

LEGISLATIVE ASSEMBLY

OF THE

FALKLAND ISLANDS



ORDER PAPER

09.00 AM

THURSDAY 30 AUGUST 2018

IN THE COURT AND ASSEMBLY CHAMBERS

LEGISLATIVE ASSEMBLY

THURSDAY 30 AUGUST 2018

IN THE COURT AND ASSEMBLY CHAMBERS

ORDER PAPER

09.00

1. Prayers
2. Confirmation of the Record of Legislative Assembly held on 26 July 2018
3. Papers to be Laid on the Table by the Honourable Chief Executive
4. Questions for Oral Answer
5. Motions
6. Portfolio Reports
7. Motion for Adjournment

LEGISLATIVE ASSEMBLY

THURSDAY 30 AUGUST 2018

PAPERS TO BE LAID ON THE TABLE BY THE HONOURABLE CHIEF EXECUTIVE

Copies of Subsidiary Legislation published in the Falkland Islands Gazette since the last sitting of the Legislative Assembly and Laid on the Table pursuant to section 35(1) of the Interpretation and General Clauses Ordinance 1977.

- Statute Law Database (Rectification) (No 2) Order 2018
- Coins (Circulation) Order 2018
- Licensing Ordinance (Amendment of Fees) Order 2018
- Road Traffic (Approval of Devices for Breath Testing and Analysis) (Amendment) Order 2018
- Livestock and Meat Products (Animal By-Products) (Amendment) Regulations 2018

In accordance with Section 80 (2) of the Constitution the reports of the Public Accounts Committee in respect of internal audit reports:

- Internal Audit: Fishing License Income 14/17
- Internal Audit: Investment Management 16/17
- Internal Audit: Cash & Bank 17/17
- Internal Audit: Further-Higher Education 21/17
- Internal Audit: Main Accounting System 23/17

Process for Papers to be laid on the Table

CLERK Reads the list of Papers to be laid on the Table

Chief Executive Mr Speaker, I hereby lay the aforementioned Papers on the Table

Hon Roger Spink Mr Speaker, under Standing Order Section 41 (3) I move that the Statute Law Database (Rectification) (No 2) Order 2018 and Coins (Circulation) Order 2018 be noted

----- Explanation -----

Mr Speaker Please could we have a seconder

Hon xxxxxx Mr Speaker I second the Motion

-----Any Debate-----

Mr Speaker Honourable Members, the Motion is that the Statute Law Database (Rectification) (No 2) Order 2018 and Coins (Circulation) Order 2018 are noted.

Hon Dr Barry Elsby Mr Speaker, under Standing Order Section 41 (3) I move that the Licensing Ordinance (Amendment of Fees) Order 2018 be noted

----- Explanation -----

Mr Speaker Please could we have a seconder

Hon Mark Pollard Mr Speaker I second the Motion

-----Any Debate-----

Mr Speaker Honourable Members, the Motion is that the Licensing Ordinance (Amendment of Fees) Order 2018 is noted.

Hon Leona Roberts Mr Speaker, under Standing Order Section 41 (3) I move that the Road Traffic (Approval of Devices for Breath Testing and Analysis) (Amendment) Order 2018 be noted

----- Explanation -----

Mr Speaker Please could we have a seconder

Hon Teslyn Barkman Mr Speaker I second the Motion

-----Any Debate-----

Mr Speaker Honourable Members, the Motion is that the Road Traffic (Approval of Devices for Breath Testing and Analysis) (Amendment) Order 2018 is noted.

Hon Teslyn Barkman Mr Speaker, under Standing Order Section 41 (3) I move that the Livestock and Meat Products (Animal By-Products) (Amendment) Regulations 2018 be noted

----- Explanation -----

Mr Speaker Please could we have a seconder

Hon Ian Hansen Mr Speaker I second the Motion

-----Any Debate-----

Mr Speaker Honourable Members, the Motion is that the Livestock and Meat Products (Animal By-Products) (Amendment) Regulations 2018 is noted.

Hon Mark Pollard Mr Speaker, under Standing Order Section 41 (3) I move that the reports of the Public Accounts Committee in respect of internal audit reports as listed by the Clerk be noted

----- Explanation -----

Mr Speaker Please could we have a seconder

Hon Dr Barry Elsby Mr Speaker I second the Motion

-----Any Debate-----

Mr Speaker Honourable Members, the Motion is that the reports of the Public Accounts Committee in respect of internal audit reports as listed by the Clerk are noted.

SUBSIDIARY LEGISLATION

Statute Law Database (Rectification) (No 2) Order 2018

S. R. & O. No.: 7 of 2018

Made: 16 July 2018

Published: 31 July 2018

Coming into force: on publication

I make this Order under section 15(4) of the Law Revision and Publication Ordinance 2017 to give effect to a report of the Attorney General approved by the Legislative Assembly.

1. Title

This Order is the Statute Law Database (Rectification) (No 2) Order 2018.

2. Commencement

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

3. Rectification of defects in the Statute Law Database

Certain defects in the Statute Law Database must be rectified as set out in the Schedule.

SCHEDULE

RECTIFICATION OF THE STATUTE LAW DATABASE

1. Customs (Importation of Food and Animal Products from South America) Proclamation 2001 (Proclamation No 3 of 2001)

(1) The Customs (Importation of Food and Animal Products from South America) Proclamation 2001 as it appears on the Statute Law Database must be amended to reflect the provisions of the Importation of Food and Animal Products from South America (Amendment) Proclamation 2017.

(2) The amendments are deemed to have effect as if they were included in the original publication of the Customs (Importation of Food and Animal Products from South America) Proclamation 2001 on the Statute Law Database on 31 July 2017.

2. Offshore Installations (Safety Case) Order 2008 (S.R. & O. No 7 of 2008)

(1) The Offshore Installations (Safety Case) Order 2008 as it appears on the Statute Law Database must be amended to reinstate the omissions from the schedule to the Order made when compiling the database.

(2) The amendments are deemed to have effect as if the text missing from the schedule had been included in the original publication of the Order on the Statute Law Database web-pages on 31 July 2017.

3. Organic Foods Ordinance 2000

(1) The Organic Foods Ordinance 2000 as it appears on the Statute Law Database must be amended to reinstate the omissions from the schedule to the Ordinance made when compiling the database.

(2) The amendments are deemed to have effect as if the text missing from the schedule had been included in the original publication of the Ordinance on the Statute Law Database web-pages on 31 July 2017.

4. Petroleum Survey Licences (Model Clauses) Regulations 1992 (S.R. & O. No 25 of 1992)

(1) The Petroleum Survey Licences (Model Clauses) Regulations 1992 as they appear on the Statute Law Database must be amended to reinstate the omissions from the schedule to the Regulations made when compiling the database.

(2) The amendments are deemed to have effect as if the text missing from the schedule had been included in the original publication of the Regulations on the Statute Law Database web-pages on 31 July 2017.

Made 16 July 2018

R. A. J. Mitham,
Acting Governor.

EXPLANATORY NOTE
(not forming part of this Order)

This Order provides for the rectification of defects in the Statute Law Database.

The Statute Law Database is the authoritative statement of the legislation applying to or in relation to the Falkland Islands by virtue of Ordinance. Section 15 of the Ordinance provides for the rectification of defects in the database following a report of such defects to the Legislative Assembly by the Attorney General.

The Order provides for the rectification of defects in respect of the following legislation as it appears on the database:

- *Customs (Importation of Food and Animal Products from South America) Proclamation 2001 (Proclamation No 3 of 2001)*

The defect concerns omission of an amendment to the proclamation (which was caused by oversight).

