



# FALKLAND ISLANDS GAZETTE

## Supplement

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The following are published in this Supplement —

**Complaints Commissioners (Amendment) Ordinance 2022 (No 3 of 2022);**

**Children (Amendment) Ordinance 2022 (No 4 of 2022);**

**Marriage and Civil Partnerships (Miscellaneous Amendments) Ordinance 2022 (No 5 of 2022);**

**Education (Governance and Accountability) Ordinance 2022 (No 6 of 2022); and**

**Animals and Livestock (Amendment) Ordinance 2022 (No 7 of 2022).**

**ELIZABETH II**



**FALKLAND ISLANDS**

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NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

**Complaints Commissioners (Amendment) Ordinance 2022**

**(ORDINANCE No. 3 OF 2022)**

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Title
2. Commencement
3. Purpose
4. Section 3 amended (interpretation)
5. Section 4 amended (designation of Principal Complaints Commissioner)
6. Section 14 amended (how a complaint is made)
7. Section 15 amended (time limit for complaint)
8. New section 15A
9. Section 16 repealed
10. Section 18 amended (Commissioner to consider complaint)
11. Section 27 amended (disclosure of report made to Governor)
12. Section 28 amended (response to report to Governor)
13. Section 29 amended (report to Speaker)

# ELIZABETH II



## FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

### Complaints Commissioners (Amendment) Ordinance 2022

(assented to: 20 April 2022)  
(commencement: on publication)  
(published: 3 May 2022)

#### AN ORDINANCE

To amend the Complaints Commissioners Ordinance 2010.

ENACTED by the Legislature of the Falkland Islands —

#### 1. Title

This Ordinance is the Complaints Commissioners (Amendment) Ordinance 2022.

#### 2. Commencement

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

#### 3. Purpose

This Ordinance amends the Complaints Commissioners Ordinance 2010.

#### 4. Section 3 amended (interpretation)

In section 3(1), after the definition of “Principal Complaints Commissioner” insert —

“**secretary**” means the secretary to the Complaints Commissioners appointed under section 6(1);”.

#### 5. Section 4 amended (designation of Principal Complaints Commissioner)

After section 4(1), insert —

“(1A) A Complaints Commissioner must not be designated as Principal Complaints Commissioner unless the Complaints Commissioner’s term of office is 5 years or more.”.

**6. Section 14 amended (how a complaint is made)**

Replace section 14(5) with —

“(5) A complaint is made by delivering it to a Complaints Commissioner or to the secretary.”.

**7. Section 15 amended (time limit for complaint)**

In section 15 —

(a) in subsection (1), replace “three” with “12”; and

(b) replace subsection (2) with —

“(2) A Complaints Commissioner may entertain a late complaint if there are special circumstances that make it proper that the complaint should be entertained.”.

**8. New section 15A**

After section 15, insert —

**“15A. Preliminary determination by Complaints Commissioner**

(1) On receiving a complaint, a Complaints Commissioner must determine whether investigation of the complaint is within the jurisdiction of the Complaints Commissioners.

(2) For the purposes of subsection (1), a Complaints Commissioner may —

(a) require the complainant to provide additional information;

(b) consult the Governor; and

(c) make such other enquiries as the Complaints Commissioner considers necessary.

(3) The Complaints Commissioner must inform the complainant of the determination and, if the determination is that the Complaints Commissioners do not have jurisdiction to investigate the complaint, also inform the Governor.”.

**9. Section 16 repealed**

Repeal section 16.

**10. Section 18 amended (Commissioner to consider complaint)**

Omit section 18(2).

**11. Section 27 amended (disclosure of report made to Governor)**

In section 27, omit subsections (1)(c) and (2).

**12. Section 28 amended (response to report to Governor)**

After section 28(3), insert —

“(4) If the recommendations are not substantially accepted or the person or body that is the subject of the complaint fails to comply with subsection (1), the Complaints Commissioner must publish the report by submitting it to be laid on the table at a meeting of the Legislative Assembly.”.

**13. Section 29 amended (report to Speaker)**

In section 29(1), replace “Assembly),” with “Assembly,”.

Passed by the Legislature of the Falkland Islands on 31 March 2022.

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

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

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

**ELIZABETH II**



**FALKLAND ISLANDS**

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NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

**Children (Amendment) Ordinance 2022**

**(ORDINANCE No. 4 OF 2022)**

**ARRANGEMENT OF PROVISIONS**

Section

1. Title
2. Commencement
3. Amendment of Children Ordinance 2014
4. Section 3 amended (interpretation)
5. Section 4 amended (welfare of the child)
6. Section 5 amended (parental responsibility for children)
7. Section 7 amended (acquisition of parental responsibility by father)
8. Section 8 amended (acquisition of parental responsibility by step-parent)
9. Section 9 amended (appointment of guardians)
10. Section 10 amended (guardians: revocation and disclaimer)
11. Section 14 amended (power of court to make section 12 orders)
12. Section 17 amended (change of child's surname or removal from jurisdiction)

13. Section 18 amended (enforcement of residence orders)
14. Section 23 amended (provision of accommodation for children: general)
15. Section 48 amended (care and supervision)
16. Section 52 amended (parental contact etc with children in care)
17. Section 61 amended (representation of child)
18. Section 70 amended (powers to assist in discovery of children who may be in need of emergency protection)
19. Section 72 amended (recovery of abducted children etc.)
20. Section 86 amended (effect and duration of orders)
21. Section 93 amended (self-incrimination)
22. Schedule 1 amended (financial provision for children)
23. Schedule 6 amended (modifications to UK legislation (as it applies in Falkland Islands))

**ELIZABETH II**



**FALKLAND ISLANDS**

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NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

**Children (Amendment) Ordinance 2022**

*(assented to: 20 April 2022)*  
*(commencement: on publication)*  
*(published: 3 May 2022)*

**AN ORDINANCE**

To amend the Children Ordinance 2014.

ENACTED by the Legislature of the Falkland Islands —

**1. Title**

This Ordinance is the Children (Amendment) Ordinance 2022.

**2. Commencement**

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

**3. Amendment of Children Ordinance 2014**

This Ordinance amends the Children Ordinance 2014.

**4. Section 3 amended (interpretation)**

In section 3 —

(a) in subsection (1) —

- (i) in the definitions of “child of the family” and “relative” after “marriage” insert “or civil partnership”;



(ii) after the definition of “service”, insert —

““**special guardianship order**” has the meaning given by section 18A(1);”;

- (b) in subsection (2), replace “father and mother” with “parents” and after “married to” insert “or civil partners of”; and
- (c) in subsection (3) after “residence order” in both places where it appears, insert “or special guardianship order”.

## **5. Section 4 amended (welfare of the child)**

In section 4 —

(a) after subsection (2) insert —

“(2A) In the circumstances mentioned in subsection (4)(a) or (7), a court is, as respects each parent within subsection (6)(a), to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child’s welfare.

(2B) In subsection (2A) —

“**involvement**” means involvement of some kind, either direct or indirect, but not any particular division of a child’s time.”;

(b) in subsection (4)(a), delete “or”;

(c) after subsection (4)(a) insert —

“(aA) the court is considering whether to make, vary or discharge a special guardianship order; or”

(d) after subsection (5) insert —

“(6) In subsection (2A) “**parent**” means parent of the child concerned; and, for the purposes of that subsection, a parent of the child concerned —

- (a) is within this paragraph if that parent can be involved in the child’s life in a way that does not put the child at risk of suffering harm; and
- (b) is to be treated as being within paragraph (a) unless there is some evidence before the court in the particular proceedings to suggest that involvement of that parent in the child’s life would put the child at risk of suffering harm, whatever the form of the involvement.

(7) The circumstances referred to are that the court is considering whether to make an order under section 7(1)(c) (acquisition of parental responsibility by father) or 8(1) or (3) (acquisition of parental responsibility by step-parent).

*Section 11 Children and Families Act 2014 c.6”.*

## **6. Section 5 amended (parental responsibility for children)**

In section 5 —

- (a) replace subsection (1) with —

“(1) Where a child’s parents were married to, or civil partners of, each other at the time of the child’s birth, they each have parental responsibility for the child.”; and

- (b) replace subsection (2) with —

“(2) Where a child’s parents were not married to, or civil partners of, each other at the time of the child’s birth —

- (a) the mother has parental responsibility for the child; and
- (b) the other parent has parental responsibility for the child if that person has acquired it (and has not ceased to have it) in accordance with the provisions of this Ordinance.”.

## **7. Section 7 amended (acquisition of parental responsibility by father)**

Replace section 7(1) with —

“(1) Where a child’s father and mother were not married to, or civil partners of, each other at the time of the child’s birth, the father acquires parental responsibility for the child if —

- (a) the father is registered as the child’s father —
  - (i) in the Falkland Islands in accordance with section 6 of the Registration Ordinance 1949; or
  - (ii) in the United Kingdom in accordance with section 4(1)(a) of the Children Act 1989;
- (b) the child’s father and mother make an agreement (a “parental responsibility agreement”) providing for parental responsibility for the child; or
- (c) the court, on the father’s application orders that the father has parental responsibility for the child.”.

## **8. Section 8 amended (acquisition of parental responsibility by step-parent)**

In section 8(1), insert “or is in a civil partnership with” after “married to”.

## **9. Section 9 amended (appointment of guardians)**

In section 9 —

- (a) in subsection (1) —
  - (i) in paragraph (a), omit “or”;
  - (ii) in paragraph (b) after “in force” omit full stop and insert “; or”; and
  - (iii) after paragraph (b), insert —

“(c) there is no special guardian appointed for the child”.

(b) in subsection (7)(b), after “residence order” insert “or special guardianship order”; and

(c) in subsection (9), after “residence order” insert “or special guardianship order”.

#### **10. Section 10 amended (guardians: revocation and disclaimer)**

Replace section 10(4) with —

“(4) An appointment under section 9(3) or (4) (including one made in an unrevoked will or codicil) is revoked in the circumstances in subsection (4A), unless a contrary intention appears in the appointment.

(4A) The circumstances referred to subsection (4) are that the person appointed is the spouse or civil partner of the person who made the appointment and either —

- (a) a decree or order of a court in the Falkland Islands dissolves or annuls the marriage or civil partnership; or
- (b) the marriage or civil partnership is dissolved or annulled and the divorce, dissolution or annulment is entitled to recognition in the Falkland Islands by virtue of Part 5 of the Matrimonial Causes Ordinance 1979.”.

#### **11. Section 14 amended (power of court to make section 12 orders)**

In section 14 —

(a) in subsection (4)(c), after “residence order” insert “or special guardianship order”;

(b) in subsection (5)(a), after “marriage” insert “or civil partnership”; and

(c) after subsection (5) insert —

“(5A) A person may only apply for a residence order or a contact order in relation to a child who is the subject of a special guardianship order with leave of the court.”.

#### **12. Section 17 amended (change of child’s surname or removal from jurisdiction)**

In each subsection of section 17, after “residence order” insert “or special guardianship order”.

#### **13. Section 18 amended (enforcement of residence orders)**

(1) Replace the heading to the section with “**Enforcement of residence and special guardianship orders**”.

(2) In each subsection of section 18, after “residence order” insert “or special guardianship order”.

#### **14. Section 23 amended (provision of accommodation for children: general)**

In section 23(8)(a), after “residence order” insert “or special guardianship order”.

**15. Section 48 amended (care and supervision)**

In section 48(3), after “married” insert “or in a civil partnership”.

**16. Section 52 amended (parental contact etc with children in care)**

In section 52(1)(d), after “residence order” insert “or special guardianship order”.

**17. Section 61 amended (representation of child)**

In section 61(6) —

(a) in paragraph (e) after “residence order” insert “or special guardianship order”; and

(b) in paragraph (h)(ii), after “residence order” insert “ or special guardianship order”.

**18. Section 70 amended (powers to assist in discovery of children who may be in need of emergency protection)**

In section 70(2), after “spouse” insert “or civil partner”.

**19. Section 72 amended (recovery of abducted children etc)**

In section 72(11), after “spouse” insert “or civil partner”.

**20. Section 86 amended (effect and duration of orders etc)**

After section 86(1), insert —

“(1A) The making of a special guardianship order with respect to a child who is the subject of a care order discharges the care order.”.

**21. Section 93 amended (self-incrimination)**

In section 93(1), after “spouse” insert “or civil partner”.

**22. Schedule 1 amended (financial provision for children)**

In Schedule 1 —

(a) in paragraph 1(1) and (6), after “residence order” insert “or special guardianship order”;

(b) in paragraph 4(2), replace “the mother or father of the child” with “the parent of the child”;

(c) in paragraphs 9(1) and (2)(b), after “residence order” insert “or special guardianship order”;

(d) in paragraph 11(1)(a) replace “the father and mother of the child” with “the child’s parents”;

(e) in paragraph 14(1)(c), after “residence order” insert “or special guardianship order”;

(f) in paragraph 15(1), after “residence order” insert “or special guardianship order”;

- (g) in paragraph 15(2) replace “the husband or wife” with “spouse or civil partner”; and
- (h) in paragraph 16(2), insert “or civil partnership” after “marriage”.

**23. Schedule 6 amended (modifications to UK legislation (as it applies in Falkland Islands))**

- (1) In Schedule 6, paragraph 1, omit the reference to the Children and Young Persons Act 1933 in the left hand column and the corresponding entry in the right hand column.
- (2) In Schedule 6, paragraph 2, omit the reference to the Children and Young Persons Act 1969 in the left hand column and the corresponding entry in the right hand column.

Passed by the Legislature of the Falkland Islands on 31 March 2022.

