boat, other vessel or thing seized or detained under a power conferred by section 10(1) or of any other person appearing to the court to have a sufficient interest in the thing in question, exercise the powers conferred upon that court by this section.

Security for and release of fishing boat, other vessel or thing by court.

(2) The court may order the release of the thing in question-

(a) on being satisfied by the applicant that adequate security has been given to the Crown in respect of the aggregate of any fine that the court is likely to impose in the event that the defendant is convicted of the offence and of any costs and expenses that the Crown may recover under section 18(2), or

(b) on being satisfied that a person or persons approved by the court for the purpose has or have executed and delivered to the court a bond or bonds in a suitable form, conditioned in accordance with subsection (4) and in an amount or amounts equivalent to the aggregate of the maximum fine that the court is likely to impose in the event that the defendant is convicted and of any costs and expenses that the Crown may recover under section 18(2), or

(c) on being satisfied that there are special circumstances justifying it in proceeding under this paragraph, a bond or bonds, satisfying the requirements of paragraphs (b), but in a lesser amount or amounts than that thereby required, have been executed and delivered to the court.

(3) The Director of Fisheries shall be the respondent in relation to any application under this section and shall be entitled to be heard in relation thereto.

(4) The conditions of the bond or bonds referred to in subsection (2)(b) and (c) shall be that if-

(a) the defendant to the proceedings is not convicted or the charge or information is not proceeded with; or

(b) the defendant, on having been convicted and sentenced, pays in full within 14 days, or such greater period as the court may allow at the time of sentencing the defendant, the full amount of any fine imposed by the court together with the full amount of any costs and expenses he has under section 18(2) been ordered to pay to the Crown,

then the bond shall be of no further effect and is discharged, but otherwise shall remain in full force and effect, and may be enforced accordingly.

Miscellaneous offences relation to specified areas

13.(1) A fishing boat or other vessel shall not within a specified area-

Unstowed fishing gear.

(a) if it is not licensed under section 5 to fish within that specified area; or

(b) if it is licensed under section 5 to fish within that specified area and

(i) it is not licensed to fish within the part of the specified area in which it for the time being happens to be, or

(ii) it is not authorised by that licence, to use a net, line or other device directly employed in the taking of fish of any particular type, dimensions or specification mentioned in the licence,

carry unstowed aboard it any fishing net, line or other device directly employed in the taking of fish which it is not authorised by the licence under that section to use in that specified area or, as the case may be, the part of the specified area in question.

(2) Where subsection (1) is contravened, the master, owner and charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) In subsection (1) "unstowed" means not stored or secured in such a manner as to be not readily capable of use within a reasonable period of time, and in any proceedings for an offence under subsection (2) it shall be for the defendant to prove that the thing in question was not unstowed.

14.(1) Before proceeding into any specified area in which it is authorised by a licence granted under section 5 to fish (or in the case of such a licence authorising fishing only in a part of a specified area, before proceeding into that part) the master, owner or charterer (if any) of a fishing boat shall notify the Director of Fisheries in accordance with subsection (3).

Report of entry.

(2) If subsection (1) is contravened, the master, owner and charterer (if any) each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries may approve made at such time before such entry as the Director of Fisheries may approve of the following or such of the following as he may require-

(a) the name, port of registry, international radio call sign and licence number of that fishing boat;

(b) the quantity of fish aboard that fishing boat of every species, and in relation to each species a general description of the locations and dates at or which they were taken;

(c) the fishing boat's last port of call and the date on which it left that port; and

(d) the expected time and date of the fishing boat's such entry.

(4) Before proceeding to any place in a specified area at which it is authorised by a licence under section 6 to receive fish the master, owner or charterer (if any) of the vessel concerned shall notify the Director of Fisheries in accordance with subsection (6).

(5) If subsection (4) is contravened, the master, owner and charterer (if any) of the vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries may approve made at such time before entry into the specified area as the Director of Fisheries may approve of the following or such of the following as he may require-

- (a) the name, port of registry, international radio call sign and licence number of the vessel;
- (b) the quantity of fish aboard that vessel of every species, and in relation to each species particulars of the locations and dates at which they were received by the vessel;
- (c) the vessel's last port of call and the date on which it left that port; and
- (d) the expected time and date of the vessel's arrival at that place.

15.(1) Before departing from the specified area in which it was authorised by a licence under section 5 to fish (or in the case of such a licence authorising fishing only in part of a specified area before proceeding from that part) the master, owner or charterer (if any) of a fishing boat shall notify the Director of Fisheries in accordance with subsection (3).

Reports on departure.

(2) If subsection (1) is contravened the master, owner and charterer (if any) of the fishing boat each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries may approve made as nearly as possible immediately before departure of the following or such of the following as he may require-

- (a) the name, port of registry, international radio call sign and licence number of that fishing boat;
- (b) the quantity of fish aboard that fishing boat in relation to every species, and if any fish of any species then aboard that fishing boat was taken outside a specified area or a part of a specified area in which the fishing boat was licensed by licence under section 5 to fish, a statement in relation to each species of the quantity of it which was taken under authority of the licence and of the quantity of it which was not;
- (c) if any fish of any species was, while the fishing boat was within a specified area trans-shipped to any other vessel or in any other manner disposed of particulars-
 - (i) of the name, port of registry, international radio call sign of any vessel to which any fish was trans-shipped;
 - (ii) of the date or dates of the trans-shipping and the place at which it occurred;
 - (iii) in relation to each species so trans-shipped, of the quantity trans-shipped on every occasion and, in relation to each occasion, the quantity of that species trans-shipped which was taken under authority of the licence and the quantity of that species of it which was not;

(d) as to whether or not it is expected that the fishing boat will return to fish under the authority of the same licence;

(e) as to the expected next port of call of the fishing boat and its expected date of arrival thereat; and

(f) as to the place or places it is expected that the fishing boat will discharge or trans-ship the fish aboard the vessel;

(g) if the fishing boat has discharged any fish other than by trans-shipping, of the quantity of fish of each species discharged and particulars of the reasons for its discharge or circumstances in which it was discharged.

(4) Before proceeding from any place in a specified area at which it is authorised by a licence under section 6 to receive fish, the master, owner or charterer (if any) of the vessel shall notify the Director of Fisheries in accordance with subsection (6).

(5) If subsection (4) is contravened the master, owner and charterer (if any) of the vessel each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries may approve made as nearly as possible before departure of the following or such of the following as he may require-

(a) the name, port of registry, international radio call sign and licence number of the vessel;

(b) the quantity of fish aboard the vessel in relation to every species and, if any fish of any species then aboard was received outside a specified area, a statement in relation to each species the quantity of it which was received under the authority of the licence and the quantity of it which was not;

(c) in relation to fish of any species received under the authority of the licence-

(i) the quantity of it received from any fishing boat from which it was received;

(ii) the date or dates on which it was received;

(iii) the name, international radio call sign and port of registry of the fishing boat from which it was received;

(d) whether or not it is expected that the vessel will return to receive fish under the authority of the same licence;

(e) the expected next port of call of the vessel and its expected date of arrival at that port;

(f) the place or places at which it is expected that the vessel will discharge the fish aboard the vessel.

(7) The preceding provisions of this section have effect without prejudice to any obligation under the conditions of any licence granted under section 5 or section 6 and to any obligation under any regulations made under section 23 requiring documents or other records to be kept as to any matter to which any provision of this section relates and to deliver those documents or records or copies of them to the Director of Fisheries or to such person as he directs, and where a person contravenes any provision of this section and has also contravened or thereafter contravenes any such obligation in such a manner as to constitute an offence he may be convicted and punished both in respect of an offence under this section and of an offence in relation to any such obligation.

16.(1) For the sake of avoidance of doubt it is hereby declared that where a fishing boat has departed from a specified area or part thereof or, in the case of a vessel licensed to receive fish, from the place it was authorised to receive fish, and thereafter returns to undertake further operations under the same licence, the provisions of section 14 and 15 apply to it on each occasion of entry or departure of that vessel.

*Supplementary to sections
14 and 15.*

(2) If any person, in purported compliance with any obligation under section 14 and 15, provides any information which to his knowledge is false or misleading or is incomplete, or recklessly as to its truth, falsehood, misleading nature or incompleteness, the master, owner and charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

PART III GENERAL

Provisions as to offences

17.(1) Unless the contrary is proved any fish found on board a fishing boat shall for the purposes of this Ordinance be presumed to have been taken-

*Further provisions as to
offences.*

(a) within a specified area; or

(b) where a licence has been granted under section 5 restricting fishing to a part of a specified area and the fishing boat is outside that part, within the vicinity in which the fishing boat is found.

(2) Unless the contrary is proved, any fish found on board a fishing boat of a species in respect of which that fishing boat is not authorised by a licence under section 5 to take shall be deemed to have been taken within a specified area, but it shall be a defence in relation to an offence to which this subsection relates for the defendant to prove that the fish taken, if taken within a specified area, were taken inadvertently at a time when the fishing boat was seeking to take fish of a species it was authorised by such a licence to take.

(3) In any proceedings for an offence under this Ordinance, a certificate purporting to be signed by the Director of Fisheries or any officer authorised by him for that purpose to the effect that on a date specified in the certificate-

(a) that the fishing boat or vessel was not licensed under section 5 or (as the case may be) section 6; or

(b) that the defendant or any other named person was not the holder of the licence; or

(c) that by such a licence, the fishing boat or other vessel was not licensed to take fish in a particular place or of a particular species or (as the case may be) to receive fish or fish produce in a particular place,

shall, unless the contrary be proved, be sufficient evidence of the matter stated in the certificate.

(4) Where the owner or charterer of a fishing vessel is prosecuted in relation to an offence under this Ordinance, it is not a defence for him to show that the offence-

(a) was committed without his knowledge; or

(b) contrary to any instructions he may have given to any person.

(5) An attempt to commit an offence under this Ordinance constitutes an offence under this section and is punishable in respect of all persons who could have been prosecuted in respect of the offence which was attempted in the same manner as if that offence had been completed.

(6) Notwithstanding any provision or rule of law to the contrary a prosecution in respect of an offence under this Ordinance may be commenced at any time within twelve years of the date on which that offence appears to have been committed.

(7) Where any offence under this Ordinance or under regulations made under section 23 committed by an owner or charterer of a fishing boat or other vessel is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of the body corporate (or, in the case of a body corporate existing under the laws of an overseas jurisdiction, with the consent or approval of any person occupying in relation to it a position similar in function to that of director, manager or secretary) he, as well as the body corporate, shall be deemed to have committed that offence and shall be liable to be proceeded against and punished accordingly.

18.(1) All penalties, offences and proceedings under this Ordinance or any regulation may be recovered, prosecuted and taken before any court of summary jurisdiction in South Georgia and the South Sandwich Islands or, pursuant to the provisions of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989, the Magistrate's Court of the Falkland Islands, and those courts have jurisdiction to try and determine any offence under this Ordinance or any regulation made thereunder.

*Jurisdiction of Summary
and Magistrate's Courts.*

(2) In respect of such offences and notwithstanding any provision of law to the contrary, any court before which, pursuant to subsection (1), any such offence is tried has jurisdiction to impose any fine provided for under this Ordinance and may award to the Crown such costs and expenses (including expenses incurred in exercise of any power under section 10(1) and costs and expenses incurred in relation to the prosecution of any such offence) as may appear to it to be proper.

19.(1) Subject to subsection (2), every person who is convicted of an offence under this Ordinance or any regulation made under this Ordinance and is again convicted of such an offence shall, in addition to any other penalty, forfeit any licence granted under this Ordinance and any fees paid for that licence and for a period of three years from the day of the later conviction shall be incapable of holding any such licence.

Forfeiture of licence.

(2) Notwithstanding subsection (1), the Commissioner may in the circumstances of any particular case, and upon application being made to him by the person concerned within 30 days from the date of the later conviction or such extended period as the Commissioner may allow, direct that in relation to that person the provisions of that subsection shall be varied or are not to apply.

20.(1) Where the Commissioner has reasonable cause to believe that-

Administrative penalties for minor offences.

- (a) an offence against this Ordinance has been committed by any person in respect of any fishing boat;
- (b) the offence is of a minor nature; and
- (c) having regard to the previous conduct of the boat and the person concerned it would be appropriate to impose a penalty under this section;

he may, unless the Attorney General has given a direction which has not been withdrawn to the Director of Fisheries that a prosecution in respect of the offence shall be brought, cause a notice in writing in accordance with subsection (2) in the prescribed form to be served on that person.

(2) A notice under subsection (1) shall specify-

- (a) the date and nature of the offence;
- (b) a summary of the facts on which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him); and
- (c) any other matters (not being previous convictions) that the Commissioner considers relevant to the imposition of a penalty;

and shall be endorsed with a statement setting out the provisions of this section.

(3) Any person on whom a notice under subsection (1) is served may, within 28 days after such service, by notice in writing in the prescribed form served on the Commissioner require that proceedings in respect of the alleged offence shall be dealt with by a court having jurisdiction to try and determine that offence, in which case the following shall apply-

- (a) no further proceedings shall be taken under this section by the Commissioner; and
- (b) nothing in this section shall be construed to prevent the subsequent laying of any information charge in respect of the alleged offence, or the conviction of the person of the offence by that court, or the imposition of any penalty or forfeiture under this Ordinance upon such conviction.

(4) Any person on whom a notice under subsection (1) is served who does not require that proceedings in respect of the alleged offence shall be dealt with by a court may by notice in writing served on the Commissioner-

(a) admit the offence; and

(b) make submission to the Commissioner as to the matters he wishes the Commissioner to take into account in imposing any penalty under this section.

(5) Where a person on whom a notice under subsection (1) is served does not within 28 days after the notice is served on him-

(a) require that proceedings in respect of the alleged offence shall be dealt with by a court; or

(b) admit the offence;

he shall on the expiration of that period be deemed to have admitted the offence.

(6) Where under this section a person admits or is deemed to have admitted an offence the Commissioner may, after taking into account any submissions made by that person under subsection (4), impose a monetary penalty on that person in respect of the offence not exceeding in amount one third of the maximum fine to which the person would be liable if he were convicted of the offence by a court.

(7) An admission or deemed admission of an offence and the imposition of a penalty under this section shall not count as a conviction of an offence for the purposes of section 19.

(8) Where the Commissioner imposes a penalty on a person under this section in respect of an offence the Commissioner shall cause a notice in writing in the prescribed form of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on him in accordance with subsection (8).

(10) A penalty imposed under this section shall be recoverable by the Crown from the person on whom it has been imposed in the same manner as a fine is recoverable on conviction for an offence and without prejudice to the foregoing may be recovered in any manner in which a civil debt to the Crown from that person may be recovered.

(11) Notwithstanding any other provision of this Ordinance or of any other enactment, where an offence has been admitted or is deemed to have been admitted under this section no information or charge may be laid in respect of the offence against any person by whom it is admitted or is deemed to have been admitted.

(12) Nothing in this section shall apply-

(a) in respect of any offence or alleged offence under section 5(3) or 6(10); or

(b) in respect of any offence or alleged offence in respect of which any information or charge has already been laid.

21.(1) In relation to section 5(3) and 6(10), the power thereby conferred to sentence an offender against these provisions to pay a fine without limit is a power enabling the court, subject to subsection (2) of this section, to order the offender to pay a fine of any amount it sees fit without any limitation on the maximum amount it may order the offender to pay by way of fine.

Provisions as to amounts of fine which may be imposed.

(2) Before ordering a person to pay a fine after convicting him of an offence under this Ordinance the court shall inquire into and take into account the means of the offender to pay that fine within a reasonable time.

22.(1) Where a court has ordered the master, owner or charterer of any fishing boat in respect of an offence under this Ordinance or any regulation made under this Ordinance to pay a fine or costs and expenses, the court may, if no security has been given to the Crown for payment thereof or it considers that insufficient security has been given to the Crown, order that in default of payment forthwith the person so ordered shall give security for payment of the amount due, and if such security to the satisfaction of the court is not given, the court may order the detention of the fishing boat concerned in the offence in South Georgia and the South Sandwich Islands or the Falkland Islands (according as to where the court so ordering usually sits) until the amount due is paid or until sufficient security shall be given to the satisfaction of the court.

Detention or forfeiture of fishing boats on failure to pay or secure fine.

(2) Where a person is convicted of an offence under section 5(3) or (12) or section 6(10) and is ordered to pay a fine and that fine is not paid or security given within 30 days of the date of the order of the court, or such longer period as the court may determine, the court may order that the fishing boat concerned in that offence and its equipment concerned in the commission of it shall be forfeited to the Crown and if so forfeited shall be disposed of in such a manner as the Commissioner, acting in his discretion, may direct.

23.(1) The Commissioner may make regulations for the better carrying into effect of the purposes of this Ordinance.

Regulations.

(2) In particular, and without prejudice to the generality of subsection (1) of this section, such regulations may provide for-

- (a) anything which is to be, or may be, prescribed under this Ordinance;
- (b) the forms to be used for the purposes of this Ordinance;
- (c) the persons to whom and the manner in which applications may be made;
- (d) the procedures to be followed by applicants for licences;
- (e) terms and conditions that shall apply to licences issued under this Ordinance;
- (f) the protection of the marine environment within the fishing waters and of any living thing to be found therein;
- (g) the equipment to be carried on board fishing boats;
- (h) the reports to be made and statistics to be kept and submitted for the purposes of this Ordinance;

(i) any matters in relation to which under section 5 or section 6 a condition may be imposed on the grant of a licence thereunder;

(j) the designation by applicants for licences and licensees of authorised agents in South Georgia and the South Sandwich Islands or in the Falkland Islands in respect of fishing boat operations and otherwise for the purposes of this Ordinance;

(k) the provision by applicants for licences or licensees of bonds or other forms of security for securing their compliance with the obligations under the terms and conditions of their licences or their compliance with the provisions of this Ordinance;

(l) the placing of Fisheries Protection Officers and official observers on fishing boats and the terms for their presence thereon;

(m) a fine of such amount as may be prescribed therein in respect of any offence under any such regulations (but so that no such fine shall exceed £100,000 and, subject to that limitation, so that different fines may be prescribed in relation to different offences);

(n) any other purpose related to any obligation under, or objective of, the Convention.

(3) Regulations made under this section may make different provisions for different parts of the fishing waters, different specified areas, different parts of the year, different types and sizes of fishing boats or any one or more of the foregoing.

24.(1) Where an agent for the licensee under a licence is named in that licence-

*Service of proceedings
and notices.*

(a) any summons or to the owner, charterer or master of the boat to which such licence relates to attend before any court to answer to that summons shall be deemed to be duly served if it is shown that the summons was delivered to or received by that agent;

(b) any administrative penalty notice under section 20(1) shall be deemed to have been duly served on the owner, charterer or master of the boat (as the case may be) if it is shown that it was delivered to or received by that agent;

(c) the agent may, on behalf of the owner, charterer or master of the boat, give to the Commissioner any notice or notification which the owner, charterer or master of the boat could give under any provision of this Ordinance; and

(d) any notice which the Director of Fisheries is empowered under this Ordinance or any regulations made under section 23 to give or serve upon the owner, charterer or master of the boat shall be deemed to have been duly given to or served upon that person if it is shown that it was delivered to or received by the agent.

(2) Subsection (1) has effect whether the summons or notice is delivered, served or given to the agent in South Georgia and the South Sandwich Islands, the Falkland Islands or elsewhere.

25.(1) Subject to this section, the Fisheries Ordinance of the Falkland Islands in its application to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance shall cease to apply to the fishing waters of South Georgia and the South Sandwich Islands on the commencement of this section.

*Partial disapplication of
Cap. 27, Laws of the Falkland
Islands, under Cap. 1 (DS) and
savings as to regulations.*

(2) Notwithstanding subsection (1), the Fisheries (Trans-shipment and Export) Regulations 1990 shall continue to have effect to the extent provided by section 6(3).

26. The Application of Colony Laws Ordinance is amended by deleting from the Schedule thereto the numerals and words "62. Seal Fishery Ordinance" and "76. Whale Fishery Ordinance" appearing therein and so that-

*Amendment of Schedule
to Application of
Colony Laws Ordinance
(Cap. 1 (DS)).*

(a) the said Seal Fishery Ordinance and the said Whale Fishery Ordinance (which were applied to South Georgia and the South Sandwich Islands by the Application of Colony Laws Ordinance) shall cease on the commencement of this section to apply to South Georgia and the South Sandwich Islands; but

(b) the provisions of this Ordinance shall have effect in relation to any fishing operations to which either of the said Ordinances related prior to the commencement of this section.

Enacted the 23rd day of July 1993

Ronald Gumpson

Commissioner.



Pensions (Amendment) Ordinance 1994

(No: 1 of 1994)

ARRANGEMENT OF PROVISIONS

Section

1. Short title.
2. Adoption of Pensions (Amendment) Ordinance 1987 of the Falkland Islands.

ELIZABETH II



The Territories of South Georgia and the
South Sandwich Islands

DAVID EVERARD TATHAM, C.M.G.,
Commissioner.

The Pensions (Amendment) Ordinance 1994

(No. 1 of 1994)

An Ordinance

To adopt as law of South Georgia and the South Sandwich Islands the Pensions
(Amendment) Ordinance 1987 of the Falkland Islands

(assented to: 29 AUG 94)
(commencement: on publication)
(published: 31 AUGUST 94)

ENACTED by the Commissioner as follows-

1. This Ordinance may be cited as the Pensions (Amendment) Ordinance 1994.

Short title.

2. The Pensions (Amendment) Ordinance 1987 (which amended the Pensions Ordinance 1965 by
repealing section 18F thereof and replacing that section with a new section 18F) shall be deemed
to have applied as part of the law of South Georgia and the South Sandwich Islands-

*Adoption of Pensions
(Amendment) Ordinance
1987 of the Falkland
Islands.*

(a) with effect from the date on which it came into effect in the Falkland Islands (that is
to say 23rd March 1988); but

(b) with the substitution of the words "Government of South Georgia and the South
Sandwich Islands" for the words "Government of the Falkland Islands" appearing in the
said new section 18F.

Made this 27th day of August

1994.

D. E. TATHAM,
Commissioner.



PART II

PROCLAMATIONS, ORDERS, RULES AND REGULATIONS etc.

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 SUBSIDIARY LEGISLATION

FISHERIES

The Fisheries (Transshipment and Export) Regulations 1990

(S. R. & O. No. 1 of 1990)

Made 13th June 1990

Published 18th June 1990

Commencing on publication

IN EXERCISE of my powers under section 3 of the Fisheries Ordinance (a) in its application to the South Georgia and South Sandwich Islands under section 6(1) of and the Schedule to the Application of Colony Laws Ordinance (b) and section 12 of the South Georgia and South Sandwich Islands Order 1985 (c) and in exercise of my powers under section 9 of that Order and of all other powers me enabling, I make the following Order -

1. This Order may be cited as the Fisheries (Transshipment and Export) Regulations 1990 and shall come into force on publication in the Gazette.

Citation and
Commencement.

2. In these Regulations unless the context otherwise requires —

Interpretation.

“fish” means any marine animal and any part of any marine animal not being a mammal or bird or a part thereof, whether living or dead and whether fresh, frozen, cured rendered to fish meal or otherwise treated;

“fishing vessel” includes any ship, boat or other vessel used for fishing or transporting or processing fish;

“fisheries protection officer” means any person appointed by the Commissioner to be a fisheries protection officer;

“person” includes any body of persons;

“recognised harbour” means Cumberland Bay East and any other harbour declared under regulation 5 (2) below to be a recognised harbour;

“South Georgia and South Sandwich Islands waters” means the internal waters and territorial sea of South Georgia and the South Sandwich Islands.

3. (1) It is unlawful for any person —

Transshipment etc
without a licence
prohibited.

(a) to tranship any fish within South Georgia and South Sandwich Islands waters, and whether that fish was caught within those waters or not;

(b) to transport from those waters any fish which has been so transhipped;

unless that transshipment or, as the case may be, that transportation, is carried out under the authority of and in accordance with any conditions attached to or referred to in a licence granted under regulation 4(1) below.

(2) Without prejudice to the generality of paragraph (1) above, it is hereby expressly declared that “person” in that paragraph includes every person who is a member of the crew of or attached to or otherwise employed or engaged in relation to the operations of a fishing vessel and whether he is on board the vessel or not.

(3) A person who contravenes paragraph (1) above commits an offence.

4. (1) The Commissioner or any person authorised by him may grant to any person a licence to tranship fish within or transport fish from South Georgia and South Sandwich Islands waters or to do both those things.

Grant of
licences.

(2) A licence granted under paragraph (1) above may —

(a) Chapter 27 Laws of the Falkland Islands 1950 Edition Pages 237 and 238 (b) Chapter 1 (DS) Laws of the Falkland Islands 1950 Edition Pages 707 to 710 (c) S.I. 1985 No. 449

- (a) authorise one transhipment to a named vessel from another named vessel, or to a named vessel from any other vessel;
 - (b) authorise a number of transhipments specified therein to a named vessel from another named or other named vessels or from any number of named vessels;
 - (c) authorise transhipments within the period specified therein, without limit on the number of transhipments permitted, to any vessel from any other vessel or vessels named in the licence, or from any other vessels whatsoever, or from other vessels in common ownership or control;
 - (d) authorise, by reference to quantity permitted, transportation by the vessel to which fish has been transhipped in accordance with the licence of the fish so transhipped;
 - (e) authorise, by reference to a period of time, the transportation by the vessel of all fish which has been transhipped to it in accordance with the licence.
- (3) Where a licence is granted on terms to which subparagraphs (a) or (b) of paragraph (2) above relate, there shall be payable a fee calculated in accordance with the Schedule below.
- (4) Where a licence is granted on terms to which subparagraph (c) of paragraph (2) above relates there shall be payable such fee as the Commissioner may notify to the licensee.
- (5) No fee shall be payable for a licence to transport fish which has been transhipped.
- (6) A licence granted under paragraph (1) above shall enure in accordance with its tenor for the benefit of all persons carrying out any operation which would otherwise be prohibited by regulation 3 above.
- (7) A licence granted under paragraph (1) shall require transhipment to take place in a recognised harbour, and may be granted subject to such other conditions as the Commissioner thinks fit.
5. (1) Cumberland Bay East is a recognised harbour. Recognised harbour.
- (2) The Commissioner may by writing under his hand declare any other place within South Georgia and South Sandwich Islands waters to be a recognised harbour.
6. A person commits an offence who — Other requirements.
- (a) being the master of or in command of a fishing vessel, without reasonable excuse, fails to bring to when required to do so by any fisheries protection officer or upon signal of a government vessel; or
 - (b) being aboard a fishing vessel, refuses to answer any questions put to him by a fisheries protection officer concerning fish to be or that has been transhipped or transported from South Georgia or South Sandwich Islands waters.
7. (1) A person who is convicted of an offence under regulation 3 is liable — Penalties.
- (a) if a natural person to a fine not exceeding £10,000;
 - (b) if a body corporate to a fine not exceeding £100,000.
- (2) A person who is convicted of an offence under regulation 6 is liable to a fine not exceeding £2,000.
8. Where it is proved that an offence under regulation 3 has been committed by a natural person who is an employee of a body corporate or by a person who is acting as the agent of or on the instructions of a body corporate it is also proved that the body corporate has committed that offence and the corporation may be convicted of that offence as well as, or instead of that natural person and may be fined accordingly. Offences by body corporate.
9. A summons, charge or other process issued or made in respect of any offence under these Regulations is sufficiently served or brought if it or a copy of it is proved — Service of summons etc.
- (a) in the case of a natural person, to have been handed to him personally or to have been sent or transmitted to him at an address or location at which, in the opinion of the court, he is likely to have received it or to have had its contents or effect brought to his attention;

- (b) in the case of a body corporate, to have been sent or transmitted to —
- (i) its registered office or principal place of business; or
 - (ii) any vessel of which the body corporate is the registered owner;
 - (iii) the master of any vessel of which the body corporate is the registered owner,

but no court may proceed on the basis of such service without the consent of the natural person or body corporate affected thereby until after the expiry of such period of time as the court considers fair and reasonable in all the circumstances.

10. The Magistrate's Court has jurisdiction to try any offence under jurisdiction of these Regulations and impose any fine authorised by them.

Magistrate's
Court to have
jurisdiction.

SCHEDULE

(regulation 4(3))

FEES PAYABLE FOR CERTAIN TRANSHIPMENT LICENCES

For every transhipment - £1000.

Made this 13th day of June 1990.

W. H. FULLERTON,
*Commissioner for
South Georgia and
the South Sandwich
Islands.*

EXPLANATORY NOTE

(not forming part of above Regulations)

These Regulations prohibit the transhipment of fish or transportation of fish from internal waters and the territorial sea of South Georgia and the South Sandwich Islands without the authority of a licence. They also provide for the grant of licences to tranship or transport fish and for the payment of fees in respect of them.

SUBSIDIARY LEGISLATION

CUSTOMS

Customs (Fees) Regulations 1992

(S. R. & O. No: 1 of 1992)

Made: 17th November 1992
Published: 20th November 1992
Coming into operation: 6th December 1992

IN EXERCISE of my powers under section 230 of the Customs Ordinance(a) in its application to the Territories by virtue of the provisions of the Application of Colony Laws Ordinance(b) and of all other powers me enabling in that behalf I make the following Regulations -

1. These Regulations may be cited as the Customs Fees Regulations 1992 and come into force on 6th December 1992. *Citation and Commencement.*

2. In these Regulations - *Interpretation.*

"normal hours of duty" means between the hours of eight in the morning and noon and between the hours of a quarter past one in the afternoon and half past four in the afternoon on any day which is not a Saturday, Sunday or public holiday; and

"outside normal hours of duty" has a corresponding meaning.

3. Subject to regulation 4, any person requiring the services of a customs officer for any purpose under the customs laws shall pay fees as follows - *Customs Fees.*

(a) where the whole of those services are provided during normal hours of duty, the greater of -

(i) £40.00 and

(ii) such fee as is generated by multiplying the number of hours engaged in providing those services by £20.00 (and so that for the purposes of this subparagraph, any fraction of an hour above any whole number of hours shall be charged as a whole hour);

(b) where those services are provided partly within the normal hours of duty and partly outside those hours -

(i) at the rate provided for by (a) (ii) above in respect of the whole number of hours engaged during normal hours of duty;

(a) Cap. 16 Laws of the Falkland Islands 1950 Edition.