The Order also provides for rectification of defects in respect of the following legislation as it appears on the database:

- *Offshore Installations (Safety Case) Order 2008 (S.R. & O. No 7 of 2008)*
- *Organic Foods Ordinance 2000 (No 22 of 2000)*
- *Petroleum Survey Licences (Model Clauses) Regulations 1992 (S.R. & O. No 25 of 1992)*

The defects concern omission of substantive legislative text as displayed on-line (which was caused by a technical fault). The text is correctly included in the version of the legislation which can be downloaded from the database.

The rectifications to be made are contained in the schedule to the Order.

SUBSIDIARY LEGISLATION

Coins (Circulation) Order 2018

S. R. & O. No.: 8 of 2018

Made: 17 July 2018

Published: 31 July 2018

Coming into force: on publication

I make this order under section 22 of the Currency Ordinance 1987 on the advice of Executive Council.

1. Title

This Order is the Coins (Circulation) Order 2018.

2. Commencement

This Order comes into force upon publication in the Gazette.

3. New coins

(1) The minting and issue of the circulation coins described and specified in the schedule to this Order are authorised.

(2) The schedule specifies —

(a) the denomination, fineness, weight, diameter, quality, shape, edge and number of the coins authorised by paragraph (1);

(b) the tolerance or remedy which may be permitted in respect of variations from the standard weight, diameter and fineness of the coins; and

(c) the design of the obverse and reverse of the coins.

4. Deemed denomination of circulation coins and their value as legal tender

For the purposes of the Ordinance the circulation coins authorised by this Order will be of 50p denomination and will be legal tender in the Falkland Islands.

Made 17 July 2018

N. J. Phillips C.B.E.,
Governor.

SCHEDULE

Legal tender 50p circulation coins of the Falkland Islands – Penguin Series

Type	Cupro Nickel – Diamond Finish	Cupro Nickel
<i>Denomination</i>	50p	50p
<i>Weight (grams)</i>	8.00	8.00
<i>Diameter (millimetres)</i>	27.30	27.30
<i>Fineness</i>	75% Cu 25% Ni	75% Cu 25% Ni
<i>Quality</i>	Circulation	Circulation
<i>Shape</i>	Equilateral Curve Heptagon	Equilateral Curve Heptagon
<i>Edge</i>	Plain	Plain
<i>Edition</i>	7,500	unlimited
<i>Mint</i>	Pobjoy Mint Ltd.	
<i>Remedy</i>	Variations to be allowed of the tolerance permitted by the Pobjoy Mint Ltd.	
<i>Obverse design</i>	Pobjoy Mint Couped Effigy of HM Queen Elizabeth II.	
<i>Reverse design</i>	The designs feature an image of the head of each penguin. Wording confirming the breed of each penguin along with the value of the coin will be at the top of each coin.	

SUBSIDIARY LEGISLATION

Licensing Ordinance (Amendment of Fees) Order 2018

S. R. & O. No: 9 of 2018

Made: 30 July 2018

Published: 31 July 2018

Coming into force: upon publication

I make the following order under section 20(2) of the Licensing Ordinance 1994 on the advice of Executive Council.

1. Title

This Order is the Licensing Ordinance (Amendment of Fees) Order 2018.

2. Commencement

This Order comes into force on publication in the Gazette.

3. Schedule 3 to Licensing Ordinance replaced

Schedule 3 to the Licensing Ordinance 1994 is deleted and replaced with the following —

“SCHEDULE 3

COURT FEES PAYABLE IN CONNECTION WITH JUSTICES’ LICENCES

1. On an application for the grant of a new justices’ licence (including an application for a transfer)	£70.00
2. On the grant (including a grant on transfer) or renewal of a justices’ on-licence (other than a Part V licence or an occasional licence)	£100.00
3. On the grant (including a grant on transfer) or renewal of a Part V licence	£100.00
4. On the grant (including a grant on transfer) or renewal of a justices’ off-licence	£100.00
5. On an application for a protection order	£50.00
6. On the grant of an application for a protection order	£60.00
7. On an inspection of the register of licences pursuant to section 25(1)	£10.00
8. On an application for a special hours certificate	£70.00
9. On the grant of a special hours certificate	£100.00
10. On an application for a club registration certificate	Nil
11. On the grant or renewal of a club registration certificate	£80.00

12. On an application for a children’s certificate	Nil
13. On the grant of a children’s certificate	£50.00
14. On an application for a Camp exemption order	Nil
15. On the grant of a Camp exemption order	£20.00
16. On an application for an extension of permitted hours	£20.00
17. On the grant of an extension of permitted hours (for every hour or part thereof to which the extension relates)	£15.00
18. On an application for an occasional licence	£20.00
19. On the grant of an occasional licence (for every day or part thereof to which the occasional licence relates)	£25.00 (up to a maximum of £70.00 per licence)
20. On an application for a prohibition order	Nil”

Made 30 July 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE
(not part of the order)

This Order amends the Licensing Ordinance 1994 so as to revoke and replace Schedule 3. Schedule 3 provides for court fees payable in connection with Justices’ licences. Section 20(2) empowers the Governor to amend the Schedule by order. The revised fees are intended to reflect the “user pays principle” which is the basis for calculating other court fees.

SUBSIDIARY LEGISLATION

**Road Traffic (Approval of Devices for Breath Testing and Analysis) (Amendment) Order
2018**

S. R. & O. No: 10 of 2018

Made: 30 July 2018

Published: 31 July 2018

Coming into force: upon publication

I make the following order under section 24(1) of the Road Traffic Ordinance 1948 on the advice of Executive Council.

1. Title

This Order is the Road Traffic (Approval of Devices for Breath Testing and Analysis) (Amendment) Order 2018.

2. Commencement

This Order comes into force on publication in the Gazette.

3. Repeal and replacement of Schedule 2

Schedule 2 to the Road Traffic (Approval of Devices for Breath Testing and Analysis) Order 2012 is deleted and replaced with the following —

**“SCHEDULE 2
Approved type of breath analysis device**

1. The type of device known as the Camic Data Master, as manufactured by (or under licence from) Camic (Car and Medical Instrument Company) Limited or any of its successors or assigns.
2. The type of device known as the Lion Intoxilyzer I9000, as manufactured by (or under licence from) Lion Laboratories Limited or any of its successors or assigns.”.

Made 30 July 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE

(not part of the order)

This Order amends the Road Traffic (Approval of Devices for Breath Testing and Analysis) Order 2012 so as to add the Lion Intoxilyzer I9000 breath analysis device in Schedule 2.

SUBSIDIARY LEGISLATION

Livestock and Meat Products (Animal By-Products) (Amendment) Regulations 2018

S. R. & O. No: 11 of 2018

Made: 30 July 2018

Published: 31 July 2018

Coming into force: upon publication

I make the following regulations under section 4 of the Livestock and Meat Products Ordinance 2010, on the advice of the Executive Council.

1. Title

These Regulations are the Livestock and Meat Products (Animal By-Products) (Amendment) Regulations 2018.

2. Commencement

These regulations come into force on publication in the *Gazette*.

3. Regulation 5 amended: Application

Regulation 5(2) of the Livestock and Meat Products (Animal By-Products) Regulations 2015 is amended by omitting paragraph (g).