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

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

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

# ELIZABETH II



## FALKLAND ISLANDS

NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

### **Marriage and Civil Partnerships (Miscellaneous Amendments) Ordinance 2022**

#### **(ORDINANCE No. 5 OF 2022)**

#### ARRANGEMENT OF PROVISIONS

##### Section

##### **PART 1 - Introductory**

1. Title
2. Commencement

##### **PART 2 - Amendment of Matrimonial Causes Ordinance 1979**

3. Amendment of Matrimonial Causes Ordinance 1979
4. Long title replaced
5. Section 1 replaced (short title)
6. Section 2 amended (interpretation)
7. Section 3 amended (jurisdiction of court)
8. Amendment of cross heading and new section 4A
9. Section 5 amended (supplemental provisions as to facts raising presumption of breakdown)
10. Section 6 amended (restriction on petitions for divorce within three years of marriage)
11. Section 7 replaced
12. Section 8 replaced
13. Section 9 amended (provision to encourage reconciliation)
14. Section 10 amended (consideration by the court of certain agreements or arrangements)
15. Section 11 amended (intervention of Proctor)
16. Section 12 amended (proceedings after decree nisi: general powers of court)
17. Section 13 replaced
18. New section 14A
19. New section 15A
20. New section 16A
21. Section 17 amended (foreign marriages)

22. Section 18 replaced
23. Section 19 amended (effect of decree of nullity in case of voidable marriage)
24. Amendment of cross heading and section 20 (judicial separation)
25. Section 21 amended (effect of judicial separation)
26. New section 22A
27. New section 23A
28. Heading to Part III amended
29. Section 24 amended (financial provision and property adjustment orders)
30. Section 25 replaced
31. Section 26 amended (financial provision orders in connection with divorce proceedings, etc.)
32. Section 26A amended (pension sharing orders in connection with divorce proceedings, etc.)
33. Section 26B amended (pension sharing orders)
34. Section 27 amended (property adjustment orders in connection with divorce proceedings, etc.)
35. Section 27A amended (order for sale of property)
36. Section 28 amended (matters to which court is to have regard in deciding how to exercise its powers under sections 26, 27 and 27A)
37. Section 28A amended (exercise of court's powers in favour of party to marriage on decree of divorce or nullity of marriage)
38. Section 29 amended (commencement of proceedings for ancillary relief)
39. Section 30 amended (financial provision orders, etc., in case of neglect by party to marriage to maintain other party or child of the family)
40. Section 31 amended (duration of continuing financial provision orders in favour of party to marriage, and effect of remarriage)
41. Section 32 amended (duration of continuing financial provision orders in favour of children, and age limit on making certain orders in their favour)
42. Section 33 amended (direction for settlement of instrument for securing payments or effecting property adjustment)
43. Section 34 amended (variation or discharge, etc., of certain orders for financial relief)
44. Section 37 amended (validity of maintenance agreements)
45. Section 38 amended (alteration of agreements by court during lives of parties)
46. Section 41 amended (orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage)
47. Section 43 amended (payments, etc., under order made in favour of persons suffering from mental disorder)
48. Part IV repealed
49. Heading to Part V amended
50. Section 48 amended (recognition in the Falkland Islands of overseas divorces and legal separations)
51. Section 49 amended (grounds for recognition)
52. Section 50 amended (cross-proceedings and divorce following legal separation)
53. Section 51 amended (proof of facts relevant to recognition)
54. Section 52 amended (existing common law and statutory rules)
55. Section 53 amended (non-recognition of divorce by third country no bar to remarriage)
56. Section 54 amended (exceptions from recognition)
57. Section 55 amended (interpretation and transitional provisions)
58. Sections 56 and 57 repealed
59. Section 58 amended (parties to proceedings under this Ordinance)

- 60. Heading to section 59 amended (matrimonial causes rules)
- 61. Section 60 repealed

**PART 3 - Amendment of Matrimonial Proceedings (Summary Jurisdiction) Ordinance  
1967**

- 62. Amendment of Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967
- 63. Long title replaced
- 64. Section 1 replaced (short title)
- 65. Section 2 amended (interpretation)
- 66. Section 3 amended (matrimonial proceedings in court of summary jurisdiction)
- 67. Section 4 amended (order by court of summary jurisdiction in matrimonial proceedings)
- 68. Sections 5 and 6 repealed
- 69. Section 8 amended (interim orders)
- 70. Section 9 amended (suspension or cessation of order)
- 71. Section 10 amended (revocation, revival and variation of orders)
- 72. Section 11 amended (complaint for variation, etc., by or against person abroad)
- 73. Section 12 amended (parties to complaint for variation, etc.)
- 74. Section 13 amended (appeals)
- 75. Section 15 amended (enforcement etc.)

**PART 4 - Consequential and Miscellaneous Amendments**

- 76. Amendment of Marriage Ordinance 1996
- 77. Amendment of Interpretation and General Clauses Ordinance 1977
- 78. Amendments consequent on sections 5, 58, 60 and 73
- 79. Matrimonial Causes (Contents of Petition) Rules 1992 revoked

Schedule - Amendments consequent on sections 5, 58, 60 and 73



# ELIZABETH II



## FALKLAND ISLANDS

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NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

### **Marriage and Civil Partnerships (Miscellaneous Amendments) Ordinance 2022**

*(assented to: 20 April 2022)*  
*(commencement: on publication)*  
*(published: 3 May 2022)*

#### AN ORDINANCE

To amend the Matrimonial Causes Ordinance 1979, the Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967, the Marriage Ordinance 1996 and the Interpretation and General Clauses Ordinance 1977 and to provide for incidental or connected matters.

ENACTED by the Legislature of the Falkland Islands —

#### **PART 1 - Introductory**

##### **1. Title**

This Ordinance is the Marriage and Civil Partnerships (Miscellaneous Amendments) Ordinance 2022.

##### **2. Commencement**

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

## **PART 2 - Amendment of Matrimonial Causes Ordinance 1979**

### **3. Amendment of Matrimonial Causes Ordinance 1979**

This Part amends the Matrimonial Causes Ordinance 1979.

### **4. Long title replaced**

Replace the long title with —

“AN ORDINANCE to provide for the conduct of proceedings relating to marriage and civil partnerships and to provide for incidental or connected matters.”.

### **5. Section 1 replaced (short title)**

Replace section 1 with —

#### **“1. Title**

This Ordinance is the Matrimonial and Civil Partnerships Proceedings Ordinance 1979.”.

### **6. Section 2 amended (interpretation)**

In section 2(1) —

- (a) in the definitions of “**child**” and “**child of the family**”, after “marriage” insert “or civil partnership”.
- (b) omit the definitions of “**custody**” and “**marriage**”; and
- (c) after the definition of “**court**”, insert —

““**dissolution order**” means an order made under section 4A for the dissolution of a civil partnership;”.

### **7. Section 3 amended (jurisdiction of court)**

In section 3 —

- (a) replace subsection (1) with —

“(1) The court has jurisdiction in —

- (a) proceedings for divorce, judicial separation or nullity of marriage;
- (b) proceedings for dissolution, judicial separation or nullity of a civil partnership; and
- (c) proceedings under section 22 for death to be presumed and a marriage or civil partnership to be dissolved.”;

- (b) in subsection (2), replace “divorce or judicial separation if (and only if) either of the parties to the marriage” with “divorce, dissolution of a civil partnership or judicial separation if (and only if) either of the parties to the marriage or the civil partnership”;
- (c) in subsection (3), replace “nullity of marriage if (and only if) either of the parties to the marriage” with “nullity of marriage or civil partnership if (and only if) either of the parties to the marriage or the civil partnership”; and
- (d) in subsection (4), insert “or civil partnership” after “marriage” and “or applicant” after “petitioner”.

## **8. Amendment of cross heading and new section 4A**

- (1) Replace the cross heading before section 4 with —

*“Divorce and dissolution of civil partnerships”.*

- (2) After section 4 insert —

### **“4A. Dissolution on break down of civil partnership**

(1) Subject to section 6, an application for dissolution of a civil partnership may be presented to the court by either party to a civil partnership on the ground that the civil partnership has broken down irretrievably.

(2) The court hearing an application for dissolution of a civil partnership must not hold the civil partnership to have broken down irretrievably unless the applicant satisfies the court of one or more of the following facts —

- (a) that the respondent has committed adultery and the applicant finds it intolerable to live with the respondent;
- (b) that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent;
- (c) that the respondent has deserted the applicant for a continuous period of at least one year immediately preceding the presentation of the application;
- (d) that the parties to the civil partnership have lived apart for a continuous period of at least one year immediately preceding the presentation of the application (hereafter in this Ordinance referred to as “one year separation”) and the respondent consents to a dissolution order being granted;
- (e) that the parties to the civil partnership have lived apart for a continuous period of at least three years immediately preceding the presentation of the application (hereafter in this Ordinance referred to as “three years’ separation”).

(3) On an application for dissolution of a civil partnership it is the duty of the court to inquire, so far as it reasonably can, into the facts alleged by the applicant and into any facts alleged by the respondent.

(4) If the court is satisfied on the evidence of any such fact as is mentioned in subsection (2), then, unless it is satisfied on all the evidence that the civil partnership has not broken down irretrievably, it must, subject to sections 6(3) and 8, grant a dissolution order.

(5) Every dissolution order must in the first instance be a conditional order and must not be made absolute before the expiration of six months from its grant unless the court by general order from time to time fixes a shorter period, or unless in any particular case the court from time to time by special order fixes a shorter period than the period otherwise applicable under this subsection.”.

## **9. Section 5 amended (supplemental provisions as to facts raising presumption of breakdown)**

In section 5 —

(a) in subsection (1), after “marriage” insert “or civil partnership” and replace “section 4(2)(a)” with “sections 4(2)(a) and 4A(2)(a)”;

(b) in subsection (2) —

(i) after “marriage” insert “or civil partnership”;

(ii) after “divorce” insert “or dissolution”;

(iii) after “petitioner” insert “or applicant”; and

(iv) replace “section 4(2)(a)” with “sections 4(2)(a) and 4A(2)(a)”;

(c) replace subsection (3) with —

“(3) Subsection (3A) applies in relation to a petition that relies on section 4(2)(b) or an application that relies on section 4A(2)(b).

(3A) The court must disregard the fact that the parties to the marriage or the civil partnership have lived with each other for a period or periods after the date of the occurrence of the final incident relied on and held by the court to support the allegation, if the length of that period or of those periods together is six months or less.”;

(d) in subsection (4) replace “section 4(2)(c)” with “sections 4(2)(c) and 4A(2)(c)”;

(e) in subsection (5) —

(i) replace “section 4(2)” with “sections 4(2) and 4A(2)”;

(ii) after “petitioner” insert “or applicant” and after “marriage”, in both places it appears, insert “or civil partnership”;

(f) in subsection (6) —

(i) replace “section 4(2)(d) and (e)” with “sections 4(2)(d) and (e) and 4A(2)(d) and (e)” and “a husband and wife” with “parties to a marriage or civil partnership”; and

- (ii) after “marriage”, insert “or civil partnership”; and
- (g) replace subsection (7) with —

“(7) Rules of court must be made to ensure that where an allegation is made by the petitioner under section 4(2)(d) or by the applicant under section 4A(2)(d) that the respondent consents to a decree or dissolution order being granted, the respondent is given the information needed to understand the consequences of consenting to the decree or order being granted and the steps that the respondent must take to indicate consent to the grant of the decree or order.”.

## **10. Section 6 amended (restriction on petitions for divorce within three years of marriage)**

In section 6 —

- (a) replace the heading with —

**“6. Restriction on petitions for divorce and applications for dissolution of civil partnerships within one year”;**

- (b) in subsection (1), after “petition for divorce” insert “or application for dissolution of a civil partnership” and after “marriage” insert “or the civil partnership”;
- (c) replace subsection (2) with —

“(2) Subject to subsection (2A), the court may on application, allow the presentation of a petition for divorce or an application for dissolution of a civil partnership within the specified period on the grounds that the case is one of —

- (a) exceptional hardship suffered by the petitioner or applicant; or
- (b) exceptional depravity on the part of the respondent.

(2A) In determining an application under subsection (2), the court must have regard to the interests of any child of the family and whether there is a reasonable probability of a reconciliation between the parties during the specified period.”;

- (d) in subsection (3) —

- (i) in the introductory words, after “petition for divorce”, insert “or application for dissolution of a civil partnership” and after “petitioner” insert “or applicant, as the case may be,”;

- (ii) in paragraph (a) after “petition”, in each place it appears, insert “or application”;
- and

- (iii) replace paragraph (b) with —

- “(b) if it grants a decree nisi or conditional dissolution order, direct that no application to make the decree or order absolute must be made during the specified period.” and

- (e) in subsection (4) after “petition”, insert “for divorce or application for dissolution of a civil partnership”.

## **11. Section 7 replaced**

Replace section 7 with —

### **“7. Divorce and dissolution of civil partnerships not precluded by judicial separation**

(1) A person is not prevented from presenting a petition for divorce or application for dissolution of a civil partnership, and the court is not prevented from granting the petition or application, by reason only that that person or the respondent has at any time on the same facts or substantially the same facts, been granted a judicial separation or an order under section 4(1)(a) of the Matrimonial and Civil Partnership Proceedings (Jurisdiction of Summary Court) Ordinance 1967 (“**section 4(1)(a) order**”).

(2) On a petition or application referred to in subsection (1), the court may treat the judicial separation or section 4(1)(a) order as sufficient proof of any fact by reference to which it was granted but must not grant a decree of divorce or dissolution order without first receiving evidence from the petitioner or applicant, as the case may be.

(3) For the purposes of this section, a period of desertion immediately preceding proceedings for judicial separation or section 4(1)(a) order is deemed immediately to precede presentation of the petition or application if —

- (a) the parties have not resumed cohabitation; and
- (b) the judicial separation or section 4(1)(a) order has been continuously in force since it was granted.”.

## **12. Section 8 replaced**

Replace section 8 with —

### **“8. Refusal of decree or dissolution order in three-year separation cases on grounds of grave hardship to respondent**

(1) The respondent to a petition for divorce or application for dissolution of a civil partnership in which the petitioner or the applicant alleges three years’ separation may oppose the grant of a decree or a dissolution order on the ground that the dissolution of the marriage or civil partnership will result in grave financial or other hardship to the respondent and that it would in all the circumstances be wrong to dissolve the marriage or civil partnership.

(2) Subsections (3) and (4) apply where the grant of a decree or dissolution order is opposed on the grounds in subsection (1) and —

- (a) the court finds that the petitioner or applicant is entitled to rely in support of the petition or application on the fact of three years’ separation and makes no finding as to any other fact mentioned in sections 4(2) and 4A(2); and
- (b) if, apart from this subsection, the court would grant a decree on the petition or a dissolution order on the application.

(3) In a case to which this subsection applies, the court must consider all the circumstances, including the conduct of the parties to the marriage or civil partnership and the interests of those parties and of any children of the family or other persons concerned.