(b) Cap. 1 (DS) Laws of the Falkland Islands 1950 Edition.

(c) No. 2 of 1975 as amended by No. 5 of 1978.

(ii) as to the remainder of the time engaged (including any fraction of an hour above a whole number of hours engaged during normal hours of duty) as provided for under (c) (ii) below (but so that the minimum fee payable by virtue of this subparagraph shall be £60);

(c) where the whole of those services are provided outside normal hours of duty, the greater of -

(i) £60; and

(ii) such fee as is generated by multiplying the number of hours by £30 (and so that for the purposes of this subparagraph, any fraction of an hour above any whole number of hours shall be charged as a whole hour).

4. For the single act of -

*Single act of entering
or clearing.*

(a) entering; or

(b) clearing; or

(c) entering and clearing,

a fee of £20 shall be paid, unless the vessel is under 15 net register tons when the fee of £10 shall be paid.

5. The Customs (Fees) Regulations 1975(c) no longer apply to the Territory.

Revocation.

Made this 17th day of November 1992.


D. E. TATHAM,
Commissioner.

EXPLANATORY NOTE
(not forming part of the above Order)

These Regulations replace the Customs (Fees) Regulations 1975 (as amended).

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

THE MARITIME ZONE AND FISHERIES

The Fishing (Maritime Zone) Order 1993

(S.R. & O. No.1 of 1993)

Made: 26th July 1993

Published: 26th July 1993

Commencing: 2nd August 1993

IN EXERCISE of my powers under section 5(1) and 6(2) of the Fisheries (Conservation and Management) Ordinance 1993(a) and of all other powers enabling me in that behalf, I make the following Order-

Introductory

1. This Order may be cited as the Fishing (Maritime Zone) Order 1993 and shall come into operation on 2nd August 1993.

*Citation and
commencement.*

2.(1) Words and expressions used in this Order and which are defined in section 2 of the Fisheries (Conservation and Management) Ordinance 1993(a) shall have for the purposes of this Order the same meaning as they have for the purposes of that Ordinance.

Interpretation.

(2) In this Order-

"Conservation Measure" has the same meaning as it has for the purpose of the Convention;
and

a reference to a Sub-Area is a reference to a United Nations Food and Agriculture Organisation statistical sub-area.

(a) No.3 of 1993.

3.(1) This Order applies to all parts of the fishing waters lying to the north of sixty degrees South of Latitude but nothing in this Order shall be construed as applying to fishing which is undertaken for the purposes of genuine scientific research which has been notified in advance to the Secretariat provided for by the Convention.

*Application of
this Order.*

(2) The parts of the fishing waters to which, by virtue of paragraph (1) of this Article, this Order applies are hereinafter in this Order called "the specified area".

4.(1) Subject as expressed in Article 3(1) and to paragraph (2) of this Article, all fishing operations in the specified area are prohibited unless they are authorised by a licence granted under this Order.

*Prohibition of
fishing operations.*

(2) Paragraph (1) of this Article shall not have effect so as to prohibit fishing operations so far as they are trans-shipment of fish authorised by a licence granted under the Fisheries (Trans-shipment and Export) Regulations 1990(b), but that paragraph shall have effect to prohibit trans-shipment of fish within the specified area otherwise than as is permitted by a licence so granted.

Restrictions on exercise of licensing powers

5. Nothing in the subsequent provisions of this Order shall have effect so as to authorise the Director of Fisheries to grant any licence which, if granted -

*Total prohibitions
in respect of
certain Sub-Areas.*

(a) would have effect so as to permit the taking of any fish of any particular description in any part or parts of the specified area where in respect of fish of that particular description, it would be contrary to or inconsistent with any Conservation Measure for fish of that particular description to be taken; or

(b) would permit any method of fishing to be used or any fishing net or gear of any kind to be used in any part or parts of the specified area where (in any such case) it would be contrary to or inconsistent with any Conservation Measure for it to be used.

6.(1) Without prejudice to Article 5, the Director of Fisheries shall not grant a licence under the subsequent provisions of this Order in any terms or in relation to any particular description of fish where, in his reasonable opinion, the fishing operations of the licensee thereunder, if that licence were granted, or were granted on those terms, would or might result in a quantity of fish or a quantity of fish of any particular description being permitted to be taken which, if actually taken under the licence (and, if appropriate when aggregated with the quantity of fish as a whole or with the quantity of fish of that particular description permitted under any Conservation Measure to be taken in a relevant area) would or might cause to permit to be taken a quantity of fish or, as may be, a quantity of fish of a particular description, exceeding a quantity permitted under that Conservation Measure to be taken within the relevant area.

*General restriction
on the grant of licences.*

(b) S.R. & O. No. 1 of 1990.

(2) In paragraph (1), "relevant area" means all or any of the following areas-

- (a) the specified area;
- (b) any part or parts of the specified area;
- (c) any Sub-Area, and whether it lies wholly within the specified area or not; and
- (d) the whole of the waters to which the Convention applies.

*Grant of
Licences.*

7.(1) Subject to this Order, the Director of Fisheries may grant in relation to any fishing boat a licence to undertake within any part or parts of the specified area any fishing operation mentioned in that licence, but

- (a) this Article does not enable the licensing of trans-shipping of fish (to which the Fisheries (Trans-shipment and Export) Regulations 1990(b) continue to apply); and
- (b) the Director in the exercise of his powers under this Article shall comply with any direction he may have received from the Commissioner under section 5(7)(a) of the Fisheries (Conservation and Management) Ordinance 1993 requiring him, on grant of a licence, to impose a condition or conditions specified by the Commissioner.

(2) Subject as expressed in paragraph (1), the Director may grant a licence -

- (a) unconditionally; or
- (b) subject to such conditions, being conditions of a kind referred to in section 5(7) of the Fisheries (Conservation and Management) Ordinance 1993(a), as are specified in the licence.

8. There shall be charged and paid in respect of any licence under Article 7 such fees as the Commissioner may notify to the Director of Fisheries as the fees chargeable and such fees may be expressed so as to be variable in accordance with all or any of the factors mentioned in section 5(5)(b) of the Fishing (Conservation and Management) Ordinance 1993.

Fees.

Made

26th

July

1993

Ronald Sampson

Commissioner.

Fisheries (Conservation and Management) Ordinance 1993

(section 1)

NOTICE OF COMING INTO FORCE OF THE ORDINANCE

Pursuant to section 1 of the Fisheries (Conservation and Management) Ordinance 1993, I **APPOINT** 2nd August 1993 as the day on which all the provisions of that Ordinance shall come into force.


Commissioner

Dated 26th July 1993

PROCLAMATION

No. 1 of 1993

MARITIME ZONE

IN THE NAME OF HER MAJESTY ELIZABETH II, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith,

BY DAVID EVERARD TATHAM ESQUIRE, COMPANION OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, Commissioner for South Georgia and the South Sandwich Islands,

WHEREAS there is a need to establish and to regulate activity in a maritime zone around South Georgia and the South Sandwich Islands in accordance with the rules of international law,

NOW THEREFORE I, DAVID EVERARD TATHAM, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do **HEREBY PROCLAIM** as follows :

1. There is established for South Georgia and the South Sandwich Islands a maritime zone having as its inner boundaries the outer limits of the territorial sea of South Georgia and the South Sandwich Islands and its seaward boundary a line drawn so that each point on the line is 200 nautical miles from the nearest point on the baselines defined, in the case of South Georgia, in Article 3(3) and (4) of and the Schedule to the South Georgia and South Sandwich Islands (Territorial Sea) Order 1989 and, in the case of the South Sandwich Islands, in Article 3(1) and (2) of that Order.
2. Any rights exercisable over the waters of the maritime zone and its seabed and subsoil, as well as the natural resources thereof (whether living or non-living), are hereby vested in Her Majesty.
3. In regard to the maritime zone, Her Majesty will exercise jurisdiction in accordance with the rules of international law over the exploration and exploitation and the conservation and management of the natural resources (whether living or non-living) and over the protection and preservation of the marine environment, subject to such provision as may hereafter be made by law for such matters.
4. This Proclamation becomes effective forthwith.

GIVEN under my hand and the Public Seal of South Georgia and the South Sandwich Islands, this seventh day of May in the year of Our Lord One Thousand Nine Hundred and Ninety Three.

D. E. TATHAM,
Commissioner.

LS

SUBSIDIARY LEGISLATION

HARBOURS

The Harbours Fees Regulations 1994

(S. R. & O. No: 1 of 1994)

(Made: 12th August 1994)

(Published: 31st August 1994)

Coming into force: 1st September 1994)

IN EXERCISE of my powers under section 3 of the Harbours Ordinance (a), I make the following Regulations -

1. These regulations may be cited as the Harbour Fees Regulations 1994 and shall come into force on 1st September 1994. *Citation and commencement.*
2. A fee of £25 shall be payable in respect of every vessel, other than yachts, entering or leaving harbour. *Entry and exit fees.*
- 3.(1) There shall be payable in respect of every vessel in relation to the first day of its stay in a harbour the fee ("the initial fee") appropriate in respect of its tonnage by reference to the Schedule to these Regulations, except that double that fee shall be paid if the vessel carries more than twelve passengers at the time of its entry into harbour. *Daily fees.*
- (2) There shall be payable in respect of every vessel, except yachts, in respect of every day or part thereof that the vessel remains in harbour after the first day a fee equal to one half of the initial fee.

(a) Cap. 30 Laws of the Falkland Islands 1950 Edition in its application under Cap. 1 (D.S.) to South Georgia and the South Sandwich Islands.

SCHEDULE

(regulation 3(1))

Yachts (irrespective of tonnage): £44.00

The following fees are payable in relation to the net tonnage of the vessel concerned -

Vessels (other than yachts) -

Under 15 tonnes	£48.00
15 tonnes and under 30 tonnes	£83.00
30 tonnes and under 50 tonnes	£165.00
50 tonnes and under 800 tonnes	£231.00
800 tonnes and under 1000 tonnes	£290.00
1000 tonnes and under 1500 tonnes	£339.00
1500 tonnes and under 2000 tonnes	£411.00
2000 tonnes and under 5000 tonnes	£497.00
5000 tonnes and under 7000 tonnes	£618.00
7000 tonnes and under 10000 tonnes	£920.00
10000 tonnes and under 15000 tonnes	£1126.00
15000 tonnes and under 20000 tonnes	£1320.00
Vessels over 20000 tonnes	£1525.00

Made this 12th day of August 1994.

R. SAMPSON,
Commissioner.

EXPLANATORY NOTE

(not forming part of above regulations)

These Regulations set harbour dues for South Georgia and the South Sandwich Islands.

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS HARBOURS

The Harbours Fees (Amendment) Regulations 1995

(S. R. O. No: 1 of 1995)

Made: 1995

Published: 1995

Coming into force: 1st July 1995

IN EXERCISE of my powers under section 3 of the Harbours Ordinance (a), I make the following Regulations -

1. These regulations may be cited as the Harbour Fees (Amendment) Regulations 1995 and shall be deemed to have come into force on 1st July 1995.

*Citation and
commencement.*

2. The Schedule to the Harbour (Fees) Regulations 1994 (b) is amended by replacing the words "Yachts (irrespective of tonnage): £44.00" with the words "Yachts under commercial charter, with passengers carried for reward: £44.00".

*Amendment to the
Harbour (Fees)
Regulations 1994.*

Made this 18th day of July 1995.

D. E. TATHAM,
Commissioner.

-
- (a) Cap. 30 Laws of the Falkland Islands 1950 Edition in its application under Cap. 1 (D.S.) to South Georgia and the South Sandwich Islands.
(b) S. R. & O. No. 1 of 1994.

PROCLAMATION

CUSTOMS

The Export of Arms Proclamation 1997

(Proclamation No. 1 of 1997)

By **RICHARD PETER RALPH**, Commander of the Royal Victorian Order,
Commissioner for South Georgia and the South Sandwich Islands, A
PROCLAMATION—

WHEREAS section 35 of the Customs Ordinance(a) in its application to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance(b) has the effect that it shall be lawful for the Commissioner from time to time by proclamation to prohibit the importation, carriage coastwise or exportation of any goods whatsoever and that any such proclamation may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such time as may be specified therein, and may either absolutely prohibit importation, carriage coastwise or exportation except on compliance with any conditions which may be specified in the proclamation, or importation from or exportation to any particular place named in the proclamation;

AND WHEREAS it is necessary to prohibit the exportation of arms from South Georgia and the South Sandwich Islands save as is by this Proclamation provided;

IN EXERCISE of my powers under section 35 of the Customs Ordinance(a) and of all other powers enabling me, **I PROCLAIM** as follows—

1. Except as provided by Article 2 of this Proclamation and save as may be authorised by, and in accordance with the conditions, if any, of, a licence in writing granted by the Commissioner, the export from South Georgia and the South Sandwich Islands of any arms is prohibited until such time as this Proclamation is revoked.
2. Nothing in Article 1 applies to the export of any arms by or on behalf of Her Majesty's armed forces undertaken by or under the authority of the Commander British Forces Falkland Islands.
3. For the purposes of this Proclamation, "arms" means any item entered in Part III of Schedule 1 to the Export of Goods (Control) Order 1994(c), as amended from time to time.

(a) Cap. 16 Laws of the Falkland Islands 1950 Edition

(b) Cap. 1 (D.S.) Laws of the Falkland Islands 1950 Edition

(c) SI 1994/1191

4. This Proclamation has effect without prejudice to the provisions of any Order in Council (such as the United Nations Arms Embargoes (Dependent Territories) Order 1995(d)) which in the circumstances of the particular case has effect to prohibit or restrict the export of the arms concerned.
5. This Proclamation shall become effective on its first publication in the *Gazette*.

GIVEN under my hand and the Public Seal of South Georgia and the South Sandwich Islands at Government House, Stanley, Falkland Islands, this 28th day of April in the year of Our Lord One thousand Nine Hundred and Ninety-Seven

R.P. Ralph
Commissioner

EXPLANATORY NOTE
(not forming part of the above Proclamation)

This Proclamation has been issued in order to enable effect to be given in South Georgia and the South Sandwich Islands to various international arms embargoes which the United Kingdom Government has agreed shall be applied in relation to South Georgia and the South Sandwich Islands and all other dependent territories and which are not given effect to by an Order in Council applying in relation to South Georgia and the South Sandwich Islands.

PROCLAMATION

CUSTOMS

The Export of Anti-Personnel Landmines Proclamation 1997

(Proclamation No. 2 of 1997)

By **RICHARD PETER RALPH**, Commander of the Royal Victorian Order, Commissioner for South Georgia and the South Sandwich Islands, A PROCLAMATION—

WHEREAS section 35 of the Customs Ordinance(a) in its application to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance(b) has the effect that it shall be lawful for the Commissioner from time to time by proclamation to prohibit the importation, carriage coastwise or exportation of any goods whatsoever and that any such proclamation may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such time as may be specified therein, and may either absolutely prohibit importation, carriage coastwise or exportation except on compliance with any conditions which may be specified in the proclamation, or importation from or exportation to any particular place named in the proclamation;

AND WHEREAS it is desired to prohibit the exportation of anti-personnel landmines from South Georgia and the South Sandwich Islands;

IN EXERCISE of my powers under section 35 of the Customs Ordinance(a) and of all other powers enabling me, **I PROCLAIM** as follows—

1. The export from South Georgia and the South Sandwich Islands of any arms is prohibited until such time as this Proclamation is revoked.
2. This Proclamation shall become effective on its first publication in the *Gazette*.

GIVEN under my hand and the Public Seal of South Georgia and the South Sandwich Islands at Government House, Stanley, Falkland Islands, this ninth day of May in the year of Our Lord One thousand Nine Hundred and Ninety-Seven

R. P. Ralph
Commissioner

(a) Cap. 16 Laws of the Falkland Islands 1950 Edition

(b) Cap 1 (D.S.) Laws of the Falkland Islands 1950 Edition

EXPLANATORY NOTE
(not forming part of the above Proclamation)

This Proclamation has been issued in order to enable effect to be given in South Georgia and the South Sandwich Islands, as a Dependent Territory of the United Kingdom, to the United Kingdom's policy of prohibiting the export of anti-personnel landmines to all countries as part of its commitment to work actively towards a total global ban on the use of such mines.

SUBSIDIARY LEGISLATION

ANTARCTICA

The Antarctic Act 1994 (Commencement) Order 1997

S. R. & O. No. 1 of 1997

Made:14 July.....1997
Published:25 July.....1997
Coming into force: on publication

IN EXERCISE of my powers under article 1(2) of the Antarctic Act 1994 (Overseas Territories) Order 1994(a), I make the following Order—

Citation

1. This Order may be cited as the Antarctic Act 1994 (Commencement) Order 1997.

Partial commencement of the Antarctic Act 1994 in South Georgia and the South Sandwich Islands

2.—(1) The Antarctic Act 1994(b), except sections 3, 4 and 6, shall come into force in South Georgia and the South Sandwich Islands on 1st August 1997.

(2) In paragraph (1), “the Antarctic Act 1994” means that Act in the form it appears in the Schedule to the Antarctic Act 1994 (Overseas Territories) Order 1995.

Made this 14th day of July 1997



R P Ralph
Commissioner

(a) SI 1995/1030

(b) 1994 c.15

EXPLANATORY NOTE
(not forming part of the above Order)

This Order, made under article 1(2) of the Antarctic Act 1994 (Overseas Territories) Order 1995, brings most of the provisions of the Act into force in South Georgia and the South Sandwich Islands on 1st August 1997.

SUBSIDIARY LEGISLATION

ANTARCTICA

The Antarctic Regulations 1997

(S.R.&O. No. 2 of 1997)

ARRANGEMENT OF REGULATIONS

PART 1

General

1. Citation and commencement
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SUBSIDIARY LEGISLATION

ANTARCTICA

The Antarctic Regulations 1997

(S.R.&O. No. 2 of 1997)

Made:1997

Published:1997

Coming into force: on publication

IN EXERCISE of my powers under sections 9(1), 10(1), 11(1), 14(1), 25(1) and (3), 29 and 32 of the Antarctic Act 1994(a), and of all other powers enabling me in that behalf, I hereby make the following Regulations—

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Antarctic Regulations 1997, and shall come into force upon publication in the *Gazette*.

Interpretation

2.—(1) In these Regulations “the Act” means the Antarctic Act 1994(a), and expressions used in these Regulations have, unless the contrary intention appears, the meaning which they bear in the Act.

(2) Any reference in these Regulations to a communication “in writing” shall include a reference to a communication by telex, facsimile or other similar instantaneous means which produces a document containing a text of the communication.

(3) Any reference in these Regulations to the Commissioner with respect to the application, grant, production, revocation or suspension of a permit for the purposes of section 11 or 12 of the Act shall include a reference to any person exercising the powers of the Commissioner for those purposes in accordance with a delegation given under section 16 of the Act.

(a) 1994 c 15 in the form in which it applies in South Georgia and the South Sandwich Islands by virtue of the Antarctic Act 1994 (Overseas Territories) Order 1995 (SI 1995/1030)

(4) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

(5) Any period of time specified in these Regulations by reference to days, working days or months-

(a) where such period is expressed to begin after a particular date, shall begin on the first day after that date, and shall be inclusive of the last day unless that day falls on a Saturday, Sunday, Christmas Day, Good Friday or any other day appointed by law to be a public holiday in South Georgia and the South Sandwich Islands, in which case the period shall run to the immediately following working day; and

(b) where such period is expressed to run or to expire before a particular date or event, the period shall be calculated to expire on the last working day before the particular date or the date of that event.

(6) In computing any period of time specified in these Regulations by reference to working days there shall be disregarded the whole of any Saturday, Sunday, Christmas Day, Good Friday or any other day appointed by law to be a public holiday in any part of South Georgia and the South Sandwich Islands.

Service of documents

3.—(1) Anything required to be served on any person under these Regulations or the Act shall be set out in a notice in writing which may be served either—

(a) by delivering it to that person;

(b) by leaving it at his proper address;

(c) by sending it by post to that address; or

(d) by sending it to him at that address by telex, facsimile or other similar instantaneous means which produces a document containing a text of the communication, in which event the document shall be regarded as served when it is transmitted,

and where the person is a body corporate the document may be served, by any of these means, upon the Secretary of that body.

(2) When a document is sent by post it shall be deemed to have been received 7 working days after despatch if posted to an address within South Georgia and the South Sandwich Islands and 15 working days if posted to an address elsewhere.

(3) For the purposes of this regulation the proper address of any person shall in the case of a body corporate be the registered or principal office of that body and in any other case shall be the last known address of the person.

PART 2

PERMITS

Applications for permits under sections 3, 4, 5 and 6 of the Act

4.—(1) An application for a permit under section 3, 4, 5 or 6 of the Act shall be made to the Commissioner in such form, and accompanied by such number of copies, as he may require.

(2) No later than 10 days after making the application, the applicant shall cause notice of the application to be published in the *London Gazette* in such form and containing such information as the Commissioner may require.

(3) The applicant shall during the period the application is pending—

(a) make available a copy of the application for inspection during normal office hours by any person who may so request; and

(b) provide copies of the application to any person on receipt of a request in writing, subject to payment of reasonable charges for supplying the copies, including postage.

Initial Environmental Evaluation

5.—(1) If the Commissioner considers that the activity for which an application has been made under regulation 4 is likely to have more than a negligible impact on the environment of Antarctica, he shall, unless he has required the applicant to submit a draft Comprehensive Environmental Evaluation in accordance with regulation 6(1), require the applicant to submit to him an Initial Environmental Evaluation.

(2) An Initial Environmental Evaluation shall be in such form, and accompanied by such number of copies, as the Commissioner may require and shall contain sufficient information for the Commissioner to be able to assess—

(a) the scale of the impact which the proposed activity may have on the environment of Antarctica;

(b) whether, in the light of existing and known planned activities, it may have a cumulative impact; and

(c) whether there may be alternative ways of carrying out the proposed activity which might lessen the environmental impact or possible cumulative impact.

(3) The applicant shall during the period the application is pending—

(a) make available a copy of the Initial Environmental Evaluation for inspection during normal office hours by any person who may so request; and

(b) provide copies of the Initial Environmental Evaluation to any person on receipt of a request in writing, subject to payment of reasonable charges for supplying the copies, including postage.

(4) The Commissioner shall annually send to the Secretary of State a list of the Initial Environmental Evaluations submitted to the Commissioner in accordance with this regulation during the preceding 12 months.

Comprehensive Environmental Evaluation

6.—(1) If the Commissioner at any time after the making of an application considers that the activity which is the subject of the application is likely to have more than a minor or transitory impact on the environment of Antarctica, he shall require the applicant to submit to him a draft Comprehensive Environmental Evaluation.

(2) Such draft Comprehensive Environmental Evaluation shall be in such form, and accompanied by such number of copies, as the Commissioner may require and shall contain sufficient information for the Commissioner to be able to consider or determine—

(a) possible alternatives to the proposed activity, including the alternative of not proceeding with it;

(b) the initial environmental reference state with which predicted changes are to be compared, and the likely future environmental state in the absence of the proposed activity;

(c) whether the methods and data used to forecast the impacts of the proposed activity are satisfactory for that purpose;

(d) the nature, extent, duration and intensity of the likely direct impacts of the proposed activity;

(e) possible indirect or second order impacts of the proposed activity;

(f) any cumulative impacts of the proposed activity in the light of existing activities and other known planned activities;

(g) the measures which could be taken to minimise or mitigate impacts of the proposed activity, and whether a monitoring programme to verify foreseen impacts or detect unforeseen impacts, and provide early warning of any adverse effects of the activity, should be provided for;

(h) the measures which could be taken to deal promptly and effectively with accidents;

(i) whether there may be any unavoidable impacts of the proposed activity;

(j) the effects of the proposed activity on the conduct of scientific research and on other existing uses and values; and

(k) whether there are gaps in knowledge or uncertainties with regard to the possible impact of the proposed activity.

(3) (a) When so required by the Commissioner, the applicant shall submit to him a final Comprehensive Environmental Evaluation in such form, and accompanied by such number of copies, as the Commissioner may require.

(b) When making such a requirement the Commissioner shall provide the applicant with—

(i) any comments in writing on the draft Comprehensive Environmental Evaluation which have been received by the Commissioner from any person in accordance with paragraph (5);

(ii) any comments on such Evaluation from another Contracting Party;

(iii) any advice in respect of such Evaluation from the Committee for Environmental Protection established under the Protocol; and

(iv) an account of the consideration by the Antarctic Treaty Consultative Meeting of such Evaluation in the light of such advice,

and the applicant shall, in preparing the final Comprehensive Environmental Evaluation, take into account such comments, advice and account and include or summarise them in the final Comprehensive Environmental Evaluation.

(4) The Commissioner shall as soon as conveniently may be after receipt transmit the draft and the final Comprehensive Environmental Evaluation to the Secretary of State and shall provide any person with copies on request in writing subject to payment of reasonable charges for supplying the copies, including postage.

(5) The Commissioner shall, by a notice published in the *London Gazette*, notify receipt by him of each draft Comprehensive Environmental Evaluation and each final Comprehensive Environmental Evaluation state where the same may be inspected, and where and how copies may be obtained and invite comments in writing, in the case of a draft Comprehensive Environmental Evaluation, within 90 days of publication of the notice and, in the case of a final Comprehensive Environmental Evaluation, within 30 days of the publication of the notice.

(6) The Commissioner in taking his decision whether to grant a permit shall take into account any comments in writing submitted to him by any person in accordance with paragraph (5), if the comments are received within the relevant period specified in that paragraph.

Refusal of Permits under sections 3, 4, 5 and 6 of the Act

7. If the Commissioner decides not to grant a permit under section 3, 4, 5 or 6 of the Act he shall so inform the applicant in writing giving his reasons.

Applications for and refusals of permits under sections 11 and 12 of the Act

8.—(1) An application for a permit under section 11 or 12 of the Act shall be made to the Commissioner in such form, and accompanied by such number of copies, as he may require.

(2) If the Commissioner decides not to grant such a permit he shall so inform the applicant in writing giving his reasons.

Production of permits

9.—(1) Subject to the provisions of this regulation, when there is reason to believe that a person has carried out (or is carrying out or may be about to carry out) an activity for which a permit is required by section 3(1), 4(1), 5(1), 6(1), 7(1), 8(1), 9(1) or 11(1) of the Act, an authorised person may require that person to produce, or cause to be produced, within 5 days after the request has been made, a permit granted under the Act authorising that activity.

(2) Where a permit has been granted to a person in respect of another specified person or of persons of a specified description, the requirement in paragraph (1) to produce the permit shall apply also to such person or persons.

(3) The requirements of the preceding paragraphs may be satisfied by the production of a true photocopy of the permit.

(4) An authorised person shall have the power to inspect and copy any permit which he has the power pursuant to this regulation to require to be produced to him.

(5) For the purpose of this regulation—

“authorised person” means the Commissioner and the Secretary of State and—

(a) in South Georgia and the South Sandwich Islands—

(i) a justice of the peace;

(ii) a police officer;

(iii) a customs or immigration officer; or

(iv) any other person authorised by the Commissioner in writing for the purpose of this regulation either generally or in a particular case,

(b) anywhere in Antarctica—

(i) a station manager (that is to say any person who is for the time being running a station in Antarctica on behalf of the Director of the British Antarctic Survey);

(ii) any person authorised by the Commissioner in writing for the purpose of this regulation either generally or in a particular case; or

(iii) in respect of permits granted under section 12 of the Act, any person designated as an observer by a party to the Antarctic Treaty in accordance with Article VII thereof;

(c) only in the British Antarctic Territory

(i) a magistrate of the British Antarctic Territory; or

(ii) a public officer of the British Antarctic Territory;

(d) south of the Antarctic Convergence: in respect of permits granted under section 11 of the Act, any person designated as an inspector by a Member of the Commission for the Conservation of Antarctic Marine Living Resources under Article XXIV of the Convention;

(e) in respect of a British vessel in the seas south of 60 degrees South latitude

(i) a British naval officer; or

(ii) the master of a vessel operated by or on behalf of the British Antarctic Survey.

Revocation and suspension of permits

10.—(1) Subject to the provisions of this regulation, the Commissioner may revoke or suspend wholly or in part any permit granted under the Act; and where a permit has been granted in respect of more than one specified person (or vessel or aircraft), or in respect of persons (or vessels or aircraft) of a description specified in the permit, the revocation or suspension may be limited to such persons (or such vessels or aircraft), or to persons (or vessels or aircraft) of such description, as may be specified by the Commissioner in the notice of revocation or suspension.

(2) Save as provided in paragraph (3), the Commissioner may exercise his powers under paragraph (1) only after giving 28 days notice to the permit-holder of his intention to do so and after due consideration of any representations made in writing by or on behalf of the permit-holder (or any person specified or of a description specified in the permit).

(3) If, by reason of the urgency of the matter, it appears to the Commissioner to be necessary for him to do so he may provisionally suspend a permit without complying with the requirements of paragraph (2), but he shall in any such case comply with those requirements as soon thereafter as is reasonably practicable, and shall then either—

- (a) revoke the provisional suspension of the permit; or
- (b) substitute therefor a definitive revocation or suspension which, if a definitive suspension, may be for the same or a different period as the provisional suspension (if any).

(4) The powers vested in the Commissioner by paragraph (1) and paragraph (3) may be exercised by him if it appears to him that—

- (a) the permit was procured by fraud or misrepresentation;
- (b) the application for the permit contained a material error or omission;
- (c) the holder of the permit, or a person or persons specified in it, or of a description specified in it, are not fit and proper persons to carry out an activity authorised by the permit;
- (d) there has been a material change in the circumstances under which an activity authorised by the permit would be or is being carried out (including receipt by the Commissioner of information as to the environmental impact of the activity which was not previously available) such that the continuation of the activity would have an unacceptable impact on the Antarctic environment;
- (e) the carrying out or continuation of an activity authorised by the permit would be undesirable because of an emergency which has arisen subsequent to the grant of the permit;
- (f) the person to whom the permit was granted (or any person or persons specified in it or of a description specified in it) will not be able to comply with a material condition of the permit;
- (g) there has been a breach of a condition of the permit;
- (h) the holder of the permit has purported to transfer, or has given possession of, the permit (or a copy of it) to a person who is not entitled to hold it; or
- (i) the permit (or a copy of it) has been altered or defaced.