4. Regulation 17 amended: Inspections and audits

Regulation 17 of the Livestock and Meat Products (Animal By-Products) Regulations 2015 is amended —

(a) in paragraph (d), by omitting subparagraph (ii) and replacing it with the following —

“(ii) considered to be unfit for human consumption but not as a result of a communicable disease;”;

(b) by deleting paragraph (e) and replacing it with the following —

“(e) that raw pet food is —

(i) produced and packaged in a hygienic manner;

(ii) stored separately from other animal by-products that do not meet the standards required in paragraph (d);

- (iii) stored separately from other animal by-products that are intended for human consumption;
- (iv) clearly labelled as raw pet food for use as pet food only and not for human consumption;
- (v) not subjected to any further processing which will change the original structure of the raw pet food;
- (vi) supplied directly to the pet owner from the place where it is generated, and the records of the sales must be retained for two years; and
- (vii) only produced and sold from approved abattoirs and cutting plants;”.

Made 30 July 2018

N. J. Phillips C.B.E.,
Governor.

EXPLANATORY NOTE
(not part of the regulations)

These regulations amend regulations 5 and 17 of the Livestock and Meat Products (Animal By-Products) Regulations 2015. The regulations as drafted do not convey the meaning that was originally intended. The amendments will ensure that there is legislative control over the retail sale and production of raw pet food. Raw pet food must not be produced from meat showing signs of infectious diseases which may be harmful to pet animals or human health. Additional restrictions are placed on its storage, processing and supply.

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Public Accounts Committee

PO Box 420 Stanley Falkland Islands FIQQ1ZZ

Tel +500 22905 Email: pacsecretary@horizon.co.fk

Ref: PAC/18/07/01
18th July 2018

Members of the Legislative Assembly
Gilbert House
Stanley

Dear Members,

Internal Audit: Fishing License Income 14/17

We apologize for the delay in sending out this letter.

At our Committee Meeting held on 27th September 2017, we reviewed the internal audit report on Fishing License Income in the absence of the Chief Internal Auditor.

We understand that the overall opinion of the audit was satisfactory, but there were some concerns of issues that had been raised previously in July 2013 were still outstanding, but that with the appointment of the new Licensing Officer it was hoped that these would not arise in the next audit.

Yours sincerely,

Dr Andrea Clausen
Chairman
Public Accounts Committee

cc: Chief Internal Auditor

Public Accounts Committee

PO Box 420 Stanley Falkland Islands FIQQ1ZZ
Tel +500 22905 Email: pacsecretary@horizon.co.fk

Ref: PAC/18/07/02
18th July 2018

Members of the Legislative Assembly
Gilbert House
Stanley

Dear Members,

Internal Audit: Investment Management 16/17

We apologize for the delay in sending out this letter.

At our Committee Meeting held on 27th September 2017, we reviewed the internal audit report on Investment Management in the absence of the Chief Internal Auditor.

We understand that the overall opinion of the audit was satisfactory, with some recommendations one of which was a high priority, the PAC understand that the Treasury has had big staffing issues but hope that this will be sorted by the time a Follow Up Report is carried out.

Yours sincerely,

Dr Andrea Clausen
Chairman
Public Accounts Committee

cc: Chief Internal Auditor

Public Accounts Committee

PO Box 420 Stanley Falkland Islands FIQQ1ZZ
Tel +500 22905 Email: pacsecretary@horizon.co.fk

Ref: PAC/18/07/03
18th July 2018

Members of the Legislative Assembly
Gilbert House
Stanley

Dear Members,

Internal Audit: Cash & Bank 17/17

We apologize for the delay in sending out this letter.

At our Committee Meeting held on 27th September 2017, we reviewed the internal audit report on Cash & Bank in the absence of the Chief Internal Auditor.

We understand that the overall opinion of the audit was satisfactory, with some recommendations one of which was a high priority. The High priority states “the officer responsible for reviewing the FIGO bank account reconciliations should sign and date the UK Bank reconciliations to evidence their review,” this was also in the last report so needs urgent action. The PAC were pleased to note that staff who had left did not have access to their credit cards any more, it was also felt that FIGO did not seem to have enough staff but wanted to stress that financial reconciliations are a matter of urgency and need to be kept on top of.

Yours sincerely,

Dr Andrea Clausen
Chairman
Public Accounts Committee

cc: Chief Internal Auditor

Public Accounts Committee

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Tel +500 22905 Email: pacsecretary@horizon.co.fk

Ref: PAC/18/07/06
18th July 2018

Members of the Legislative Assembly
Gilbert House
Stanley

Dear Members,

Internal Audit: Further-Higher Education 21/17

We apologize for the delay in sending out this letter.

At our Committee Meeting held on 27th September 2017, we reviewed the internal audit report on Further-Higher Education in the absence of the Chief Internal Auditor.

The overall opinion of this report was Satisfactory, the PAC raised some concern over the amount of debt at the end of June 2017 of £73,936 it was not clear what this was, but was pleased that the Audit had recommended it be chased up immediately. There needs to be a robust and timely system in place for chasing debts.

Yours sincerely,

Dr Andrea Clausen
Chairman
Public Accounts Committee

cc: Chief Internal Auditor

Public Accounts Committee

PO Box 420 Stanley Falkland Islands FIQQ1ZZ
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Ref: PAC/18/07/07
18th July 2018

Members of the Legislative Assembly
Gilbert House
Stanley

Dear Members,

Internal Audit: Main Accounting System 23/17

We apologize for the delay in sending out this letter.

At our Committee Meeting held on 27th September 2017, we reviewed the internal audit report on Main Accounting System in the absence of the Chief Internal Auditor.

The overall opinion of the report was Satisfactory and the PAC had no comments to add apart from the fact that some of the recommendations had been raised in a previous audit so it was hoped that they would be dealt with and not appear in the next one.

Yours sincerely,

Dr Andrea Clausen
Chairman
Public Accounts Committee

cc: Chief Internal Auditor

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 30 AUGUST 2018

QUESTIONS FOR ORAL RESPONSE

Question Number 20/18 by the Honourable Mark Pollard

Could the Honourable MLA Stacy Bragger please state what, if any plans we have for an upcoming Youth Parliament?

Question Number 21/18 by the Honourable Ian Hansen

Mr Speaker, following the approval of this House to increase the trivial pension limit to £40,000 during the budget session this year, which would enable persons with a Falkland Islands Pension Scheme contribution of this amount or less to draw down on these funds as a cash payment. Executive Council report 53/18 - Falkland Islands Pension Scheme ("FIPS") – Increase to Trivial Pension Threshold, paragraph 4.20 indicates that "FIG Treasury plan to investigate further the mechanics of providing a means to convert a trivial annuity into a lump sum. In effect this is buying out future pension rights for trivial pensions, if the pensioner so chooses."

Please could the Honourable Roger Spink update this House on the progress in respect of this work and if there is a timeframe for its resolution.

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 30 AUGUST 2018

MOTIONS

Motion Number 23 of 2018 by the Honourable Dr Barry Elsby

That this House notes the comments and recommendations of the Public Accounts Committee in respect of:

Internal Audit: Debtors 18/17

and in accordance to the Public Accounts Ordinance 2009, clause 14 (1) a written response is required to be submitted to the Legislative Assembly by the Governor within six months.

Proposed by the Honourable Dr Barry Elsby

Seconded by the Honourable Mark Pollard

Motion Number 24 of 2018 by the Honourable Mark Pollard

That this House notes the comments and recommendations of the Public Accounts Committee in respect of:

Internal Audit: Taxation 19/17

and in accordance to the Public Accounts Ordinance 2009, clause 14 (1) a written response is required to be submitted to the Legislative Assembly by the Governor within six months.