(4) In a case to which this subsection applies, the court must dismiss the petition or application if satisfied that divorce or the dissolution of a civil partnership will result in grave financial or other hardship to the respondent and that it would in all the circumstances be wrong to grant the petition or application.

(5) For the purposes of this section hardship includes the loss of the chance of acquiring any benefit which the respondent might acquire if the marriage or civil partnership is not dissolved.”.

### **13. Section 9 amended (provision to encourage reconciliation)**

In section 9, after “divorce” insert “or dissolution of a civil partnership” and after “marriage” insert “or civil partnership”.

### **14. Section 10 amended (consideration by the court of certain agreements or arrangements)**

In section 10 —

- (a) after “marriage” insert “or civil partnership”;
- (b) after “petition for divorce” insert “or application for dissolution of a civil partnership”;  
and
- (c) after “proceedings for divorce”, insert “or dissolution of a civil partnership”.

### **15. Section 11 amended (intervention of Proctor)**

In section 11 —

- (a) in subsection (1) —
  - (i) after “petition for divorce”, insert “or application for the dissolution of a civil partnership”; and
  - (ii) in paragraph (b), replace “or before the decree nisi is made absolute” with “or before the decree nisi or the conditional order is made absolute”; and
- (b) in subsection (2), replace “a decree nisi in any proceedings for divorce” with “a decree nisi or a conditional dissolution order”.

### **16. Section 12 amended (proceedings after decree nisi: general powers of court)**

In section 12 —

- (a) replace the heading with —

**“12. Proceedings after decree nisi or conditional dissolution order: general powers of court”;**

(b) in subsection (1) —

(i) in the introductory words, after “a decree of divorce” insert “or conditional dissolution order”;

(ii) after “the decree” in each place it appears insert “or dissolution order”; and

(iii) in paragraph (a) replace “section 4(5)” with “sections 4(5) and 4A(5)”; and

(c) in subsection (2) after “decree of divorce” insert “or conditional dissolution order”.

## **17. Section 13 replaced**

Replace section 13 with —

### **“13. Proceedings after decree nisi or conditional dissolution order: special protection for respondent in separation cases**

(1) Subsection (2) applies in any case where the court has granted a decree nisi or a conditional dissolution order on the fact of one year separation and has made no finding as to any other fact mentioned in sections 4(2) or 4A(2).

(2) The court may, on an application by the respondent at any time before the decree or order is made absolute, rescind the decree or order if satisfied that the petitioner or applicant misled the respondent (whether intentionally or unintentionally) about any matter that the respondent took into account in deciding to give their consent.

(3) Subsections (4) to (6) apply in any case where —

(a) a decree nisi or a conditional dissolution order has been granted on the fact of a one year separation or a three years’ separation and no findings were made as to any other fact mentioned in sections 4(2) or 4A(2); and

(b) the decree or order has not been made absolute.

(4) The court hearing an application by the respondent for consideration of their financial position after divorce or dissolution of a civil partnership must consider all the circumstances, including —

(a) the age, health, conduct, earning capacity, financial resources and financial obligations of each of the parties;

(b) the financial position of the respondent as, having regard to the divorce or dissolution, it is likely to be after the death of the petitioner or applicant should the petitioner or applicant die first.

(5) Subject to subsection (6), the court must not make the decree or order absolute unless it is satisfied —

(a) that the petitioner or applicant should not be required to make any financial provision for the respondent; or

(b) that the financial provision made by the petitioner or the applicant for the respondent is reasonable and fair or the best that can be made in the circumstances.



(6) The court may if it thinks fit make the decree or order absolute if —

- (a) it appears that there are circumstances making it desirable that the decree or order should be made absolute without delay; and
- (b) the court has obtained a satisfactory undertaking from the petitioner or applicant that the petitioner or applicant will make such financial provision for the respondent as the court may approve.”.

## **18. New section 14A**

After section 14 insert —

### **“14A. Grounds on which civil partnership is void**

A civil partnership is void if —

- (a) at the time of registering as civil partners, the two people were not eligible to be civil partners of each other under section 24E of the Marriage and Civil Partnerships Ordinance 1996;
- (b) at the time when it was registered, both parties knew —
  - (i) the pre-registration process required under section 24D(1) of the Marriage and Civil Partnerships Ordinance 1996 had not been complied with; and
  - (ii) the requirements prescribed in regulations made under 24D(2) of the Marriage and Civil Partnerships Ordinance 1996 had not been complied with.”.

## **19. New section 15A**

After section 15 insert —

### **“15A. Grounds on which a civil partnership is voidable**

A civil partnership is voidable on the grounds that —

- (a) either party to the civil partnership did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise;
- (b) at the time of the registration of the civil partnership either party, though capable of giving valid consent, was mentally disordered (whether continuously or intermittently) within the meaning of the Mental Health Ordinance 2010 in such a way or to such an extent as to be unfit to enter into a civil partnership;
- (c) at the time of the registration of the civil partnership the respondent was suffering from venereal disease in a communicable form;
- (d) at the time of the registration of the civil partnership the respondent was pregnant by some person other than the applicant.”.

## **20. New section 16A**

After section 16 insert —

### **“16A. Bars to relief where civil partnership is voidable**

- (1) This section applies to a civil partnership that is voidable under section 15A.
- (2) An application for an order of nullity must be made to the court within three years after the date of the registration of the civil partnership.
- (3) The court must not grant an order of nullity if the respondent satisfies the court —
  - (a) that the applicant, with knowledge that it was open to the applicant to have the civil partnership avoided, so conducted themselves in relation to the respondent as to lead the respondent reasonably to believe that the applicant would not seek to do so; and
  - (b) that it would be unjust to the respondent to grant the order.
- (4) The court must not grant an order of nullity on grounds specified in section 15A(c) or (d) unless the court is satisfied that the applicant was, at the time of the registration of the civil partnership, ignorant of the facts alleged.”.

## **21. Section 17 amended (foreign marriages)**

In section 17 —

- (a) replace the heading with —

**“17. Foreign marriages and foreign civil partnerships”;**

- (b) in subsection (1) —

- (i) after “marriage” in both places where it appears insert “or civil partnership”; and

- (ii) replace “sections 14, 15, or 16(1)” with “sections 14, 14A, 15, 15A, 16(1) and 16A(2)”.

## **22. Section 18 replaced**

Replace section 18 with —

### **“18. Application of sections 4(5), 4A(5), 11 and 12 to nullity proceedings**

Sections 4(5), 4A(5), 11 and 12 apply in relation to proceedings for nullity of marriage or civil partnership as if, for any reference in those provisions to divorce or dissolution of a civil partnership, there were substituted a reference to nullity of a marriage or civil partnership.”.

## **23. Section 19 amended (effect of decree of nullity in case of voidable marriage)**

Replace section 19 with —

**“19. Effect of decree of nullity in case of voidable marriage or order of nullity in case of voidable civil partnership**

A decree or order of nullity granted in respect of a voidable marriage or civil partnership operates to annul the marriage or civil partnership only from the date on which the decree or order is made absolute and the marriage or civil partnership is treated as existing up to that date.”.

#### **24. Amendment of cross heading and section 20 (judicial separation)**

(1) Replace the cross heading before section 20 with —

*“Other proceedings relating to marriage or civil partnership”;*

(2) In section 20 —

- (a) in subsections (1), (2) and (3) after “marriage”, insert “or civil partnership”;
- (b) in subsections (1) and (2), replace “section 4(2)” with “sections 4(2) and 4A(2)”;
- (c) in subsection (1) after “petition for divorce”, insert “or application for a dissolution order”;
- (d) in subsection (2) after “petitioner” insert “or applicant” and omit “, subject to section 44”;  
and
- (e) in subsection (3) after “proceedings for divorce”, insert “or dissolution of a civil partnership”.

#### **25. Section 21 amended (effect of judicial separation)**

(1) In section 21(2), after “marriage” insert “or civil partnership”.

(2) In section 21(3), replace “Matrimonial Proceedings (Summary Jurisdiction) Ordinance” with “Matrimonial and Civil Partnerships Proceedings (Jurisdiction of Summary Court) Ordinance 1967” and after ““marriage” insert “or civil partnership”.

#### **26. New section 22A**

After section 22 insert —

##### **“22A. Presumption of death and dissolution of civil partnership**

(1) A party to a civil partnership who alleges that reasonable grounds exist for supposing that the other party to the civil partnership is dead may apply to the court to have it presumed that the other party is dead and to have the civil partnership dissolved, and the court may, if satisfied that such reasonable grounds exist, grant an order of presumption of death and dissolution of the civil partnership.

(2) In proceedings under this section the fact that for a period of seven years or more the other party to the civil partnership has been continually absent from the applicant and the applicant has no reason to believe that the other party is living, or at any point during that time was living, is evidence that the other party is dead until the contrary is proved.

(3) Sections 4A(5), 11 and 12 apply to an application and an order under this section as they apply to the making of a dissolution order.

(4) Neither collusion nor any other conduct on the part of the applicant which has at any time been a bar to relief in proceedings relating to a civil partnership constitutes a bar to the grant of an order under this section.”.

## **27. New section 23A**

After section 23 insert —

### **“23A. Relief for respondent in proceedings for dissolution of a civil partnership**

(1) This section applies in proceedings for dissolution of a civil partnership where the respondent alleges and proves any fact mentioned in section 4A(2) (treating the respondent as the applicant and the applicant as the respondent for the purpose of that subsection).

(2) The court may give the respondent the relief to which the respondent would have been entitled if the respondent had presented an application seeking that relief.”.

## **28. Heading to Part III amended**

In the heading to Part III, after “**MARRIAGE**” insert “**OR CIVIL PARTNERSHIP**”.

## **29. Section 24 amended (financial provision and property adjustment orders)**

In section 24 —

- (a) after “a marriage” in each place it appears, insert “or civil partnership”;
- (b) in subsection (1) —
  - (i) in the introductory words, replace “divorce, nullity of marriage” with “divorce, dissolution of a civil partnership, nullity of marriage or civil partnership”;
  - (ii) in paragraph (a) replace “section 26(1)(a)” with “section 26(1A)(a)” and “section 26(1)(d)” with “section 26(1A)(d)”;
  - (iii) in paragraph (b) replace “section 26(1)(b)” with “section 26(1A)(b)” and “section 26(1)(e)” with “section 26(1A)(e)”;
  - (iv) in paragraph (c), replace “section 26(1)(c)” with “section 26(1A)(c)” and “section 26(1)(f)” with “section 26(1A)(f)”;
- (c) in the introductory words to subsection (2), after “nullity of marriage or judicial separation,” insert “or order for dissolution or nullity of a civil partnership or decree or order for judicial separation,”.

## **30. Section 25 replaced**

Replace section 25 with —

### **“25. Maintenance pending suit**

(1) This section applies in proceedings for divorce, dissolution of a civil partnership, nullity of marriage or civil partnership or judicial separation.

(2) The court may make an order requiring either party to the marriage or civil partnership to make to the other such periodic payments for the maintenance of the other party and for such term, subject to subsection (3), as the court thinks reasonable.

(3) The term of an order under subsection (2) must not begin earlier than the date on which proceedings were commenced and must end not later than the date of determination of the proceedings.”.

**31. Section 26 amended (financial provision orders in connection with divorce proceedings, etc.)**

In section 26 —

(a) replace the heading with —

**“26. Financial provision orders in connection with proceedings for divorce or dissolution of civil partnership, etc.”;**

(b) replace subsection (1) with —

**“(1) Subsections (1A) and (1B) apply on or after granting a decree of divorce or nullity, an order for dissolution or nullity of a civil partnership, or a decree or order for judicial separation.”;**

(c) after subsection (1) insert —

**(1A) The court may, in relation to either party to the proceedings, make an order that —**

- (a) the person must make to the other party such periodical payments for such term as may be specified in the order;**
- (b) the person must secure to the other party to the satisfaction of the court such periodical payments for such term as may be so specified;**
- (c) the person must pay to the other party such lump sum or sums as may be so specified;**
- (d) the person must make to such other person as may be specified in the order for the benefit of a child of the family, or to such a child, such periodical payments for such term as may be so specified;**
- (e) the person must secure to such other person as may be so specified for the benefit of such a child, or to such a child, to the satisfaction of the court, such periodical payments for such term as may be so specified; or**
- (f) the person must pay to such other person as may be so specified for the benefit of such a child, or to such a child, such lump sum as may be so specified.**

**(1B) An order under subsection (1A)(d), (e) or (f) is subject to the restrictions imposed by section 32(1) and (3) on the making of financial provision orders in favour of children who have attained the age of eighteen.”;**

(d) in subsection (2) —

- (i) in the introductory words, replace “subsection (1)(d),(e) and (f)” with “subsection (1A)(d),(e) and (f)”; and
- (ii) replace paragraph (a) with —
  - “(a) in any proceedings for divorce, dissolution of civil partnership, nullity of marriage or civil partnership, or judicial separation, before granting a decree or order; and”;
- (e) in subsection (3) —
  - (i) in the introductory words, replace “subsection (1)(c) or (f)” with “subsection (1A)(c) or (f)”; and
  - (ii) in paragraph (a), replace “a party to a marriage shall” with “a person must”;
- (f) replace subsection (4) with —
  - “(4) The power of the court to make an order in favour of a child of the family under subsection (2)(a) is exercisable from time to time.
  - (4A) Where the court makes an order in favour of a child under subsection (2)(b), it may, from time to time, make a further order in the child’s favour under this section.”; and
- (g) replace subsection (5) with —
  - “(5) Without prejudice to the power to give a direction under section 33 for the settlement of an instrument by the Registrar of the Supreme Court, a financial provision order made under subsection (1A)(a), (b) or (c) on or after granting a decree of divorce or nullity of marriage or an order for the dissolution or nullity of a civil partnership, does not take effect unless the decree, or order has been made absolute.”.

### **32. Section 26A amended (pension sharing orders in connection with divorce proceedings, etc.)**

In section 26A —

- (a) replace the heading with —
  - “26A. Pension sharing orders”;**
- (b) replace subsections (1) and (2) with —
  - “(1) This section applies where the court grants a decree of divorce or nullity, an order for dissolution or nullity of a civil partnership, or decree or order for judicial separation.
  - (2) The court may, on an application by either party to the proceedings, make a pension sharing order in relation to the marriage or the civil partnership.
  - (2A) A pension sharing order under this section must not take effect unless the decree or order to which it relates has been made absolute.”; and
- (c) in subsections (3) and (4) after “marriage” in each place it appears, insert “or civil partnership”.