(5) The permit-holder or any person having possession or custody of any permit which has been revoked or suspended under this regulation shall surrender it and any copies of it to the Commissioner within a reasonable time of being required by him to do so.

(6) References in this regulation to the “permit-holder” are references to the person to whom any permit to which this Part applies has been granted.

PART 3

APPEALS

Appeals against revocation of permits granted under section 3, 4, 5 or 6 of the Act

11.—(1) Subject to the modifications specified in paragraph (2) of this regulation, Part 3 of the United Kingdom Regulations shall have effect in South Georgia and the South Sandwich Islands so as—

(a) to confer a right of appeal to the Antarctic Act Tribunal (“the Tribunal”) established by regulation 11 (1) of the United Kingdom Regulations from and against the revocation or suspension by the Commissioner under regulation 10 of a permit granted under section 3, 4, 5 or 6 of the Act in its application to South Georgia and the South Sandwich Islands under the Order in Council (“South Georgia and the South Sandwich Islands Appeals”), in the same way as it confers a right of appeal from and against the revocation or suspension by the Secretary of State under regulation 10 of the United Kingdom Regulations of a permit granted by the Secretary of State under sections 3, 4, 5 or 6 of the Act in the form it has effect in the United Kingdom (“United Kingdom Appeals”).

(b) to confer upon the Tribunal the like jurisdiction and powers in relation to South Georgia and the South Sandwich Islands Appeals as it has under the United Kingdom Regulations in relation to United Kingdom Appeals; and

(c) to make the like provision in relation to procedural and other matters in relation to South Georgia and the South Sandwich Islands Appeals as is made in relation to United Kingdom Appeals by regulation 13 of the United Kingdom Regulations.

(2) For the purpose of the application of Part 3 of the United Kingdom Regulations in accordance with paragraph (1) above, the words “Secretary of State” in regulations 11(3), 11(4), 13(1) and 13(7)(b) of the United Kingdom Regulations shall be replaced by the word “Commissioner”;

(3) In this regulation—

(a) “the Order in Council” means the Antarctic Act 1994 (Overseas Territories) Order 1995^(b); and

(b) “the United Kingdom Regulations” means the Antarctic Regulations 1995^(c).

^(b) SI 1995/1030

^(c) SI 1995/490

PART 4

SPECIAL AREAS

Restricted Areas

12. For the purposes of section 9(1) of the Act, the areas listed and described in Schedule 1 to these Regulations are hereby designated as areas restricted under the Protocol.

Antarctic Historic Sites and Monuments

13. For the purposes of section 10(1) of the Act, the sites and monuments listed in Schedule 2 to these Regulations are hereby designated as Antarctic Historic Sites and Monuments.

Protected Places

14. For the purposes of section 11(1) of the Act, the places listed in Schedule 3 to these Regulations are hereby designated as places protected under the Convention.

PART 5

OFFENCES UNDER THE ACT

Application of Part 5

15. This Part applies when the Commissioner has reasonable grounds for believing that a United Kingdom national (hereinafter referred to as “the suspect”) has committed an offence under the Act (hereinafter referred to as “the offence”) and is in any part of Antarctica or, in respect of those offences referred to in section 29(1)(a) of the Act, is in any part of the area south of the Antarctic Convergence.

Arrest and conveyance in custody

16.—(1) A court in South Georgia and the South Sandwich Islands or a court in the Falkland Islands which has jurisdiction to hear and determine any criminal proceedings in South Georgia and the South Sandwich Islands pursuant to the provisions of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989(d) may, on the application of a person entitled under section 28 of the Act to institute proceedings in that court in respect of the offence, issue a warrant for the arrest of the suspect and his conveyance in custody to South Georgia and the South Sandwich Islands.

(d) SI 1989/2399

(2) Once arrested the person the subject of the warrant (hereinafter referred to as “the accused”) shall be deemed to be in legal custody at any time when, being in the British Antarctic Territory (or any other part of Antarctica), or other British territory, or on board a British ship or British aircraft, he is being taken under the warrant to or from any place or being kept in custody under the warrant.

(3) A person authorised by the warrant to take the accused to or from any place or to keep him in custody (hereafter referred to as “the authorised person”) shall have all the powers, authority, protection and privileges of a police officer.

(4) If the accused escapes he may be arrested without warrant by a constable and taken to any place to which he may be taken under the warrant.

(5) In paragraph (2)—

“British aircraft” means a British-controlled aircraft within the meaning of section 92 of the Civil Aviation Act 1982^(e) (application of criminal law to aircraft) or one of Her Majesty’s aircraft;

“British hovercraft” means a British-controlled hovercraft within the meaning of that section as applied in relation to hovercraft by virtue of provisions made under the Hovercraft Act 1968^(f) or one of Her Majesty’s hovercraft; and

“British ship” means a British ship for the purpose of the Merchant Shipping Acts 1894 to 1988 or one of Her Majesty’s ships;

and in this paragraph references to Her Majesty’s aircraft, hovercraft or ships are references to aircraft, hovercraft or, as the case may be, ships belonging to or exclusively employed in the service of Her Majesty in right of the Government of the United Kingdom.

(6) In paragraph (4) “police officer” means

(a) in relation to South Georgia and the South Sandwich Islands, any person who is a police officer in South Georgia and the South Sandwich Islands and any person who at the place in question has under any enactment, including paragraph (3), the powers of a police officer in South Georgia and the South Sandwich Islands; or

(b) in relation to a British territory outside South Georgia and the South Sandwich Islands, any person who is a police officer in that territory or any person who in that territory has the powers of a police officer.

^(e) 1982 c 16

^(f) 1968 c.59

Physical evidence

17.—(1) The authorised person may seize and detain any article which may be evidence connected with the offence and convey it to South Georgia and the South Sandwich Islands or the Falkland Islands.

(2) Where it is necessary for any article to be accompanied by any certificate, affidavit or other verifying document the authorised person shall also furnish for transmission such document of that nature as may be specified in any direction given by the Commissioner.

(3) Where the article consists of a document, the original or a copy may be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it may be transmitted.

Attendance of witnesses

18.—(1) This regulation applies where the Commissioner is notified by the court in South Georgia and the South Sandwich Islands or the Falkland Islands where the accused is being tried or is to be tried that a United Kingdom national who has been called to give evidence (hereinafter referred to as "the witness") has failed to comply with the order of the court, or is believed by the court to be unlikely to comply, and is in Antarctica or in the area south of the Antarctic Convergence, as the case may be.

(2) If the Commissioner receives a notification in accordance with paragraph (1) he may issue a warrant for the arrest of the witness.

(3) The provisions of paragraphs (2) to (6) of regulation 16 shall apply to the arrest and conveyance in custody of the witness as they apply to the accused.

(4) Once in South Georgia and the South Sandwich Islands or the Falkland Islands the witness shall be delivered by the authorised person to the court which made the notification under paragraph (1).

Made this 3rd day of September 1997



R. P. Ralph
Commissioner

SCHEDULE 1

Regulation 12

RESTRICTED AREAS

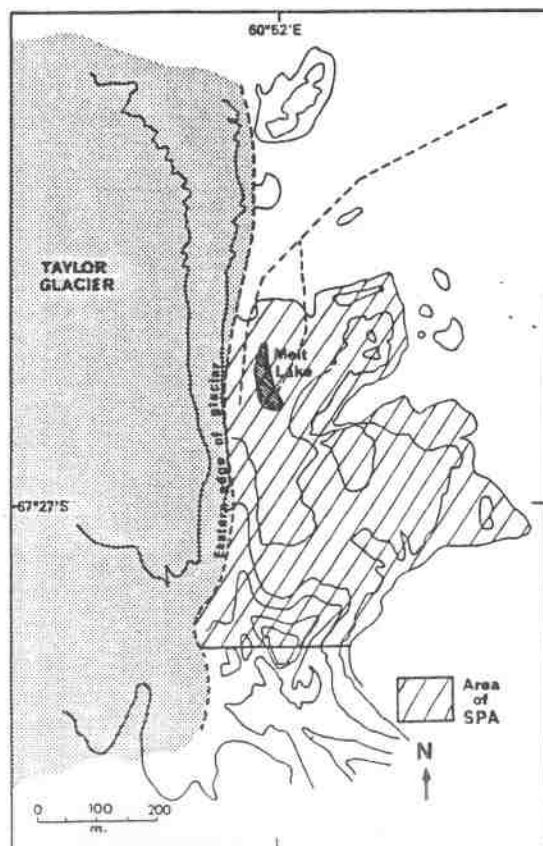
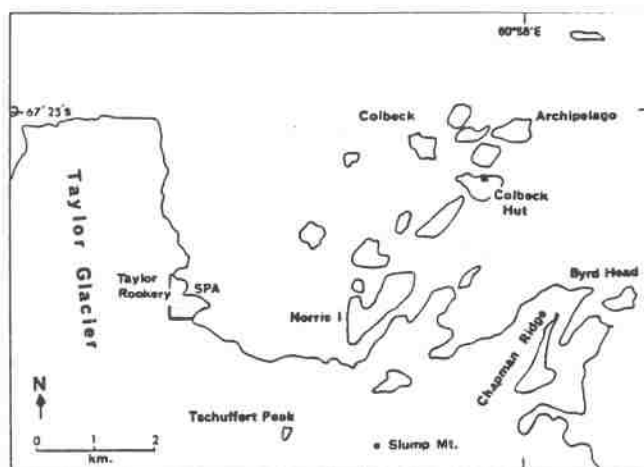
Specially Protected Area No. 1

Taylor Rookery, MacRobertson Land

Latitude 67 degrees 26' S; Longitude 60 degrees 50' E

The Area consists of the whole of the northernmost rock exposure on the east side of Taylor Glacier, MacRobertson Land (Lat. 67 degrees 26' S; Longitude 60 degrees 50' E). The rookery is located on a low lying rock outcrop in the south-west corner of a bay formed by Taylor Glacier to the west, the polar ice cap to the south and the islands of Colbeck Archipelago to the east. The Area is surrounded by sea ice to the north and east. The Area is some 90 km west of Mawson station. There is ice-free terrain adjacent to the glacier on the western boundary and to the south the rock rises steeply to meet the ice of the plateau.

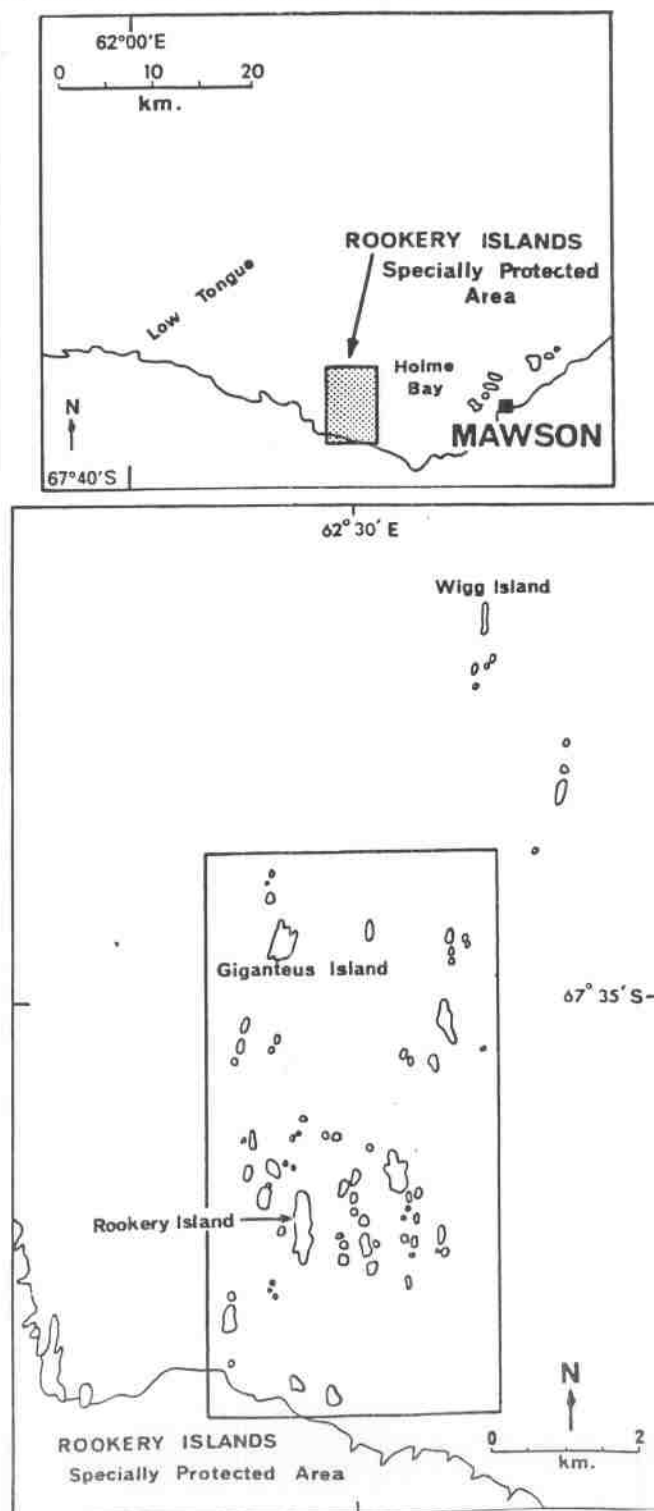
There are no boundary markers since the Area is easily defined by its natural features.



Specially Protected Area No. 2
Rookery Islands, Holme Bay, MacRobertson Land
Latitude 67 degrees 37' S; Longitude 62 degrees 33' E

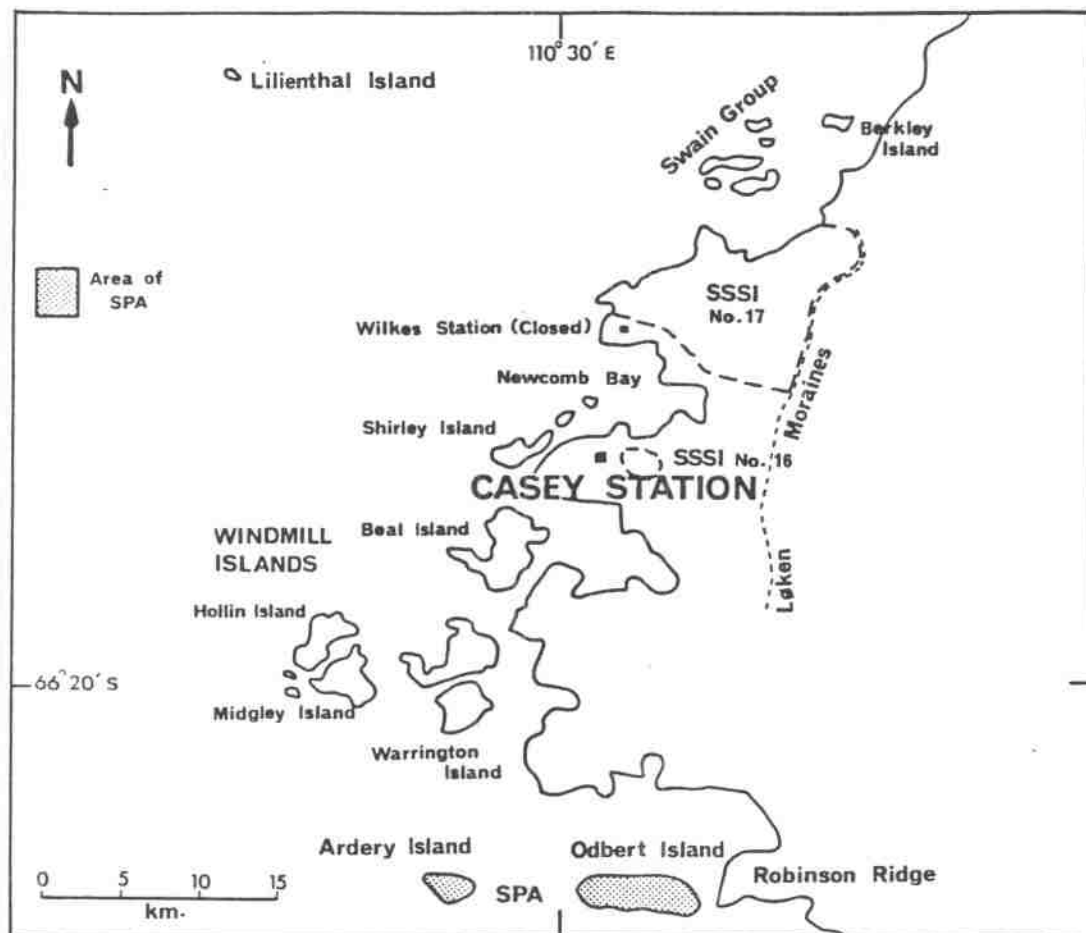
The Rookery Islands are a group of small islands and rocks in the south-western part of Holme Bay, MacRobertson Land, approximately 10 km to the west of Mawson station. The Area comprises the islands and rocks lying within the rectangular area shown on the maps below, the general location of which is latitude 67 degrees 37' S, longitude 62 degrees 33' E. There are no boundary markers delimiting the site.

There are approximately 75 small islands. They range in size from small rocks which barely remain above water at high tide to the largest islands of the group which are Giganteus Island (approximately 400 m Longitudinal, 400 m wide and 30 m high) and Rookery Island which is of similar size but slightly more elongated. Rookery Island is the highest of the group reaching an altitude of 62 m.



Specially Protected Area No. 3
Ardery Island and Odbert Island, Budd Coast
Lat. 66 degrees 22' S; Longitude. 110 degrees 33' E

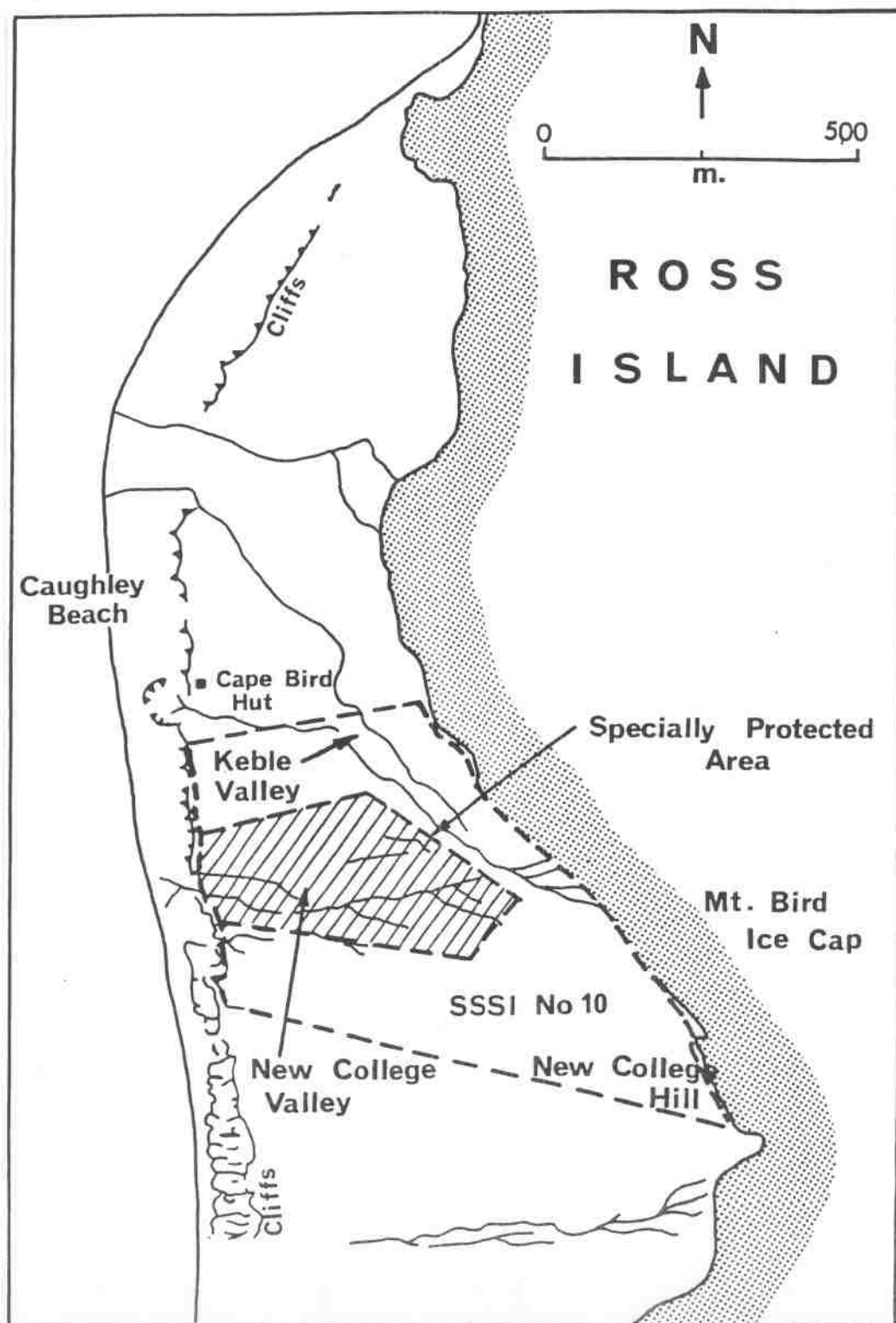
Ardery Island (Lat. 66 degrees 22' S, Longitude. 110 degrees 28' E) and Odbert Island (Lat. 66 degrees 22' S, Longitude. 110 degrees 33' E) form part of the Windmill Islands group lying in the eastern end of Vincennes Bay off the Budd Coast. They are located 5 km and 0.6 km respectively to the west of Robinson Ridge, south of Casey Station. Odbert Island is approximately 2.5 km Longitude and 0.5 km wide. In some years the island remains joined to Robinson Ridge on the mainland by sea ice. Ardery Island is a steep ice-free island approximately 1 km Longitude and 0.5 km wide, with an east-west orientation.



Specially Protected Area No. 20
"College Valley", Caughley Beach, Cape Bird, Ross Island
Latitude 77 degrees 14' S; Longitude 166 degrees 23' E

The Area is in latitude 77 degrees 14' S, longitude 166 degrees 23' E, in the northern part of the Cape Bird ice-free area. It lies between Northern Rookery and Middle Rookery and is about 250 m south of the summer research station, Cape Bird Hut.

The Area consists of the generally west-facing ice-free slopes lying between the cliff top above Caughley Beach and a line parallel to and about 100 m west of the edge of the Mount Bird Ice Cap, and between a line south of the main stream bed of "Keble Valley" and the south ridge of "New College Valley". Its total area is about 10 hectares.



SCHEDULE 2

Regulation 13

ANTARCTIC HISTORIC SITES AND MONUMENTS

1. Flag mast erected in December 1965 at the South Geographical Pole by the First Argentine Overland Polar Expedition.
2. Rock cairn erected in January 1961 and plaques at Syowa Station (Latitude 69 degrees 00' S, Longitude 39 degrees 35' E) in memory of Shin Fukushima.
3. Rock cairn and plaque on Proclamation Island, Enderby Land (Latitude 65 degrees 51' S, Longitude 53 degrees 41' E), erected in January 1930 by Sir Douglas Mawson to commemorate the British, Australian and New Zealand Antarctic Research Expedition of 1929-31.
4. Station building to which a bust of V. I. Lenin is fixed, together with a plaque in memory of the conquest of the Pole of Inaccessibility by Soviet Antarctic explorers in 1958 (Latitude 83 degrees 06' S, Longitude 54 degrees 58' E).
5. Rock cairn and plaque at Cape Bruce, MacRobertson Land (Latitude 67 degrees 25' S, Longitude 60 degrees 47' E), erected in February 1931 by Sir Douglas Mawson to commemorate the British, Australian and New Zealand Antarctic Research Expedition.
6. Rock cairn at Walkabout Rocks, Vestfold Hills, Princess Elizabeth Land (Latitude 68 degrees 22' S, Longitude 78 degrees 33' E), erected in 1939 by Sir Hubert Wilkins.
7. Stone with inscribed plaque, erected at Mirny Observatory, Mabus Point (Latitude 66 degrees 33' S, Longitude 93 degrees 01' E), in memory of Ivan Kharma.
8. Metal monument-sledge at Mirny Observatory, Mabus Point (Latitude 66 degrees 33' S, Longitude 93 degrees 01' E), with plaque in memory of Anatoly Shcheglov.
9. Cemetery on Buromskiy Island, near Mirny Observatory (Latitude 66 degrees 32' S, Longitude 93 degrees 01' E), in which are buried Soviet, Czechoslovak and GDR citizens, members of Soviet Antarctic Expeditions.
10. Building (Magnetic observatory) at Dobrowolsky Station, Bunger Hills (Latitude 66 degrees 16' S, Longitude 100 degrees 45' E), with plaque in memory of the opening of Oasis Station in 1956.
11. Heavy tractor at Vostok Station (Latitude 78 degrees 28' S, Longitude 106 degrees 48' E), with plaque in memory of the opening of the station in 1957.
12. Cross and plaque at Cape Denison, George V Land (Latitude 67 degrees 00' S, Longitude 142 degrees 42' E), erected in 1913 by Sir Douglas Mawson. The cross and plaque commemorate Lieutenant B. E. S. Ninnis and Dr X Mertz, members of the Australasian Antarctic Expedition of 1911-14.

13. Hut at Cape Denison, George V Land (Latitude 67 degrees 00' S, Longitude 142 degrees 42' E), built in January 1912 by Sir Douglas Mawson for the Australasian Antarctic Expedition of 1911-14.
14. Remains of rock shelter at Inexpressible Island, Terra Nova Bay (Latitude 74 degrees 54' S, Longitude 163 degrees 43' E), constructed in March 1912 by Victor Campbell's Northern Party, British Antarctic Expedition, 1910-13.
15. Hut at Cape Royds, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 07' E), built in February 1908 by Ernest Shackleton.
16. Hut at Cape Evans, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 24' E), built in February 1911 by Captain Robert Falcon Scott.
17. Cross on Wind Vane Hill, Cape Evans, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 24' E), erected by the Ross Sea Party of Ernest Shackleton's Trans-Antarctic Expedition, 1914-16, in memory of three members of the party who died in the vicinity in 1916.
18. Hut at Hut Point, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 37' E), built in February 1902 by Captain Robert Falcon Scott.
19. Cross at Hut Point, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 37' E) erected in February 1904 by the British Antarctic Expedition, 1901-04, in memory of T. Vince.
20. Cross on Observation Hill, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 40' E), erected in January 1913 by the British Antarctic Expedition 1910-13, in memory of Captain Robert Falcon Scott's party which perished on the return journey from the South Pole, March 1912.
21. Stone hut at Cape Crozier, Ross Island (Latitude 77 degrees 32' S, Longitude 169 degrees 18' E), constructed in July 1911 by Edward Wilson's party (British Antarctic Expedition 1910-13).
22. Hut at Cape Adare (Latitude 71 degrees 17' S, Longitude 170 degrees 15' E), built in February 1899 during the Southern Cross Expedition led by C. E. Borchgrevink.
23. Grave at Cape Adare (Latitude 71 degrees 17' S, Longitude 170 degrees 15' E), of Norwegian biologist, Nicolai Hanson, a member of C. E. Borchgrevink's 'Southern Cross' Expedition, 1899-1900. (The first known grave in the Antarctic.)
24. Rock cairn, known as 'Amundsen's Cairn', on Mount Betty, Queen Maud Range (Latitude 85 degrees 11' S, Longitude 163 degrees 45' W) erected by Roald Amundsen on 6 January, 1912, on his way back to 'Framheim' from the South Pole.

25. Hut and plaque on Peter I Oy (Latitude 68 degrees 47' S, Longitude 90 degrees 42' W), built by the Norwegian Captain Nils Larsen in February 1929 at Framnaesodden.
26. Abandoned installations of Argentine Station 'General San Martin' on Barry Island, Debenham Islands, Marguerite Bay (Latitude 68 degrees 08' S, Longitude 67 degrees 08' W), with cross, flag mast, and monolith built in 1951.
27. Cairn with plaque on Megalestris Hill, Petermann Island (Latitude 65 degrees 10' S, Longitude 64 degrees 10' W), erected in 1908 by the second French expedition led by J-B. Charcot.
28. Rock cairn at Port Charcot, Booth Island (Latitude 65 degrees 03' S, Longitude 64 degrees 01' W), with wooden pillar and plaque inscribed with the names of the first French expedition led by J-B. Charcot which wintered here in 1904 aboard Le Francais.
29. Lighthouse named 'Primero de Mayo' erected on Lambda Island, Melchior Islands (Latitude 64 degrees 18' S, Longitude 62 degrees 59' W).
30. Shelter at Paradise Harbour (Latitude 64 degrees 49' S, Longitude 62 degrees 51' W), erected in 1950 near the Chilean Base 'Gabriel Gonzales Videla' to honour Gabriel Gonzales Videla.
31. Memorial plaque marking the position of a former cemetery on Deception Island (Latitude 62 degrees 59' S, Longitude 60 degrees 34' W) where some 40 Norwegian whalers were buried in the first half of the twentieth century.
32. Concrete monolith, near Arturo Prat Base on Greenwich Island (Latitude 62 degrees 29' S, Longitude 59 degrees 40' W), erected in 1947.
33. Shelter and cross with plaque near Arturo Prat Base, Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W), erected in memory of Lieutenant-Commander Gonzalez Pacheco.
34. Bust of the Chilean naval hero Arturo Prat erected in 1947 at the base of the same name on Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W).
35. Wooden cross and statue of the Virgin of Carmen erected in 1947 near Arturo Prat Base on Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W).
36. Metal plaque at Potter Cove, King George Island (Latitude 62 degrees 13' S, Longitude 58 degrees 42' W), erected by Eduard Dallmann to commemorate the visit of his German expedition on 1 March, 1874.
37. Statue of Bernard O'Higgins, erected in 1948, in front of the station of the same name (Latitude 63 degrees 19' S, Longitude 57 degrees 54' W.)

38. Hut on Snow Hill Island (Latitude 64 degrees 24' S, Longitude 57 degrees 00' W) built in February 1902 by the main party of the Swedish South Polar Expedition, led by Otto Nordenskjöld.