Proposed by the Honourable Mark Pollard

Seconded by the Honourable Dr Barry Elsby

Motion Number 25 of 2018 by the Honourable Roger Spink

That this House accepts the response from the Governor (in Council) on the report of the Public Accounts Committee Follow Up Report- FIG Mortgages.

Proposed by the Honourable Roger Spink

Seconded by the Honourable Leona Roberts

Motion Number 26 of 2018 by The Honourable Roger Spink

This House approves the recommendations of the Report of the Statute Law Commissioner on application of United Kingdom Laws for the month of July 2018 submitted under section 25 of the Law Revision and Publication Ordinance 2017.

Proposed By: The Honourable Roger Spink

Seconded By: Attorney General

Mr Speaker

It is resolved by the Legislative Assembly this 30 day of August 2018 that:

(a) the recommendations of the Statute Law Commissioner submitted to the Legislative Assembly under section 25 of the Law Revision and Publication Ordinance 2017 are approved;

(b) the Assembly recommends that the Governor makes an order in the form (or in similar form) to the order annexed to the Statute Law Commissioner's Report;

and the Statute Law Database should be amended accordingly.

Motion Number 27 of 2018 by The Attorney General

This House approves the recommendations of the Report of the Attorney General submitted to the Legislative Assembly under section 15(4) of the Law Revision and Publication Ordinance 2017; the Assembly recommends that the Governor makes an order in the form (or in similar form) to the order annexed to that Report; and the defects in the Statute Law Database should be rectified accordingly.

Proposed By: Attorney General

Seconded By: The Honourable Roger Spink

It is resolved by the Legislative Assembly this 30 day August 2018 that:

(a) the Report of the Attorney General submitted to the Legislative Assembly under section 15(4) of the Law Revision and Publication Ordinance 2017 is approved;

(b) the Assembly recommends that the Governor makes an order in the form (or in similar form) to the order annexed to that Report;

and the defects in the Statute Law Database should be rectified accordingly.

Motion Number 23 of 2018 by the Honourable Dr Barry Elsby

Public Accounts Committee

PO Box 420 Stanley Falkland Islands FIQQ1ZZ

Tel +500 22905 Email: pacsecretary@horizon.co.fk

Ref: PAC/18/07/04

18th July 2018

Members of the Legislative Assembly
Gilbert House
Stanley

Dear Members,

Internal Audit: Debtors 18/17

We apologize for the delay in sending out this letter.

At our Committee Meeting held on 27th September 2017, we reviewed the internal audit report on Debtors in the absence of the Chief Internal Auditor.

The overall opinion of the audit was Limited, with 4 high and 4 medium priorities, 2 of these high priorities remain outstanding from last year's internal audit report and whilst some action has been made further action is required by both Treasury and Directorates across FIG.

The High Priority's include "The Head of Finance should ensure that where appropriate all debts are referred to the AG's Chambers; the Head of Legal Services should ensure that the land rent spreadsheet is reviewed for accuracy and completeness; Head of Finance should hold meetings with MOD and FIC to discuss their outstanding debts, we note there has been difficulty in finding a single contact to deal with. Housing rent and service charge debts should be followed up in accordance with debt management policy.

PAC recommends that FIG establish a robust centralized debt collection system, which also has the capacity to prevent those already in debt access to further FIG credit. It is noted that FIG debtors has been an outstanding issue for Internal Audit since 2015/16.

Yours sincerely,

Dr Andrea Clausen
Chairman

Motion Number 24 of 2018 by the Honourable Mark Pollard

Public Accounts Committee

PO Box 420 Stanley Falkland Islands FIQQ1ZZ

Tel +500 22905 Email: pacsecretary@horizon.co.fk

Ref: PAC/18/07/05

18th July 2018

Members of the Legislative Assembly
Gilbert House
Stanley

Dear Members,

Internal Audit: Taxation 19/17

We apologize for the delay in sending out this letter.

At our Committee Meeting held on 27th September 2017, we reviewed the internal audit report on Taxation in the absence of the Chief Internal Auditor.

It was noted that 3 low risk recommendations were initially raised in March 2015 and were still in progress. The overall opinion of the report was satisfactory with 1 high; 10 medium and 5 low recommendations being made. The high priority stated "it is recommended that all outstanding debts are pursued in a timely manner and in line with the set procedures. Cases where no progress is being made should be passed to the AG's chambers to start legal proceedings or in the case of individuals who have known employers should be issued with a s193 warning letter seeking an attachment to earnings" this is to be implemented by June 2018.

The PAC were also gravely concerned with regard to the security of personal information, access to the building and files should be locked away and even cleaners should have signed an oath of secrecy, there seems to be a lack of severity of risk associated with this.

Yours sincerely,

Dr Andrea Clausen
Chairman
Public Accounts Committee
cc: Chief Internal Auditor

Motion Number 25 of 2018 by the Honourable Roger Spink

Response to the Public Accounts Committee

Mr Speaker, I would firstly apologise to the House for the delay in the response to the PAC's letter of the 27 April 2017, which was presented to the House under Motion 12/17, this was an administrative oversight. Mr Speaker you will also be pleased to note that this is the last of the responses to the House which fell foul of the administrative oversight and robust monitoring systems are now in place to ensure this does not occur again in the future.

Mr Speaker, the internal audit recommendations in relation to FIG mortgages have now been cleared however the PAC did raise an additional recommendation in respect of a lack of handover between contract officer posts.

The Public Accounts Committee were: "concerned to hear that there was only limited implementation of the original report, particularly as the root cause of the problem appears to be a lack of handover notes within the Treasury on departure of a contract officer. This issue occurs on a seemingly regular basis. We would like assurance from MLAs that action is being taken to address this across the whole of the FIG".

FIG Response

- 1.1 This has been accepted from a Treasury perspective.
- 1.2 The Treasury function at FIG comprises four main functions: Finance, Tax, Pensions and Internal Audit.
- 1.3 The administration of FIG Mortgages (including the guarantee of up to £19,000 for the Standard Chartered Joint Mortgage Scheme) takes place with the Finance section of Treasury.
- 1.4 By way of background, the Finance section contains nine full time posts (including the Financial Secretary, but excluding his Personal Assistant), of which four post holders are contractors and a further two post holders are the partners of contractors. Five finance staff have been in post for less than a year. The longest serving of the nine finance staff has been in post for two and a half years.
- 1.5 The Financial Secretary is aware of the need to build resilience within the finance function, to mitigate against the knowledge attrition and efficiency impacts of staff turnover, which is what PAC refers to in their letter of 13 April 2017.
- 1.6 Actions are being taken to help improve the ability to continue to deliver finance services where there is the potential for high staff turnover.
- 1.7 There are examples of this process working well in Government (E.g. Natural Resources). However it is recognised that the handover from one officer to another is a

key component in any transitional process, hence action is being taken to ensure this is consistently done across all directorates. This will assist any new postholder to carry out their duties effectively.

- 1.8 To aid the planning and compilation of Handover notes, the Director of Human Resources has developed Guidance notes and a Handover Note Template which has been agreed by Corporate Management Team. This guidance does not seek to replace activities where the handover process works well but to act as a checklist for those who are planning any transitional arrangements.