### **33. Section 26B amended (pension sharing orders)**

In section 26B —

- (a) replace the heading with —

**“26B. Pension sharing orders: further provision”;**

- (b) in subsection (1)(a) after “marriage” insert “or civil partnership”; and

- (c) replace subsection (2)(b) with —

“(b) after a decree of divorce or nullity or an order for dissolution or nullity of a civil partnership has been made absolute; or”.

### **34. Section 27 amended (property adjustment orders in connection with divorce proceedings, etc.)**

In section 27 —

- (a) replace the heading with —

**“27. Property adjustment orders”;**

- (b) replace subsection (1) with —

“(1) This section applies on or after granting a decree of divorce or nullity, an order for dissolution or nullity of a civil partnership, or a decree or order for judicial separation.

(1A) The court may, make any one or more of the following orders —

- (a) in relation to either party to the proceedings, an order that the person must transfer to the other party, to any child of the family or to such other person as may be specified in the order for the benefit of such a child such property as may be specified, being property to which the person is entitled, either in possession or reversion;
- (b) an order that settlement of such property, be made to the satisfaction of the court for the benefit of the other party and of the children of the family or any of them;
- (c) an order varying for the benefit of the parties to proceedings and of the children of the family or either or any of them any ante-nuptial or post-nuptial settlement (including a settlement made by will or codicil) made on the parties; or
- (d) an order extinguishing or reducing the interest of either of the parties to the proceedings under any settlement to which paragraph (c) relates.

(1B) An order under subsection (1A)(a) is subject to the restrictions imposed by section 32(1) and (3) on the making of orders for a transfer of property in favour of children who have attained the age of eighteen.”;

- (c) in subsection (2), replace “subsection (1)(c)” with “subsection (1A)(c)”; and

- (d) in subsection (3) replace “decree of divorce or nullity of marriage” with “decree of divorce or nullity of marriage or order for the dissolution or nullity of a civil partnership”.

**35. Section 27A amended (order for sale of property)**

In section 27A —

- (a) in subsection (1), replace “of this Ordinance” with “for” and after “marriage” insert “or civil partnership”; and
- (b) replace subsection (3) with —

“(3) An order under subsection (1) does not take effect until the grant of a decree of divorce or nullity of a marriage or an order for the dissolution or nullity of a civil partnership to which it relates is made absolute.”.
- (c) in subsection (5), after “the marriage” insert “or civil partnership” and after “person” insert “or the person registers a new civil partnership”; and
- (d) in subsection (6), after “marriage” in both places where it appears, insert “or civil partnership”.

**36. Section 28 amended (matters to which court is to have regard in deciding how to exercise its powers under sections 26, 27 and 27A)**

In section 28 —

- (a) in the introductory words of subsection (2), replace “section 26(1)(a), (b) or (c)” with “section 26(1A)(a), (b) or (c)”; and after “marriage” insert “or civil partnership”;
- (b) in subsection (2)(a), (b), and (h), replace “each of the parties to the marriage” with “the person and the other party”;
- (c) in subsection (2)(a) replace “a party to the marriage” with “a party to the marriage or civil partnership”;
- (d) in subsection (2)(d), replace “each party to the marriage” with “the person and the other party”;
- (e) in subsection (2)(e), replace “either of the parties to the marriage” with “the person or the other party”;
- (f) in subsection (2)(f) and (g), replace “the parties” with “the person and the other party”; and
- (g) in subsection (2)(h) —
  - (i) after “divorce or nullity of marriage” insert “or dissolution or nullity of civil partnership”;
  - (ii) replace “dissolution or annulment of the marriage” with “divorce or nullity of the marriage or dissolution or nullity of the civil partnership”;



- (iii) replace “that party” with “that person or the other party”; and
- (h) replace the introductory words of subsection (3) with —

“When exercising powers under section 26(1A)(d), (e) or (f), (2) or (4), 27 or 27A against a party to the marriage or civil partnership in favour of a child of the family who is not a child of that party, the court must also have regard —”.

**37. Section 28A amended (exercise of court’s powers in favour of party to marriage on decree of divorce or nullity of marriage)**

In section 28A —

- (a) replace the heading with —

**“28A. Exercise of court’s powers under sections 26 to 27A”;**
- (b) in subsections (1) and (3), after “decree of divorce or nullity of marriage” insert “or order of dissolution or nullity of civil partnership” and replace “section 26(1)(a), (b) or (c)” with “section 26(1A)(a), (b) or (c)”;
- (c) in subsections (1), (2) and (3), after “a party to the marriage” insert “or civil partnership”;
- (d) in subsection (1) after “decree” insert “or dissolution order”; and
- (e) in subsection (3) after “in relation to that marriage” insert “or civil partnership”.

**38. Section 29 amended (commencement of proceedings for ancillary relief)**

In section 29 —

- (a) in subsection (1) after “marriage” insert “or application for an order for dissolution or nullity of civil partnership,” and after “petition” insert “or application”; and
- (b) in subsection (2) after “petition” in each place it appears insert “or application”.

**39. Section 30 amended (financial provision orders, etc. in case of neglect by party to marriage to maintain other party or child of the family)**

In section 30 —

- (a) replace the heading with —

**“30. Financial provision orders, etc. in case of neglect to maintain a party to marriage or civil partnership”;**
- (b) in subsections (1) and (4A) after “marriage” in each place it appears insert “or civil partnership”; and
- (c) in subsection (8), replace “marital intercourse” with “sexual relations between the parties”.

**40. Section 31 amended (duration of continuing financial provision orders in favour of party to marriage, and effect of remarriage)**

Section 31 is amended —

- (a) replace the heading with —

**“31. Duration of continuing financial provision orders”;**

- (b) in the introductory words to subsection (1) after “marriage” insert “or civil partnership”;

- (c) replace subsection (1)(a) with —

“(a) in the case of a periodical payments order, the term must not start before the date of the application for the order and must not continue after the death of either of the parties or, where the order is made on or after the decree of divorce or nullity of marriage or order for the dissolution or nullity of a civil partnership, any subsequent marriage or civil partnership of the party in whose favour the order is made; and”;

- (d) in subsection (1)(b), after “decree” insert “or order for the dissolution or nullity of a civil partnership” and replace “the remarriage” with “any subsequent marriage or civil partnership”;

- (e) replace subsection (2) with —

“(2) Subsection (2A) applies to an order for periodical payments or secured periodical payments that —

- (a) is made otherwise than on or after the grant of a decree of divorce or nullity of marriage or an order for dissolution or nullity of a civil partnership; and
- (b) continues in force after any subsequent decree of divorce or nullity of marriage or an order for dissolution or nullity of a civil partnership.

(2A) An order to which this subsection applies ceases to have effect on the subsequent marriage or civil partnership of the person in whose favour the order is made except in relation to any arrears due under it on the date of the subsequent marriage or civil partnership.”; and

- (f) replace subsection (3) with —

“(3) A person who marries or registers a civil partnership after the grant of a decree of divorce or nullity of a marriage or an order for dissolution or nullity of a civil partnership is not entitled to apply, by reference to that decree or order, for a financial provision order or a property adjustment order.”.

**41. Section 32 amended (duration of continuing financial provision orders in favour of children, and age limit on making certain orders in their favour)**

In section 32(1), replace “section 27(1)(a)” with “section 27(1A)(a)”.

**42. Section 33 amended (direction for settlement of instrument for securing payments or effecting property adjustment)**

Replace section 33(b) with —

- “(b) in relation to a financial provision or property adjustment order made in proceedings for divorce or nullity of marriage, dissolution or nullity of civil partnership or judicial separation, it may defer the grant of the decree or order until the instrument has been duly executed.”.

**43. Section 34 amended (variation or discharge, etc., of certain orders for financial relief)**

In section 34 —

- (a) in subsection (2)(e), replace “section 27(1)(b)” with “section 27(1A)(b)”;
- (b) in subsection (4) —
  - (i) in the introductory words, replace “section 27(1)(b)” with “section 27(1A)(b)” and “section 27(1)(c) or (d)” with “section 27(1A)(c) or (d)”;
  - (ii) in paragraph (a) after “decree” insert “or order”;
  - (iii) in paragraph (b) after “marriage” insert “or civil partnership”; and
- (c) in subsection (5) after “marriage” in both places it appears, insert “or civil partnership”.

**44. Section 37 amended (validity of maintenance agreements)**

In section 37(2) in the definitions of “**maintenance agreement**” and “**financial arrangements**” after “marriage” in each place it appears insert “or civil partnership”.

**45. Section 38 amended (alteration of agreements by court during lives of parties)**

In section 38(3) —

- (i) in paragraph (a) replace “the remarriage” with “any subsequent marriage or civil partnership”; and
- (ii) in paragraph (b) replace “remarriage” with “any subsequent marriage or civil partnership”.

**46. Section 41 amended (orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage)**

In section 41 —

- (a) replace the heading with —

“**41. Orders for repayment in certain cases**”;
- (b) in subsection (1)(a) after “marriage” insert “or civil partnership”; and replace “the remarriage” with “any subsequent marriage or civil partnership”;

(c) in subsection (1)(b), replace “the remarriage” with “any subsequent marriage or civil partnership”; and

(d) in subsection (5) —

(i) replace “the remarriage” with “any subsequent marriage or civil partnership”;

(ii) replace “remarried” with “made a subsequent marriage or civil partnership”.

**47. Section 43 amended (payments, etc., under order made in favour of persons suffering from mental disorder)**

In section 43 after “marriage” insert “or civil partnership”.

**48. Part IV repealed**

Repeal Part IV.

**49. Heading to Part V amended**

In the heading to Part V, after “**DIVORCES**” insert “, **DISSOLUTION OF CIVIL PARTNERSHIPS**”.

**50. Section 48 amended (recognition in the Falkland Islands of overseas divorces and legal separations)**

In section 48 —

(a) replace the heading with —

**“48. Recognition in Falkland Islands of overseas divorces, dissolution of civil partnerships and legal separations”;**

(b) in the introductory words, after “divorces” in both places it appears insert “, dissolutions of civil partnerships”.

**51. Section 49 amended (grounds for recognition)**

In section 49 after “divorce” in each place it appears, insert “, dissolution of a civil partnership”.

**52. Section 50 amended (cross-proceedings and divorce following legal separation)**

In section 50 —

(a) replace the heading with —

**“50. Cross proceedings”;**

(b) in subsection (1), after “divorce” insert “, dissolution of civil partnership”; and

(c) in subsection (2), after “divorce” in both places it appears insert “or dissolution of civil partnership”.

**53. Section 51 amended (proof of facts relevant to recognition)**

Section 51 is amended after “divorce” in each place it appears insert “, dissolution of civil partnership”.

**54. Section 52 amended (existing common law and statutory rules)**

Section 52 is amended —

- (a) in subsections (1) and (5), replace “divorces” with “the validity of divorces, dissolution of civil partnerships”; and
- (b) after “divorce” in each place it appears insert “, dissolution of civil partnership”.

**55. Section 53 amended (non-recognition of divorce by third country no bar to remarriage)**

In section 53 —

- (a) replace the heading with —  

**“53. Non-recognition of divorce or dissolution of civil partnership by third country”;**
- (b) after “divorce” in both places it appears, insert “or dissolution of a civil partnership”; and
- (c) replace “re-marrying” with “marriage or registering a civil partnership”.

**56. Section 54 amended (exceptions from recognition)**

In section 54 —

- (a) after “divorce” in each place it appears insert “, dissolution of a civil partnership”; and
- (b) in subsection (1) after “marriage” insert “or civil partnership”.

**57. Section 55 amended (interpretation and transitional provisions)**

(1) In subsection (1), replace —

- (a) “colony or other dependent territory of the United Kingdom” with “British overseas territory”; and
- (b) “colony or dependent territory” in both places it appears with “British overseas territory”.

(2) In subsection (2) after —

- (a) “divorces” in both places it appears in the introductory words, insert “, civil partnerships”; and
- (b) “divorce” in each case it appears, insert “, or civil partnership”.

**58. Sections 56 and 57 repealed**

Repeal sections 56 and 57.

**59. Section 58 amended (parties to proceedings under this Ordinance)**

In section 58 —

- (a) in subsections (1) and (3), after “divorce” in both places it appears insert “, dissolution of civil partnership”; and
- (b) in subsections (1) and (2) after “marriage” in each place it appears insert “or civil partnership”.

**60. Heading to section 59 amended (matrimonial causes rules)**

Replace the heading to section 59 with —

**“59. Procedural rules”.**

**61. Section 60 repealed**

Repeal section 60.

**PART 3 - Amendment of Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967**

**62. Amendment of Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967**

This Part amends the Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967.

**63. Long title replaced**

Replace the long title with —

“AN ORDINANCE to make provision for the conduct of proceedings related to matrimonial and civil partnerships in the Summary Court and to provide for incidental or connected matters.”.

**64. Section 1 replaced (short title)**

Replace section 1 with —

**“1. Title**

This Ordinance is the Matrimonial and Civil Partnerships Proceedings (Jurisdiction of the Summary Court) Ordinance 1967.”.

**65. Section 2 amended (interpretation)**

In section 2 —

- (a) replace the definition of “**child**” with —

““**child**” in relation to one or both of the parties to a marriage or civil partnership includes an illegitimate or adopted child of that party or, as the case may be, both parties;”

and insert it in the correct alphabetical order;

- (b) replace the definition of “**child of the family**” with —

““**child of the family**”, in relation to the parties to a marriage or civil partnership, means—

- (a) a child of both of those parties; and
  - (b) any other child who has been treated by both of those parties as a child of their family;”;
- (c) omit the definitions of “marriage”, “matrimonial order” and “married man or married woman”; and
- (d) after the definition of “interim order” insert —

““**section 4 order**” means an order made under section 4 and includes any order made by virtue of section 10 varying or reviving an order under section 4;”.