39. Stone hut at Hope Bay (Latitude 63 degrees 24' S, Longitude 56 degrees 59' W), built in January 1903 by a party of the Swedish South Polar Expedition.

40. Bust of General San Martin, grotto with a statue of the Virgin of Lujan, and a flag mast at Base 'Esperanza', Hope Bay (Latitude 63 degrees 24' S, Longitude 56 degrees 59' W), erected in 1955 together with a graveyard with stele in memory of members of Argentine expeditions who died in the area.

41. Stone hut on Paulet Island (Latitude 63 degrees 35' S, Longitude 55 degrees 47' W), built in February 1903 by the Norwegian C. A. Larsen, of the Swedish South Polar Expedition led by Otto Nordenskjöld, together with the grave of a member of that expedition.

42. Area at Scotia Bay, Laurie Island, South Orkney Island (Latitude 60 degrees 46' S, Longitude 44 degrees 40' W), in which are found: stone hut built in 1903 by the Scottish Expedition led by W. S. Bruce; the Argentine Meteorological and Magnetic Observatory, built in 1903; and a graveyard with seven tombs dating from 1903.

43. Cross erected in 1955, at a distance of 1,300 metres north-east of the Argentine Base 'General Belgrano' at Piedrabuena Bay, Filchner Ice Shelf (Latitude 77 degrees 49' S, Longitude 38 degrees 02' W).

44. Plaque erected at the temporary Indian station 'Dakshin Gangotri', Princess Astrid Kyst, Dronning Maud Land (Latitude 70 degrees 45' S, Longitude 11 degrees 38' E), listing the names of the members of the First Indian Antarctic Expedition which landed nearby on 9 January 1982.

45. Plaque on Brabant Island, on Metchnikoff Point, (Latitude 64 degrees 02' S, Longitude 62 degrees 34' W), erected by de Gerlache to commemorate the first landing on Brabant Island by the Belgian Antarctic expedition 1897-99.

46. The buildings and installations of Port Martin base, Terre Adelie (Latitude 66 degrees 49' S, Longitude 141 degrees 24' E) constructed in 1950 by the 3rd French expedition and partly destroyed by fire during the night of 23 to 24 January 1952.

47. Wooden building called 'Base Marret' on the Ile des Petrels, Terre Adelie (Latitude 66 degrees 40' S, Longitude 140 degrees 01' E).

48. Cross erected on the North-East headland of the Ile des Petrels, Terre Adelie (Latitude 66 degrees 40' S, Longitude 140 degrees 01' E) in memory of Andre Prudhomme.

49. The concrete pillar erected in January 1959 by the First Polish Antarctic Expedition at Dobrolowski Station on the Bunger Hill (Latitude 66 degrees 16.3' S, Longitude 100 degrees 45' E, h = 35.4m) to measure acceleration due to gravity.

50. A commemorative plaque mounted on a sea cliff on the Fildes Peninsula, King George Island, Maxwell Bay (Latitude 62 degrees 12' S, Longitude 58 degrees 54' W), south-west of the Chilean and Soviet stations in memory of Professor Siedlecki Tazar.

51. The grave of Włodzimierz Puchalski, surmounted by an iron cross, on a hill to the south of Arctowski Station on King George Island (Latitude 62 degrees 09' S, Longitude 58 degrees 28' W).

52. Monument erected to commemorate the establishment in February 1985 of the 'Great Wall Station' on Fildes Peninsula, King George Island (Latitude 62 degrees 13' S, Longitude 58 degrees 58' W), in the South Shetland Islands.

53. Monuments and commemorative plaques and bronze busts of Luis Pardo Villalón on Elephant Island (Latitude 61 degrees 03' S., Longitude 54 degrees 50' W.) and their replicas on the Chilean bases 'Arturo Prat' (Latitude 62 degrees 30' S., Longitude 59 degrees 49' W.) and 'Rodolfo Marsh' (Latitude 62 degrees 12' S., Longitude 62 degrees 12' W.), celebrating the rescue of survivors of the British ship "Endurance" by the Chilean Navy cutter "Yelcho".

54. Richard E. Byrd Historic Monument, McMurdo Station, Antarctica (Latitude 77 degrees 51' S, Longitude 166 degrees 40' E) with inscriptions describing the polar achievements of Richard Evelyn Byrd.

55. East Base, Antarctica, Stonington Island (Latitude 68 degrees 11' S, Longitude 67 degrees 00' W). Buildings and artefacts used during the Antarctic Service Expedition (1940-41) and the Ronne Antarctic Research Expedition (1947-48).

56. Waterboat Point, Danco Coast, Antarctic Peninsula (Latitude 64 degrees 49' S, Longitude 62 degrees 52' W). The remains and immediate environs of the Waterboat Point hut, situated close to the unoccupied Chilean station, 'Presidente Gabriel González Videla'.

57. Commemorative plaque at Yankee Bay, MacFarland Strait, Greenwich Island, South Shetland Islands, near the Chilean refuge located at Latitude 62 degrees 32' S, Longitude 59 degrees 45' W, to the memory of Captain Robert MacFarlane.

58. Cairn with memorial plaque erected at Whalers' Bay, Deception Island, South Shetland Islands, in the vicinity of the whalers' cemetery (Latitude 62 degrees 59' S, Longitude 60 degrees 34' W) to honour Captain Adolfus Amadus Andresen.

59. A cairn on Half Moon beach, Cape Shirreff, Livingston Island, South Shetland Islands (Latitude 62 degrees 29' S, Longitude 60 degrees 47' W), commemorating the officers, soldiers and seamen on board the San Telmo, which sank in September 1819.

60. Wooden plaque and rock cairn located at Penguins bay, southern coast of Seymour Island (Marambio), James Ross Archipelago (Latitude 64 degrees 16'00" S, Longitude 56 degrees 39'10" W) in memory of the 1903 Swedish Expedition led by Dr Otto Nordenskjöld.

SCHEDULE 3

Regulation 14

PROTECTED PLACES

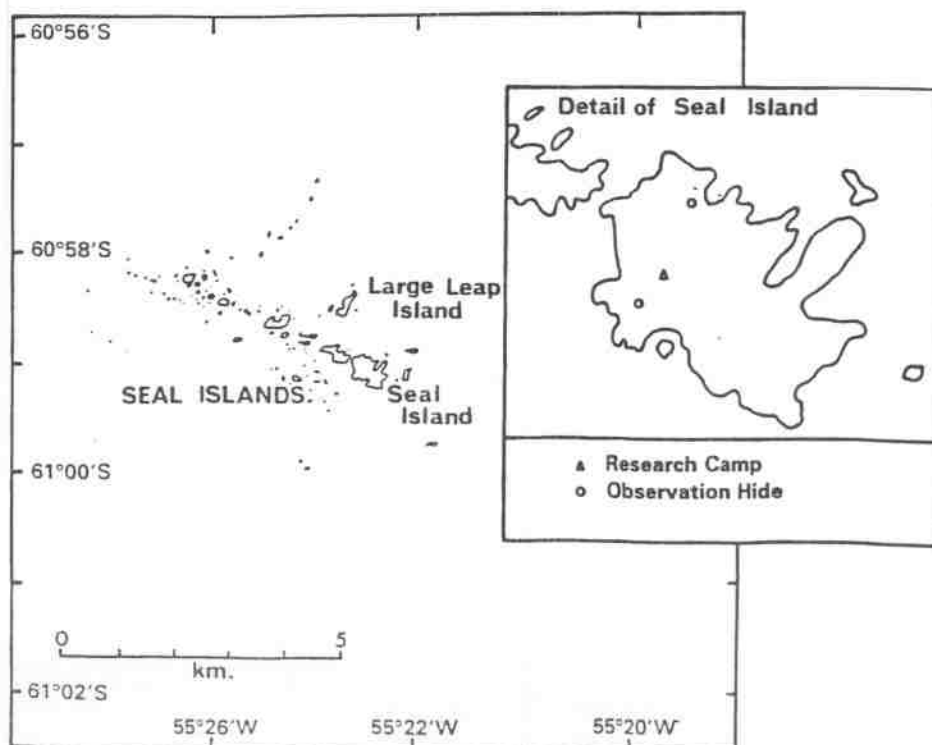
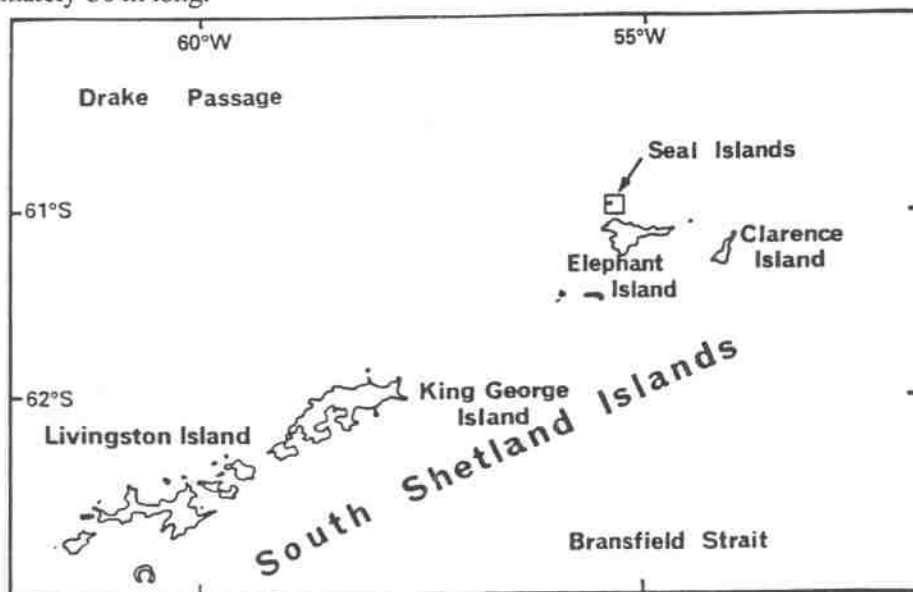
No. 1

Seal Islands, South Shetland Islands

Latitude 60 degrees 59' S; Longitude 55 degrees 23' W

The Seal Islands are composed of small islands and skerries located approximately 7 km north of the Northwest corner of Elephant Island, South Shetland Islands. The Seal Islands Protected Place includes the entire Seal Islands group, which is defined as Seal Island plus any land or rocks exposed at mean low tide within a distance of 5.5 km of the point of highest elevation on Seal Island. Seal Island is the largest island of the group, and is situated at Lat. 60 degrees 59' S, Longitude. 55 degrees 23' W.

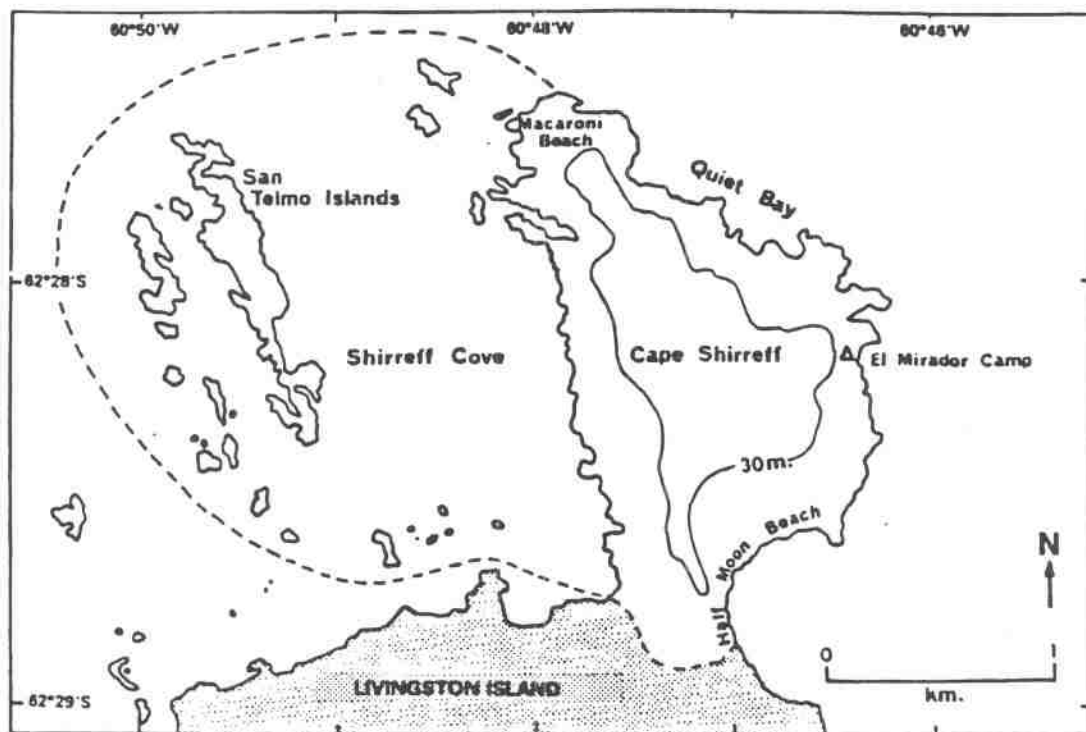
The Seal Islands cover an area approximately 5.7 km from east to west and 5 km from north to south. Seal Island is joined to the adjacent island to the west by a narrow sand bar that is approximately 50 m long.



No. 2
Cape Shirreff and the San Telmo Islands,
South Shetland Islands
Lat. 62 degrees 27' S; Longitude. 60 degrees 47' W

Cape Shirreff is a low, ice-free peninsula towards the western end of the north coast of Livingston Island, South Shetland Islands, situated at Lat. 62 degrees 27' S, Longitude. 60 degrees 47' W, between Barclay Bay and Hero Bay. San Telmo Island is the largest of a small group of ice-free rock islets, approximately 2 km west of Cape Shirreff. Cape Shirreff is approximately 3 km from north to south and 0.5 to 1.2 km from east to west.

No man-made markers indicate the limits of the Protected Place, the boundaries being defined by natural features (i.e. coastlines or glacial margins). Its southern boundary is bordered by a permanent glacial ice barrier, which is located at the narrowest part of the Cape. The eastern side of the base of the Cape has two beaches with a total length of about 600 m. Above this the extremity of the Cape has a rocky barrier about 150 m long. The western side is formed by almost continuous cliffs 10 to 15 m high. Near the southern base of the Cape on the western side is a small sandy beach approximately 50 m long.



EXPLANATORY NOTE

(not forming part of the above Regulations)

These Regulations, made under the Antarctic Act 1994 in the form in which it applies to South Georgia and the South Sandwich Islands by virtue of the Antarctic Act 1994 (Overseas Territories) Order 1995 (SI 1995/1030), prescribe the procedure by which applications can be made for permits under the Act, including provisions relating to environmental evaluations, production of permits and their revocation or suspension. The Regulations establish a Tribunal to hear appeals against revocation or suspension. The Regulations designate special areas protected under the Act. There are also provisions regarding offences. The Regulations will come into force in accordance with regulation 1.

Information on the implementation of the Act and the Regulations, including application forms, may be obtained from the Commissioner's Office, Government House, Stanley, Falkland Islands; telephone + 500 27433; fax +500 27434.

SUBSIDIARY LEGISLATION

ANTARCTICA

The Antarctic Act 1994 (Commencement) Order 1997

S. R. & O. No. 1 of 1997

Made:14 July.....1997
Published:25 July.....1997
Coming into force: on publication

IN EXERCISE of my powers under article 1(2) of the Antarctic Act 1994 (Overseas Territories) Order 1994(a), I make the following Order—

Citation

1. This Order may be cited as the Antarctic Act 1994 (Commencement) Order 1997.

Partial commencement of the Antarctic Act 1994 in South Georgia and the South Sandwich Islands

2.—(1) The Antarctic Act 1994(b), except sections 3, 4 and 6, shall come into force in South Georgia and the South Sandwich Islands on 1st August 1997.

(2) In paragraph (1), “the Antarctic Act 1994” means that Act in the form it appears in the Schedule to the Antarctic Act 1994 (Overseas Territories) Order 1995.

Made this 14th day of July 1997



R P Ralph
Commissioner

(a) SI 1995/1030

(b) 1994 c.15

EXPLANATORY NOTE
(not forming part of the above Order)

This Order, made under article 1(2) of the Antarctic Act 1994 (Overseas Territories) Order 1995, brings most of the provisions of the Act into force in South Georgia and the South Sandwich Islands on 1st August 1997.

SUBSIDIARY LEGISLATION

ANTARCTICA

The Antarctic Regulations 1997

(S.R.&O. No. 2 of 1997)

ARRANGEMENT OF REGULATIONS

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8. Applications for and refusals of permits under sections 11 and 12 of the Act
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SCHEDULE 1

Restricted Areas

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SUBSIDIARY LEGISLATION

ANTARCTICA

The Antarctic Regulations 1997

(S.R.&O. No. 2 of 1997)

Made:1997

Published:1997

Coming into force: on publication

IN EXERCISE of my powers under sections 9(1), 10(1), 11(1), 14(1), 25(1) and (3), 29 and 32 of the Antarctic Act 1994(a), and of all other powers enabling me in that behalf, I hereby make the following Regulations—

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Antarctic Regulations 1997, and shall come into force upon publication in the *Gazette*.

Interpretation

2.—(1) In these Regulations “the Act” means the Antarctic Act 1994(a), and expressions used in these Regulations have, unless the contrary intention appears, the meaning which they bear in the Act.

(2) Any reference in these Regulations to a communication “in writing” shall include a reference to a communication by telex, facsimile or other similar instantaneous means which produces a document containing a text of the communication.

(3) Any reference in these Regulations to the Commissioner with respect to the application, grant, production, revocation or suspension of a permit for the purposes of section 11 or 12 of the Act shall include a reference to any person exercising the powers of the Commissioner for those purposes in accordance with a delegation given under section 16 of the Act.

(a) 1994 c 15 in the form in which it applies in South Georgia and the South Sandwich Islands by virtue of the Antarctic Act 1994 (Overseas Territories) Order 1995 (SI 1995/1030)

(4) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

(5) Any period of time specified in these Regulations by reference to days, working days or months-

(a) where such period is expressed to begin after a particular date, shall begin on the first day after that date, and shall be inclusive of the last day unless that day falls on a Saturday, Sunday, Christmas Day, Good Friday or any other day appointed by law to be a public holiday in South Georgia and the South Sandwich Islands, in which case the period shall run to the immediately following working day; and

(b) where such period is expressed to run or to expire before a particular date or event, the period shall be calculated to expire on the last working day before the particular date or the date of that event.

(6) In computing any period of time specified in these Regulations by reference to working days there shall be disregarded the whole of any Saturday, Sunday, Christmas Day, Good Friday or any other day appointed by law to be a public holiday in any part of South Georgia and the South Sandwich Islands.

Service of documents

3.—(1) Anything required to be served on any person under these Regulations or the Act shall be set out in a notice in writing which may be served either—

(a) by delivering it to that person;

(b) by leaving it at his proper address;

(c) by sending it by post to that address; or

(d) by sending it to him at that address by telex, facsimile or other similar instantaneous means which produces a document containing a text of the communication, in which event the document shall be regarded as served when it is transmitted,

and where the person is a body corporate the document may be served, by any of these means, upon the Secretary of that body.

(2) When a document is sent by post it shall be deemed to have been received 7 working days after despatch if posted to an address within South Georgia and the South Sandwich Islands and 15 working days if posted to an address elsewhere.

(3) For the purposes of this regulation the proper address of any person shall in the case of a body corporate be the registered or principal office of that body and in any other case shall be the last known address of the person.

PART 2

PERMITS

Applications for permits under sections 3, 4, 5 and 6 of the Act

4.—(1) An application for a permit under section 3, 4, 5 or 6 of the Act shall be made to the Commissioner in such form, and accompanied by such number of copies, as he may require.

(2) No later than 10 days after making the application, the applicant shall cause notice of the application to be published in the *London Gazette* in such form and containing such information as the Commissioner may require.

(3) The applicant shall during the period the application is pending—

(a) make available a copy of the application for inspection during normal office hours by any person who may so request; and

(b) provide copies of the application to any person on receipt of a request in writing, subject to payment of reasonable charges for supplying the copies, including postage.

Initial Environmental Evaluation

5.—(1) If the Commissioner considers that the activity for which an application has been made under regulation 4 is likely to have more than a negligible impact on the environment of Antarctica, he shall, unless he has required the applicant to submit a draft Comprehensive Environmental Evaluation in accordance with regulation 6(1), require the applicant to submit to him an Initial Environmental Evaluation.

(2) An Initial Environmental Evaluation shall be in such form, and accompanied by such number of copies, as the Commissioner may require and shall contain sufficient information for the Commissioner to be able to assess—

(a) the scale of the impact which the proposed activity may have on the environment of Antarctica;

(b) whether, in the light of existing and known planned activities, it may have a cumulative impact; and

(c) whether there may be alternative ways of carrying out the proposed activity which might lessen the environmental impact or possible cumulative impact.

(3) The applicant shall during the period the application is pending—

(a) make available a copy of the Initial Environmental Evaluation for inspection during normal office hours by any person who may so request; and

(b) provide copies of the Initial Environmental Evaluation to any person on receipt of a request in writing, subject to payment of reasonable charges for supplying the copies, including postage.

(4) The Commissioner shall annually send to the Secretary of State a list of the Initial Environmental Evaluations submitted to the Commissioner in accordance with this regulation during the preceding 12 months.

Comprehensive Environmental Evaluation

6.—(1) If the Commissioner at any time after the making of an application considers that the activity which is the subject of the application is likely to have more than a minor or transitory impact on the environment of Antarctica, he shall require the applicant to submit to him a draft Comprehensive Environmental Evaluation.

(2) Such draft Comprehensive Environmental Evaluation shall be in such form, and accompanied by such number of copies, as the Commissioner may require and shall contain sufficient information for the Commissioner to be able to consider or determine—

(a) possible alternatives to the proposed activity, including the alternative of not proceeding with it;

(b) the initial environmental reference state with which predicted changes are to be compared, and the likely future environmental state in the absence of the proposed activity;

(c) whether the methods and data used to forecast the impacts of the proposed activity are satisfactory for that purpose;

(d) the nature, extent, duration and intensity of the likely direct impacts of the proposed activity;

(e) possible indirect or second order impacts of the proposed activity;

(f) any cumulative impacts of the proposed activity in the light of existing activities and other known planned activities;

(g) the measures which could be taken to minimise or mitigate impacts of the proposed activity, and whether a monitoring programme to verify foreseen impacts or detect unforeseen impacts, and provide early warning of any adverse effects of the activity, should be provided for;

(h) the measures which could be taken to deal promptly and effectively with accidents;

(i) whether there may be any unavoidable impacts of the proposed activity;

(j) the effects of the proposed activity on the conduct of scientific research and on other existing uses and values; and

(k) whether there are gaps in knowledge or uncertainties with regard to the possible impact of the proposed activity.

(3) (a) When so required by the Commissioner, the applicant shall submit to him a final Comprehensive Environmental Evaluation in such form, and accompanied by such number of copies, as the Commissioner may require.

(b) When making such a requirement the Commissioner shall provide the applicant with—

(i) any comments in writing on the draft Comprehensive Environmental Evaluation which have been received by the Commissioner from any person in accordance with paragraph (5);

(ii) any comments on such Evaluation from another Contracting Party;

(iii) any advice in respect of such Evaluation from the Committee for Environmental Protection established under the Protocol; and

(iv) an account of the consideration by the Antarctic Treaty Consultative Meeting of such Evaluation in the light of such advice,

and the applicant shall, in preparing the final Comprehensive Environmental Evaluation, take into account such comments, advice and account and include or summarise them in the final Comprehensive Environmental Evaluation.

(4) The Commissioner shall as soon as conveniently may be after receipt transmit the draft and the final Comprehensive Environmental Evaluation to the Secretary of State and shall provide any person with copies on request in writing subject to payment of reasonable charges for supplying the copies, including postage.

(5) The Commissioner shall, by a notice published in the *London Gazette*, notify receipt by him of each draft Comprehensive Environmental Evaluation and each final Comprehensive Environmental Evaluation state where the same may be inspected, and where and how copies may be obtained and invite comments in writing, in the case of a draft Comprehensive Environmental Evaluation, within 90 days of publication of the notice and, in the case of a final Comprehensive Environmental Evaluation, within 30 days of the publication of the notice.

(6) The Commissioner in taking his decision whether to grant a permit shall take into account any comments in writing submitted to him by any person in accordance with paragraph (5), if the comments are received within the relevant period specified in that paragraph.

Refusal of Permits under sections 3, 4, 5 and 6 of the Act

7. If the Commissioner decides not to grant a permit under section 3, 4, 5 or 6 of the Act he shall so inform the applicant in writing giving his reasons.

Applications for and refusals of permits under sections 11 and 12 of the Act

8.—(1) An application for a permit under section 11 or 12 of the Act shall be made to the Commissioner in such form, and accompanied by such number of copies, as he may require.

(2) If the Commissioner decides not to grant such a permit he shall so inform the applicant in writing giving his reasons.

Production of permits

9.—(1) Subject to the provisions of this regulation, when there is reason to believe that a person has carried out (or is carrying out or may be about to carry out) an activity for which a permit is required by section 3(1), 4(1), 5(1), 6(1), 7(1), 8(1), 9(1) or 11(1) of the Act, an authorised person may require that person to produce, or cause to be produced, within 5 days after the request has been made, a permit granted under the Act authorising that activity.

(2) Where a permit has been granted to a person in respect of another specified person or of persons of a specified description, the requirement in paragraph (1) to produce the permit shall apply also to such person or persons.

(3) The requirements of the preceding paragraphs may be satisfied by the production of a true photocopy of the permit.

(4) An authorised person shall have the power to inspect and copy any permit which he has the power pursuant to this regulation to require to be produced to him.

(5) For the purpose of this regulation—

“authorised person” means the Commissioner and the Secretary of State and—

(a) in South Georgia and the South Sandwich Islands—

(i) a justice of the peace;

(ii) a police officer;

(iii) a customs or immigration officer; or

(iv) any other person authorised by the Commissioner in writing for the purpose of this regulation either generally or in a particular case,

(b) anywhere in Antarctica—

(i) a station manager (that is to say any person who is for the time being running a station in Antarctica on behalf of the Director of the British Antarctic Survey);

(ii) any person authorised by the Commissioner in writing for the purpose of this regulation either generally or in a particular case; or

(iii) in respect of permits granted under section 12 of the Act, any person designated as an observer by a party to the Antarctic Treaty in accordance with Article VII thereof;

(c) only in the British Antarctic Territory

(i) a magistrate of the British Antarctic Territory; or

(ii) a public officer of the British Antarctic Territory;

(d) south of the Antarctic Convergence: in respect of permits granted under section 11 of the Act, any person designated as an inspector by a Member of the Commission for the Conservation of Antarctic Marine Living Resources under Article XXIV of the Convention;

(e) in respect of a British vessel in the seas south of 60 degrees South latitude

(i) a British naval officer; or

(ii) the master of a vessel operated by or on behalf of the British Antarctic Survey.

Revocation and suspension of permits

10.—(1) Subject to the provisions of this regulation, the Commissioner may revoke or suspend wholly or in part any permit granted under the Act; and where a permit has been granted in respect of more than one specified person (or vessel or aircraft), or in respect of persons (or vessels or aircraft) of a description specified in the permit, the revocation or suspension may be limited to such persons (or such vessels or aircraft), or to persons (or vessels or aircraft) of such description, as may be specified by the Commissioner in the notice of revocation or suspension.

(2) Save as provided in paragraph (3), the Commissioner may exercise his powers under paragraph (1) only after giving 28 days notice to the permit-holder of his intention to do so and after due consideration of any representations made in writing by or on behalf of the permit-holder (or any person specified or of a description specified in the permit).

(3) If, by reason of the urgency of the matter, it appears to the Commissioner to be necessary for him to do so he may provisionally suspend a permit without complying with the requirements of paragraph (2), but he shall in any such case comply with those requirements as soon thereafter as is reasonably practicable, and shall then either—

(a) revoke the provisional suspension of the permit; or

(b) substitute therefor a definitive revocation or suspension which, if a definitive suspension, may be for the same or a different period as the provisional suspension (if any).

(4) The powers vested in the Commissioner by paragraph (1) and paragraph (3) may be exercised by him if it appears to him that—

(a) the permit was procured by fraud or misrepresentation;

(b) the application for the permit contained a material error or omission;

(c) the holder of the permit, or a person or persons specified in it, or of a description specified in it, are not fit and proper persons to carry out an activity authorised by the permit;

(d) there has been a material change in the circumstances under which an activity authorised by the permit would be or is being carried out (including receipt by the Commissioner of information as to the environmental impact of the activity which was not previously available) such that the continuation of the activity would have an unacceptable impact on the Antarctic environment;

(e) the carrying out or continuation of an activity authorised by the permit would be undesirable because of an emergency which has arisen subsequent to the grant of the permit;

(f) the person to whom the permit was granted (or any person or persons specified in it or of a description specified in it) will not be able to comply with a material condition of the permit;

(g) there has been a breach of a condition of the permit;

(h) the holder of the permit has purported to transfer, or has given possession of, the permit (or a copy of it) to a person who is not entitled to hold it; or

(i) the permit (or a copy of it) has been altered or defaced.

(5) The permit-holder or any person having possession or custody of any permit which has been revoked or suspended under this regulation shall surrender it and any copies of it to the Commissioner within a reasonable time of being required by him to do so.

(6) References in this regulation to the “permit-holder” are references to the person to whom any permit to which this Part applies has been granted.

PART 3

APPEALS

Appeals against revocation of permits granted under section 3, 4, 5 or 6 of the Act

11.—(1) Subject to the modifications specified in paragraph (2) of this regulation, Part 3 of the United Kingdom Regulations shall have effect in South Georgia and the South Sandwich Islands so as—

(a) to confer a right of appeal to the Antarctic Act Tribunal (“the Tribunal”) established by regulation 11 (1) of the United Kingdom Regulations from and against the revocation or suspension by the Commissioner under regulation 10 of a permit granted under section 3, 4, 5 or 6 of the Act in its application to South Georgia and the South Sandwich Islands under the Order in Council (“South Georgia and the South Sandwich Islands Appeals”), in the same way as it confers a right of appeal from and against the revocation or suspension by the Secretary of State under regulation 10 of the United Kingdom Regulations of a permit granted by the Secretary of State under sections 3, 4, 5 or 6 of the Act in the form it has effect in the United Kingdom (“United Kingdom Appeals”).