Reducing staff turnover

- 1.9 Where appropriate, overseas contracted staff are being encouraged to move to longer term contracts. Combined with the development of systems and processes, to ensure information and knowledge is retained, it is believed that this will also help improve the retention of corporate knowledge.
- 1.10 Professional Career Progression is being encouraged and Treasury is an example where a structured career development plan has been in place for some years. These initiatives aim to provide opportunities for staff and may assist our efforts to retain staff.
- 1.11 In a recent staff survey with Treasury, the physical working environment in the Secretariat was cited as an area that could be improved. Some remedial action is being taken here, such as replacing broken or unsuitable furniture and where practicable operational teams are being relocated.

Making systems more effective

- 1.12 The Finance team are putting in place some measures to streamline some processes, and eliminate wasted staff time. An example of this is having workflows and electronic storage of purchase transactions. Similar action is being taken in other directorates, which aims to improve access to information and streamline management and general work processes.

Documenting systems and procedures

- 1.13 KEMH have recently invested in a system that makes the procedures and policies of a department easy to access and maintain by the relevant staff. Within Finance, many procedures are documented, but they are stored in a disparate number of locations. Corporately the development of an intranet will also enable access to corporate documents (such as the Management Code) more accessible.

Motion number 26 by the Honourable Roger Spink



**REPORT TO THE LEGISLATIVE ASSEMBLY
FROM THE STATUTE LAW COMMISSIONER
APPLICATION OF UNITED KINGDOM LAWS**

July 2018 (Reporting period: 1.7.18 – 31.7.18)

submitted under section 25 of the Law Revision and Publication Ordinance 2017

Contents:

- 1. Summary**
- 2. Background**
- 3. United Kingdom legislation passed or made in the reporting period**
- 4. Recommendations in respect of United Kingdom legislation passed or made in the reporting period**

Schedule 1 - Statutory Instruments Reviewed

Schedule 2 - Draft Legislative Assembly Resolution

Schedule 3 - Draft Order

1. SUMMARY

This report:

- (a) provides information on United Kingdom laws which have been made between 1 and 31 July 2018; and
- (b) makes recommendations about the application of United Kingdom laws to the Falkland Islands.

The Legislative Assembly is invited to pass a resolution approving the recommendations of this report, in the form set out in Schedule 2 to this report.

2. BACKGROUND

2.1 Section 25 of the Law Revision and Publication Ordinance 2017 requires the Statute Law Commissioner to regularly report to the Legislative Assembly about the application of United Kingdom laws; ordinarily monthly. The last report was made to the Assembly on 26 July 2018 in respect of UK laws made between 1.5.18 and 30.6.18.

2.2 United Kingdom laws apply to the Falkland Islands by two routes; (a) by direct application by decision of United Kingdom authorities; or (b) by adoption by decision of the Falkland Islands (through the Law Revision and Publication Ordinance 2017).

2.3 The purpose of monitoring United Kingdom laws and reporting on them is to enable the Legislative Assembly to understand what United Kingdom laws have been made during the reporting period. The report identifies which laws apply to the Falkland Islands directly by decision of the United Kingdom authorities, and in respect of the adoption of UK law by the Falkland Islands, the report enables the Assembly to determine:

- (a) whether any changes made to UK laws which have been adopted by the Falkland Islands should continue to apply in the Falkland Islands (ie where such changes automatically apply to the Falkland Islands under the Law Revision and Publication Ordinance); and
- (b) whether any new UK law which does not apply in the Falkland Islands should be adopted by the Falkland Islands.

2.4 In the reporting period, 5 Acts have been passed, and 220 statutory instruments made.

3. UNITED KINGDOM LAWS PASSED OR MADE IN THE REPORTING PERIOD

3.1 Section 25 of the Ordinance provides ten categories of United Kingdom law which must be separately listed in this report. Those categories, and the relevant United Kingdom laws under them, are listed in the paragraphs below.

3.2 Paragraphs 3.4.1 to 3.4.6 concern the application of United Kingdom law to the Falkland Islands by decision of United Kingdom authorities (directly applied law).

3.3 Paragraphs 3.4.7 and 3.4.8 concern the application of United Kingdom law to the Falkland Islands under the Law Revision and Publication Ordinance 2017 (adopted UK law).

3.4 Paragraphs 3.4.9 and 3.4.10 provide information about other United Kingdom laws, ie in terms of potential application to the Falkland Islands.

3.4.1 List each UK Act passed in the reporting period which provides expressly, or by necessary implication, for the Act's extension to or application in the Falkland Islands:

No Act of this type has been passed in the reporting period.

3.4.2 List each UK Act passed in the reporting period which provides for the Act's extension to or application in, the Falkland Islands by Order in Council:

No Act of this type has been passed in the reporting period.

3.4.3 List each UK Act passed in the reporting period which amends the extension to or application in the Falkland Islands of an Act described in the paragraphs above:

No Act of this type has been passed in the reporting period.

3.4.4 List any Order in Council made in the reporting period providing for a UK enactment [ie Act or instrument] to extend to or apply in the Falkland Islands:

No Order in Council of this type has been passed in the reporting period.

3.4.5 List any statutory instrument made in the reporting period under a UK Act which amends a provision which extends to or applies in the Falkland Islands by virtue of express provision of the enabling Act or of an Order in Council, where the amendment also extends to or applies in the Falkland Islands by virtue of express provision of the enabling Act or of an Order in Council, or by necessary implication:

No Order in Council of this type has been passed in the reporting period.

3.4.6 List any other statutory instrument which has been made in the reporting period under a UK Act and which extends to or applies in the Falkland Islands by virtue of express provision of the enabling Act or of an Order in Council, or by necessary implication:

(a) *The Armed Forces Act 2016 (Commencement No. 2) Regulations 2018 SI 2018/876*

These regulations bring section 2 of the Armed Forces Act 2016 into force in stages; on 19 July 2018 and 1 January 2019. The regulations extend to the Falkland Islands by implication, on the basis that the Act applies in the Falkland Islands (by virtue of section 21 of that Act). The Act amends the Armed Forces Act 2006, which similarly applies. Section 2 deals with a commanding officer's power to require preliminary alcohol and drugs testing.

(b) *The British Nationality (General)(Amendment) Regulations 2018 SI 2018/851*

These regulations amend the British Nationality (General) Regulations 2003. The amendments concern (i) the method of notifying a person of the intention to deprive them of British nationality; and (ii) waivers from "English language and life in the UK requirements for naturalisation". The principal regulations apply in the Falkland Islands by implication, so the amendments also apply by necessary implication. The regulations come into force on 9 August 2018.

3.4.7 List each UK enactment [Act or instrument] passed or made in the reporting period which amends or modifies a UK enactment which applies in the Falkland Islands by virtue of section 21 or 23 of the Law Revision and Publication Ordinance [ie which will ordinarily apply in the Falkland Islands under section 24 of the Ordinance]:

(a) *Automated and Electric Vehicles Act 2018 c. 18*

The Schedule to the Act applies in part in the Falkland Islands under section 24 of the Law Revision and Publication Ordinance 2017 because the Act amends the Limitation Act 1980 which was adopted under that Ordinance. However, the Schedule to the Act cannot operate effectively without also extending the substantive provisions of the Act concerning automated vehicles to the Falkland Islands.

The Act came into force in part on 19 July 2018; but is largely due to come into force on a date to be appointed by regulations. (*recommendation for change*: see 4 below)

(b) *Criminal Procedure (Amendment No. 2) Rules 2018 SI 2018/847*

These rules apply in the Falkland Islands under section 24 of the Law Revision and Publication Ordinance because they amend the Criminal Procedure Rules 2015 which were adopted under that Ordinance. The rules come into force on 1 October 2018. (*recommendation for change*: see 4 below)

(c) *Trade Marks Regulations 2018 SI 2018/825*

The regulations apply in part in the Falkland Islands under section 24 of the Law Revision and Publication Ordinance because they amend the Trade Marks Act 1994, which was adopted in part under that Ordinance. The rules come into force on 14 January 2019.