## **66. Section 3 amended (matrimonial proceedings in court of summary jurisdiction)**

Section 3(1) is amended —

- (a) replace the heading with —

**“3. Matrimonial or civil partnership proceedings in court of summary jurisdiction”;**

- (b) in the introductory words, replace “A married woman or married man” with “A party to a marriage or civil partnership” and after “marriage” in both places it appears insert “or civil partnership”;

- (c) replace paragraph (c) with —

“(c) has been found guilty of any offence that involves an incident or pattern of incidents of controlling coercive or threatening behaviour, violence or abuse involving the complainant, or any child who, at the time of the events that led to the offence, was a child of the family;

(cA) for purposes of paragraph (c), it is irrelevant whether the offence was committed within the Falkland Islands or not.”; and

- (d) replace paragraphs (g) to (i) with —

“(g) being a party to a marriage or civil partnership, has compelled the other party to submit to prostitution, or has been guilty of such conduct as was likely to result and has resulted in that party submitting to prostitution; or

(h) being a party to a marriage or civil partnership, has wilfully neglected to provide reasonable maintenance for the applicant or for any child of the family who is, or who would, but for the neglect have been a dependant.”.

**67. Section 4 amended (order by court of summary jurisdiction in matrimonial proceedings)**

In section 4 —

- (a) replace the heading with —

**“4. Order by court of summary jurisdiction in matrimonial or civil partnership proceedings”;**

- (b) in subsections (1), (3) and (5), replace “matrimonial order” with “section 4 order”;

- (c) in subsection (1) —

- (i) in the introductory words, after “marriage” insert “or civil partnership”;

- (ii) replace paragraph (b) with —

- “(b) a provision that either the complainant or the defendant must pay to the other party such weekly sum as the court considers reasonable in all the circumstances of the case;”;

- (iii) omit paragraphs (c) to (f);

- (d) replace subsection (2) with —

“(2) Where, on a complaint under section 3, the court makes a section 4 order on the ground that the defendant is a habitual drunkard or a drug addict, and the order contains a provision mentioned in subsection (1)(a), then, after giving each party an opportunity of making representations, the court may include in that order a provision mentioned in subsection (1)(b).”;

- (e) omit subsection (4).

**68. Sections 5 and 6 repealed**

Repeal sections 5 and 6.

**69. Section 8 amended (interim orders)**

In section 8 —

- (a) in subsection (1)(b) and (c) replace “matrimonial order” with “section 4 order”;

- (b) in subsection (2)(a) replace “section 4(1)(b), (c) or (g)” with “section 4(1)(b) or (g)”;

- (c) omit subsection (2)(b).

**70. Section 9 amended (suspension or cessation of order)**

In section 9 —

- (a) in subsections (1) and (2) replace “a matrimonial or interim order” with “a section 4 order or an interim order”;



- (b) in subsections (1)(b) and (3)(a) replace “matrimonial order” with “section 4 order”;
- (c) in subsection (1), in the proviso omit subparagraphs (i) and (ii); and
- (d) in subsections (2) and (3) after “marriage” insert “or civil partnership”.

**71. Section 10 amended (revocation, revival and variation of orders)**

In section 10 —

- (a) in subsections (1) and (3) replace “matrimonial or interim order” with “section 4 order or an interim order”; and
- (b) in subsection (2) replace “matrimonial order” with “section 4 order” and after “marriage” insert “or civil partnership”.

**72. Section 11 amended (complaint for variation, etc., by or against person abroad)**

In section 11 —

- (a) in subsections (1) and (4) replace “matrimonial order” with “section 4 order”; and
- (b) in subsection (5) replace —
  - (i) “a matrimonial or interim order” with “a section 4 order or an interim order”; and
  - (ii) “hi” with “him”.

**73. Section 12 amended (parties to complaint for variation, etc.)**

In section 12(1) —

- (a) in the opening words —
  - (i) replace “a matrimonial or interim order” with “a section 4 order or an interim order”; and
  - (ii) after “marriage” insert “or civil partnership”;
- (b) omit subparagraph (a);
- (c) replace the semi-colon at the end of subparagraph (b) with a full stop; and
- (d) omit subparagraphs (c) to (e).

**74. Section 13 amended (appeals)**

In section 13(1) replace “a matrimonial or interim order” with “a section 4 order or an interim order”.

**75. Section 15 amended (enforcement, etc.)**

Omit section 15(2).

## **PART 4 - Consequential and Miscellaneous Amendments**

### **76. Amendment of Marriage Ordinance 1996**

(1) This section amends the Marriage Ordinance 1996.

(2) Replace the long title with —

“AN ORDINANCE to provide for marriage and civil partnership and connected matters.”

(3) Replace section 1 with —

#### **“1. Title**

This Ordinance is the Marriage and Civil Partnerships Ordinance 1996.”.

(4) In Part IVA (civil partnerships) —

(a) in section 24A —

(i) in subsection (2), replace “section 24H” with “sections 14A and 15A of the Matrimonial and Civil Partnerships Proceedings Ordinance 1979;

(ii) in subsection (3) replace “in terms of section 24H” with “in accordance with the Matrimonial and Civil Partnerships Proceedings Ordinance 1979”;

(iii) repeal subsection (4);

(b) repeal sections 24G to 24I, 24J(3) and 24L(1); and

(c) in section 24H(2) and (3), replace “Matrimonial Causes Ordinance 1976” with “Matrimonial and Civil Partnerships Proceedings Ordinance 1976”.

### **77. Amendment of Interpretation and General Clauses Ordinance 1977**

In section 4 of the Interpretation and General Clauses Ordinance 1977 —

(a) insert the following definitions in their correct alphabetical order —

“**“civil partner”** means either one of two people in a civil partnership;

“**civil partnership**” means a civil partnership registered under Part IVA of the Marriage and Civil Partnerships Ordinance 1996;

“**spouse**” includes the husband, wife or civil partner of a person, and cognate terms are interpreted accordingly;”

(b) in the definition of “**marriage**”, replace “Marriage Ordinance 1996” with “Marriage and Civil Partnerships Ordinance 1996”.

### **78. Amendments consequent on sections 5, 58, 60 and 73**

The legislation listed in the first column of the Schedule is amended to the extent specified in the second column.

## 79. Matrimonial Causes (Contents of Petition) Rules 1992 revoked

Revoke the Matrimonial Causes (Contents of Petition) Rules 1992.

### SCHEDULE - AMENDMENTS CONSEQUENT ON SECTIONS 5, 58, 60 and 73

*section 78*

#### *Part A - Primary legislation*

<b>Title</b>	<b>Amendment</b>
Administration of Justice Ordinance 1949	In Schedule 1 under the heading “Modifications”, in paragraph 19(b) replace “Matrimonial Proceedings (Summary Jurisdiction) Ordinance” with “Matrimonial and Civil Partnerships Proceedings (Jurisdiction of Summary Court) Ordinance 1967”.
Children Ordinance 2014	(1) In sections 10(4)(b) and 12(3)(b)(ii), and Schedule 1 paragraph 2(6)(b), replace “Matrimonial Causes Ordinance 1979” with “Matrimonial and Civil Partnerships Proceedings Ordinance 1979”.  (2) In section 12(3)(b)(iii) and Schedule 1 paragraph 2(6)(c), replace “Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967” with “Matrimonial and Civil Partnerships Proceedings (Jurisdiction of Summary Court) Ordinance 1967”.
Falkland Islands Pension Scheme Ordinance 1997	(1) In section 36A(1), replace “Matrimonial Causes Ordinance 1979” with “Matrimonial and Civil Partnerships Proceedings Ordinance 1979”.  (2) In section 36A(5) and in section 39(1)(e)(i) and (ii)(cc), replace “Matrimonial Causes Ordinance” with “Matrimonial and Civil Partnerships Proceedings Ordinance 1979”.
Family Law Reform Ordinance 1994	In the long title, replace “Matrimonial Causes Ordinance 1979” with “Matrimonial and Civil Partnerships Proceedings Ordinance 1979”.
Legal Aid Ordinance 2020	In section 4, omit the definition of “ <b>“civil partnership”</b> and <b>“civil partner”</b> ”.
Matrimonial and Civil Partnerships Proceedings Ordinance 1979	In the introductory words to section 14, replace “Matrimonial Causes Ordinance 1979” with “Matrimonial and Civil Partnerships Proceedings Ordinance 1979”.

*Part B – Secondary legislation*

<b>Title</b>	<b>Amendment</b>
Court Fees (Family Proceedings) Rules 1992	In item 3 of Schedule 1 Part 1 replace “Matrimonial Causes Ordinance 1979” with “Matrimonial and Civil Partnerships Proceedings Ordinance 1979”.
Matrimonial Causes (Decree Absolute) General Order 1988	In article 3, replace “Matrimonial Causes Ordinance 1979” with “Matrimonial and Civil Partnerships Proceedings Ordinance 1979”.
Registration of Civil Partnerships Regulations 2017	In the opening words and in regulation 3 in the definition of “the Ordinance”, replace “Marriage Ordinance 1996” with “Marriage and Civil Partnerships Ordinance 1996”.
Registration of Marriages Regulations 1999	In regulation 2 in the definition of “the Ordinance” and in the forms in Schedule 1, replace “Marriage Ordinance 1996” with “Marriage and Civil Partnerships Ordinance 1996” in each place it appears.

Passed by the Legislature of the Falkland Islands on 31 March 2022.

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

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

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

# ELIZABETH II



## FALKLAND ISLANDS

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NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

### **Education (Governance and Accountability) Ordinance 2022**

#### **(ORDINANCE No. 6 OF 2022)**

#### ARRANGEMENT OF PROVISIONS

##### Section

##### **PART 1 - General**

###### *Introductory*

1. Title
2. Commencement
3. Education Ordinance 1989 amended and consequential amendments
4. Interpretation
5. Secondary legislation

###### *Purpose*

6. Purpose of this Ordinance

###### *Compulsory education*

7. Duty of parents to secure education of children of compulsory education age

##### **PART 2 - Duties of Governor and Director of Education**

###### *Governor*

8. General duty
9. Duty to make educational provision

###### *Director of Education*

10. General duty
11. Functions of the Director

*Financial and other resources*

12. Educational provision chargeable on the Consolidated Fund
13. Functions of the Director in relation to financial and other resources

**PART 3 - Education and Training and National Library Service**

*Falkland College*

14. Establishment of Falkland College
15. Power to charge for educational provision

*National library service*

16. National library service
17. Designation of a person to be responsible for national library service
18. Stanley Town Public Services Ordinance 1973 amended

*Financial assistance for education and training*

19. Financial assistance for education and training

**PART 4 - Governance**

*Board of Education*

20. Establishment of Board of Education
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22. Functions of Board of Education
23. Director's annual report to Board of Education
24. Director's duty to request and consider Board's advice

*School Governance Committee*

25. Establishment of School Governance Committee
26. School leaders report to School Governance Committee
27. Duty of school leaders to consider advice of School Governance Committee
28. Amendment of functions of School Governance Committee

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29. Establishment of College Advisory Committee
30. College leaders report to College Advisory Committee
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32. Amendment of functions of College Advisory Committee

**PART 5 - Inspection of educational provision**

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Schedule 1 - Amendments to Education Ordinance 1989 and consequential amendments to other legislation

Schedule 2 - School Governance Committee

Schedule 3 - College Advisory Committee

# ELIZABETH II



## FALKLAND ISLANDS

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NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

### **Education (Governance and Accountability) Ordinance 2022**

*(assented to: 20 April 2022)*  
*(commencement: see section 2)*  
*(published: 3 May 2022)*

#### AN ORDINANCE

To promote the education of persons in the Falkland Islands by the provision of schools, colleges, the national library service and other services suitable to their age and needs, ensure good governance of such provision and that those tasked with delivering it can be held to account; and to amend the Stanley Town Public Services Ordinance 1973.

ENACTED by the Legislature of the Falkland Islands —

#### **PART 1 - General**

##### *Introductory*

##### **1. Title**

This Ordinance is the Education (Governance and Accountability) Ordinance 2022.

##### **2. Commencement**

This Ordinance comes into force on a day appointed by the Governor by notice in the *Gazette*.

##### **3. Education Ordinance 1989 amended and consequential amendments**

(1) This section amends the Education Ordinance 1989 (“**the Ordinance**”).



(2) Repeal sections 3 to 15, 17 to 21, 29, 30, 33 to 46, 50 to 56, 67 to 78 of, and the Schedule to, the Ordinance.

(3) Amend the provisions of the Ordinance listed in the first column of Part 1 of Schedule 1 in accordance with the second column of that Part.

(4) Make the consequential amendments to other primary and secondary legislation in accordance with Part 2 of Schedule 1.

#### **4. Interpretation**

In this Ordinance —

**“academic year”** means the period of 12 months commencing on 1 September and ending on 31 August;

**“approved school”** means a school approved by the Director under section 40;

**“Board”** means the Board of Education established under section 20;

**“boarding arrangements”** means arrangements for the accommodation of children and young persons to enable such children and young persons to attend educational provision;

**“Camp Education”** means educational provision that is made in Camp (being any place in the Falkland Islands that is not Stanley) for children of compulsory education age up to the end of the academic year in which they attain the age of eleven years;

**“College Advisory Committee”** means the committee of the Board established under section 29;

**“college leader”** means a person designated under section 14;

**“compulsory education age”** has the meaning in section 7(3);

**“Director”** means the person who is for the time being employed as the Government’s Director of Education;

**“educational provision”** means education provision made under section 9 and includes, unless otherwise specified, —

- (a) Government schools, Falkland College and other educational institutions;
- (b) Camp Education;
- (c) financial assistance provided under section 19;
- (d) boarding arrangements;
- (e) the national library service; and
- (f) any other premises, facilities, equipment or services provided for educational purposes;

**“efficient education”** in relation to a child or young person, means education suitable to the child’s or young person’s age, ability and aptitudes;

**“Falkland College”** means the educational institution referred to in section 14;

**“Government school”** means a school that is funded out of money appropriated from the Consolidated Fund;

**“parent”** in relation to a child or young person, means any person —

- (a) who has parental responsibility for that child or young person within the meaning of the Children Ordinance 2014; or
- (b) who has care of the child or young person, and in determining whether an individual has care of a child or young person, any absence of the child or young person at a hospital or in boarding accommodation and any other temporary absence is disregarded;

**“regulations”** means regulations made under this Ordinance;

**“school”** means an educational institution that provides full-time or part-time education suitable wholly or mainly for the needs of children and young persons of compulsory education age;

**“School Governance Committee”** means the committee of the Board established under section 25; and

**“school leader”** means any person who is —

- (a) the executive headteacher for Government schools and Camp Education;
- (b) the headteacher of a Government school;
- (c) responsible for Camp Education; or
- (d) responsible for boarding arrangements.