(b) to confer upon the Tribunal the like jurisdiction and powers in relation to South Georgia and the South Sandwich Islands Appeals as it has under the United Kingdom Regulations in relation to United Kingdom Appeals; and

(c) to make the like provision in relation to procedural and other matters in relation to South Georgia and the South Sandwich Islands Appeals as is made in relation to United Kingdom Appeals by regulation 13 of the United Kingdom Regulations.

(2) For the purpose of the application of Part 3 of the United Kingdom Regulations in accordance with paragraph (1) above, the words “Secretary of State” in regulations 11(3), 11(4), 13(1) and 13(7)(b) of the United Kingdom Regulations shall be replaced by the word “Commissioner”;

(3) In this regulation—

(a) “the Order in Council” means the Antarctic Act 1994 (Overseas Territories) Order 1995^(b); and

(b) “the United Kingdom Regulations” means the Antarctic Regulations 1995^(c).

^(b) SI 1995/1030

^(c) SI 1995/490

PART 4

SPECIAL AREAS

Restricted Areas

12. For the purposes of section 9(1) of the Act, the areas listed and described in Schedule 1 to these Regulations are hereby designated as areas restricted under the Protocol.

Antarctic Historic Sites and Monuments

13. For the purposes of section 10(1) of the Act, the sites and monuments listed in Schedule 2 to these Regulations are hereby designated as Antarctic Historic Sites and Monuments.

Protected Places

14. For the purposes of section 11(1) of the Act, the places listed in Schedule 3 to these Regulations are hereby designated as places protected under the Convention.

PART 5

OFFENCES UNDER THE ACT

Application of Part 5

15. This Part applies when the Commissioner has reasonable grounds for believing that a United Kingdom national (hereinafter referred to as “the suspect”) has committed an offence under the Act (hereinafter referred to as “the offence”) and is in any part of Antarctica or, in respect of those offences referred to in section 29(1)(a) of the Act, is in any part of the area south of the Antarctic Convergence.

Arrest and conveyance in custody

16.—(1) A court in South Georgia and the South Sandwich Islands or a court in the Falkland Islands which has jurisdiction to hear and determine any criminal proceedings in South Georgia and the South Sandwich Islands pursuant to the provisions of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989(d) may, on the application of a person entitled under section 28 of the Act to institute proceedings in that court in respect of the offence, issue a warrant for the arrest of the suspect and his conveyance in custody to South Georgia and the South Sandwich Islands.

(d) SI 1989/2399

(2) Once arrested the person the subject of the warrant (hereinafter referred to as “the accused”) shall be deemed to be in legal custody at any time when, being in the British Antarctic Territory (or any other part of Antarctica), or other British territory, or on board a British ship or British aircraft, he is being taken under the warrant to or from any place or being kept in custody under the warrant.

(3) A person authorised by the warrant to take the accused to or from any place or to keep him in custody (hereafter referred to as “the authorised person”) shall have all the powers, authority, protection and privileges of a police officer.

(4) If the accused escapes he may be arrested without warrant by a constable and taken to any place to which he may be taken under the warrant.

(5) In paragraph (2)—

“British aircraft” means a British-controlled aircraft within the meaning of section 92 of the Civil Aviation Act 1982^(e) (application of criminal law to aircraft) or one of Her Majesty’s aircraft;

“British hovercraft” means a British-controlled hovercraft within the meaning of that section as applied in relation to hovercraft by virtue of provisions made under the Hovercraft Act 1968^(f) or one of Her Majesty’s hovercraft; and

“British ship” means a British ship for the purpose of the Merchant Shipping Acts 1894 to 1988 or one of Her Majesty’s ships;

and in this paragraph references to Her Majesty’s aircraft, hovercraft or ships are references to aircraft, hovercraft or, as the case may be, ships belonging to or exclusively employed in the service of Her Majesty in right of the Government of the United Kingdom.

(6) In paragraph (4) “police officer” means

(a) in relation to South Georgia and the South Sandwich Islands, any person who is a police officer in South Georgia and the South Sandwich Islands and any person who at the place in question has under any enactment, including paragraph (3), the powers of a police officer in South Georgia and the South Sandwich Islands; or

(b) in relation to a British territory outside South Georgia and the South Sandwich Islands, any person who is a police officer in that territory or any person who in that territory has the powers of a police officer.

^(e) 1982 c 16

^(f) 1968 c.59

Physical evidence

17.—(1) The authorised person may seize and detain any article which may be evidence connected with the offence and convey it to South Georgia and the South Sandwich Islands or the Falkland Islands.

(2) Where it is necessary for any article to be accompanied by any certificate, affidavit or other verifying document the authorised person shall also furnish for transmission such document of that nature as may be specified in any direction given by the Commissioner.

(3) Where the article consists of a document, the original or a copy may be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it may be transmitted.

Attendance of witnesses

18.—(1) This regulation applies where the Commissioner is notified by the court in South Georgia and the South Sandwich Islands or the Falkland Islands where the accused is being tried or is to be tried that a United Kingdom national who has been called to give evidence (hereinafter referred to as "the witness") has failed to comply with the order of the court, or is believed by the court to be unlikely to comply, and is in Antarctica or in the area south of the Antarctic Convergence, as the case may be.

(2) If the Commissioner receives a notification in accordance with paragraph (1) he may issue a warrant for the arrest of the witness.

(3) The provisions of paragraphs (2) to (6) of regulation 16 shall apply to the arrest and conveyance in custody of the witness as they apply to the accused.

(4) Once in South Georgia and the South Sandwich Islands or the Falkland Islands the witness shall be delivered by the authorised person to the court which made the notification under paragraph (1).

Made this 3rd day of September 1997



R. P. Ralph
Commissioner

SCHEDULE 1

Regulation 12

RESTRICTED AREAS

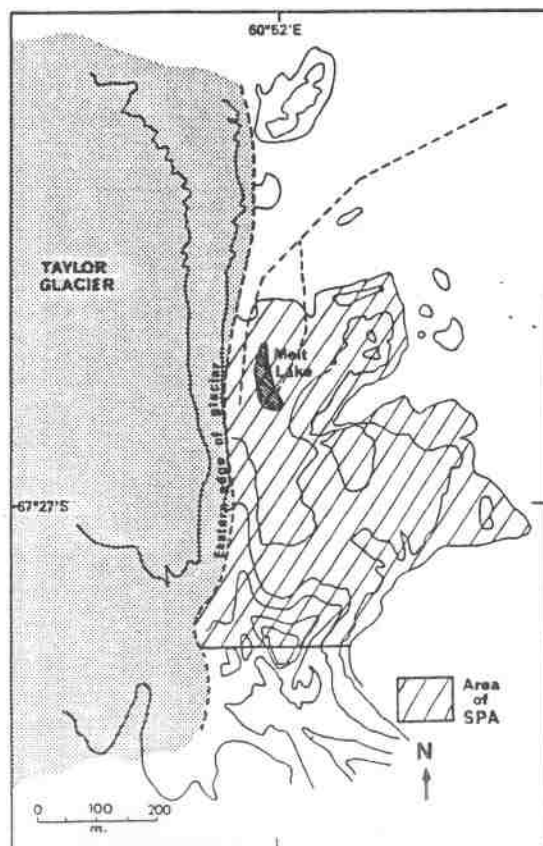
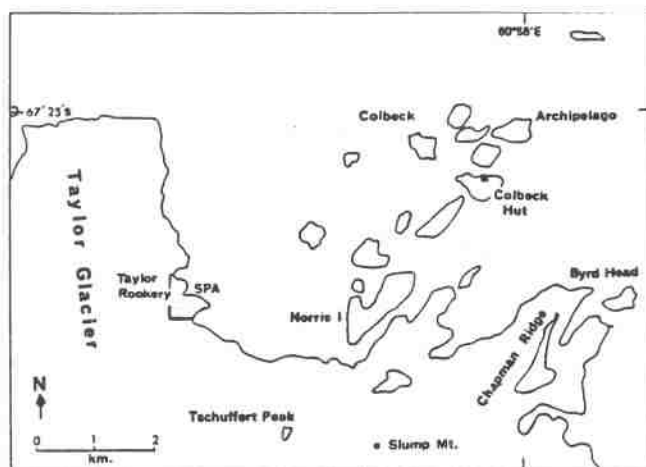
Specially Protected Area No. 1

Taylor Rookery, MacRobertson Land

Latitude 67 degrees 26' S; Longitude 60 degrees 50' E

The Area consists of the whole of the northernmost rock exposure on the east side of Taylor Glacier, MacRobertson Land (Lat. 67 degrees 26' S; Longitude 60 degrees 50' E). The rookery is located on a low lying rock outcrop in the south-west corner of a bay formed by Taylor Glacier to the west, the polar ice cap to the south and the islands of Colbeck Archipelago to the east. The Area is surrounded by sea ice to the north and east. The Area is some 90 km west of Mawson station. There is ice-free terrain adjacent to the glacier on the western boundary and to the south the rock rises steeply to meet the ice of the plateau.

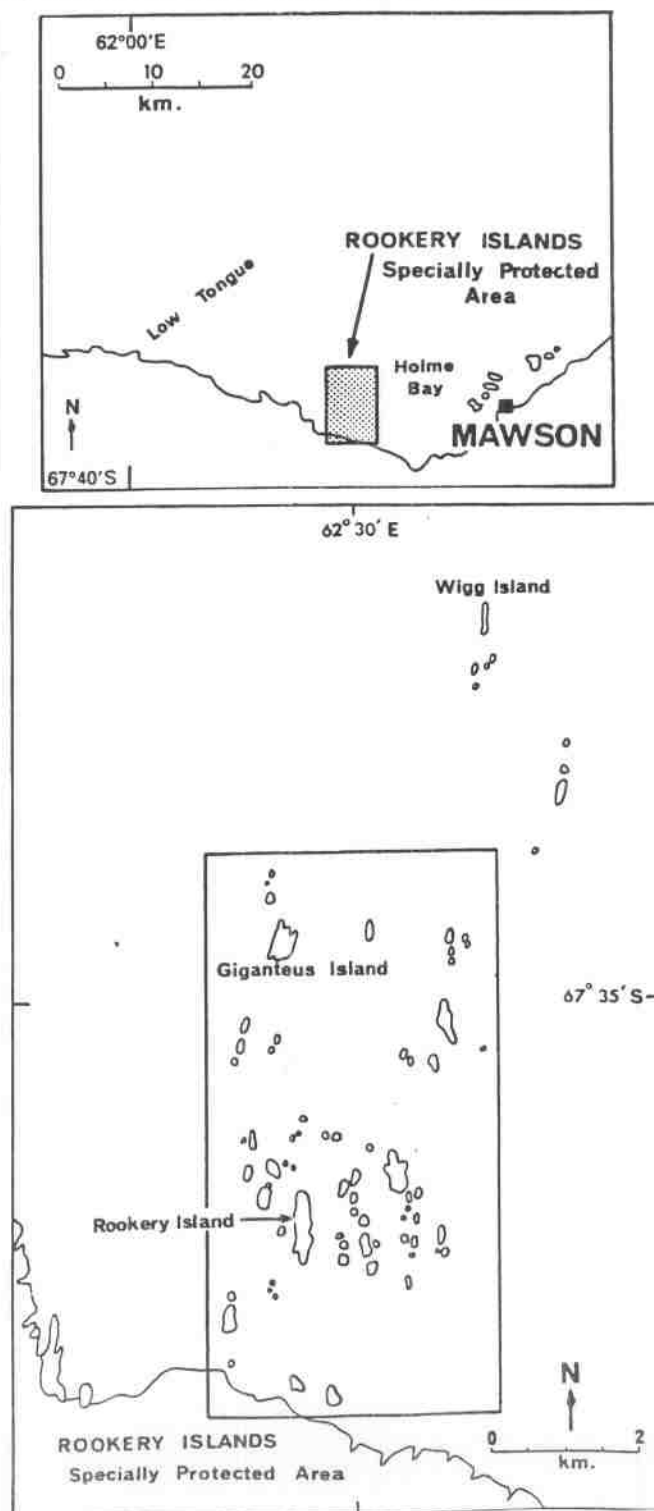
There are no boundary markers since the Area is easily defined by its natural features.



Specially Protected Area No. 2
Rookery Islands, Holme Bay, MacRobertson Land
Latitude 67 degrees 37' S; Longitude 62 degrees 33' E

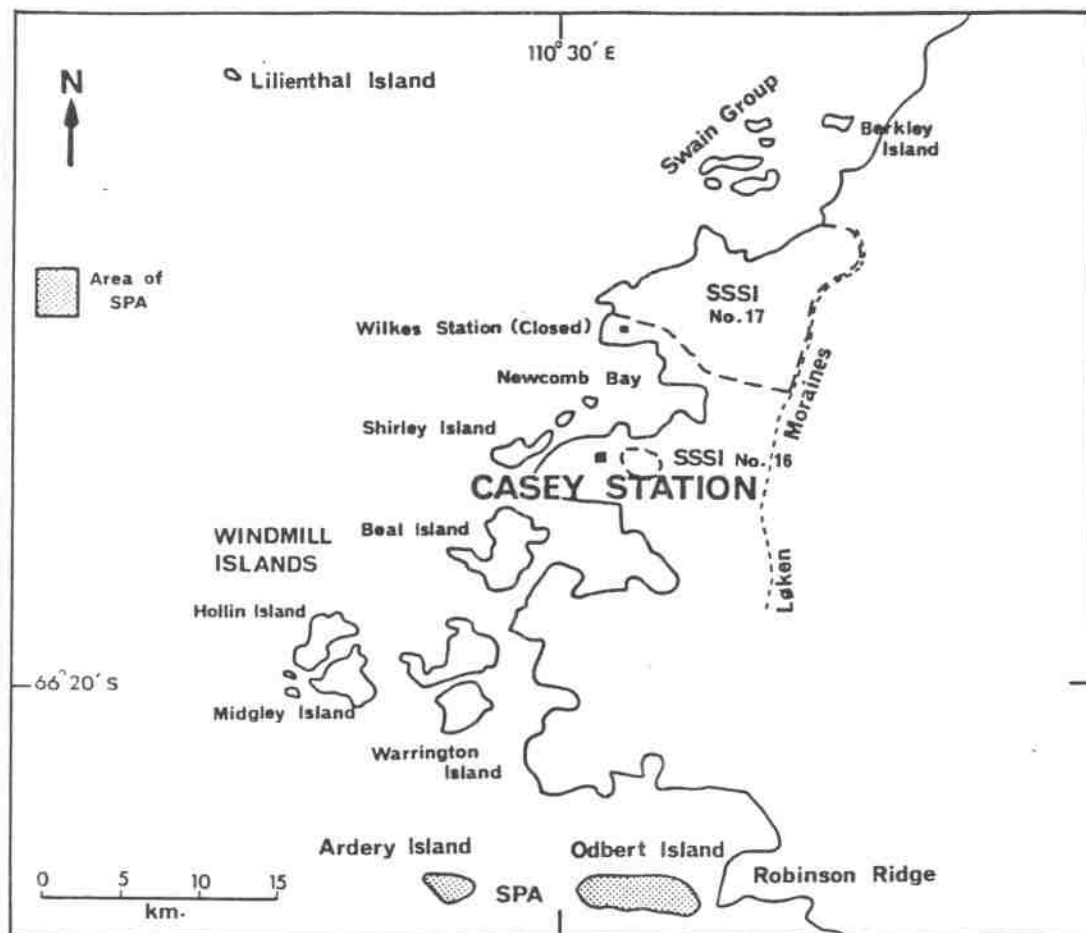
The Rookery Islands are a group of small islands and rocks in the south-western part of Holme Bay, MacRobertson Land, approximately 10 km to the west of Mawson station. The Area comprises the islands and rocks lying within the rectangular area shown on the maps below, the general location of which is latitude 67 degrees 37' S, longitude 62 degrees 33' E. There are no boundary markers delimiting the site.

There are approximately 75 small islands. They range in size from small rocks which barely remain above water at high tide to the largest islands of the group which are Giganteus Island (approximately 400 m Longitudinal, 400 m wide and 30 m high) and Rookery Island which is of similar size but slightly more elongated. Rookery Island is the highest of the group reaching an altitude of 62 m.



Specially Protected Area No. 3
Ardery Island and Odbert Island, Budd Coast
Lat. 66 degrees 22' S; Longitude. 110 degrees 33' E

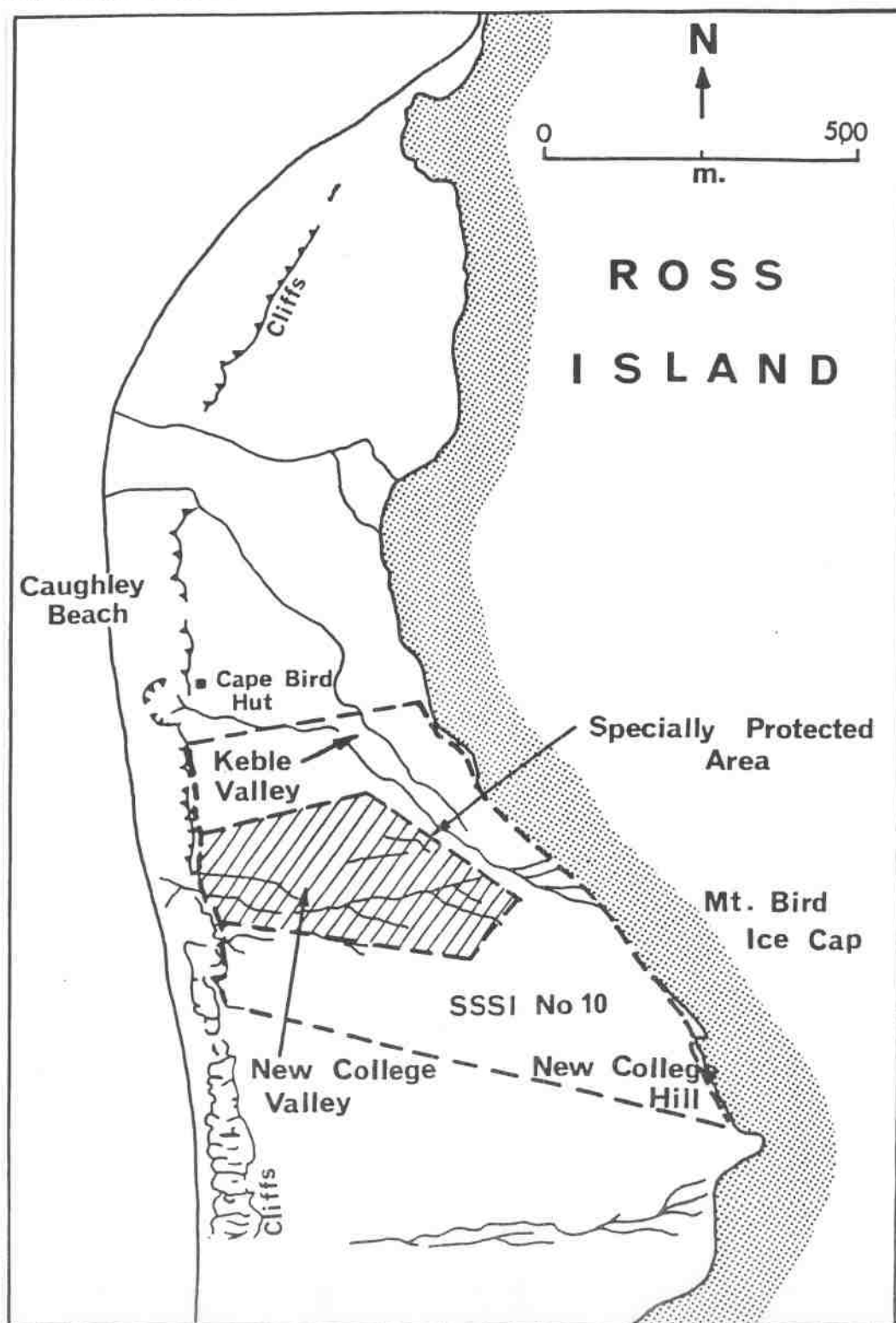
Ardery Island (Lat. 66 degrees 22' S, Longitude. 110 degrees 28' E) and Odbert Island (Lat. 66 degrees 22' S, Longitude. 110 degrees 33' E) form part of the Windmill Islands group lying in the eastern end of Vincennes Bay off the Budd Coast. They are located 5 km and 0.6 km respectively to the west of Robinson Ridge, south of Casey Station. Odbert Island is approximately 2.5 km Longitude and 0.5 km wide. In some years the island remains joined to Robinson Ridge on the mainland by sea ice. Ardery Island is a steep ice-free island approximately 1 km Longitude and 0.5 km wide, with an east-west orientation.



Specially Protected Area No. 20
"College Valley", Caughley Beach, Cape Bird, Ross Island
Latitude 77 degrees 14' S; Longitude 166 degrees 23' E

The Area is in latitude 77 degrees 14' S, longitude 166 degrees 23' E, in the northern part of the Cape Bird ice-free area. It lies between Northern Rookery and Middle Rookery and is about 250 m south of the summer research station, Cape Bird Hut.

The Area consists of the generally west-facing ice-free slopes lying between the cliff top above Caughley Beach and a line parallel to and about 100 m west of the edge of the Mount Bird Ice Cap, and between a line south of the main stream bed of "Keble Valley" and the south ridge of "New College Valley". Its total area is about 10 hectares.



SCHEDULE 2

Regulation 13

ANTARCTIC HISTORIC SITES AND MONUMENTS

1. Flag mast erected in December 1965 at the South Geographical Pole by the First Argentine Overland Polar Expedition.
2. Rock cairn erected in January 1961 and plaques at Syowa Station (Latitude 69 degrees 00' S, Longitude 39 degrees 35' E) in memory of Shin Fukushima.
3. Rock cairn and plaque on Proclamation Island, Enderby Land (Latitude 65 degrees 51' S, Longitude 53 degrees 41' E), erected in January 1930 by Sir Douglas Mawson to commemorate the British, Australian and New Zealand Antarctic Research Expedition of 1929-31.
4. Station building to which a bust of V. I. Lenin is fixed, together with a plaque in memory of the conquest of the Pole of Inaccessibility by Soviet Antarctic explorers in 1958 (Latitude 83 degrees 06' S, Longitude 54 degrees 58' E).
5. Rock cairn and plaque at Cape Bruce, MacRobertson Land (Latitude 67 degrees 25' S, Longitude 60 degrees 47' E), erected in February 1931 by Sir Douglas Mawson to commemorate the British, Australian and New Zealand Antarctic Research Expedition.
6. Rock cairn at Walkabout Rocks, Vestfold Hills, Princess Elizabeth Land (Latitude 68 degrees 22' S, Longitude 78 degrees 33' E), erected in 1939 by Sir Hubert Wilkins.
7. Stone with inscribed plaque, erected at Mirny Observatory, Mabus Point (Latitude 66 degrees 33' S, Longitude 93 degrees 01' E), in memory of Ivan Kharma.
8. Metal monument-sledge at Mirny Observatory, Mabus Point (Latitude 66 degrees 33' S, Longitude 93 degrees 01' E), with plaque in memory of Anatoly Shcheglov.
9. Cemetery on Buromskiy Island, near Mirny Observatory (Latitude 66 degrees 32' S, Longitude 93 degrees 01' E), in which are buried Soviet, Czechoslovak and GDR citizens, members of Soviet Antarctic Expeditions.
10. Building (Magnetic observatory) at Dobrowolsky Station, Bunger Hills (Latitude 66 degrees 16' S, Longitude 100 degrees 45' E), with plaque in memory of the opening of Oasis Station in 1956.
11. Heavy tractor at Vostok Station (Latitude 78 degrees 28' S, Longitude 106 degrees 48' E), with plaque in memory of the opening of the station in 1957.
12. Cross and plaque at Cape Denison, George V Land (Latitude 67 degrees 00' S, Longitude 142 degrees 42' E), erected in 1913 by Sir Douglas Mawson. The cross and plaque commemorate Lieutenant B. E. S. Ninnis and Dr X Mertz, members of the Australasian Antarctic Expedition of 1911-14.

13. Hut at Cape Denison, George V Land (Latitude 67 degrees 00' S, Longitude 142 degrees 42' E), built in January 1912 by Sir Douglas Mawson for the Australasian Antarctic Expedition of 1911-14.
14. Remains of rock shelter at Inexpressible Island, Terra Nova Bay (Latitude 74 degrees 54' S, Longitude 163 degrees 43' E), constructed in March 1912 by Victor Campbell's Northern Party, British Antarctic Expedition, 1910-13.
15. Hut at Cape Royds, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 07' E), built in February 1908 by Ernest Shackleton.
16. Hut at Cape Evans, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 24' E), built in February 1911 by Captain Robert Falcon Scott.
17. Cross on Wind Vane Hill, Cape Evans, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 24' E), erected by the Ross Sea Party of Ernest Shackleton's Trans-Antarctic Expedition, 1914-16, in memory of three members of the party who died in the vicinity in 1916.
18. Hut at Hut Point, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 37' E), built in February 1902 by Captain Robert Falcon Scott.
19. Cross at Hut Point, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 37' E) erected in February 1904 by the British Antarctic Expedition, 1901-04, in memory of T. Vince.
20. Cross on Observation Hill, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 40' E), erected in January 1913 by the British Antarctic Expedition 1910-13, in memory of Captain Robert Falcon Scott's party which perished on the return journey from the South Pole, March 1912.
21. Stone hut at Cape Crozier, Ross Island (Latitude 77 degrees 32' S, Longitude 169 degrees 18' E), constructed in July 1911 by Edward Wilson's party (British Antarctic Expedition 1910-13).
22. Hut at Cape Adare (Latitude 71 degrees 17' S, Longitude 170 degrees 15' E), built in February 1899 during the Southern Cross Expedition led by C. E. Borchgrevink.
23. Grave at Cape Adare (Latitude 71 degrees 17' S, Longitude 170 degrees 15' E), of Norwegian biologist, Nicolai Hanson, a member of C. E. Borchgrevink's 'Southern Cross' Expedition, 1899-1900. (The first known grave in the Antarctic.)
24. Rock cairn, known as 'Amundsen's Cairn', on Mount Betty, Queen Maud Range (Latitude 85 degrees 11' S, Longitude 163 degrees 45' W) erected by Roald Amundsen on 6 January, 1912, on his way back to 'Framheim' from the South Pole.

25. Hut and plaque on Peter I Oy (Latitude 68 degrees 47' S, Longitude 90 degrees 42' W), built by the Norwegian Captain Nils Larsen in February 1929 at Framnaesodden.
26. Abandoned installations of Argentine Station 'General San Martin' on Barry Island, Debenham Islands, Marguerite Bay (Latitude 68 degrees 08' S, Longitude 67 degrees 08' W), with cross, flag mast, and monolith built in 1951.
27. Cairn with plaque on Megalestris Hill, Petermann Island (Latitude 65 degrees 10' S, Longitude 64 degrees 10' W), erected in 1908 by the second French expedition led by J-B. Charcot.
28. Rock cairn at Port Charcot, Booth Island (Latitude 65 degrees 03' S, Longitude 64 degrees 01' W), with wooden pillar and plaque inscribed with the names of the first French expedition led by J-B. Charcot which wintered here in 1904 aboard Le Francais.
29. Lighthouse named 'Primero de Mayo' erected on Lambda Island, Melchior Islands (Latitude 64 degrees 18' S, Longitude 62 degrees 59' W).
30. Shelter at Paradise Harbour (Latitude 64 degrees 49' S, Longitude 62 degrees 51' W), erected in 1950 near the Chilean Base 'Gabriel Gonzales Videla' to honour Gabriel Gonzales Videla.
31. Memorial plaque marking the position of a former cemetery on Deception Island (Latitude 62 degrees 59' S, Longitude 60 degrees 34' W) where some 40 Norwegian whalers were buried in the first half of the twentieth century.
32. Concrete monolith, near Arturo Prat Base on Greenwich Island (Latitude 62 degrees 29' S, Longitude 59 degrees 40' W), erected in 1947.
33. Shelter and cross with plaque near Arturo Prat Base, Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W), erected in memory of Lieutenant-Commander Gonzalez Pacheco.
34. Bust of the Chilean naval hero Arturo Prat erected in 1947 at the base of the same name on Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W).
35. Wooden cross and statue of the Virgin of Carmen erected in 1947 near Arturo Prat Base on Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W).
36. Metal plaque at Potter Cove, King George Island (Latitude 62 degrees 13' S, Longitude 58 degrees 42' W), erected by Eduard Dallmann to commemorate the visit of his German expedition on 1 March, 1874.
37. Statue of Bernard O'Higgins, erected in 1948, in front of the station of the same name (Latitude 63 degrees 19' S, Longitude 57 degrees 54' W.)

38. Hut on Snow Hill Island (Latitude 64 degrees 24' S, Longitude 57 degrees 00' W) built in February 1902 by the main party of the Swedish South Polar Expedition, led by Otto Nordenskjöld.

39. Stone hut at Hope Bay (Latitude 63 degrees 24' S, Longitude 56 degrees 59' W), built in January 1903 by a party of the Swedish South Polar Expedition.

40. Bust of General San Martin, grotto with a statue of the Virgin of Lujan, and a flag mast at Base 'Esperanza', Hope Bay (Latitude 63 degrees 24' S, Longitude 56 degrees 59' W), erected in 1955 together with a graveyard with stele in memory of members of Argentine expeditions who died in the area.

41. Stone hut on Paulet Island (Latitude 63 degrees 35' S, Longitude 55 degrees 47' W), built in February 1903 by the Norwegian C. A. Larsen, of the Swedish South Polar Expedition led by Otto Nordenskjöld, together with the grave of a member of that expedition.

42. Area at Scotia Bay, Laurie Island, South Orkney Island (Latitude 60 degrees 46' S, Longitude 44 degrees 40' W), in which are found: stone hut built in 1903 by the Scottish Expedition led by W. S. Bruce; the Argentine Meteorological and Magnetic Observatory, built in 1903; and a graveyard with seven tombs dating from 1903.