The regulations are intended to reflect EU Directive 2014/2436, which seeks to ensure that trade mark registration systems remain effective as technology develops and to ensure a consistent approach to trade mark protection for business working across Europe.

Only one of the regulations applies in the Falkland Islands; in respect of amendment of section 28 of the Act, which concerns the licensing of trade marks. The amendment clarifies the rights of registered trade mark owners in respect of a licensee who contravenes a provision of a licence. There appears to be no reason why the amendment should not apply in the Falkland Islands. (*no recommendation for change*)

3.4.8 List any UK statutory instrument made in the reporting period under a UK enactment which applies in the Falkland Islands by virtue of section 23 of the Law Revision and Publication Ordinance 2017:

Electronic Presentment of Instruments (Evidence of Payment and Compensation for Loss Regulations 2018 SI 2018/832

The regulations apply in the Falkland Islands by virtue of section 23 of the Law Revision and Publication Ordinance 2017; because they are made under an Act which the Falkland Islands has adopted under that Ordinance (the Bills of Exchange Act 1882).

The regulations ensure that the Image Clearing System for cheques, an industry innovation that reduces cheque clearing times by sending a digital image of the cheque for clearing rather than the paper cheque itself, has no detrimental impact on the existing position for cheque users. The regulations came into force on 31 July 2018. (*recommendation for change*: see 4 below)

3.4.9 List every UK Act passed in the reporting period not listed above:

(a) *Domestic Gas and Electricity (Tariff Cap) Act 2018 c. 21*

The Act makes provision in respect of charges by energy suppliers to domestic customers. The supply of such utilities occurs in the Falkland Islands on a fundamentally different basis from UK supply, so the Act is not relevant. (*no recommendation to adopt*)

(b) *Haulage Permits and Trailer Registration Act 2018 c. 18*

The Act makes provision to support UK hauliers to continue to operate internationally after the UK leaves the EU. For geographical reasons, the Act is not relevant. (*no recommendation to adopt*)

(c) *Northern Ireland Budget Act 2018 c. 20*
Supply and Appropriation (Main Estimates) Act 2018 c. 17

These Acts make UK domestic budgetary provision, so are not relevant. (*no recommendation to adopt*)

3.4.10 List any UK statutory instrument made in the reporting period in respect of which the Statute Law Commissioner wants to make a recommendation to the Legislative Assembly:

All UK statutory instruments considered for the purposes of this report are listed in **Schedule 1** to this report. The Statute Law Commissioner wants to make a recommendation to the Legislative Assembly in relation to the following statutory instruments (see 4 below):

- (a) *Electronic Presentment of Instruments (Evidence of Payment and Compensation for Loss Regulations 2018*
- (b) *Criminal Procedure (Amendment No. 2) Rules 2018*

4. RECOMMENDATIONS IN RESPECT OF UNITED KINGDOM LAW PASSED OR MADE IN THE REPORTING PERIOD

4.1 Requirement for Recommendations

Section 25(5) provides that the Statute Law Commissioner must make a recommendation whether an amendment should be made to Schedule 1 of the Law Revision and Publication Ordinance 2017, in respect of each UK enactment listed under paragraphs **3.4.7 to 3.4.10** above (whether that recommendation is to provide for application of the relevant law to the Falkland Islands, for exclusion from application, for modification, or otherwise). The recommendations are set out below.

4.2 Recommendations for change:

- (a) the *Automated and Electric Vehicles Act 2018* should be disapplied in the Falkland Islands to the extent that it already applies;
- (b) the *Criminal Procedure (Amendment No. 2) Rules 2018* should be disapplied in the Falkland Islands; and
- (c) the *Electronic Presentment of Instruments (Evidence of Payment and Compensation for Loss Regulations 2018* should be modified in their application to the Falkland Islands.

Amendment of Schedule 1 to the Law Revision and Publication Ordinance 2017 is recommended to implement these proposed changes in terms of the draft Order attached at **Schedule 3** to this report.

4.3 Reasons for Recommendations for change:

- (a) *Automated and Electric Vehicles Act 2018*

The part of the Schedule to this Act which has been automatically adopted in the Falkland Islands cannot operate effectively without the substantive provisions of the Act, concerning automated vehicles, also being adopted in the Falkland Islands. So consideration needs to be given to:

- (i) whether the part of the Act which applies here should continue to apply or be disapplied; and

(ii) whether the part of the Act which does not apply here should be adopted in the Falkland Islands.

The Act does two main things:

- makes new provision in connection with insurance of automated vehicles
- makes supplementary provision about the charging of electric vehicles

In making the recommendation, the Statute Law Commissioner has consulted with the Chief Police Officer, Director of Public Works, and Attorney General.

Automated vehicles:

The Act extends compulsory motor vehicle insurance to cover the use of automated vehicles in automated mode – so victims (including the “driver”) of an accident caused by a fault in the automated vehicle itself will be covered by compulsory insurance in place on the vehicle (it would then be for the insurer to make a claim against the manufacturer etc).

The Act requires the Secretary of State to publish a list of “lawful” automated vehicles; so that it is known which vehicles the Act applies to. The Act doesn’t address licensing of automated vehicles – the UK’s approach for approving vehicles to go on sale and be used on UK roads is vehicle type approval, ie the UK will follow international standards, which are to be implemented through new “Construction and Use” legislation in due course.

This is the first element of a raft of new legislation needed to support the introduction of automated vehicles, which are currently being tested on UK roads within existing laws under a code of practice. Providing clarity around insurance is intended to encourage the development of such vehicles for the UK market. It is not clear when the vehicles might actually be introduced – possibly in two to three years. In the meantime the UK Law Commission started a 3 year review of the law around automated vehicles in March 2018.

It therefore seems unlikely that this legislation will be substantively commenced for some time, but it still needs to be considered by the Assembly now in accordance with the Law Revision and Publication Ordinance 2017.

It is recommended that the Act should not apply in the Falkland Islands for the time being because road traffic legislation in the Falkland Islands is recognised to be in need of revision; with a commitment to undertake this work contained in the Island Plan. It would seem sensible to have detailed policy consideration and public debate about the potential introduction of automated vehicles in the Falkland Islands as part of that piece of work.

For the avoidance of doubt, Falkland Islands law already provides a mechanism of control in respect of the operation of automated vehicles on the roads. There is therefore little risk in either adopting the legislation or choosing not to do so; the recommendation is based on the advantages of taking more time to consider the issues in the Falkland Islands context.

Electric vehicles – charging

Electric vehicles are increasingly used in UK, and the new law reflects the need to make greater provision for public charging points. The Director of Public Works recognises that consideration needs to be given to provision of vehicle charging points in the Falkland Islands in due course.

However, the framework for such infrastructure, should it be introduced in the Falkland Islands, would be rather different from the UK framework – because of our size, and the way in which public utilities (electricity and fuel) are provided in the Falkland Islands. So this legislation would not be suitable for the Falkland Islands for practical reasons – the Falkland Islands would need to consider development of its own legislation alongside any Falklands solution for charging of electric vehicles.

(b) *Criminal Procedure (Amendment No. 2) Rules 2018*

As set out above, these rules apply automatically in the Falkland Islands, as amendments made to the UK Criminal Procedure Rules 2015 which were adopted under the Law Revision and Publication Ordinance 2017.