## **5. Secondary legislation**

Powers conferred by this Ordinance to make regulations may be exercised —

- (a) to make different provision for different areas, for different descriptions or classes of person or for different purposes; and
- (b) to make such incidental or supplemental provision as the Governor considers necessary or appropriate in the circumstances.

## *Purpose*

## **6. Purpose of this Ordinance**

(1) The purpose of this Ordinance is to promote the intellectual, social, cultural, spiritual, moral and physical development and well-being of the people of the Falkland Islands by making

educational provision in a manner that is consistent with sections 11 (protection of freedom of conscience), 12 (protection of right to education) and 16 (protection from discrimination) of the Constitution.

(2) Subject to subsection (1), nothing in this Ordinance requires educational provision to be made—

- (a) for any person who is not —
  - (i) ordinarily resident in the Falkland Islands; or
  - (ii) of compulsory education age;
- (b) in any language of instruction other than English; or
- (c) in accordance with any particular religious or other beliefs or cultural practices.

### *Compulsory education*

## **7. Duty of parents to secure education of children of compulsory education age**

(1) The parent of a child or young person of compulsory education age must ensure the child or young person receives an efficient education.

(2) A parent may fulfil the duty in subsection (1) by ensuring that the child or young person —

- (a) is registered as a pupil at a Government school;
- (b) is registered as a pupil at an approved school;
- (c) is educated outside the Falkland Islands and the Director has been notified of that fact; or
- (d) subject to section 42 (approval of home education), is educated at home or by other means.

(3) A child or young person becomes of compulsory education age at the start of the academic year in which they attain the age of five and ceases to be of compulsory education age at the end of the academic year in which they attain the age of sixteen.

(4) A person who fails to comply with subsection (1) commits an offence.

**Penalty:** A fine up to level 4 on the standard scale.

## **PART 2 - Duties of Governor and Director of Education**

### *Governor*

## **8. General duty**

The Governor must, in the performance of the Governor's duties under this Ordinance, have regard to section 6.

## **9. Duty to make educational provision**

(1) The Governor must ensure sufficient educational provision is made —

- (a) for children and young persons of compulsory education age who are ordinarily resident in the Falkland Islands; and
- (b) for persons of such other description as may be prescribed in regulations,

to receive an efficient education.

(2) Educational provision under subsection (1) includes —

- (a) schools in Stanley and Camp Education; and
- (b) boarding arrangements.

(3) The Governor may make educational provision for any persons to whom subsection (1) does not apply.

(4) Provision under subsection (3) may include arrangements for children and young persons who are over compulsory education age but under the age of eighteen years to attend a school or other educational institution or boarding arrangements.

### *Director of Education*

## **10. General duty**

The Director must, in the exercise of the Director's functions, have regard to —

- (a) section 6; and
- (b) the importance of promoting equality of opportunity and social mobility.

## **11. Functions of the Director**

(1) The Director must advise the Governor on the strategic planning of educational provision in the Falkland Islands and other matters of education policy.

(2) The Director is responsible for the delivery, supervision and improvement of educational provision and in particular for —

- (a) ensuring that all Government schools, Camp Education and Falkland College —
  - (i) are efficiently conducted and managed;
  - (ii) achieve high standards of teaching and learning; and
  - (iii) engage staff who have the skills, qualifications and experience appropriate for their roles;

- (b) ensuring that children receiving Camp Education receive an efficient education that is of an equivalent standard to that which they would receive at a Government school; and provides a similarly broad and balanced curriculum;
- (c) determining such curricula and syllabuses as may be necessary or convenient for use in any educational provision;
- (d) boarding arrangements;
- (e) the national library service;
- (f) skills development and work-based training programmes to meet the needs of persons over compulsory education age and the economic and social needs of the Falkland Islands; and
- (g) administering financial assistance for the purpose of education and training;
- (h) careers information, advice and guidance; and
- (i) safeguarding and promoting the welfare of children and young persons and vulnerable adults for whom educational provision is made.

(3) The Director must assist the Governor, the Board, the School Governance Committee and the College Advisory Committee in the performance of their functions under this Ordinance by providing such information and advice as they may reasonably require.

### *Financial and other resources*

## **12. Educational provision chargeable on the Consolidated Fund**

Educational provision is expenditure chargeable on the Consolidated Fund.

## **13. Functions of the Director in relation to financial and other resources**

(1) The Director must ensure the resources available to the Director are used efficiently and effectively to support the purpose of this Ordinance.

(2) The resources available to the Director include —

- (a) financial resources;
- (b) staff;
- (c) premises, including grounds and other facilities used for educational provision.

(3) The Director may, having consulted the Board, make arrangements for the premises referred to in subsection (2) to be made available for use by the public at any time when such premises are not required as educational provision and may charge a reasonable fee for such use.

## **PART 3 - Education and Training and National Library Service**

### *Falkland College*

#### **14. Establishment of Falkland College**

(1) The Governor has established an educational institution known as Falkland College to meet the needs of persons over compulsory education age for education and training and the economic and social needs of the Falkland Islands.

(2) To fulfil the purpose in subsection (1), full-time or part-time education, training and other services may be provided by Falkland College for persons over compulsory education age including —

- (a) skills development and work-based training programmes;
- (b) careers information, advice and guidance;
- (c) personal development and other support to prepare such persons for employment;
- (d) programmes suitable for persons who have special educational needs or disabilities; and
- (e) leisure-time occupation and recreational activities.

(3) The Director may arrange for careers information, advice and guidance, personal development and other services to be provided at Falkland College for young persons of compulsory education age.

(4) The Director may designate one or more members of the Director's staff ("**college leaders**") to be responsible for Falkland College.

#### **15. Power to charge for educational provision**

(1) Any person for whom educational provision is made by Falkland College may be charged for the whole or any part of the cost of making such provision ("**a fee**").

(2) A charge under subsection (1) must be calculated in accordance with the policy of the Board, which may provide for a person's age and financial resources to be taken into consideration.

(3) The person must be informed of the fee before the educational provision is made.

(4) The Board's policy on charging for educational provision at Falkland College must be published.

### *National library service*

#### **16. National library service**

(1) There is a national library service for the benefit of the people of the Falkland Islands, which includes libraries in Government schools and a lending library service for the public.

(2) The national library service provides —

- (a) books and other printed materials and audio or visual recordings for use or loan, by pupils and staff at Government schools or by members of the public; and
- (b) such other services as may, in the opinion of the Director, be conveniently combined with services provided under paragraph (a).

(3) The Director may accept gifts for the benefit of the national library service provided that a gift of money must be paid into the Consolidated Fund until such time as it is applied for that purpose.

(4) Subject to subsection (6), the Director may, with the approval of the Governor, require any person using the national library service to pay a reasonable charge for any aspect of the service including for the loan of any printed materials or recordings.

(5) A charge under subsection (4) includes a fine for the late return of any printed materials or recordings that are provided on loan.

(6) A charge must not be made for lending a book to a child or young person who is of, or under, compulsory education age.

#### **17. Designation of a person to be responsible for national library service**

The Director may designate a school or college leader to be responsible for the national library service.

#### **18. Stanley Town Public Services Ordinance 1973 amended**

Amend the Stanley Town Public Services Ordinance 1973 by —

- (a) in the heading to Part III, omit “, Public Library and Museum”;
- (b) in section 25, replacing “, Public Library and Museum shall be” with “is” and omit “, together with all books, papers, manuscripts and documents now forming the Public Library, and all objects, trophies and specimens now forming the Public Museum”; and
- (c) repealing sections 26 to 28.

#### *Financial assistance for education and training*

#### **19. Financial assistance for education and training**

(1) The Governor may give financial assistance to any person who is ordinarily resident in the Falkland Islands for the purpose of enabling that person to secure education and training suitable to their needs, whether in the Falkland Islands or elsewhere, including skills development and work-based training.

(2) The Governor may discriminate in the provision of financial assistance under subsection (1) between —

- (a) persons who are Falkland Islanders and persons who are not; or

- (b) persons who have permanent residence permits and persons who do not.
- (3) Regulations may provide for financial assistance to be paid in respect of the whole or any part of —
  - (a) registration, tuition and examination fees;
  - (b) travel expenses;
  - (c) materials or other equipment required for the purpose of education or training;
  - (d) accommodation expenses and reasonable living costs; or
  - (e) any other expenses reasonably and properly incurred in connection with, or incidental to, such education or training.
- (4) Regulations may provide for financial assistance to be subject to conditions, including conditions requiring —
  - (a) the recipient to be available for suitable employment in the Falkland Islands for a specified period of time after the conclusion of the education or training for which the assistance was provided; or
  - (b) the assistance to be repaid in full or in part, with or without the addition of interest.
- (5) Regulations may provide for the eligibility of persons for financial assistance, including criteria relating to —
  - (a) the person, including the person's age, educational attainments and the person's means;
  - (b) the education or training for which the financial assistance is requested; or
  - (c) the institution or location of the institution providing the education or training.
- (6) In this section, "**Falkland Islander**" means a person who has Falkland Islands status by virtue of section 22(5) of the Constitution.

## **PART 4 - Governance**

### *Board of Education*

#### **20. Establishment of Board of Education**

- (1) There is established a Board of Education ("**the Board**").
- (2) The members of the Board are the Director and not less than six eligible persons appointed by the Governor.
- (3) The eligible persons must include —



- (a) two persons nominated by the Legislative Assembly from among the elected members;
  - (b) two persons representing Government schools and Camp Education;
  - (c) one person representing Falkland College; and
  - (d) one person representing the business community.
- (4) When filling a vacancy arising in the membership of the Board for —
- (a) a person of a description in subsection (3)(b), the Governor must appoint an eligible person nominated by the committee established under section 25; or
  - (b) a person of a description in subsection (3)(c), the Governor must appoint an eligible person nominated by the committee established under section 29.
- (5) The Governor may appoint such other eligible persons to the Board as the Governor considers are likely to assist the Board in the discharge of its functions.
- (6) A member of the Board ceases to be a member on whichever is the earlier of the date on which—
- (a) in the case of a person of a description in subsection (3)(a), the person ceases to be an elected member of the Legislative Assembly;
  - (b) in the case of a person appointed under subsection (4), the relevant committee nominates another eligible person to replace a person appointed under subsection (4);
  - (c) in the case of any person of a description in subsection (3)(b) to (d) or subsection (5), the third anniversary of the person's appointment falls;
  - (d) the person is sentenced to a term of imprisonment;
  - (e) the Governor accepts the person's resignation as a member of the Board; or
  - (f) the person ceases to be an eligible person.
- (7) Nothing in subsection (6) prevents any person from being re-appointed as a member of the Board.
- (8) In this section “**an eligible person**” means a person who is eligible to be appointed as a member of the Board and a person is not eligible if —
- (a) the person's only or main employment is in any educational provision for which the Director is responsible or as a member of the staff of the Director;
  - (b) the person, not being a person nominated under subsection (3)(a), is an elected member of the Legislative Assembly; or
  - (c) the Governor, having made appropriate enquiries, determines that the person is not suitable to be a member of the Board.

## **21. Terms of reference of Board of Education**

- (1) The Director must not vote on any matter that is put to the vote at a meeting of the Board.
- (2) The Board must adopt terms of reference approved by the Governor to provide for —
  - (a) the appointment of a Chair, Vice-Chair and secretary;
  - (b) a member of the Board to represent the interests of Camp;
  - (c) quorum, voting and other matters relating to the proceedings of the Board, including attendance of members of the public and arrangements for convening meetings;
  - (d) establishment, membership terms of reference and proceedings of committees of the Board, including such further provision for committees established in accordance with sections 25 and 29 as may be necessary;
  - (e) the right of members to nominate deputies;
  - (f) agendas for and any papers to be considered at meetings and minutes of meetings;
  - (g) arrangements for publication of minutes of meetings and any other information; and
  - (h) travelling and other expenses reasonably and properly incurred by members of the Board in performance of, and incidental to, their duties.

## **22. Functions of Board of Education**

- (1) The Board must assist the Governor in the performance of the Governor's functions by providing such information and advice as the Governor may reasonably require about educational provision for which the Director is responsible and the exercise of the Director's functions.
- (2) The Board must advise the Director on the performance of the Director's functions, in particular on strategic planning of educational provision in the Falkland Islands, in response to a request by the Director or may do so on its own initiative.
- (3) For the purposes of this section, the Board must receive and consider, and may comment on, reports from the Director, the School Governance Committee and the College Advisory Committee.
- (4) The Board must, in the exercise of its functions, have regard to section 6.

## **23. Director's annual report to Board of Education**

- (1) To assist the Board in the performance of its functions, the Director must on or before 31 October in each academic year make a written report to the Board on —
  - (a) the exercise of the Director's functions, in particular the performance of Government schools, Camp Education, Falkland College, boarding arrangements and the national library service in the preceding academic year; and

- (b) such proposals or policies as the Director wishes to make or adopt in relation to the Director's functions for the purpose of improving educational provision in the Falkland Islands.

(2) As soon as reasonably practicable after the Board's consideration of the report, the Director must send it and the Board's comments and recommendations on it, if any, to the Governor.

#### **24. Director's duty to request and consider Board's advice**

(1) The Director must request the advice of the Board if required to do so by the Governor.

(2) The Director must consider any advice provided by the Board before exercising any function to which it relates and, if the Director decides not to act in accordance with the Board's advice, the Director must notify the Governor in writing, giving reasons for the decision and include that fact in the Director's annual report to the Board made under section 22(1).

(3) Save in a case where the Director must take urgent action, notice under subsection (2) must be given not less than 5 working days before acting on the decision and in any other case, notice must be given as soon as reasonably practicable, whether before or after urgent action is taken.

#### *School Governance Committee*

#### **25. Establishment of School Governance Committee**

(1) The Board must establish a committee for all Government schools, Camp Education and boarding arrangements ("**School Governance Committee**").

(2) Schedule 2 makes provision for the functions, constitution and terms of reference of the School Governance Committee.