43. Cross erected in 1955, at a distance of 1,300 metres north-east of the Argentine Base 'General Belgrano' at Piedrabuena Bay, Filchner Ice Shelf (Latitude 77 degrees 49' S, Longitude 38 degrees 02' W).

44. Plaque erected at the temporary Indian station 'Dakshin Gangotri', Princess Astrid Kyst, Dronning Maud Land (Latitude 70 degrees 45' S, Longitude 11 degrees 38' E), listing the names of the members of the First Indian Antarctic Expedition which landed nearby on 9 January 1982.

45. Plaque on Brabant Island, on Metchnikoff Point, (Latitude 64 degrees 02' S, Longitude 62 degrees 34' W), erected by de Gerlache to commemorate the first landing on Brabant Island by the Belgian Antarctic expedition 1897-99.

46. The buildings and installations of Port Martin base, Terre Adelie (Latitude 66 degrees 49' S, Longitude 141 degrees 24' E) constructed in 1950 by the 3rd French expedition and partly destroyed by fire during the night of 23 to 24 January 1952.

47. Wooden building called 'Base Marret' on the Ile des Petrels, Terre Adelie (Latitude 66 degrees 40' S, Longitude 140 degrees 01' E).

48. Cross erected on the North-East headland of the Ile des Petrels, Terre Adelie (Latitude 66 degrees 40' S, Longitude 140 degrees 01' E) in memory of Andre Prudhomme.

49. The concrete pillar erected in January 1959 by the First Polish Antarctic Expedition at Dobrolowski Station on the Bunger Hill (Latitude 66 degrees 16.3' S, Longitude 100 degrees 45' E, h = 35.4m) to measure acceleration due to gravity.

50. A commemorative plaque mounted on a sea cliff on the Fildes Peninsula, King George Island, Maxwell Bay (Latitude 62 degrees 12' S, Longitude 58 degrees 54' W), south-west of the Chilean and Soviet stations in memory of Professor Siedlecki Tazar.

51. The grave of Wlodzimierz Puchalski, surmounted by an iron cross, on a hill to the south of Arctowski Station on King George Island (Latitude 62 degrees 09' S, Longitude 58 degrees 28' W).

52. Monument erected to commemorate the establishment in February 1985 of the 'Great Wall Station' on Fildes Peninsula, King George Island (Latitude 62 degrees 13' S, Longitude 58 degrees 58' W), in the South Shetland Islands.

53. Monoliths and commemorative plaques and bronze busts of Luis Pardo Villalon on Elephant Island (Latitude 61 degrees 03' S., Longitude 54 degrees 50' W.) and their replicas on the Chilean bases 'Arturo Prat' (Latitude 62 degrees 30' S., Longitude 59 degrees 49' W.) and 'Rodolfo Marsh' (Latitude 62 degrees 12' S., Longitude 62 degrees 12' W.), celebrating the rescue of survivors of the British ship "Endurance" by the Chilean Navy cutter "Yelcho".

54. Richard E. Byrd Historic Monument, McMurdo Station, Antarctica (Latitude 77 degrees 51' S, Longitude 166 degrees 40' E) with inscriptions describing the polar achievements of Richard Evelyn Byrd.

55. East Base, Antarctica, Stonington Island (Latitude 68 degrees 11' S, Longitude 67 degrees 00' W). Buildings and artefacts used during the Antarctic Service Expedition (1940-41) and the Ronne Antarctic Research Expedition (1947-48).

56. Waterboat Point, Danco Coast, Antarctic Peninsula (Latitude 64 degrees 49' S, Longitude 62 degrees 52' W). The remains and immediate environs of the Waterboat Point hut, situated close to the unoccupied Chilean station, 'President Gabriel Gonzalez Videla'.

57. Commemorative plaque at Yankee Bay, MacFarland Strait, Greenwich Island, South Shetland Islands, near the Chilean refuge located at Latitude 62 degrees 32' S, Longitude 59 degrees 45' W, to the memory of Captain Robert MacFarlane.

58. Cairn with memorial plaque erected at Whalers' Bay, Deception Island, South Shetland Islands, in the vicinity of the whalers' cemetery (Latitude 62 degrees 59' S, Longitude 60 degrees 34' W) to honour Captain Adolfus Amadus Andresen.

59. A cairn on Half Moon beach, Cape Shirreff, Livingston Island, South Shetland Islands (Latitude 62 degrees 29' S, Longitude 60 degrees 47' W), commemorating the officers, soldiers and seamen on board the San Telmo, which sank in September 1819.

60. Wooden plaque and rock cairn located at Penguins bay, southern coast of Seymour Island (Marambio), James Ross Archipelago (Latitude 64 degrees 16'00" S, Longitude 56 degrees 39'10" W) in memory of the 1903 Swedish Expedition led by Dr Otto Nordenskjöld.

SCHEDULE 3

Regulation 14

PROTECTED PLACES

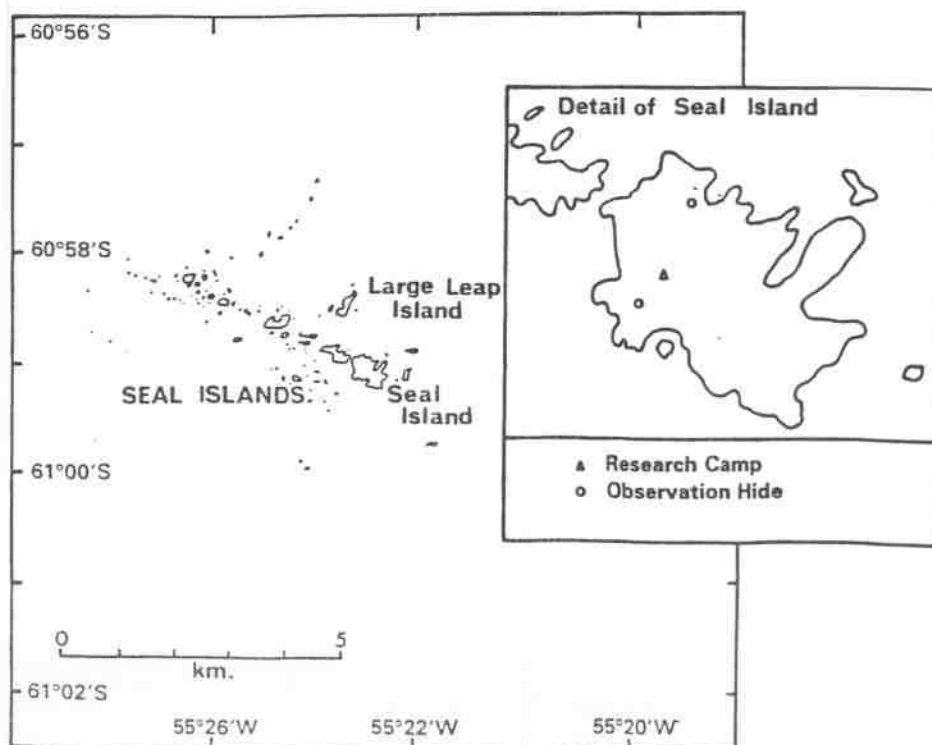
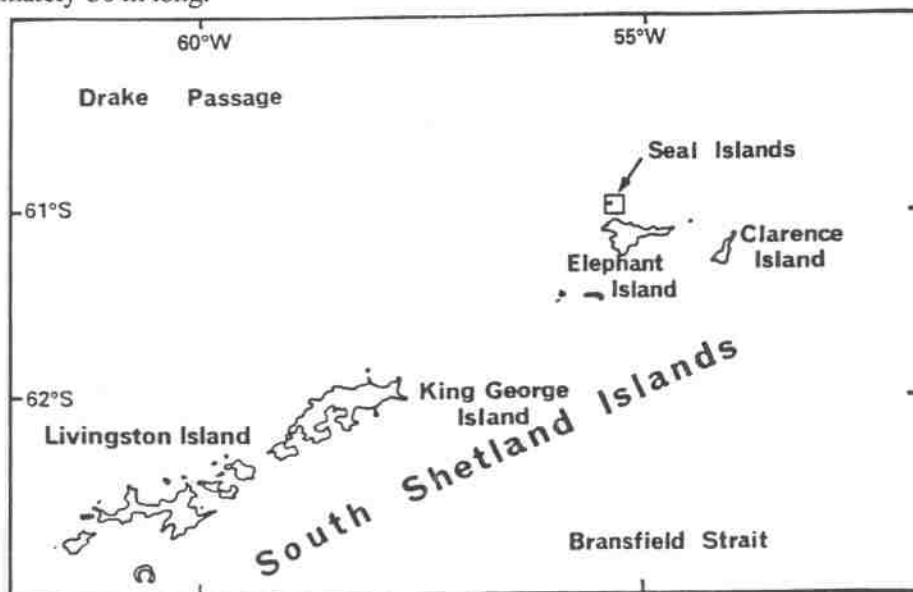
No. 1

Seal Islands, South Shetland Islands

Latitude 60 degrees 59' S; Longitude 55 degrees 23' W

The Seal Islands are composed of small islands and skerries located approximately 7 km north of the Northwest corner of Elephant Island, South Shetland Islands. The Seal Islands Protected Place includes the entire Seal Islands group, which is defined as Seal Island plus any land or rocks exposed at mean low tide within a distance of 5.5 km of the point of highest elevation on Seal Island. Seal Island is the largest island of the group, and is situated at Lat. 60 degrees 59' S, Longitude. 55 degrees 23' W.

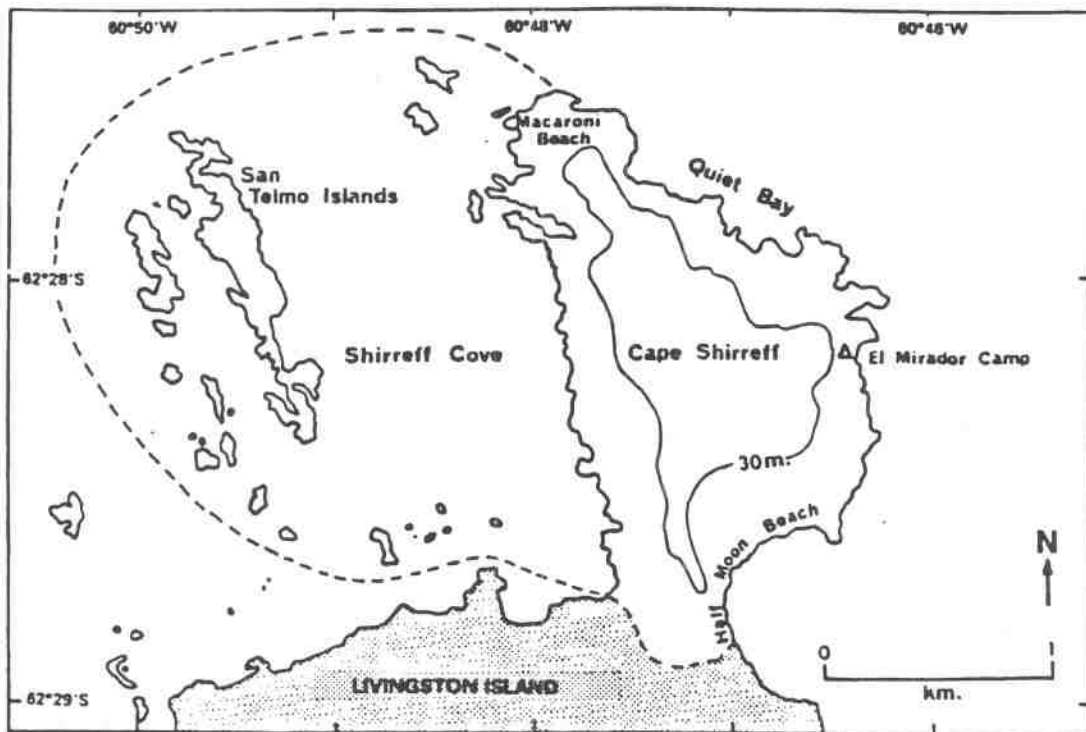
The Seal Islands cover an area approximately 5.7 km from east to west and 5 km from north to south. Seal Island is joined to the adjacent island to the west by a narrow sand bar that is approximately 50 m long.



No. 2
Cape Shirreff and the San Telmo Islands,
South Shetland Islands
Lat. 62 degrees 27' S; Longitude. 60 degrees 47' W

Cape Shirreff is a low, ice-free peninsula towards the western end of the north coast of Livingston Island, South Shetland Islands, situated at Lat. 62 degrees 27' S, Longitude. 60 degrees 47' W, between Barclay Bay and Hero Bay. San Telmo Island is the largest of a small group of ice-free rock islets, approximately 2 km west of Cape Shirreff. Cape Shirreff is approximately 3 km from north to south and 0.5 to 1.2 km from east to west.

No man-made markers indicate the limits of the Protected Place, the boundaries being defined by natural features (i.e. coastlines or glacial margins). Its southern boundary is bordered by a permanent glacial ice barrier, which is located at the narrowest part of the Cape. The eastern side of the base of the Cape has two beaches with a total length of about 600 m. Above this the extremity of the Cape has a rocky barrier about 150 m long. The western side is formed by almost continuous cliffs 10 to 15 m high. Near the southern base of the Cape on the western side is a small sandy beach approximately 50 m long.



EXPLANATORY NOTE

(not forming part of the above Regulations)

These Regulations, made under the Antarctic Act 1994 in the form in which it applies to South Georgia and the South Sandwich Islands by virtue of the Antarctic Act 1994 (Overseas Territories) Order 1995 (SI 1995/1030), prescribe the procedure by which applications can be made for permits under the Act, including provisions relating to environmental evaluations, production of permits and their revocation or suspension. The Regulations establish a Tribunal to hear appeals against revocation or suspension. The Regulations designate special areas protected under the Act. There are also provisions regarding offences. The Regulations will come into force in accordance with regulation 1.

Information on the implementation of the Act and the Regulations, including application forms, may be obtained from the Commissioner's Office, Government House, Stanley, Falkland Islands; telephone + 500 27433; fax +500 27434.

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

VISITORS

Visitors (Landing Fees) Regulations 1998

S. R. & O. No. 2 of 1998

<i>Made:</i>	<i>24 June 1998</i>
<i>Published:</i>	<i>30 June 1998</i>
<i>Coming into force:</i>	<i>1 July 1998</i>

IN EXERCISE of my powers under section 6 of the Visitors Ordinance 1992^(a), and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Visitor (Landing Fees) Regulations 1998 and shall come into force on 1 July 1998.

Amendment of the passenger landing fee

2. The passenger landing fee payable under section 3(1) of the Visitors Ordinance 1992 is 50 pounds sterling.

Made this 24th day of June 1998

R P Ralph
Commissioner

^(a) No 2 of 1992

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

HARBOURS

Harbours (Fees)(Amendment) Regulations 1998

S. R. & O. No. 3 of 1998

Made: 25 June 1998
Published: 30 June 1998
Coming into force: 1 July 1998

IN EXERCISE of my powers under section 3 of the Harbours Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Harbours (Fees)(Amendment) Regulations 1998 and shall come into force on 1 July 1998.

Amendment of the Harbours (Fees) Regulations 1994

2. The Harbours (Fees) Regulations 1994(b) are amended as follows—

(a) regulation 2 is amended by deleting the figures and symbol “£25” and replacing them with “£30”.

(b) the Schedule to the Regulations is amended by replacing it with the following—

“SCHEDULE

(regulation 3(1))

Yachts (irrespective of tonnage)— £50.00

The following fees are payable in relation to the net tonnage of the vessel concerned—

Vessels (other than yachts)—	Fee—
Under 30 tonnes	£53.00
30 tonnes and under 50 tonnes	£182.00
50 tonnes and under 800 tonnes	£254.00

(a) Cap 30 Laws of the Falkland Islands 1950 Edition in its application under Cap 1 (DS) to South Georgia and the South Sandwich Islands

(b) S.R.&O. No 1 of 1994 as amended by S.R.&O. No 1 of 1995

800 tonnes and under 1000 tonnes	£319.00
1000 tonnes and under 1500 tonnes	£373.00
1500 tonnes and under 2000 tonnes	£452.00
2000 tonnes and under 5000 tonnes	£547.00
5000 tonnes and under 7000 tonnes	£680.00
7000 tonnes and under 10000 tonnes	£1,012.00
10000 tonnes and under 15000 tonnes	£1,234.00
15000 tonnes and under 20000 tonnes	£1,452.00
Vessels over 20000 tonnes	£1,525.00”

Made this 25th day of June 1998

R P Ralph
Commissioner

EXPLANATORY NOTE

(not forming part of the above regulations)

These Regulations set revised harbour dues for South Georgia and the South Sandwich Islands.

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

CUSTOMS

Customs (Fees)(Amendment) Regulations 1998

S. R. & O. No. 4 of 1998

Made: 25 June 1998
Published: 30 June 1998
Coming into force: 1 July 1998

IN EXERCISE of my powers under section 230 of the Customs Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Customs (Fees)(Amendment) Regulations 1998 and shall come into force on 1 July 1998.

Amendment of the Customs (Fees) Regulations 1992

2. Regulation 3 of the Customs (Fees) Regulations 1992(b) are amended by deleting the figures and symbols “£40.00”, “£20.00”, “£60” and “£30” wherever they appear in regulation 3 and replacing them as follows—

“£40.00” to be replaced by “£44”;
“£20.00” to be replaced by “£22”;
“£60” to be replaced by “£66”; and
“£30” to be replaced by “£33”.

Made this 25th day of June 1998

R P Ralph
Commissioner

(a) Cap 16 Laws of the Falkland Islands 1950 Edition in its application under Cap 1(DS) to South Georgia and the South Sandwich Islands

(b) SR&O No 1 of 1992

EXPLANATORY NOTE

(not forming part of the above regulations)

These Regulations make revised provision for the charging of customs fees for customs services provided in respect of South Georgia and the South Sandwich Islands.

SUBSIDIARY LEGISLATION

SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

FISHERIES

Fisheries (Transshipment and Export)(Amendment) Regulations 1998

S. R. & O. No. 5 of 1998

Made: 25 June 1998
Published: 30 June 1998
Coming into force: 1 July 1998

IN EXERCISE of my powers under section 3 of the Fisheries Ordinance^(a), and of all other powers enabling me in that behalf, I make the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Fisheries (Transshipment and Export) (Amendment) Regulations 1998 and shall come into force on 1 July 1998.

Amendment of the Fisheries (Transshipment and Export) Regulations 1990

2. The Fisheries (Transshipment and Export) Regulations 1990^(b) are amended by deleting the symbol and figures “£1000” appearing in the Schedule and replacing them with “£1,100”.

Made this 25th day of June 1998

R P Ralph
Commissioner

^(a) Cap 27 Laws of the Falkland Islands 1950 Edition in its application under Cap 1 (DS) to South Georgia and the South Sandwich Islands

^(b) SR&O No 1 of 1990

EXPLANATORY NOTE

(not forming part of the above regulations)

These Regulations revise the fee payable for a licence to tranship fish within the waters of South Georgia and the South Sandwich Islands.

PART III

RELEVANT UNITED KINGDOM INSTRUMENTS

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STATUTORY INSTRUMENTS

1985 No. 449

SOUTH ATLANTIC TERRITORIES

The South Georgia and South Sandwich Islands Order 1985

Made - - - - - 20th March 1985

Laid before Parliament 28th March 1985

Coming into Operation In accordance with section 1

At the Court at Buckingham Palace, the 20th day of March 1985

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts 1887 and 1945(a), and of all other powers enabling Her in that behalf is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the South Georgia and South Sandwich Islands Order 1985 and shall come into operation on the day appointed for the coming into effect of the Constitution of the Falkland Islands contained in Schedule 1 to the Falkland Islands Constitution Order 1985(b).

Citation
commence-
ment, and
revocation.

(2) As from the commencement of this Order the Letters Patent dated 21st July, 1908(c) and of 28th March 1917(d) concerning the government of certain islands and territories as Dependencies of the Falkland Islands shall be revoked.

2.—(1) In this Order unless the context otherwise requires—

Interpretation.

“the Territories” means the islands and territories referred to in section 3 of this Order;

“the Commissioner” means the Commissioner for the Territories.

(2) The Interpretation Act 1978(e) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of Parliament of the United Kingdom.

3. As from the date of commencement of this Order all islands and territories whatsoever between the 20th degree of west longitude and the 50th degree of west longitude which are situated between the 50th parallel of south latitude and the 60th parallel of south latitude shall cease to be

South
Georgia and
the South
Sandwich
Islands.

(a) 1887 c. 54, 1945 c. 7 (9 & 10 Geo. 6).
(d) Rev. VII, p. 585.

(b) S.I. 1985/444.

(c) Rev. VII, p. 583.
(e) 1978 c. 30.

governed as Dependencies of the Falkland Islands and shall be known as South Georgia and the South Sandwich Islands.

Establishment
of office of
Commissioner.

4. There shall be a Commissioner for the Territories who shall be the officer for the time being administering the Government of the Falkland Islands.

Powers and
duties of
Commissioner.

5.—(1) The Commissioner shall have such powers and duties as are conferred or imposed upon him by or under this Order or any other law and such other powers and duties as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Order and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office according to such instructions, if any, as Her Majesty may from time to time see fit to give him through a Secretary of State.

(2) The Commissioner shall consult with the Officer for the time being commanding Her Majesty's Forces in the South Atlantic (hereinafter referred to as "the Forces Commander") before exercising any function which appears to the Commissioner to relate to defence or internal security (with the exception of the police) and shall act in accordance with the advice which the Forces Commander then tenders to him; and he shall likewise act in accordance with the advice of the Forces Commander on any matter on which the latter considers it necessary in the interests of defence or internal security (with the exception of the police) to give advice to the Commissioner:

Provided that the question whether the Commissioner has on any matter consulted with the Forces Commander or acted in accordance with his advice shall not be enquired into in any court of law.

(3) The Commissioner shall, whenever practicable, consult the Executive Council of the Falkland Islands before exercising any function which, in his opinion, might affect the Falkland Islands; and shall take due account of such views as the Executive Council may then express:

Provided that the question whether the Commissioner has on any matter consulted the Executive Council or taken due account of their views shall not be enquired into in any court of law.

(4) All references to the Governor or to the Civil Commissioner or to the officer administering the Government in any law in force immediately before the commencement of this Order shall, unless the context otherwise requires, be construed as references to the Commissioner.

Public seal.

6. The Commissioner shall cause to be kept and used a public seal for the Territories which shall be used for sealing all things that should pass the seal.

Constitution
of offices.

7. The Commissioner, in the name and on behalf of Her Majesty, may constitute such offices for the Territories as may lawfully be constituted

by Her Majesty and, subject to the provisions of any law for the time being in force in the Territories and to such instructions as may from time to time be given to him by Her Majesty through a Secretary of State, the Commissioner may likewise—

- (a) make appointments, to be held during Her Majesty's pleasure, to any office so constituted; and
- (b) dismiss any person so appointed or take such other disciplinary action in relation to him as the Commissioner may think fit.

8. Whenever the substantive holder of any office constituted by or under this Order is on leave of absence pending relinquishment of his office—

Concurrent appointments.

- (a) another person may be appointed substantively to that office; and
- (b) that person shall, for the purpose of any functions attaching to that office, be deemed to be the sole holder of that office.

9.—(1) The Commissioner may make laws for the peace, order and good government of the Territories.

Power to make laws.

(2) Subject to the provisions of any instructions from time to time given by Her Majesty through a Secretary of State, the Commissioner shall in the making of laws observe, so far as practicable, the rules set out in the Annex to this Order.

(3) All laws made by the Commissioner in exercise of the powers conferred by this Order shall be published in the Official Gazette for the Territories and in such manner and at such place or places in the Territories as the Commissioner may from time to time direct.

(4) Every such law shall come into operation on the date on which it is published in accordance with the provisions of subsection (3) of this section unless it is provided, either in such law or in some other enactment, that it shall come into operation on some other date, in which case it shall come into operation on that date.

10.—(1) Any law made by the Commissioner in exercise of the powers conferred by this Order may be disallowed by Her Majesty through a Secretary of State.

Disallowance of laws.

(2) Whenever any law has been disallowed by Her Majesty, the Commissioner shall cause notice of such disallowance to be published in the Official Gazette for the Territories and in such manner and at such place or places in the Territories as the Commissioner may from time to time direct.

(3) Every law so disallowed shall cease to have effect as soon as notice of disallowance has been published as aforesaid; and thereupon any enactment repealed or amended by, or in pursuance of, the law so disallowed shall have effect as if such law had not been made, and, subject thereto, the provisions of section 16(1) of the Interpretation Act 1978 shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Commissioner's
powers of
pardon, etc.

11. The Commissioner may, in Her Majesty's name and on Her Majesty's behalf—

- (a) grant to any person concerned in or convicted of any offence against the laws of the Territories a pardon, either free or subject to lawful conditions; or
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence imposed on that person for any such offence; or
- (c) substitute a less severe form of punishment for any punishment imposed by any such sentence; or
- (d) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence.

Existing laws.

12. Subject to the provisions of this Order, and except to the extent that they may be repealed, amended or modified by laws made under section 9 of this Order or by other lawful authority, the laws in force in the Territories immediately before the commencement of this Order shall continue in force in the Territories but shall be applied with such adaptations, modifications and exceptions as are necessary to bring them into conformity with the provisions of this Order.

Establishment
of courts.

13.—(1) The Commissioner may, by a law made under section 9 of this Order, establish a Supreme Court and such other courts of justice (including a Court of Appeal) for the Territories as he may think fit and may likewise make provision respecting the jurisdiction and powers of any such court, the proceedings in any such court, the enforcement and execution of the judgments, decrees, orders and sentences of any such court given or made in the exercise of such jurisdiction and powers, appeals therefrom, and the continuation of proceedings pending before, or decisions given by, any court referred to in subsection (5) of this section.

(2) The provisions of subsection (1) of this section shall apply to any court of justice established for another colony on which the Commissioner may, with the concurrence of the Governor of that colony, confer jurisdiction in respect of the Territories by a law made under section 9 of this Order.

(3) Any such court as is referred to in subsections (1) and (2) of this section may sit in the Territories or elsewhere for the purpose of exercising its jurisdiction in respect of the Territories.

(4) The Commissioner may constitute all such judgeships and other offices as he may consider necessary for the purposes of this section and may make appointments to any office so established, and any person so appointed, unless otherwise provided by law, shall hold his office during Her Majesty's pleasure.

(5) Pending the establishment of or the conferring of jurisdiction upon courts of justice for the Territories in accordance with the provisions of subsections (1) or (2) of this section, the courts exercising jurisdiction

in respect of the Territories immediately before the date of commencement of this Order shall continue to exercise such jurisdiction for the Territories as if jurisdiction had been conferred on them under subsection (2) of this section.

14. Subject to any law for the time being in force in the Territories and to any instructions from time to time given to the Commissioner by Her Majesty through a Secretary of State, the Commissioner, in Her Majesty's name and on Her Majesty's behalf, may make and execute grants and dispositions of any lands or other immovable property within the Territories that may be lawfully granted or disposed of by Her Majesty.

Disposal of
land.

15. There is reserved to Her Majesty full power to make laws from time to time for the peace, order and good government of the Territories including, without prejudice to the generality of the foregoing, laws amending or revoking this Order.

Power reserved
to Her Majesty.

G. I. de Deney,
Clerk of the Privy Council.

Section 9(2)

ANNEX TO THE ORDER

RULES FOR THE ENACTMENT OF LAWS

1. All laws shall be styled Ordinances and the words of enactment shall be "Enacted by the Commissioner for South Georgia and the South Sandwich Islands".

2. Matters having no proper relation to each other shall not be provided for by the same Ordinance; no Ordinance shall contain anything foreign to what the title of the Ordinance imparts; and no provision having indefinite duration shall be included in any Ordinance expressed to have limited duration.

3. All Ordinances shall be distinguished by titles, and shall be divided into successive sections consecutively numbered, and to every section there shall be annexed in the margin a short indication of its contents.

4. All Ordinances shall be numbered consecutively in a separate series for each year commencing in each year with the number one, and the position of each Ordinance in the series shall be determined with reference to the day on which the Commissioner enacted it.

5. Copies of all Ordinances shall be printed and each Ordinance shall bear the following:—

- (a) particulars of the day on which the Commissioner enacted it;
- (b) particulars of the day on which the Ordinance was published in the Official Gazette for the Territories; and
- (c) particulars of the day on which the Ordinance came into operation or, if that day shall not have been determined, a reference to the provision in the Ordinance or otherwise whereby it may be determined.

6. The Commissioner shall not, without having previously obtained instructions through a Secretary of State, enact any Ordinance within any of the following classes, unless such Ordinance contains a clause suspending the operation thereof until the signification of Her Majesty's pleasure thereon, that is to say—

- (a) any Ordinance for the divorce of married persons;
- (b) any Ordinance whereby any grant of land or money, or other donation or gratuity may be made to himself;
- (c) any Ordinance affecting the currency of the Territories or relating to the issue of bank notes;
- (d) any Ordinance establishing any banking association or altering the constitution, rights or duties of any such association;
- (e) any Ordinance imposing differential duties;
- (f) any Ordinance the provisions of which shall appear to him to be inconsistent with obligations imposed upon the United Kingdom by treaty;
- (g) any Ordinance affecting the discipline or control of Her Majesty's Forces by land, sea or air;
- (h) any Ordinance of an extraordinary nature and importance whereby Her Majesty's prerogative, or the rights or property of Her subjects not residing in the Territories, or the trade, transport or communications of any other territory under Her Majesty's sovereignty may be prejudiced;
- (i) any Ordinance whereby persons of any community or religion may be subjected or made liable to disabilities or restrictions to which persons of other communities or religions are not also made liable, or become entitled to any privilege or advantage which is not conferred on persons of other communities or religions; and
- (j) any Ordinance containing provisions which have been disallowed:

Provided that the Commissioner may, without such instructions as aforesaid and although the Ordinance contains no such clause as aforesaid, enact any such Ordinance (except an Ordinance the provisions of which appear to him to be inconsistent with obligations imposed upon the United Kingdom by treaty) if he shall have satisfied himself that an urgent necessity exists requiring that the Ordinance be brought into immediate operation; but in any such case he shall forthwith transmit a copy of the Ordinance to a Secretary of State together with his reasons for so enacting the same.