However, on the recommendation of the Criminal Justice Council, the Chief Justice made the Falkland Islands’ own Criminal Procedure Rules, which came into force in February 2018. The need for disapplication of the UK rules was unfortunately overlooked in the process of preparing those rules (and the Chief Justice does not have power to amend the 2017 Ordinance in any event). The Falkland Islands rules are now followed as a matter of practice in preference to the UK rules, which also continue to apply.

It is therefore recommended that the Law Revision and Publication Ordinance be amended to provide that these amending rules do not apply in the Falkland Islands; by removal of reference to the Criminal Procedure Rules 2015 in the Schedule to the Ordinance, ie both the amending and substantive UK rules should be disapplied.

In the meantime, the Criminal Justice Council has been invited to consider whether to recommend to the Chief Justice that the Falkland Islands’ Criminal Procedure Rules 2018 should be amended in due course to reflect in the Falkland Islands any recent developments in criminal procedure in England and Wales.

(c) *Electronic Presentment of Instruments (Evidence of Payment and Compensation for Loss Regulations 2018*

It is recommended that these regulations continue to be adopted as law in the Falkland Islands. The Financial Secretary has confirmed that, whilst the cheque processes in use in the Falkland Islands by Standard Chartered Bank are paper based systems, it seems sensible to have comprehensive laws in place to enable a move to electronic presentation of cheques whenever circumstances are right for that to happen in the Falkland Islands.

However, it is also recommended that the regulations are subject to minor modification in their application to the Falkland Islands; through disapplication of regulation 10.

Regulation 10 provides that “the Treasury” (ie UK Treasury) must review operation of the regulations and publish that review, at least every five years. Automatic modifications made to regulation 10 in its application in the Falkland Islands means that “Treasury” in the Falkland Islands means “Financial Secretary”. It is not considered necessary or appropriate for the Financial Secretary to be subject to an obligation to review the regulations because:

- (a) any issues with the operation of the regulations are more likely to be picked up in the UK given the volume of transactions, and UK has greater resources to review the operation of the regulations, so a UK report is likely to be more meaningful than the Falkland Islands would realistically be able to achieve;
- (b) any changes as a result of UK review will be enshrined in new regulations, which the Falkland Islands should pick up through these regular monitoring reports;
- (c) lack of obligation to report would not preclude the Falkland Islands from making further changes to the law here if it was considered appropriate, ie in the light of circumstances in the Falkland Islands;
- (d) a requirement to report in five years’ time would seem to be setting a future Financial Secretary up to fail – either in terms of likelihood of the matter being overlooked, or because it cannot be prioritised.

**Report of the Statute Law Commissioner, Ros Cheek
20 August 2018**

SCHEDULE 1 – STATUTORY INSTRUMENTS REVIEWED:

[This Schedule is available electronically from Gilbert House]

SCHEDULE 2 – DRAFT Legislative Assembly Resolution

It is resolved by the Legislative Assembly this 30 day of August 2018 that:

(a) the recommendations of the Statute Law Commissioner submitted to the Legislative Assembly under section 25 of the Law Revision and Publication Ordinance 2017 are approved;

(b) the Assembly recommends that the Governor makes an order in the form (or in similar form) to the order annexed to the Statute Law Commissioner’s Report;

and the Statute Law Database should be amended accordingly.

SUBSIDIARY LEGISLATION

DRAFT - Law Revision and Publication Ordinance 2017 (Amendment) (No 2)
Order 2018

S. R. & O. No. of 2018

Made: 2018
Published: 2018
Coming into force: on publication

I make this Order under section 25(8)(b) of the Law Revision and Publication Ordinance 2017 to give effect to a recommendation of the Statute Law Commissioner approved by the Legislative Assembly.

1. Title

This Order is the Law Revision and Publication Ordinance 2017 (Amendment) (No 2) Order 2018.

2. Commencement

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

3. Amendment of Schedule 1 to the Law Revision and Publication Ordinance

Schedule 1 to the Law Revision and Publication Ordinance 2017 (UK enactments which apply to Falkland Islands) is amended as set out in the Schedule to this Order.

SCHEDULE

1. Amendment of Part 1 of Schedule 1 – Primary Legislation

Part 1 is amended by omitting the entry in respect of the Limitation Act 1980, and replacing it with—

Limitation Act	1980	Whole Act	1. The Act continues in force as if the Automated and Electric Vehicles Act 2018 had never been made. 2. Nothing in the Act may have effect to:
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			(a) create or define an offence; (b) prescribe the punishment or mode of trial of an offence
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2. Amendment of Part 2 of Schedule 1 – Secondary Legislation

Part 2 is amended by—

(a) omitting the entry in respect of the Criminal Procedure Rules 2015 (SI 2018/847).

(b) inserting the following entry in alphabetical order—

Electronic Presentment of Instruments (Evidence of Payment and Compensation for Loss) Regulations (SI 2018/832)	2018	Whole Regulations except regulation 10	Regulation 2 is modified: (a) to omit paragraph (c) and replace it with: “(c) a day which is a public holiday”.
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Made [] 2018

[N. J. Phillips C.B.E.],
Governor.

EXPLANATORY NOTE
(not forming part of this Order)

This Order amends Schedule 1 of the Law Revision and Publication Ordinance 2017—

(a) to disapply the Automated and Electric Vehicles Act 2018 to the extent that it applies in the Falkland Islands (ie in respect of amendment of the Limitation Act 1980);

(b) to disapply the Criminal Procedure (Amendment)(No 2) Rules, SI 2018/847 (through the mechanism of disapplication of the Criminal Procedure Rules 2015, SI 2015/1490, which have become redundant since the making of the Criminal Procedure Rules 2018, S.R.& O. 2/2018) ; and

(c) to modify the application of the Electronic Presentation of Instruments (Evidence of Payment and Compensation for Loss) Regulations 2018, SI 2018/832 (removing the duty on the Financial Secretary to report on the operation of the regulations).



**REPORT TO THE LEGISLATIVE ASSEMBLY
FROM THE ATTORNEY GENERAL
CONCERNING RECTIFICATION OF DEFECTS IN THE
STATUTE LAW DATABASE**

30 August 2018

submitted under section 15 of the Law Revision and Publication Ordinance 2017

Contents:

- 1. Summary**
- 2. Background**
- 3. Identification of Defects in the Statute Law Database**
- 4. Proposals for Rectification of Defects in the Statute Law Database**
- 5. Views of the Statute Law Commissioner**

Schedule 1 - Draft Legislative Assembly Resolution

Schedule 2 - Draft Order

1. SUMMARY

This report seeks approval by the Legislative Assembly of proposals to rectify defects in the Statute Law Database. The defects are detailed in paragraph 3, and the proposals for rectification are set out in paragraph 4.

The Legislative Assembly is invited to pass a resolution giving effect to the recommendations set out in this report in the form set out in Schedule 1 to this report.

2. BACKGROUND

2.1 The Law Revision and Publication Ordinance 2017 provides for appointment of a Statute Law Commissioner who is responsible for the publication and maintenance of a Statute Law Database of the Falkland Islands (the Database).

2.2 The Database must contain the complete and up to date text of all Ordinances and subsidiary legislation in force in the Falkland Islands and a list of United Kingdom enactments having force in the Falkland Islands.

2.3 Section 14 of the Ordinance provides that the Statute Law Database is the authoritative statement of the legislation applying in or in relation to the Falkland Islands by or by virtue of Ordinance.