#### **26. School leaders report to School Governance Committee**

(1) To assist the School Governance Committee in the performance of its functions, each school leader must undertake an assessment of the performance of the educational provision for which that school leader is responsible at least once in each academic year and provide a written report on the assessment to the Committee.

(2) As soon as reasonably practicable after the School Governance Committee has considered the report, the Chair of the Committee must send it and the Committee's comments and recommendations on it, if any, to the Board and the Director.

#### **27. Duty of school leaders to consider advice of School Governance Committee**

(1) School leaders must consider any advice provided by the School Governance Committee before taking any action to which it relates.

(2) In any case where the school leaders or any of them decide not to act in accordance with the advice of the School Governance Committee, the person making the decision in question must report that fact to the Director as soon as reasonably practicable together with the reasons for not acting in accordance with the advice and must inform the Committee at its next meeting.

## **28. Amendment of functions of School Governance Committee**

- (1) The Governor may by regulations remove functions relating to any educational provision from, or to add functions relating to any other educational provision to, the functions of the Committee and for that purpose may amend Schedule 2.
- (2) Before making regulations under subsection (1), the Governor must consult the Board and the Director.

### *College Advisory Committee*

## **29. Establishment of College Advisory Committee**

- (1) The Board must establish a committee for Falkland College (“**College Advisory Committee**”).
- (2) Schedule 3 makes provision for the functions, constitution and terms of reference of the College Advisory Committee.

## **30. College leaders report to College Advisory Committee**

- (1) To assist the College Advisory Committee in the performance of its functions, each college leader must undertake an assessment of the performance of the educational provision for which that college leader is responsible at least once in each academic year and provide a written report on the assessment to the Committee.
- (2) As soon as reasonably practicable after the College Advisory Committee has considered the report, the Chair of the Committee must send it and the Committee’s comments and recommendations on it, if any, to the Board and the Director.

## **31. Duty of college leaders to consider advice of College Advisory Committee**

- (1) College leaders must consider any advice provided by the College Advisory Committee before taking any action to which it relates.
- (2) In any case where college leaders or any of them decide not to act in accordance with the advice of the College Advisory Committee, the person making the decision in question must report that fact to the Director as soon as reasonably practicable together with the reasons for not acting in accordance the advice and must inform the Committee at its next meeting.

## **32. Amendment of functions of College Advisory Committee**

- (1) The Governor may, by regulations remove functions relating to any educational provision from, or add functions relating to any other educational provision to, the functions of the Committee and for that purpose may amend Schedule 3.
- (2) Before making regulations under subsection (1), the Governor must consult the Board and the Director.

## **PART 5 - Inspection of educational provision**

### **33. Timing and purpose of inspections**

- (1) The Director must ensure that Government schools, Camp Education, Falkland College and boarding arrangements are each inspected within four years of commencement of this Ordinance and thereafter at least once in every four academic years.
- (2) The purpose of inspection is to ensure that —
  - (a) educational provision made under this Ordinance is efficiently conducted and managed and achieves high standards of teaching and learning; and
  - (b) the welfare of children, young persons and vulnerable adults for whom the provision is made is safeguarded and promoted.

### **34. Appointment of inspectors**

The Director —

- (a) must appoint suitably qualified persons to carry out inspections under section 33 (“**inspectors**”) either generally or for a particular inspection; and
- (b) must not personally undertake inspections for the purposes of section 33.

### **35. Inspection of Government schools and Camp Education**

- (1) Subject to subsections (2) and (3), an inspector may, for the purposes of inspecting Government schools and Camp Education —
  - (a) enter and remain in any school classroom or other premises on which education for children of compulsory education age is provided;
  - (b) put or cause any teacher to put questions to pupils generally or to a particular pupil;
  - (c) observe the manner in which any teacher instructs any pupil or any particular pupil in any subject or part of a subject or, in relation to services provided under section 14(3), how any person delivering the service does so;
  - (d) require any pupil to demonstrate the pupil’s knowledge or skill in any subject in which the pupil is being or has been taught at the school;
  - (e) inspect any register or other records maintained by the school or Camp Education, as the case may be; or
  - (f) put or cause a school leader to put any question to parents of pupils generally.
- (2) An inspector must not require any pupil who is excused from attendance at religious instruction to do anything specifically related to religious instruction.

### **36. Inspection of Falkland College**

An inspector may, for the purposes of inspecting the College —

- (a) enter and remain in any teaching space, workshop or other part of the College used for teaching purposes or other premises on which education or training is provided by the College;
- (b) put or cause any lecturer, tutor or other instructor or person charged with delivering any service to a student to put questions to students generally or to a particular student;
- (c) observe the manner in which —
  - (i) any lecturer, tutor or other instructor instructs any student or any particular student in any subject or skill;
  - (ii) any person charged with delivering education and training within section 14(2)(b) and (c) to any student or group of students delivers that education and training;
- (d) require any student to demonstrate the student's knowledge or ability in any subject or skill in which the student is being or has been instructed at the College; and
- (e) inspect any register or other records maintained by the College.

### **37. Inspection of boarding arrangements**

An inspector may, for the purpose of inspecting boarding arrangements —

- (a) enter and remain in any part of premises in which boarding accommodation is provided;
- (b) put or cause any member of staff to put questions to children or young persons for whom boarding arrangements are made (“**boarders**”) generally or to a particular boarder;
- (c) observe the manner in which any persons providing accommodation or who care for boarders interact with those boarders;
- (d) inspect any register or other records maintained at the accommodation; or
- (e) put or cause a member of staff to put any question to parents of boarders generally.

### **38. Reports on inspections**

- (1) An inspector must, as soon as possible after concluding the inspection, provide a written report on it to the Director.
- (2) The Director must provide a copy of the report to the school or college leader responsible for the educational provision within two weeks of receiving it and advise the school or college leader (as the case may be) that any representations on the report must be made to the Director in writing within one month.
- (3) As soon as possible after the period mentioned in subsection (2) has expired, the Director must—

- (a) provide a copy of the report and any representations made by the relevant school or college leader to the Governor, the Board and —
    - (i) in the case of a report relating to a Government school, Camp Education or boarding arrangements, to the School Governance Committee; or
    - (ii) in the case of a report relating to the College, to the College Advisory Committee; and
  - (b) publish a summary of the inspection findings on the Government website.
- (4) The School Governance Committee or the College Advisory Committee, as the case may be, must within 8 weeks of receiving the report submit a plan setting out the action to be taken by the educational provision in question to address the findings of the inspector to the Board for approval.

### **39. Regulation of inspections**

The Governor may by regulations make further provision for inspections.

## **PART 6 - Educational provision not made by Government**

### *Independent schools*

### **40. Approval of independent schools**

- (1) It is unlawful for any person to provide education for a child or young person of compulsory education age at a school that is not either a Government school or a school that has been approved by the Director (“**an approved school**”).
- (2) A person who acts in contravention of subsection (1) commits an offence.

**Penalty:** A fine.

### **41. Regulation of independent schools**

The Governor may by regulations make such provision as is necessary or desirable for approved schools and in particular may provide for —

- (a) the form and content of any application for approval of a school and any fee payable for making an application;
- (b) criteria that may be applied for the purpose of determining whether an application for approval is eligible for consideration or not;
- (c) the matters that the Director must take into consideration in determining whether to approve a school;

- (d) the Director to give approval subject to conditions and for such conditions to apply to all approved schools, to approved schools of a specified type or class or to a particular approved school;
- (e) in the case of an approval that is subject to conditions, the conditions to be varied or waived by the Director;
- (f) if approval is refused, the applicant to apply to the Governor for a review of the Director's decision and the process for conducting a review;
- (g) the period for which approval of a school is valid;
- (h) the syllabus or curriculum to be provided at an approved school;
- (i) arrangements to be made for the health, safety and well-being of children attending the school including provision for medical care and treatment in case of illness or injury to the children;
- (j) inspection of approved schools;
- (k) financial assistance for approved schools;
- (l) the qualifications or other requirements that apply to persons employed or engaged to teach or provide instruction or tuition of any kind at an approved school; and
- (m) contravention of the regulations to be an offence.

*Home education etc.*

## **42. Approval of home education**

- (1) This section applies to home education.
- (2) Home education is not efficient education for the purposes of section 8(1) unless it has been approved as such by the Director.
- (3) The Director may approve home education for an unlimited or a specified period and in either case may impose conditions.
- (4) The Director may inspect, or may arrange for another appropriately qualified person to inspect, home education in order to satisfy the Director that the education is efficient.
- (5) The Director may withdraw approval of home education at any time on not less than seven days' notice in writing if the Director is not satisfied that it is efficient education.
- (6) A parent must provide such information about home education as the Director may reasonably require for the purposes of exercising the Director's functions under this section.
- (7) In this section, "**home education**" means education provided for a child of compulsory education age at home or by other means and does not include education provided at a school, through Camp Education or Falkland College.



# SCHEDULE 1 - AMENDMENTS TO EDUCATION ORDINANCE 1989 AND CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION

*section 3*

## Part 1 - Amendments to Education Ordinance 1989

Section	Amendment
2 (interpretation)	<p>(1) Replace the following definitions —</p> <p>(a) “academic year” with “<b>academic year</b>” has the meaning in section 57(1);”;</p> <p>(b) “Board” with “<b>Board</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;”;</p> <p>(c) “Camp Education Service” with “<b>Camp Education</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;”;</p> <p>(d) “compulsory education age” with “<b>compulsory education age</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;”;</p> <p>(e) “Government School” with “<b>Government school</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;” and</p> <p>(f) “parent” with “<b>parent</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;”.</p> <p>(2) Omit the definitions of “bursary”, “independent school”, “lower limit of compulsory education”, “recognized school”, “the Secretary”, “scholarship”, “Training Award”, “transition programme” and “upper age limit of compulsory education”.</p> <p>(3) In the definition of “Director” omit “created by section 3(1)”.</p>
22 (duty of parent to secure attendance of child who is registered pupil)	In subsection (2)(a), replace “section 19” with “section 8 of the Education (Governance and Accountability) Ordinance 2022”.
25 (school attendance orders)	<p>(1) In subsection (1), replace “section 19(1)” with “section 8 of the Education (Governance and Accountability) Ordinance 2022”.</p> <p>(2) After subsection (2) insert —</p> <p>“(2A) In subsection (2) a reference to attending school includes a reference to receiving Camp Education.”.</p> <p>(3) In subsection (3)(c), replace “there is available in respect of the child a place at a hostel maintained by the Government in relation to the</p>

	<p>school” with “suitable boarding arrangements have been made for the child”.</p> <p>(4) Omit subsection (4).</p>
28 (duty of parent of child enrolled with Camp Education Service)	<p>(1) In the heading, replace “enrolled with Camp Education Service” with “receiving Camp Education”.</p> <p>(2) Replace subsection (1) with —</p> <p>“(1) The parent of a child for whom Camp Education is provided must, so far as is reasonably practicable, ensure that the child diligently engages with such education except insofar as the child may be excused by reason of illness or other reasonable cause.”.</p>
31 (children with special educational needs)	<p>(1) In subsection (1), replace “section 29” with “section 10 of the Education (Governance and Accountability) Ordinance 2022”.</p> <p>(2) In subsection (2)(a), replace “any school provided and maintained under section 29(1) or 30(1)” with “Government school”.</p> <p>(3) Replace subsection (2)(b) with “make boarding arrangements for such children or contribute towards or pay the cost of accommodation for such children overseas; or”.</p>
32 (register of children with special educational needs)	<p>In subsection (2), replace “required by section 9(2)” with “under section 22 of the Education (Governance and Accountability) Ordinance 2022”.</p>
64 (general medical attention)	<p>(1) Replace subsection (1) with —</p> <p>“(1) This section applies to children for whom boarding arrangements are made.</p> <p>(1A) It is the duty of the school leader who is responsible for boarding arrangements to ensure that every child or young person for whom such arrangements are made receives such medical care as a prudent parent would ensure that child or young person received.”.</p> <p>(2) In subsection (2), replace “subsection (1)” with “subsection (1A)”.</p>

## Part 2 - Consequential amendments to other legislation

### *A – Primary legislation*

#### **1. Children Ordinance 2014, Schedules 2 (Crown support for children and families) and 3 (education supervision orders) amended**

(1) In Schedule 2, Part 2, paragraph 12(3) of the Children Ordinance 2014, replace “(see sections 17 and 57 of that Ordinance)” with “(see section 2 of that Ordinance)”.

(2) In Schedule 3, Part 3, paragraph 10(1) of the Children Ordinance 2014, replace “section 19” with “section 8 of Education (Governance and Accountability) Ordinance 2022”.

## **2. Children and Young Persons (Tobacco) Ordinance 2007, section 3 amended (interpretation)**

In section 3(1) of the Children and Young Persons (Tobacco) Ordinance 2007, replace the definition of “school premises” with —

“**school premises**” in relation to the Falkland Islands Community School, includes land adjoining the school premises and in particular, during the school day, the stand of trees and land in the vicinity of the Falkland Islands Community School commonly known as “The Forest”.”.

## **3. Crimes Ordinance 2014, section 222 amended (positions of trust)**

In section 222(2)(g) of the Crimes Ordinance 2014, replace “Education Ordinance” with “Education Ordinance 1989 or the Education (Governance and Accountability) Ordinance 2022”.

## **4. Employment of Women, Young Persons and Children Ordinance 1967, section 2 amended (interpretation)**

In section 2 of the Employment of Women, Young Persons and Children Ordinance 1967, replace the definition of “child” with —

“**child**” means a person who is under compulsory education age within the meaning of section 7 of the Education (Governance and Accountability) Ordinance 2022;”.

## **5. Matrimonial Causes Ordinance 1979, section 32 amended (duration of continuing financial provision orders in favour of children, and age limit on making certain orders in their favour)**

In section 32(2)(a) of the Matrimonial Causes Ordinance 1979, replace “Education Ordinance, section 17” with “Education (Governance and Accountability) Ordinance 2022”.

## **6. Minimum Wage Ordinance 2013, Schedule 2 amended ( “Eligible Work” – special cases)**

In Schedule 2, paragraph 5(a) (work experience) of the Minimum Wage Ordinance 2013, omit subparagraph (ii).

## **7. Sex Discrimination Ordinance 1998, section 19 amended (discrimination in respect of education)**

Replace section 19 of the Sex Discrimination Ordinance 1998 with —

### **“19. Discrimination in respect of education**

(1) This section applies to —

- (a) the Government in relation to a Government school or Falkland College; and
- (b) the proprietor in relation to an approved school or any other educational institution.