7. When any Ordinance has been enacted, the Commissioner shall at the earliest convenient opportunity transmit through a Secretary of State, for the signification of Her Majesty's pleasure, a transcript in duplicate of the Ordinance duly authenticated under the public seal of the Territories and by his own signature, together with an explanation of the reasons and occasion for the enactment of the Ordinance.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for the future administration of South Georgia and the South Sandwich Islands.

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S T A T U T O R Y I N S T R U M E N T S

1995 No. 1621

SOUTH ATLANTIC TERRITORIES

**The South Georgia and South Sandwich Islands
(Amendment) Order 1995**

<i>Made - - - -</i>	<i>28th June 1995</i>
<i>Laid before Parliament</i>	<i>10th July 1995</i>
<i>Coming into force</i>	<i>17th July 1995</i>

At the Court at Buckingham Palace, the 28th day of June 1995

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts 1887 and 1945(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1. This Order may be cited as the South Georgia and South Sandwich Islands (Amendment) Order 1995 and shall come into force on 17th July 1995.

Amendment

2. Section 4 of the South Georgia and South Sandwich Islands Order 1985(b) is hereby revoked and replaced by the following:

Office of Commissioner

4.—(1) There shall be a Commissioner for the Territories who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) During any period when the office of Commissioner is vacant or the holder thereof is for any reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by such person as may be designated by a Secretary of State.

N. H. Nicholls
Clerk of the Privy Council

(a) 1887 c. 54, 1945 c. 7 (9 & 10 Geo. 6).

(b) S.I. 1985/449.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes fresh provision for the office of Commissioner for South Georgia and the South Sandwich Islands.

STATUTORY INSTRUMENTS

1989 No. 1995

SOUTH ATLANTIC TERRITORIES

The South Georgia and South Sandwich Islands (Territorial Sea) Order 1989

Made

1st November 1989

Coming into force

1st January 1990

At the Court at Buckingham Palace, the 1st day of November 1989

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of the powers conferred upon Her by the Colonial Boundaries Act 1895^[1] and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the South Georgia and South Sandwich Islands (Territorial Sea) Order 1989 and shall come into force on 1st January 1990.

2. The boundaries of the Territories of South Georgia and South Sandwich Islands are hereby extended to include, as territorial sea, that part of the sea which is situated within 12 nautical miles measured from the baselines as established by article 3 of this Order, together with the seabed of the territorial sea and its subsoil.

3.—(1) Except as otherwise provided in paragraphs (2) to (4) of this article, the baseline from which the breadth of the territorial sea adjacent to South Georgia and South Sandwich Islands is measured shall be the low-water line along the coast of all islands and territories comprised in South Georgia and South Sandwich Islands by virtue of the South Georgia and South Sandwich Islands Order 1985^[2].

(2) For the purposes of this article a low-tide elevation which lies wholly or partly within the breadth of sea which would be territorial sea if all low-tide elevations were disregarded for the purpose of the measurement of the breadth thereof and if paragraphs (3) and (4) of this article were omitted shall be treated as an island.

(3) The baseline from which the breadth of the territorial sea is measured around the island of South Georgia and the islands in its immediate vicinity shall consist of the series of loxodromes drawn so as to join successively, in the order in which they are there set out, the points identified by the co-ordinates of latitude and longitude in the first column of the Schedule to this Order, each being a point situate on the low-water line on or adjacent to the feature named in the second column of that Schedule opposite to the co-ordinates of latitude and longitude of the point in the first column:

Provided that the baseline between points 19 and 20 in that Schedule shall be the low water line as laid down in paragraphs (1) and (2) of this article.

(4) The provisions of paragraph (3) of this article shall be without prejudice to the operation of paragraph (2) of this article in relation to any island or low-tide elevation which for the purposes of that paragraph is treated as if it were an island, being an island or low-tide elevation which lies to seaward of the baseline specified in paragraph (3) of this article.

4. In this Order -

(a) "island" means a naturally formed area of land surrounded by water which is above water at mean high-water spring tides;

(b) "low-tide elevation" means a naturally formed area of drying land surrounded by water which is below water at mean high-water spring tides; and

(c) "nautical miles" means international nautical miles of 1,852 metres.

G. I. de Deney Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends the boundaries of South Georgia and South Sandwich Islands, so as to include, as territorial sea, the sea within twelve nautical miles of the baselines, together with its seabed and subsoil, and makes other provisions in this connection. In particular, it defines the baseline from which the breadth of the territorial sea is measured as generally the low-water line, except that around South Georgia and other islands in its immediate vicinity a series of straight baselines joining specified points is provided for. The effect of the Order is to establish around South Georgia (including Shag Rocks, Black Rock, Clerke Rocks and the Office Boys) and all islands in the South Sandwich Islands a territorial sea extending to 12 nautical miles from the appropriate baselines.

ISBN 0 11 097995 8

SCHEDULE

POINTS ON OR IN THE VICINITY OF THE ISLAND OF SOUTH GEORGIA JOINED TO FORM
BASELINES, EXCEPT BETWEEN POINTS 19 AND 20

	Co-ordinates of latitude and longitude of point referred to chart datum	Name of feature
1.	53° 59' 13"S 38° 18' 02"W	Ramp Rock - N
2.	53° 59' 25"S 38° 10' 38"W	Trinity Island
3.	53° 59' 33"S 38° 01' 28"W	Bird Island
4.	53° 59' 12"S 37° 55' 21"W	Sårn
5.	53° 58' 14"S 37° 44' 31"W	Cape North
6.	53° 57' 35"S 37° 29' 00"W	High Rock
7.	54° 02' 55"S 36° 59' 39"W	Cape Constance
8.	54° 04' 30"S 36° 51' 25"W	The Guides
9.	54° 06' 35"S 36° 40' 07"W	Hercules Point
10.	54° 06' 51"S 36° 38' 36"W	Turpie Rock
11.	54° 07' 15"S 36° 37' 33"W	Humpback Rocks
12.	54° 10' 41"S 36° 29' 24"W	Jason Island
13.	54° 15' 13"S 36° 17' 53"W	East Skerry
14.	54° 17' 07"S 36° 14' 41"W	Cape George
15.	54° 22' 20"S 36° 09' 15"W	Cape Vakop
16.	54° 32' 20"S 35° 53' 27"W	Cape Charlotte
17.	54° 41' 38"S 35° 43' 35"W	Filchner Rocks
18.	54° 47' 32"S 35° 45' 45"W	Cooper Island - N
19.	54° 48' 00"S 35° 45' 52"W	Cooper Island - E
20.	54° 49' 13"S 35° 46' 59"W	Cooper Island - S
21.	54° 55' 14"S 36° 06' 45"W	First Rock
22.	54° 45' 30"S 36° 19' 25"W	Kupriyanov Islands
23.	54° 37' 47"S 36° 46' 08"W	Pickersgill Islands
24.	54° 30' 40"S 37° 05' 25"W	South West Point
25.	54° 29' 33"S 37° 08' 20"W	Mislaid Rock
26.	54° 08' 10"S 37° 45' 55"W	Saddle Island
27.	54° 04' 23"S 38° 00' 50"W	Olsen Rock
28.	54° 04' 18"S 38° 01' 42"W	Rock west of Olsen Rock
29.	54° 01' 10"S 38° 15' 46"W	Bryde Rocks - S
30.	54° 00' 52"S 38° 16' 15"W	Bryde Rocks - N
31.	53° 59' 17"S 38° 18' 12"W	Ramp Rock - W
1.	53° 59' 13"S 38° 18' 02"W	Ramp Rock - N

STATUTORY INSTRUMENTS

1997 No. 2578

MERCHANT SHIPPING

**The Merchant Shipping (Liability and Compensation
for Oil Pollution Damage) (Transitional
Provisions) (Overseas Territories) Order 1997**

Made - - - - 30th October 1997

Coming into force - - 30th November 1997

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315 (2) of the Merchant Shipping Act 1995⁽¹⁾ and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997, and shall come into force on 30th November 1997.

2. The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996⁽²⁾, shall extend to each of the following territories subject to the exceptions, adaptations and modifications specified out in the Schedule to this Order:

Anguilla

Bermuda

British Indian Ocean Territory

Falkland Islands

Pitcairn, Henderson, Ducie and Oeno Islands

South Georgia and the South Sandwich Islands

Sovereign Base Areas of Akrotiri and Dhekelia

Turks and Caicos Islands

(1) 1995 c. 21.

(2) S.I.1996/1143.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Virgin Islands

3. In this Order, “the Territory” means each of the territories listed in Article 2.

N. H. Nicholls
Clerk to the Privy Council

SCHEDULE

Article 2

The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 as modified and extended to the Territories listed in Article 2

...

2.—(1) In this Order, unless the context otherwise requires:

“the Act” means the Merchant Shipping Act 1995;

“the 1969 Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969, as amended by the Protocol signed in London in 1976;

“the 1992 Liability Convention” means the 1969 Liability Convention as amended by the 1992 Liability Protocol;

“the 1992 Liability Protocol” means the Protocol of 1992 to amend the 1969 Liability Convention signed in London in 1992;

“the 1971 Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18th December 1971, as amended by the Protocol signed in London in 1976;

“the 1992 Fund Convention” means the 1971 Fund Convention as amended by the 1992 Fund Protocol;

“the 1992 Fund Protocol” means the Protocol of 1992 to amend the 1971 Fund Convention signed in London in 1992.

(2) In this Order, references to “the 1975 Order” shall be construed as follows:

(a) in the case of Anguilla, as references to the Merchant Shipping (Oil Pollution) (Anguilla) Order 1983⁽³⁾;

(b) in the case of Bermuda, as references to the Merchant Shipping (Oil Pollution) (Bermuda) Order 1975⁽⁴⁾;

(c) in the case of the British Indian Ocean Territory, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975⁽⁵⁾, as that Order applies to the British Indian Ocean Territory;

(d) in the case of the Falkland Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975⁽⁶⁾, as that Order applies to the Falkland Islands;

(e) in the case of Pitcairn, Henderson, Ducie and Oeno Islands, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975, as that Order applies to these Islands;

(f) in the case of South Georgia and the South Sandwich Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975, as that Order applies to South Georgia and the South Sandwich Islands;

(g) in the case of the Sovereign Base Areas of Akrotiri and Dhekelia, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975, as that Order applies to the Sovereign Base Areas;

⁽³⁾ S.I. [1983/1519](#).

⁽⁴⁾ S.I. [1975/2165](#), amended by S.I. [1981/215](#).

⁽⁵⁾ S.I. [1975/2171](#), amended by S.I. [1981/222](#), [1981/431](#) and [1984/543](#).

⁽⁶⁾ S.I. [1975/2167](#), amended by S.I. [1976/2143](#) and [1981/218](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (h) in the case of the Turks and Caicos Islands, as references to the Merchant Shipping (Oil Pollution) (Turks and Caicos Islands) Order 1976(7); and
 - (i) in the case of the Virgin Islands, as references to the Merchant Shipping (Oil Pollution) (British Virgin Islands) Order 1975(8).
- (3) In this Order, references to the “1997 Order” shall be construed as follows:
- (a) in the case of Anguilla, as references to the Merchant Shipping (Oil Pollution) (Anguilla) Order 1997(9);
 - (b) in the case of Bermuda, as references to the Merchant Shipping (Oil Pollution) (Bermuda) Order 1997(10);
 - (c) in the case of the British Indian Ocean Territory, as references to the Merchant Shipping (Oil Pollution) (British Indian Ocean Territory) Order 1997(11);
 - (d) in the case of the Falkland Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997(12);
 - (e) in the case of Pitcairn, Henderson, Ducie and Oeno Islands, as references to the Merchant Shipping (Oil Pollution) (Pitcairn) Order 1997(13);
 - (f) in the case of South Georgia and the South Sandwich Islands, as references to the Merchant Shipping (Oil Pollution) (South Georgia and the South Sandwich Islands) Order 1997(14);
 - (g) in the case of the Sovereign Base Areas of Akrotiri and Dhekelia, as references to the Merchant Shipping (Oil Pollution) (Sovereign Base Areas) Order 1997(15);
 - (h) in the case of the Turks and Caicos Islands, as references to the Merchant Shipping (Oil Pollution) (Turks and Caicos Islands) Order 1997(16); and
 - (i) in the case of the Virgin Islands, as references to the Merchant Shipping (Oil Pollution) (Virgin Islands) Order 1997(17).

3.—(1) Notwithstanding the coming into force of the 1997 Order (and the consequent ceasing to have effect of the 1975 Order), the provisions mentioned paragraph (2) below and set out in Schedule 1 to this Order being transitional provisions shall have the force of law in the Territory, subject to the modifications in Schedule 2 to this Order, and for this purpose the provisions of the 1975 Order shall continue to have effect.

(2) The provisions are:

- (i) Article XII bis of the 1969 Liability Convention inserted by Article 9 of the 1992 Liability Protocol;
- (ii) Article 36 bis of the 1971 Fund Convention, inserted by Article 26 of the 1992 Fund Protocol.

4. During the period while the United Kingdom remains a Party to the 1969 Liability Convention, references in sections 163 and 164 of the Act to the “Liability Convention” shall, in respect of ships registered in a State Party to the 1969 Liability Convention but not the 1992 Liability Convention, be references to the 1969 Liability Convention.

(7) S.I. [1976/223](#), amended by S.I. [1981/223](#).

(8) S.I. [1975/2175](#), amended by S.I. [1981/216](#).

(9) S.I. [1997/2580](#).

(10) S.I. [1997/2581](#).

(11) S.I. [1997/2583](#).

(12) S.I. [1997/2584](#).

(13) S.I. [1997/2585](#).

(14) S.I. [1997/2588](#).

(15) S.I. [1997/2587](#).

(16) S.I. [1997/2589](#).

(17) S.I. [1997/2590](#).

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5. In section 173(7) of the Act the reference to “Article XII of the Fund Convention” shall have effect as a reference to Article XII subject to Article 36 ter of that Convention.

6. For convenience of reference Article XII bis of the 1992 Liability Convention, and Article 36 bis of the 1992 Fund Convention, as modified by Schedule 2 to this Order, are set out in Schedule 3.

SCHEDULE 1 TO THE 1996 ORDER

Article 3

ARTICLE XII BIS OF 1992 LIABILITY CONVENTION AND ARTICLE 36 BIS OF THE 1992 FUND CONVENTION

Article XII bis of 1992 Liability Convention

TRANSITIONAL PROVISIONS

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party to this Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;
- (b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of sub-paragraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;
- (c) in the application of Article III, paragraph 4, of this Convention the expression “this Convention” shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;
- (d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with sub-paragraph (a) of this Article.

Article 36 bis of 1992 Fund Convention

The following transitional provisions shall apply in the period, hereinafter referred to as the transitional period, commencing with the date of entry into force of this Convention and ending with the date on which the denunciations provided for in Article 31 of the 1992 Protocol to amend the 1971 Fund Convention take effect:

- (a) In the application of paragraph 1(a) of Article 2 of this Convention, the reference to the 1992 Liability Convention shall include reference to the International Convention on Civil Liability for Oil Pollution Damage, 1969, either in its original version or as amended by the Protocol thereto of 1976 (referred to in this Article as “the 1969 Liability Convention”), and also the 1971 Fund Convention.
- (b) Where an incident has caused pollution damage within the scope of this Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the

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damage under the terms of the 1969 Liability Convention, the 1971 Fund Convention and the 1992 Liability Convention, provided that, in respect of pollution damage within the scope of this Convention in respect of a Party to this Convention but not a Party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been Party to each of the above-mentioned Conventions.

- (c) In the application of Article 4 of this Convention, the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under the 1969 Liability Convention, if any, and the amount of compensation actually paid or deemed to have been paid under the 1971 Fund Convention.
- (d) Paragraph 1 of Article 9 of this Convention shall also apply to the rights enjoyed under the 1969 Liability Convention.

SCHEDULE 2 TO THE 1996 ORDER

Article 3

PART A

The following are the modifications to Article XII bis of the 1992 Liability Convention:

1. References to State being a party to a Convention shall be construed as references to the United Kingdom being Party to such a Convention in respect of the Territory.
2. In the chapeau, the reference to “this Convention” shall be a reference to the 1992 Liability Convention.
3. In sub-paragraph (a) of Article XII bis references to “this Convention” shall be references to sections 152 to 170 of the Act, and the reference to “the 1969 Liability Convention” shall be a reference to Schedule 1 to the 1975 Order.
4. In sub-paragraph (b) of Article XII bis the first and third references to “this Convention” shall be references to Sections 152 to 170 of the Act, and the second shall be a reference to the 1992 Liability Convention; and the reference to “the said 1971 Convention” shall be a reference to Schedule 2 to the 1975 Order.
5. For sub-paragraph (c) of Article XII bis there shall be substituted “subsection (1)(i) of section 156 of the Act refers to liability under section 153 of the Act or under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate, and subsection (1)(ii) of section 156 of the Act applies to the persons referred to in section 156(2) of the Act or section 3 (b) of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate”.
6. In sub-paragraph (d) of Article XII bis, the reference to “Article V, paragraph 3 of this Convention” shall be a reference to section 158 of the Act.

PART B

The following are the modifications to Article 36 bis of the 1992 Fund Convention:

1. The “transitional period” means the period from entry into force of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997 to the date on which the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 ceases to have effect.
2. “The Fund” shall have the same meaning as in section 172 of the Act.
3. Except for the second reference in sub-paragraph (b), references to the “1971 Fund Convention” shall be references to Schedule 2 to the 1975 Order.
4. Except for the third reference in sub-paragraph (b), references to “this Convention” shall be references to sections 172 to 181 of the Act.
5. References to the “1969 Liability Convention” shall be references to Schedule 1 to the 1975 Order.
6. References to the “1992 Liability Convention” shall be references to sections 152 to 170 of the Act.
7. Sub-paragraph (a) of Article 36 bis shall be omitted.
8. In sub-paragraph (b) of Article 36 bis for “the above-mentioned Conventions” there shall be substituted “the 1969 Liability Convention, the 1992 Liability Convention and the 1971 Fund Convention”.
9. In sub-paragraph (c) of Article 36 bis, the reference to “Article 4 of this Convention” shall be a reference to Part I of Schedule 5 to the Act.
10. In sub-paragraph (d) of Article 36 bis, the reference to “paragraph 1 of Article 9 of this Convention” shall be a reference to section 179(1) of the Act.

SCHEDULE 3 TO THE 1996 ORDER

Article 5

The text of Article XII bis of the 1992 Liability Convention and Article 36 bis of the 1992 Fund Convention, as modified by Schedule 2 to this Order.

Article XII bis

TRANSITIONAL PROVISIONS

The following transitional provisions shall apply when at the time of an incident the United Kingdom is Party in respect of the Territory both to the 1992 Liability Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act liability under sections 152 to 170 of the Act shall be deemed to be discharged if, and to the extent that, it also arises under Schedule 1 to the 1975 Order;
- (b) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act and the United Kingdom in respect of the Territory is Party both to the 1992

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Liability Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of sub-paragraph (a) of this Article shall arise under sections 152 to 170 of the Act only to the extent that pollution damage remains uncompensated after application of Schedule 2 to the 1975 Order;

- (c) subsection (1)(i) of section 156 of the Act refers to liability under section 153 of the Act or under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order as appropriate and subsection (1)(ii) of section 156 applies to the persons referred to in section 156(2) of the Act or in section 3(b) of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate;
- (d) in the application of section 158 of the Act the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with sub-paragraph (a) of this Article.

Article 36 bis

The following transitional provisions shall apply from the date of entry into force of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997 to the date on which the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 ceases to have effect;

- (b) Where an incident has caused pollution damage within the scope of sections 172 to 181 of the Act, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of Schedule 1 to the 1975 Order, Schedule 2 to the 1975 Order, and sections 152 to 170 of the Act, provided that, in respect of pollution damage within the scope of sections 172 to 181 of the Act in respect of a Party to this Convention but not a party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been party to each of the 1969 Liability Convention, the 1992 Liability Convention and the 1971 Fund Convention.
- (c) In the application of Part I of Schedule 5 to the Act the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under Schedule 1 to the 1975 Order if any, and the amount of compensation actually paid or deemed to have been paid under Schedule 2 to the 1975 Order.
- (d) Section 179(1) of the Act shall also apply to the rights enjoyed under Schedule 1 to the 1975 Order.

EXPLANATORY NOTE

(This note is not part of the Order)

The International Convention on Civil Liability for Oil Pollution Damage 1969 (the CLC) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (the Fund Convention) ensure that compensation is available to victims of oil pollution from tankers and provide for the sharing of the costs of compensation between shipowners and cargo interests.

Protocols were negotiated in 1992 which created a new 1992 CLC and a new 1992 Fund Convention. These Conventions provide for higher levels of compensation and more extensive liability, but they do not immediately replace the 1969 and 1971 Conventions: the latter will co-exist with the former for a transitional period. If an incident occurs during this period, compensation could in principle be available under both the original Conventions and the 1992 Conventions. The 1992 Protocols set out specific rules on the payment of compensation in these circumstances. This Order gives effect to these rules in the Territories listed in Article 2 of the Order by extending to these Territories (with the necessary exceptions, adaptations and modifications) the provisions of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996.

STATUTORY INSTRUMENTS

1997 No. 2579

MERCHANT SHIPPING

The Merchant Shipping (Limitation of Liability for Maritime Claims) (Overseas Territories) Order 1997

Made - - - - 30th October 1997

Coming into force - - 30th November 1997

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995⁽¹⁾ and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1. This Order may be cited as the Merchant Shipping (Limitation of Liability for Maritime Claims) (Overseas Territories) Order 1997 and shall come into force on 30th November 1997.

Implementation of the Limitation of Liability Convention

2. Sections 185 and 186 of and Schedule 7 to the Merchant Shipping Act 1995 shall extend to each of the Territories listed in Schedule 1 to this Order subject to the exceptions, adaptations and modifications specified in Schedule 2 to this Order; and any instrument made, or to be made, under paragraphs 3, 5(2), 8(1) or 13 of Part II of Schedule 7 to the Act shall also extend to each Territory.

Interpretation

3. In this Order, “the Territory” means any of the territories listed in Schedule 1 to this Order.

(1) 1995 c. 21.

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N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1
TO THE ORDER

Article 2

Anguilla
British Antarctic Territory
British Indian Ocean Territory
South Georgia and the South Sandwich Islands

SCHEDULE 2
TO THE ORDER

Article 2

SECTIONS 185 AND 186 OF THE MERCHANT SHIPPING ACT 1995

Limitation of liability of shipowners, etc and salvors for maritime claims

Limitation of liability of maritime claims

185.—(1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of Schedule 7 (in this section and Part II of that Schedule referred to as “the Convention”) shall have the force of law in the Territory.

(2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and subsection (1) above shall have effect subject to the provisions of that Part.

(3) The provisions having the force of law under this section shall apply in relation to Her Majesty’s ships as they apply in relation to other ships.

(4) The provisions having the force of law under this section shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if—

- (a) he is so on board or employed under a contract of service governed by the law of the Territory; and
- (b) the liability arises from an occurrence which took place after the commencement of this Order.

In this subsection, “ship” and “salvage operations” have the same meaning as in the Convention.

Exclusion of liability

186.—(1) Subject to subsection (3) below, the owner of a British ship shall not be liable for any loss or damage in the following cases, namely—

- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
- (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3) below, where the loss or damage arises from anything done or omitted by a person in his capacity of master or member of the crew or (otherwise than in that

capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) above shall also exclude the liability of—

- (a) the master, member of the crew or servant; and
- (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention set out in Part I of Schedule 7.

(4) This section shall apply in relation to Her Majesty's ships as it applies in relation to other ships.

(5) In this section "owner", in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

SCHEDULE 7 TO THE MERCHANT SHIPPING ACT 1995

Article 2

CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976

PART I

TEXT OF CONVENTION

CHAPTER I.

THE RIGHT OF LIMITATION

ARTICLE 1

Persons entitled to limit liability

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.

2. The term "shipowner" shall mean the owner, charterer, manager or operator of a seagoing ship.

3. Salvor shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1(d), (e) and (f).

4. If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.

5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel herself.

6. An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.

7. The act of invoking limitation of liability shall not constitute an admission of liability.

ARTICLE 2

Claims subject to limitation

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:

- (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
- (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

2. Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

ARTICLE 3

Claims excepted from limitation

The rules of this Convention shall not apply to:

- (a) claims for salvage or contribution in general average;
- (b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November 1969 or of any amendment or Protocol thereto which is in force;
- (c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
- (d) claims against the shipowner of a nuclear ship for nuclear damage;
- (e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

ARTICLE 4

Conduct barring limitation

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

ARTICLE 5

Counterclaims

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

CHAPTER II.

LIMITS OF LIABILITY

ARTICLE 6

The general limits

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:

- (a) in respect of claims for loss of life or personal injury,
 - (i) 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons,
 - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
 - for each ton from 501 to 3,000 tons, 500 Units of Account;
 - for each ton from 3,001 to 30,000 tons, 333 Units of Account;
 - for each ton from 30,001 to 70,000 tons, 250 Units of Account, and
 - for each ton in excess of 70,000 tons, 167 Units of Account,
- (b) in respect of any other claims,
 - (i) 167,000 Units of Account for a ship with a tonnage not exceeding 500 tons,
 - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
 - for each ton from 501 to 30,000 tons, 167 Units of Account;
 - for each ton from 30,001 to 70,000 tons, 125 Units of Account; and
 - for each ton in excess of 70,000 tons, 83 Units of Account.

2. Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).

3. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

ARTICLE 7

The limit for passenger claims

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 46,666 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate, but not exceeding 25 million Units of Account.

2. For the purpose of this Article “claims for loss of life or personal injury to passengers of a ship” shall mean any such claims brought by or on behalf of any person carried in that ship:

- (a) under a contract of passenger carriage, or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

ARTICLE 8

Unit of Account

The Unit of Account referred to in Articles 6 and 7 is the special drawing right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

ARTICLE 9

Aggregation of claims

1. The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:

- (a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or
- (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or
- (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

2. The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

ARTICLE 10

Limitation of liability without constitution of a limitation fund

1. Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.

2. If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.

3. Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

CHAPTER III.

THE LIMITATION FUND

ARTICLE 11

Constitution of the Fund

1. Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

2. A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.

3. A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

ARTICLE 12

Distribution of the fund

1. Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

2. If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the persons so compensated would have enjoyed under this Convention.

3. The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.

4. Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

ARTICLE 13

Bar to other actions

1. Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.

2. After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo; or

(d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

ARTICLE 14

Governing law

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

CHAPTER IV.

SCOPE OF APPLICATION

ARTICLE 15

This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part of this Schedule any reference to a numbered article is a reference to the article of the Convention which is so numbered.

Right to limit liability

2. The right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of “shipowner” in paragraph 2 of article 1 shall be construed accordingly.

Claims subject to limitation

3.—(1) Paragraph 1(d) of article 2 shall not apply unless provision has been made by an order of the Secretary of State for the setting up and management of a fund to be used for the making to harbour or conservancy authorities of payments needed to compensate them for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by them in claims of the kind there mentioned, and to be maintained by contributions from such authorities raised and collected by them in respect of vessels in like manner as other sums so raised by them.

(2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to the Secretary of State to be necessary or expedient.

Claims excluded from limitation

4.—(1) The claims excluded from the Convention by paragraph (a) of article 3 include claims under article 14 of the International Convention on Salvage 1989 as set out in Part I of Schedule 11(2) and corresponding claims under a contract.

(2) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 153 of this Act(3).

...

The general limits

5.—(1) In the application of article 6 to a ship with a tonnage less than 300 tons that article shall effect as if—

- (a) paragraph 1(a)(i) referred to 166,667 Units of Account; and
- (b) paragraph 1(b)(i) referred to 83,333 Units of Account.

(2) For the purposes of article 6 and this paragraph a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State.

(3) ...

Limit for passenger claims

6.—(1) In the case of a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by safety regulations, the ship's certificate mentioned in paragraph 1 of article 7 shall be that certificate.

(2) In paragraph 2 of article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person.

Units of Account

7.—(1) For the purpose of converting the amounts mentioned in articles 6 and 7 from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

- (a) the relevant date under paragraph 1 of article 8; or
- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Authority stating—

- (a) that a particular sum in sterling has been fixed as mentioned in sub-paragraph (1) above for a particular date; or
- (b) that no sum has been so fixed for that date and that a particular sum in sterling has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

(2) Schedule 11 to the 1995 Act, which sets out the International Convention on Salvage 1989 was extended to the Territories by The Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997 (S.I. 1997/2586).

(3) Section 153 of the 1995 Act was extended to Anguilla by S.I. 1997/2580; to the British Antarctic Territory by S.I. 1997/2582; and to the British Indian Ocean Territory by S.I. 1997/2583; and to South Georgia and the South Sandwich Islands by S.I. 1997 (2588).

shall be conclusive evidence of those matters for the purposes of those articles; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(3) For the purposes of this paragraph, “the Authority” means—

- (a) in Anguilla, the Director of Finance;
- (b) in the British Antarctic Territory, the Commissioner;
- (c) in the British Indian Ocean Territory, the Commissioner;
- (d) in South Georgia and the South Sandwich Islands, the Financial Secretary.

Constitution of fund

8.—(1) The Secretary of State may, with the concurrence of the Treasury, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of article 11.

(2) ...

(3) Where a fund is constituted with the court in accordance with article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

Distribution of fund

9. No lien or other right in respect of any ship or property shall affect the proportions in which under article 12 the fund is distributed among several claimants.

Bar to other actions

10. Where the release of a ship or other property is ordered under paragraph 2 of article 13 the person on whose application it is ordered to be released shall be deemed to have submitted to... the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

Meaning of “court”

11. References in the Convention and the preceding provisions of this Part of this Schedule to the court are references to—

- (a) the High Court, in Anguilla;
- (b) the Supreme Court, in the British Antarctic Territory;
- (c) the Supreme Court, in the British Indian Ocean Territory.
- (d) the Supreme Court, in South Georgia and the South Sandwich Islands.