2.4 Section 15 provides a mechanism for the rectification of defects in the Database. The starting point is; that the Attorney General thinks that the text of a provision included in the Database is inaccurate as a result of error; (a) in anything done by the Commissioner in pursuance of functions under the Ordinance; or (b) in the process of compiling or maintaining the Database. The Attorney General may reach this view as a result of reference from a court or otherwise. The Attorney General must report such matters to the Legislative Assembly.

2.5 The report must:

- (a) identify the error,
- (b) set out proposals for its rectification; and
- (c) if the Attorney General thinks it is necessary or desirable to rectify the error by legislation, be accompanied by a draft of an order for that purpose;

and the report must include the views of the Statute Law Commissioner.

2.6 This report meets those requirements, and the Assembly is invited to pass a resolution (as set out in **Schedule 1**) recommending that the Governor make the relevant rectification order.

3. IDENTIFICATION OF DEFECTS IN THE STATUTE LAW DATABASE

3.1 The Statute Law Database was published electronically through the internet on 31 July 2017. Since publication, a low level of defects in the Database has been identified. This is the third report made in this regard (previous reports were made to the Assembly in April and June).

3.2 The defects which have been identified are as set out below:

Offshore Minerals Ordinance 1994

The Offshore Minerals Ordinance was amended in 1998 by the repeal of sections 22, 24, 25, and 26. However, the Database incorrectly shows sections 23, and 27 to 29 as having also been repealed.

An FIG user of the Database identified the defect.

Dangerous Goods Ordinance 1987

Section 7(2) of the Dangerous Goods Ordinance is a duplication of section 8 of the Ordinance. Section 7 of the Ordinance consists of only one provision – currently identified on the Database as 7(1) – there is no section 7(2).

An FIG user of the Database identified the defect.

Rules of the Supreme Court 1949

The Rules of the Supreme Court were amended in 1992 when Schedule C was repealed. However, in the Database, the rules appear as if Schedule D had been repealed instead of Schedule C.

The Statute Law Commissioner identified the defect.

4. PROPOSALS FOR RECTIFICATION OF DEFECTS ON THE STATUTE LAW DATABASE

4.1 Section 15 of the Law Revision and Publication Ordinance provides that, on reporting such matters to the Legislative Assembly, if the Attorney General thinks it is necessary or desirable to rectify an error by legislation, the Attorney General may include a draft of an order for that purpose in the report. The Attorney General believes that it is necessary for the defects detailed in this report to be rectified by legislation, and a draft order for that purpose is included in **Schedule 2** to this report.

4.2 Proposals for rectifications of defects in the Database are set out below:

Offshore Minerals Ordinance 1994

The Offshore Minerals Ordinance 1994 should be amended on the Database to restore sections 23 and 27 to 29; to have effect as if those sections were included in the original publication of the Ordinance on the Database on 31 July 2017.

Dangerous Goods Ordinance 1987

Section 7(2) of the Dangerous Goods Ordinance should be omitted from the Database, and section 7(1) renumbered section “7”; to have effect as if reflected in the original publication of the Ordinance on the Database on 31 July 2017.

Rules of the Supreme Court 1949

The Rules of the Supreme Court should be amended on the Database by omitting Schedule C, and restoring Schedule D; to have effect as if published as such on the Database on 31 July 2017.

5. VIEWS OF THE STATUTE LAW COMMISSIONER

The Statute Law Commissioner advises that:

(a) omission of the relevant sections of the Offshore Mineral Ordinance arises from human error on the part of the technical contractor when compiling the Database on behalf of the Statute Law Commissioner;

(b) the defect in the Dangerous Goods Ordinance originates from an error contained in the hard copy Revised Laws of the Falkland Islands – which the Statute Law Commissioner was entitled, under the Law Revision and Publication Ordinance 2017, to treat as if authoritative;

(c) the defect in the Rules of the Supreme Court arises from human error on the part of the Statute Law Commissioner when compiling the Database;

and that these defects should be corrected by Order; deemed to have effect from 31 July 2017.

**Report of Attorney General, Simon Young
20 August 2018**

Schedule 1 - Draft Legislative Assembly Resolution

It is resolved by the Legislative Assembly this 30 day August 2018 that:

(a) the Report of the Attorney General submitted to the Legislative Assembly under section 15(4) of the Law Revision and Publication Ordinance 2017 is approved;

(b) the Assembly recommends that the Governor makes an order in the form (or in similar form) to the order annexed to that Report;

and the defects in the Statute Law Database should be rectified accordingly.

DRAFT* SUBSIDIARY LEGISLATION *DRAFT

***DRAFT* - Statute Law Database (Rectification) (No 3) Order 2018**

S. R. & O. No. of 2018

Made: 2018

Published: 2018

Coming into force: on publication

I make this Order under section 15(4) of the Law Revision and Publication Ordinance 2017 to give effect to a report of the Attorney General approved by the Legislative Assembly.

1. Title

This Order is the Statute Law Database (Rectification) (No 3) Order 2018.

2. Commencement

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

3. Rectification of Defects in the Statute Law Database

(1) Certain defects in the Statute Law Database are rectified as set out in the Schedule.

(2) The rectifications are deemed to have effect from 31 July 2017.

SCHEDULE

RECTIFICATION OF THE STATUTE LAW DATABASE

1. Offshore Minerals Ordinance 1994

Sections 23 and 27 to 29 of the Offshore Minerals Ordinance 1994 are restored.

2. Dangerous Goods Ordinance 1987

Section 7(2) of the Dangerous Goods Ordinance 1987 is omitted, and section 7(1) is renumbered section “7”.

3. Rules of the Supreme Court 1949

Schedule C of the Rules of the Supreme Court 1949 is omitted, and Schedule D is restored.

Made 2018

EXPLANATORY NOTE
(not forming part of this Order)

This Order provides for the rectification of defects in the Statute Law Database.

The Statute Law Database is the authoritative statement of the legislation applying to or in relation to the Falkland Islands by virtue of Ordinance. Section 15 of the Ordinance provides for the rectification of defects in the database following report of such defects to the Legislative Assembly by the Attorney General.

The order provides for the rectification of defects in respect of the following legislation as it appears on the database:

- *Offshore Minerals Ordinance 1994*

The Offshore Minerals Ordinance 1994 is rectified to restore sections 23 and 27 to 29, which were omitted by oversight.

- *Dangerous Goods Ordinance 1987*

Section 7(2) of the Dangerous Goods Ordinance is omitted, to correct an inaccuracy arising from the Revised Laws of the Falkland Islands (precursor to the database).

- *Rules of the Supreme Court 1949*

The Rules of the Supreme Court are rectified by omitting Schedule C, which was repealed by the Rules of the Supreme Court (Amendment) Rules 1992, and by restoring Schedule D which has not been repealed, but which was omitted by oversight.

The rectifications to be made are contained in the schedule to the Order, and the amendments to the database are deemed to have effect on 31 July 2017.

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 30 AUGUST 2018

Portfolio Reports:

- The Hon Dr Barry Elsby
- The Hon Ian Hansen

LEGISLATIVE ASSEMBLY

ORDER PAPER

THURSDAY 30 AUGUST 2018

PROCEDURE FOR THE MOTION FOR ADJOURNMENT

CLERK	“Motion for Adjournment”
CHIEF EXECUTIVE	“Mr Speaker I beg to move that House stands adjourned sine die.” Honourable Members may speak to the Motion.
THE SPEAKER	“The House stands adjourned accordingly.” Mr Speaker then departs