Meaning of “ship”

12. References in the Convention and in the preceding provisions of this Part of this Schedule to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Meaning of “State Party”

13. An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect in Anguilla, the British Antarctic Territory, the British Indian Ocean Territory and South Georgia and the South Sandwich Islands to the Convention on Limitation of Liability for Maritime Claims 1976, which lays down uniform rules relating to the liability of shipowners and salvors in respect of certain maritime claims.

STATUTORY INSTRUMENTS

1997 No. 2586

MERCHANT SHIPPING

**The Merchant Shipping (Salvage Convention)
(Overseas Territories) Order 1997**

Made - - - - 30th October 1997
Coming into force - - 30th November 1997

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995⁽¹⁾ and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1. This Order may be cited as the Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997 and shall come into force on 30th November 1997.

Implementation of the Salvage Convention

2. Sections 224 and 255(1) of and Schedule 11 to the Merchant Shipping Act 1995 shall extend to each of the territories listed in Schedule 1 to this Order subject to the exceptions, adaptations and modifications specified in Schedule 2 to this Order, and any instrument made, or to be made under paragraph 7 of part II of Schedule 2 to this Order shall also extend to each Territory.

Interpretation

3. In this Order “the Territory” means any of the territories listed in Schedule 1.

(1) 1995 c. 21.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE 1
TO THE ORDER

Article 2

Anguilla
British Antarctic Territory
British Indian Ocean Territory
Cayman Islands
Falkland Islands
Pitcairn, Henderson, Ducie and Oeno Islands and its Dependencies
Saint Helena
South Georgia and the South Sandwich Islands
Turks and Caicos Islands
Virgin Islands

SCHEDULE 2
TO THE ORDER

Article 2

SECTIONS 224 AND 255(1) OF THE MERCHANT SHIPPING ACT 1995

Salvage

Salvage Convention 1989 to have force of law

224.—(1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 11 (in this Chapter referred to as “the Salvage Convention”) shall have the force of law in the Territory.

(2) The provisions of Part II of that Schedule shall have effect in connection with the Salvage Convention, and subsection (1) above shall have effect subject to the provisions of that Part.

...

(4) Nothing in subsection (1) or (2) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the entry into force of this Order.

...

255.—(1) In this Part—

...

“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;

...

“salvor” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of the ship;

...

“vessel” includes any ship or boat, or any other description of vessel used in navigation.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 11 TO
THE MERCHANT
SHIPPING ACT 1995

INTERNATIONAL CONVENTION ON SALVAGE 1989

PART I

TEXT OF CONVENTION

CHAPTER I—

GENERAL PROVISIONS

ARTICLE 1

Definitions

For the purpose of this Convention—

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.
- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organisation means the International Maritime Organisation.
- (g) Secretary-General means the Secretary-General of the Organisation.

ARTICLE 2

Application of the Convention

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

ARTICLE 3

Platforms and drilling units

This Convention shall not apply to fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

ARTICLE 4

State-owned vessels

1. Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State decides otherwise.

2. Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

ARTICLE 5

Salvage operations controlled by public authorities

1. This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.

2. Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.

3. The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

ARTICLE 6

Salvage contracts

1. This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.

2. The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

3. Nothing in this article shall affect the application of article 7 nor duties to prevent or minimise damage to the environment.

ARTICLE 7

Annulment and modification of contracts

A contract or any terms thereof may be annulled or modified if—

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

CHAPTER II—

PERFORMANCE OF SALVAGE OPERATIONS

ARTICLE 8

Duties of the salvor and of the owner and master

1. The salvor shall owe a duty to the owner of the vessel or other property in danger—

- (a) to carry out the salvage operations with due care;
- (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimise damage to the environment;
- (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
- (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

2. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor—

- (a) to cooperate fully with him during the course of the salvage operations;
- (b) in so doing, to exercise due care to prevent or minimise damage to the environment; and
- (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

ARTICLE 9

Rights of coastal States

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognised principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

ARTICLE 10

Duty to render assistance

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.

2. The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.

3. The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

ARTICLE 11

Cooperation

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for cooperation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

CHAPTER III—

RIGHTS OF SALVORS

ARTICLE 12

Conditions for reward

1. Salvage operations which have had a useful result give right to a reward.

2. Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.

3. This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

ARTICLE 13

Criteria for fixing the reward

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below—

- (a) the salvaged value of the vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
- (c) the measure of success obtained by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- (f) the time used and expenses and losses incurred by the salvors;
- (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipment intended for salvage operations;
- (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

2. Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.

3. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

ARTICLE 14

Special compensation

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.

2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30 per cent. of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent. of the expenses incurred by the salvor.

3. Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).

4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

5. If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

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ARTICLE 15

Apportionment between salvors

1. The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.

2. The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

ARTICLE 16

Salvage of persons

1. No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.

2. A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimising damage to the environment.

ARTICLE 17

Services rendered under existing contracts

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

ARTICLE 18

The effect of salvor's misconduct

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

ARTICLE 19

Prohibition of salvage operations

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

CHAPTER IV—

CLAIMS AND ACTIONS

ARTICLE 20

Maritime lien

1. Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.

2. The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

ARTICLE 21

Duty to provide security

1. Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.

2. Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.

3. The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

ARTICLE 22

Interim payment

1. The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.

2. In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

ARTICLE 23

Limitation of actions

1. Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.

2. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.

3. An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

ARTICLE 24

Interest

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

ARTICLE 25

State-owned cargoes

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings *in rem* against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

ARTICLE 26

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Humanitarian cargoes

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

ARTICLE 27

Publication of arbitral awards

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

PART II

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part of this Schedule:

- (a) “the Convention” means the Convention as set out in Part I of this Schedule and any reference to a numbered article is a reference to the article of the Convention which is so numbered;
- (b) “the waters of the Territory” means the sea or other waters within the seaward limits of the territorial sea of the Territory.

Claims excluded from Convention

2.—(1) The provisions of the Convention do not apply—

- (a) to a salvage operation which takes place in inland waters of the Territory and in which all the vessels involved are of inland navigation; and
- (b) to a salvage operation which takes place in inland waters of the Territory and in which no vessel is involved.

(2) In this paragraph “inland waters” does not include any waters within the ebb and flow of the tide at ordinary spring tides or the waters of any dock which is directly or (by means of one or more other docks) indirectly, connected with such waters.

Assistance to persons in danger at sea

3.—(1) The master of a vessel who fails to comply with the duty imposed on him by article 10, paragraph 1 commits an offence and shall be liable—

- (a) in Anguilla,
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding 5000 East Caribbean dollars or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
- (b) in the British Antarctic Territory, to be tried by the Supreme Court and, if convicted, to imprisonment for a term not exceeding two years or a fine or both;
- (c) in the British Indian Ocean Territory, to be tried by the Supreme Court, and, if convicted, to imprisonment for a term not exceeding two years or a fine, or both;

- (d) in the Falkland Islands,
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
 - (e) Pitcairn, Henderson, Ducie and Oeno Islands,
 - (i) on conviction by the Subordinate Court, to imprisonment for a term not exceeding six months, or a fine not exceeding two thousand five hundred pounds or its equivalent, or both;
 - (ii) on conviction by the Supreme Court, to imprisonment for a term not exceeding two years or a fine not exceeding ten thousand pounds or its equivalent, or both.
 - (f) in Saint Helena and its Dependencies,
 - (i) on summary conviction, to imprisonment for a term not exceeding two years or a fine not exceeding £1000 or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
 - (g) in South Georgia and the South Sandwich Islands,
 - (i) on summary conviction, to imprisonment for a term not exceeding two years or a fine not exceeding the statutory maximum or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
 - (h) in the Turks and Caicos Islands,
 - (i) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding 3000 United States dollars or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
 - (i) in the Virgin Islands,
 - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding 3000 United States dollars or both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
- and in subparagraphs (d) and (g), “statutory maximum” means such sum as is for the time being the prescribed sum for the purposes of section 32 of the Magistrates' Courts Act 1980.
- (2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Convention or under any contract.

The reward and special compensation: the common understanding

4. In fixing a reward under article 13 and assessing special compensation under article 14 the court or arbitrator is under no duty to fix a reward under article 13 up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under article 14.

Recourse for life salvage payment

5.—(1) This paragraph applies where—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) services are rendered wholly or in part in the waters of the Territory in saving life from a vessel of any nationality or elsewhere in saving life from any ship registered in the Territory; and
 - (b) either—
 - (i) the vessel and other property are destroyed, or
 - (ii) the sum to which the salvor is entitled under article 16, paragraph 2 is less than a reasonable amount for the services rendered in saving life.
- (2) Where this paragraph applies, the Authority may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life; and for the purposes of this paragraph, “the Authority” means—
- (a) in Anguilla, the Governor;
 - (b) in the British Antarctic Territory, the Commissioner;
 - (c) in the British Indian Ocean Territory, the Commissioner;
 - (d) in the Cayman Islands, the Governor in Council;
 - (e) in Pitcairn, Henderson, Ducie and Oeno Islands, the Governor;
 - (f) in the Falkland Islands, the Governor;
 - (g) in Saint Helena, the Governor;
 - (h) in South Georgia and the South Sandwich Islands, the Commissioner;
 - (i) in the Turks and Caicos Islands, the Governor;
 - (j) in the Virgin Islands, the Governor in Council.

Meaning of “judicial proceedings”

6. References in the Convention to judicial proceedings are references to proceedings—
- (a) in Anguilla, in the High Court;
 - (b) in the British Antarctic Territory, in the Supreme Court;
 - (c) in the British Indian Ocean Territory, in the Supreme Court;
 - (d) in the Cayman Islands, in the Summary Court or the Grand Court;
 - (e) in Pitcairn, Henderson, Ducie and Oeno Islands, the Supreme Court;
 - (f) in the Falkland Islands, in the Supreme Court or the Magistrate’s Court;
 - (g) in Saint Helena in the Saint Helena Supreme Court;
 - (h) in South Georgia and the South Sandwich Islands, in the Supreme Court;
 - (i) in the Turks and Caicos Islands, in the Magistrate’s Court or the Supreme Court;
 - (j) in the Virgin Islands, in the High Court;

and any reference to the tribunal having jurisdiction (so far as it refers to judicial proceedings) shall be construed accordingly.

Meaning of “State Party”

7.—(1) An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention in respect of a specified country shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention in respect of that country.

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(2) In this paragraph “country” includes “territory”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the dependent territories listed in Schedule 1 provisions of the Merchant Shipping Act 1995 which give effect in the United Kingdom to the International Convention on Salvage, 1989.

STATUTORY INSTRUMENTS

1997 No. 2588

MERCHANT SHIPPING

The Merchant Shipping (Oil Pollution) (South Georgia and the South Sandwich Islands) Order 1997

Made - - - - 30th October 1997

Coming into force - - 30th November 1997

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995⁽¹⁾ and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1. This Order may be cited as the Merchant Shipping (Oil Pollution) (South Georgia and the South Sandwich Islands) Order 1997 and shall come into force on 30th November 1997.

Implementation of the Liability and Fund Conventions

2. Sections 152 to 170(2) and 172 to 181 of, and Schedule 5 to, the Merchant Shipping Act 1995, subject to the exceptions, adaptations and modifications specified in the Schedule to this Order, shall extend to South Georgia and the South Sandwich Islands, and any instrument made, or to be made, under section 152(2), 157(2), 157(4), 172(2) or 176(5) shall also extend to the South Georgia and the South Sandwich Islands.

Interpretation

3. In this Order—

(a) “the Islands” means the South Georgia and the South Sandwich Islands;

⁽¹⁾ 1995 c. 21.

⁽²⁾ Section 158(2) was amended and section 158(2A) was added, by section 29(1) and Schedule 6 paragraph 4 of the Merchant Shipping and Maritime Security Act 1997 (1997 c. 28).

- (b) a reference to a fine on the standard scale means a fine of an amount not exceeding the amount specified in relation to that level of the standard scale of fines appearing in section 37(2) of the Criminal Justice Act 1982⁽³⁾ having effect on the date of the offence;
- (c) “statutory maximum” means such sum as is for the time being the prescribed sum for the purposes of section 32 of the Magistrate’s Court Act 1980⁽⁴⁾.

Revocations

- 4. The following Orders, to the extent that they apply to the Islands, are hereby revoked—
 - (a) The Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975⁽⁵⁾;
 - (b) The Merchant Shipping (Oil Pollution) (Falkland Islands) (Amendment) Order 1976⁽⁶⁾;
 - (c) The Merchant Shipping (Oil Pollution) (Falkland Islands) (Amendment) Order 1981⁽⁷⁾.

N. H. Nicholls
Clerk of the Privy Council

(3) 1982 c. 48.
(4) 1980 c. 43.
(5) S.I.1975/2167.
(6) S.I. 1976/2143.
(7) S.I. 1981/218.

SCHEDULE TO THE ORDER

Article 2

THE MERCHANT SHIPPING ACT 1995

PART VI PREVENTION OF POLLUTION CHAPTER III LIABILITY FOR OIL POLLUTION

Preliminary

Meaning of “the Liability Convention” and related expressions.

152.—(1) In this Chapter—

“the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1992;

“Liability Convention country” means a country in respect of which the Liability Convention is in force, and includes the United Kingdom and any relevant British possession to which the Liability Convention has been extended; and

“Liability Convention State” means a State which is a party to the Convention.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Liability Convention in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to the Liability Convention in respect of that country.

Liability

Liability for oil pollution in case of tankers.

153.—(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in the territory of the Islands by contamination resulting from the discharge or escape; and
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Islands by contamination resulting from the discharge or escape; and
- (c) for any damage caused in the territory of the Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Islands, and
- (b) for any damage caused outside the ship in the territory of the Islands by any measures so taken;

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and in this Chapter any such threat is referred to as a relevant threat of contamination.

(3) Subject to subsection (4) below, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—

- (a) while it is carrying oil in bulk as cargo; and
- (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where a person incurs a liability under subsection (1) or (2) above he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the territory of the Islands included the territory of any other Liability Convention country.

(6) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(7) For the purposes of this Chapter—

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
- (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

(8) The Law Reform (Contributory Negligence) Act 1945⁽⁸⁾ shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

Liability for oil pollution in case of other ships.

154.—(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship other than a ship to which section 153 applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in the territory of the Islands by contamination resulting from the discharge or escape; and
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Islands by contamination resulting from the discharge or escape; and
- (c) for any damage so caused in the territory of the Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 153 applies by the contamination

(8) 1945 c. 28.

which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Islands; and
- (b) for any damage caused outside the ship in the territory of the Islands by any measures so taken;

and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.

(3) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) The Law Reform (Contributory Negligence) Act 1945 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

(5) In this section “ship” includes a vessel which is not seagoing.

Exceptions from liability under sections 153 and 154.

155. No liability shall be incurred by the owner of a ship under section 153 or 154 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

Restriction of liability for oil pollution.

156.—(1) Where, as a result of any occurrence—

- (a) any oil is discharged or escapes from a ship (whether one to which section 153 or one to which section 154 applies), or
- (b) there arises a relevant threat of contamination,

then, whether or not the owner of the ship in question incurs a liability under section 153 or 154—

- (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
- (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(ii) above applies to—

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- (a) any servant or agent of the owner of the ship;
 - (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
 - (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
 - (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
 - (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 153 or 154;
 - (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.
- (3) The liability of the owner of a ship under section 153 or 154 for any impairment of the environment shall be taken to be a liability only in respect of—
- (a) any resulting loss of profits, and
 - (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

Limitation of liability

Limitation of liability under section 153.

157.—(1) Where, as a result of any occurrence, the owner of a ship incurs liability under section 153 by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3) below)—

- (a) he may limit that liability in accordance with the provisions of this Chapter, and
 - (b) if he does so, his liability (being the aggregate of his liabilities under section 153 resulting from the occurrence) shall not exceed the relevant amount.
- (2) In subsection (1) above, “the relevant amount” means—
- (a) in relation to a ship not exceeding 5,000 tons, three million special drawing rights;
 - (b) in relation to a ship exceeding 5,000 tons, three million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;

but the Commissioner may by order make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

(3) Subsection (1) above shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 153 or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section a ship’s tonnage shall be its gross tonnage calculated in such a manner as may be prescribed by an order made by the Secretary of State.

(5) . . .

Limitation actions.

158.—(1) Where the owner of a ship has or is alleged to have incurred a liability under section 153 he may apply to the court for the limitation of that liability to an amount determined in accordance with section 157.

(2) If on such an application the court finds that the applicant has incurred such a liability but has not found that he is not entitled to limit it, the court shall, after determining the limit which would apply to the applicant's liability if he were entitled to limit it and directing payment into court of the amount of that limit—

- (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
- (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

(2A) Where—

- (a) a distribution is made under (2)(b) above without the court having found that the applicant is entitled to limit his liability, and
- (b) the court subsequently finds that the applicant is not so entitled,

the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

(3) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling; and

- (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
 - (i) the day on which the determination is made; or
 - (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
- (b) a certificate given by or on behalf of the Financial Secretary stating—
 - (i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or
 - (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Chapter;

- (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(4) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

(5) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—

- (a) by the owner or the person referred to in section 165 as “the insurer”; or
- (b) by a person who has or is alleged to have incurred a liability, otherwise than under section 153, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of section 185 or 186 as extended to the Islands⁽⁹⁾;

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(9) Sections 185 and 186 of and Schedule 7 to the Merchant Shipping Act 1995 were extended to the Islands by the Merchant Shipping (Limitation of Liability for Maritime Claims) (Overseas Territories) Order 1997 (S.I. 1997/2579).

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(6) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(7) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the Islands.

(8) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) above.

Restriction on enforcement after establishment of limitation fund.

159.—(1) Where the court has found that a person who has incurred a liability under section 153 is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount—

- (a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
- (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs. . . ;

if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 158 had been taken.

(2) . . .

Concurrent liabilities of owners and others.

160. Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 153 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if—

- (a) the owner has been found, in proceedings under section 158 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and
- (b) the other person is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

Establishment of limitation fund outside the Islands.

161. Where the events resulting in the liability of any person under section 153 also resulted in a corresponding liability under the law of another Liability Convention country sections 159 and 160 shall apply as if the references to sections 153 and 158 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

Extinguishment of claims.

162. No action to enforce a claim in respect of a liability incurred under section 153 or 154 shall be entertained by any court in the Islands unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

Compulsory insurance

Compulsory insurance against liability for pollution.

163.—(1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) below shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Commissioner.

(2) The ship shall not enter or leave a port in the Islands or arrive at or leave a terminal in the territorial sea of the Islands unless there is in force a certificate complying with the provisions of subsection (3) below and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).

(3) The certificate must be—

(a) . . .

(b) if the ship is registered in a Liability Convention country other than the Islands, a certificate issued by or under the authority of the government of the other Liability Convention country; and

(c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Commissioner or by or under the authority of the government of any Liability Convention country other than the Islands.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any customs officer.

(5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) above, the master or owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding £50,000.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4) above, the master shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) If a ship attempts to leave a port in the Islands in contravention of this section the ship may be detained.

Issue of certificate by Commissioner.

164.—(1) Subject to subsection (2) below, if the Commissioner is satisfied, on the application for such a certificate as is mentioned in section 163 in respect of a ship registered in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Commissioner shall issue such a certificate to the owner.

(2) If the Commissioner is of opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations thereunder, or whether the insurance

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or other security will cover the owner's liability under section 153 in all circumstances, he may refuse the certificate.

(3) The Commissioner may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under subsection (3) above to deliver up to a certificate fails to do so he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) . . .

Rights of third parties against insurers.

165.—(1) Where it is alleged that the owner of a ship has incurred a liability under section 153 as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as "the insurer").

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner's liability), to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the owner himself.

(3) The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 157(3).

(4) Where the owner and the insurer each apply to the court for the limitation of his liability any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

(5) . . .

Supplementary

Jurisdiction of the Islands courts and registration for foreign judgments.

166.—(1) . . .

(2) Where—

(a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of the Islands and no measures are reasonably taken to prevent or minimise such damage in the territory, or

(b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the Islands,

no court in the Islands shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—

(i) against the owner of the ship, or

(ii) against any person to whom section 156(1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3) In subsection (2) above, "relevant damage or cost" means—

(a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention country

by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country;

(b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 156(2)(e) shall have effect for the purposes of subsection (2)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.

(4) The Foreign Judgments (Reciprocal Enforcement) Ordinance 1959(10) shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153; and in its application to such a judgment that Ordinance shall have effect with the omission of subsections (2) and (3) of section 6.

Government ships.

167.—(1) Nothing in the preceding provisions of this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with section 163(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.

(3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in the Islands to enforce a claim in respect of a liability incurred under section 153, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution against the property of any State.

Limitation of liability under section 154.

168. For the purposes of section 185 as extended to the Islands any liability incurred under section 154 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1(a) of Article 2 of the Convention on Limitation of Liability for Maritime Claims 1976.

Saving for recourse actions.

169. Nothing in this Chapter shall prejudice any claim, or the enforcement of any claim, a person incurring liability under this Chapter may have against another person in respect of that liability.

Interpretation.

170.—(1) In this Chapter—

“the court” means the Supreme Court of the Falkland Islands;

“damage” includes loss;

“oil” means persistent hydrocarbon mineral oil;

(10) Laws of the Falkland Islands, No 4 of 1959.

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“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” shall be construed in accordance with section 153(2) or 154(2); and

“ship” (subject to section 154(5)) means any sea-going vessel or seaborne craft of any type whatsoever.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.

(3) . . .

(4) References in this Chapter to the territory of any country include the territorial sea of that country and—

(a) in the case of the Islands, any area within the Maritime Zone; and

(b) in the case of any other Liability Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.

(5) In subsection (4) above, “Maritime Zone” means the maritime zone which was established for the Islands by and delimited in section 1 of the Proclamation by the Commissioner dated 7th May 1993⁽¹¹⁾;

171. —. . .

CHAPTER IV

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

Preliminary

Meaning of the “Liability Convention”, “the Fund Convention” and related expressions.

172.—(1) In this Chapter—

(a) “the Liability Convention” has the same meaning as in Chapter III of this Part;

(b) “the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;

(c) “the Fund” means the International Fund established by the Fund Convention; and

(d) “Fund Convention country” means a country in respect of which the Fund Convention is in force, and includes the United Kingdom and any relevant British possession to which the Fund Convention has been extended.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Fund Convention in respect of any country so specified, the Order shall, while in force, be conclusive evidence that that State is a party to that Convention in respect of that country.

⁽¹¹⁾ Proclamation Number 1 of 1993 of South Georgia and the Sandwich Islands.

Contributions to Fund

Contributions by importers of oil and others.

173.—(1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in the Islands otherwise than on a voyage only within waters landward of the baselines for measuring the breadth of the territorial sea of the Islands.

(2) Subsection (1) above applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in the Islands after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions is—

- (a) in the case of oil which is being imported into the Islands, the importer, and
- (b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.

(6) For the purpose of subsection (5) above—

- (a) all the members of a group of companies shall be treated as a single person, and
- (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall—

- (a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him; and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Commissioner may by regulations impose on persons who are or may be likely to pay contributions under this section obligations to give security for payment to the Commissioner or the Fund.

(9) Regulations under subsection (8) above—

- (a) may contain such supplemental or incidental provisions as appear to the Commissioner expedient,
- (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding level 5 on the standard scale, or such lower limit as may be specified in the regulations.

(10) In this section and in section 174, unless the context otherwise requires—

“company” means a body incorporated under the law of the Islands, or of any other country;

“group” in relation to companies, means a holding company and any subsidiaries as defined by section 736 of the Companies Act 1985⁽¹²⁾ as in force in the Islands, subject, in the case of a company incorporated outside the Islands, to any necessary modifications of those definitions;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;

(12) 1985 c. 6.

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“oil” means crude oil and fuel oil, and

- (a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—
 - (i) crude oil from which distillate fractions have been removed, and
 - (ii) crude oil to which distillate fractions have been added,
- (b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials' Specification for Number Four Fuel Oil (Designation D396–69)”, or heavier,

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

Power to obtain information.

174.—(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 173 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Commissioner may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 173(6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 173, particulars contained in any list transmitted by the Commissioner to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connection with the execution of this section, then, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the execution of this section, or
- (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) A person who—

- (a) refuses or wilfully neglects to comply with a notice under this section, or
- (b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be liable—

- (i) on summary conviction, to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph (a) above and not exceeding the statutory maximum in the case of an offence under paragraph (b) above, and

- (ii) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding twelve months, or both.

Compensation for persons suffering pollution damage

Liability of the Fund.

175.—(1) The Fund shall be liable for pollution damage in the territory of the Islands if the person suffering the damage has been unable to obtain full compensation under section 153—

- (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused—
 - (i) resulted from an exceptional, inevitable and irresistible phenomenon, or
 - (ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage, or
 - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible,
- (and because liability is accordingly wholly displaced by section 155), or
- (b) because the owner or guarantor liable for the damage cannot meet his obligations in full, or
- (c) because the damage exceeds the liability under section 153 as limited by section 157.

(2) Subsection (1) above shall apply with the substitution for the words “the Islands” of the words “a Fund Convention country” where the incident has caused pollution damage in the territory of the Islands and of another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the Islands.

(3) Where the incident has caused pollution damage in the territory of the Islands and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter III of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) . . .

(5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 153.

(7) The Fund shall incur no obligation under this section if—

- (a) it proves that the pollution damage—
 - (i) resulted from an act of war, hostilities, civil war or insurrection, or
 - (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service, or
- (b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.

(8) If the Fund proves that the pollution damage resulted wholly or partly—

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- (a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage, or
- (b) from the negligence of that person,

the Fund may (subject to subsection (10) below) be exonerated wholly or partly from its obligations to pay compensation to that person.

(9) Where the liability under section 153 in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall (subject to subsection (10) below) be exonerated to the same extent.

(10) Subsections (8) and (9) above shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

Limitation of Fund's liability under section 175.

176.—(1) The Fund's liability under section 175 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Part I of Schedule 5), and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Chapter.

(2) A certificate given by the Director of the Fund stating that subparagraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 175 shall be conclusive evidence for the purposes of this Chapter that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of the Fund Convention a court giving judgment against the Fund in proceedings under section 175 shall notify the Fund, and—

- (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,
- (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and
- (c) in the latter case the judgment shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) above shall be steps to obtain payment in sterling; and—

- (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
 - (i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident, or
 - (ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
- (b) a certificate given by or on behalf of the Financial Secretary stating—
 - (i) that a particular sum in sterling has been so fixed for the relevant day, or
 - (ii) that no sum has been so fixed for the relevant day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant day,

shall be conclusive evidence of those matters for the purposes of this Chapter.

(5) The Secretary of State may by order make such amendments of this section and Part I of Schedule 5 as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the provisions set out in that Schedule.

(6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) above shall, in any legal proceedings, be received in evidence, and, unless the contrary is proved, be deemed to be such a certificate.

Supplemental

Jurisdiction and effect of judgments.

177.—(1) . . .

(2) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 153, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(3) Where a person incurs a liability under the law of a Fund Convention country corresponding to Chapter III of this Part for damage which is partly in the territory of the Islands, subsection (2) above shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.

(4) Subject to subsection (5) below, Part I of the Foreign Judgments (Reciprocal Enforcement) Ordinance 1959⁽¹³⁾ shall apply, whether or not it would so apply apart from this subsection, to any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 175; and in its application to such a judgment the said Ordinance shall have effect with the omission of subsections (2) and (3) of section 6.

(5) No steps shall be taken to enforce such a judgment unless and until the court in which it is registered under the 1959 Ordinance gives leave to enforce it; and—

- (a) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention (as set out in Part I of Schedule 5) or that it is to be reduced to a specified amount; and
- (b) in the latter case, the judgment shall be enforceable only for the reduced amount.

Extinguishment of claims.

178.—(1) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the Islands unless—

- (a) the action is commenced, or
- (b) a third party notice of action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,

not later than three years after the claim against the Fund arose.

In this subsection “third party notice” means a notice of the kind described in section 177(2) and (3).

(2) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the Islands unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund arose.

⁽¹³⁾ Laws of the Falkland Islands, No. 4 of 1959.

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Subrogation.

179.—(1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.

(2) In respect of any sum paid by a public authority in the Islands as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

Supplementary provisions as to proceedings involving the Fund.

180.—(1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

Interpretation.

181.—(1) In this Chapter, unless the context otherwise requires—

“damage” includes loss;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;

“guarantor” means any person providing insurance or other financial security to cover the owner's liability of the kind described in section 163;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“oil”, except in sections 173 and 174, means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship's operator, it means the person registered as its operator;

“pollution damage” means—

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship,
- (b) the cost of preventive measures, and
- (c) further damage caused by preventive measures,

but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—

- (i) any loss of profits, or
- (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—

- (a) after an incident has occurred, or
- (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and “ship” means any ship (within the meaning of Chapter III of this Part) to which section 153 applies.

(2) For the purposes of this Chapter—

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(3) References in this Chapter to the territory of any country shall be construed in accordance with section 170(4) reading the reference to a Liability Convention country as a reference to a Fund Convention country.

SCHEDULE 5

Section 176

OVERALL LIMIT ON LIABILITY OF FUND

PART I

PERMANENT PROVISION

Article 4—paragraphs 4 and 5

- (a) (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.
- (b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 135 million units of account.
- (c) The maximum amount of compensation referred to in sub-paragraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.
- (d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.
- (e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

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5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

EXPLANATORY NOTE

(This note is not part of the Order)

The International Convention on Civil Liability for Oil Pollution Damage 1969 (CLC), which was implemented in the South Georgia and the South Sandwich Islands by Schedule 1 to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975, provides uniform rules and procedures for determining questions of liability and for awarding compensation when damage is caused by pollution resulting from the escape or discharge of oil from ships. The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (the Fund Convention), which was implemented in the Islands by Schedule 2 to the 1975 Order, set up an international fund to provide a supplementary system for compensation and indemnification for such damage. The 1992 Protocol to the CLC, and the 1992 Protocol to the Fund Convention respectively create a new 1992 Civil Liability Convention and a 1992 Fund Convention which together provide for higher levels of compensation and more extensive liability. The 1992 Conventions are given effect in the United Kingdom by Part VI, Chapters III and IV of the Merchant Shipping Act 1995. This Order extends those provisions of the 1995 Act to South Georgia and the South Sandwich Islands, with the necessary exceptions, adaptations and modifications.