(2) It is unlawful in relation to a Government school, Falkland College, an approved school or any other education institution (“an educational institution”) in the Falkland Islands for a person to whom this section applies to discriminate against a person on grounds of their sex—

- (a) in the terms on which it offers to admit the person to the educational institution;
  - (b) by refusing or deliberately omitting to accept an application from the person for admission to the educational institution;
  - (c) in the way it affords any pupil or student (as the case may be) access to any benefits, facilities or services at the educational institution or by refusing or deliberately omitting to afford that person access to those benefits, facilities and services; or
  - (d) by excluding any pupil or student from the educational institution or subjecting a pupil or student to any other detriment.
- (3) Subsection (1) does not apply to any course in physical education.
- (4) In this section, “**Government school**” and “**approved school**” have the same meaning as in the Education (Governance and Accountability) Ordinance 2022.”.

### *B – Secondary legislation*

#### **8. Management of Health and Safety at Work Order 1998, article 1 amended (citation, commencement and interpretation)**

In article 1 of the Management of Health and Safety at Work Order 1998, in the definition of “child” replace “the upper limit of compulsory school age” with “compulsory education age”.

#### **9. Education Regulations 1989, Schedule amended**

In paragraph 1 of the Schedule to the Education Regulations 1989, omit subparagraph (3).

## **SCHEDULE 2 - SCHOOL GOVERNANCE COMMITTEE**

### *section 25*

1. The School Governance Committee must advise school leaders on the performance of their functions with a view to ensuring that —

- (a) school leaders adopt a strategic approach to the delivery of education and business planning;
- (b) the quality of education provided is of a high standard and the outcomes achieved for pupils are appropriate for their ages, abilities and aptitudes;
- (c) engagement with stakeholders including parents, pupils, staff and the wider community is consistent and effective;
- (d) policies and systems to ensure the safety and well-being of pupils attending Government schools, receiving Camp Education or using boarding arrangements are appropriate and

effectively implemented, the impact of those policies and systems is monitored and the policies and systems are regularly reviewed; and

- (e) all available resources are used efficiently and effectively to support the strategic objectives of school leaders.

2. The School Governance Committee may provide advice on any matter within its remit to the Board, the Director or school leaders (as the case may be) in response to a request from that person or on its own initiative.

3. The School Governance Committee must consist of not more than ten persons appointed by the Board (“**School Governors**”), including —

- (a) not more than three persons who are parents of pupils at a Government school that is a primary school;
- (b) not more than three persons who are parents of pupils at a Government school that is a secondary school;
- (c) not more than two persons who work in a Government school or Camp Education, not being a school leader; and
- (d) not more than two other persons.

4. A School Governor ceases to be a School Governor on whichever is the earlier of the date on which—

- (a) the third anniversary of the person’s appointment falls;
- (b) in the case of a person of a description in paragraph 3(a) or (b), the person ceases to be the parent of a pupil at a primary school or a secondary school, as the case may be;
- (c) in the case of a person a description in paragraph 3(c), the person ceases to be employed to work in a Government school or Camp Education;
- (d) the person is sentenced to a term of imprisonment;
- (e) the person resigns as a School Governor in writing to the Director of Education; or
- (f) the Governor, having made appropriate enquiries, determines that the person is not suitable to be a School Governor.

5. Nothing in paragraph 4 prevents any person being re-appointed as a School Governor.

6. The Director and school leaders may attend and speak at any meeting of the School Governance Committee.

7. Subject to the approval of the Board, the School Governance Committee must adopt terms of reference.

8. The terms of reference must provide for —

- (a) the appointment of a Chair, Vice-Chair and Secretary;
- (b) the nomination of two of their number to be members of the Board;
- (c) the arrangements for convening meetings, quorum, voting and other matters relating to the proceedings of the School Governance Committee;
- (d) the establishment, membership and proceedings of a sub-committee for each Government school and any other sub-committee;
- (e) the remit of one of the sub-committees to include Camp Education and boarding arrangements;
- (f) the preparation and circulation of agendas for, and any papers to be considered at, meetings and minutes of meetings;
- (g) arrangements for publication of minutes of meetings; and
- (h) travelling and other expenses reasonably and properly incurred by School Governors in performance of, and incidental to, their duties.

9. In this Schedule —

**“primary school”** means a school wholly or mainly for children of compulsory education age who have not attained the age of 11 years; and

**“secondary school”** means a school wholly or mainly for children and young persons of compulsory education age who are aged 11 years or older.

### **SCHEDULE 3 - COLLEGE ADVISORY COMMITTEE**

*section 29*

1. The College Advisory Committee must advise college leaders on the performance of their functions with a view to ensuring that —

- (a) college leaders adopt a strategic approach to the delivery of education and training for students at Falkland College and business planning;
- (b) the quality of education, training and other services provided by Falkland College is of a high standard and outcomes for students meet their needs and the economic and social needs of the Falkland Islands;
- (c) engagement with stakeholders including students, staff and the wider community is consistent and effective;
- (d) policies and systems to ensure the safety and well-being of students are appropriate and effectively implemented, the impact of those policies and systems is monitored and the policies and systems are regularly reviewed; and

- (e) the resources available for Falkland College are used efficiently and effectively to support the purposes for which Falkland College was established.
2. The College Advisory Committee may provide advice on any matter within its remit to the Board, the Director or college leaders (as the case may be) in response to a request from that person or on its own initiative.
3. The College Advisory Committee must consist of —
- (a) the Director *ex officio* and designated college leaders;
  - (b) the elected member of the Legislative Assembly who is the portfolio holder for education; and
  - (c) not less than four additional persons appointed by the Board to include —
    - (i) not less than one person who is a student at Falkland College;
    - (ii) not less than one person who works at Falkland College and is not a college leader; and
    - (iii) a person representing the business community.
4. A member of the College Advisory Committee ceases to be a member on whichever is the earlier of the date on which —
- (a) the third anniversary of the person's appointment falls;
  - (b) in the case of a person of a description in paragraph 3(c)(i), the person ceases to be a student at Falkland College;
  - (c) in the case of a person of a description in paragraph 3(c)(ii), the person ceases to work at Falkland College;
  - (d) the person is sentenced to a term of imprisonment;
  - (e) the person resigns as a member of the College Advisory Committee in writing to the Director of Education; or
  - (f) the Governor, having made appropriate enquiries, determines that the person is not suitable to be a member of the College Advisory Committee.
5. Nothing in paragraph 4 prevents any person being re-appointed as a member of the College Advisory Committee.
6. The Director and college leaders must not vote on any matter that is put to the vote at a meeting of the Committee.
7. Subject to the approval of the Board, the College Advisory Committee must adopt terms of reference.

8. The terms of reference may make further provision for —

- (a) the appointment of persons to the College Advisory Committee including requirements for a person appointed under paragraph 3(c)(i) and (ii) to be a person nominated by students at Falkland College or persons employed to work at the College;
- (b) the appointment of a Chair, Vice-Chair and Secretary;
- (c) the arrangements for convening meetings, quorum, voting and other matters relating to the proceedings of the College Advisory Committee;
- (d) the establishment, membership and proceedings of sub-committees;
- (e) the nomination of a member of the College Advisory Committee to the Board;
- (f) the preparation and circulation of agendas for, and any papers to be considered at, meetings and minutes of meetings;
- (g) arrangements for publication of minutes of meetings; and
- (h) travelling and other expenses reasonably and properly incurred by members of the College Advisory Committee in performance of, and incidental to, their duties.

Passed by the Legislature of the Falkland Islands on 31 March 2022.

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

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

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*



**ELIZABETH II**



**FALKLAND ISLANDS**

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NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

**Animals and Livestock (Amendment) Ordinance 2022**

**(ORDINANCE No. 7 OF 2022)**

**ARRANGEMENT OF PROVISIONS**

Section

**PART 1 - Introduction**

1. Title
2. Commencement

**PART 2 - Amendments to Animals (Welfare and Protection) Ordinance 2016**

3. Animals (Welfare and Protection) Ordinance 2016 amended
4. Section 55 replaced - Codes of Practice

**PART 3 - Amendments to Livestock and Meat Products Ordinance 2010**

5. Livestock and Meat Products Ordinance 2010 amended
6. Section 3 amended - Interpretation
7. Section 4 - Power to make regulations

**PART 4 - Miscellaneous amendments to Regulations**

8. Livestock and Meat Products (Welfare of Livestock) Regulations 2011 amended
9. Livestock and Meat Products (Hygiene) Regulations 2015 amended
10. Livestock and Meat Products (TSE Control) Regulations 2015 amended
11. Livestock and Meat Products (Veterinary Medicinal Products) Regulations 2015 amended

# ELIZABETH II



## FALKLAND ISLANDS

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NIGEL JAMES PHILLIPS C.B.E.,  
*Governor.*

### **Animals and Livestock (Amendment) Ordinance 2022**

(assented to: 20 April 2022)  
(commencement: on publication)  
(published: 3 May 2022)

#### AN ORDINANCE

To amend the procedure for issuing and revising animal welfare codes of practice; to amend the Livestock and Meat Products Ordinance and subsidiary legislation made under it; and for connected purposes.

ENACTED by the Legislature of the Falkland Islands —

#### **PART 1 - Introduction**

##### **1. Title**

This Ordinance is the Animals and Livestock (Amendment) Ordinance 2022.

##### **2. Commencement**

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

#### **PART 2 - Amendments to Animals (Welfare and Protection) Ordinance 2016**

##### **3. Animals (Welfare and Protection) Ordinance 2016 amended**

This Part amends the Animals (Welfare and Protection) Ordinance 2016.

#### 4. Section 55 replaced – Codes of Practice

Replace section 55 with —

##### “55. Codes of Practice

(1) The Senior Veterinary Officer may issue (and from time to time revise) one or more codes of practice for the purpose of providing practical guidance in respect of provision made by (or under) this Ordinance.

(2) A code of practice may include practical guidance relating to provision for the welfare of animals made by (or under) the Livestock and Meat Products Ordinance 2010.

(3) Codes of practice that were in force immediately before the relevant date continue to have effect until they are revised or replaced.

(4) If the Senior Veterinary Officer proposes to issue or revise a code of practice, the Senior Veterinary Officer must publish a draft of the code for public consultation (“**a consultation**”), specifying —

- (a) whether it is a new code or a replacement for an existing one;
- (b) the purpose of the new or revised code;
- (c) in the case of a revised code, information about changes from the code being revised;
- (d) the date on which it is proposed that the new or revised code is to come into force; and
- (e) how (and by when) representations may be made to be considered as part of the consultation.

(5) The Senior Veterinary Officer may rely for the purposes of this section on a consultation that takes place before the relevant date.

(6) Following consultation, the Senior Veterinary Officer may issue the new or revised code, either in the form of the draft or amended as the Senior Veterinary Officer thinks fit.

(7) A new or revised code comes into force on a date specified in a notice issued by the Senior Veterinary Officer and published in the *Gazette*.

(8) The Senior Veterinary Officer must publish the codes.

(9) In proceedings against a person for an offence to which a code of practice is relevant, the court must take into consideration evidence as to the extent to which that person has (or has not) complied with that code.

(10) In this section, “**the relevant date**” is the date on which section 4 of the Animals and Livestock (Amendment) Ordinance 2022 comes into force.”.

## **PART 3 - Amendments to Livestock and Meat Products Ordinance 2010**

### **5. Livestock and Meat Products Ordinance 2010 amended**

This Part amends the Livestock and Meat Products Ordinance 2010.

### **6. Section 3 amended – Interpretation**

In section 3(1) —

- (a) replace the definition of “livestock” with —

““**livestock**” means —

- (a) an animal that is kept, fattened or bred for the production of food, wool, fur, feathers, hides and skins or any other product obtained from that animal;
- (b) an animal that is kept for other farming purposes; or
- (c) an animal that is not being kept for farming purposes but that is of a kind normally kept for such purposes.”; and

- (b) replace subparagraph (iv) of the definition of “UK legislation” with —

“(iv) an Act or Measure of the National Assembly for Wales or an Act of Senedd Cymru; and”.

### **7. Section 4 – Power to make regulations**

In section 4 —

- (a) replace subsection (2) with —

“(2) The powers in subsection (1) are to be used for one or more of the following purposes—

- (a) the health and welfare of livestock;
- (b) the safety and quality of livestock feed and meat;
- (c) effects of the production of livestock and meat on human health or the environment;
- (d) compliance with legal or other requirements applied in other countries to which livestock or meat are exported from the Falkland Islands.”; and

- (b) repeal subsection (3).

## **PART 4 – Miscellaneous amendments to Regulations**

### **8. Livestock and Meat Products (Welfare of Livestock) Regulations 2011 amended**

(1) This section amends the Livestock and Meat Products (Welfare of Livestock) Regulations 2011.

(2) In regulation 3 —

(a) replace the definition of “code of practice” with —

“**code of practice**” means a code of practice issued (or having continued effect) under section 55 of the Animals (Welfare and Protection) Ordinance 2016;”;

(b) omit the definition of “livestock”; and

(c) replace the definition of “Senior Veterinary Officer” with —

“**Senior Veterinary Officer**” means the person performing the duties of the senior veterinary officer of the Government;”.

(3) Revoke regulation 4.

(4) Omit regulation 8(3).

### **9. Livestock and Meat Products (Hygiene) Regulations 2015 amended**

(1) This section amends the Livestock and Meat Products (Hygiene) Regulations 2015.

(2) Renumber regulation 3(1) as regulation 3 and omit the definition of “livestock”.

(3) In regulation 4(1) —

(a) at the end of subparagraph (a), omit “or”;

(b) at the end of subparagraph (b), replace the full stop with “; or”; and

(c) after subparagraph (b), insert —

“(c) the supply by a person who keeps reindeer on a farm that are slaughtered or killed there but do not otherwise undergo husbandry procedures of small quantities of fresh meat from those reindeer in the form of carcasses, parts of carcasses or joints of meat.”.

(4) Replace regulation 4(2) with —

“(2) The competent authority may publish guidance on good hygiene practice for the control of hazards in the production of meat (and associated operations) to which paragraph (1)(b) or (c) applies.”.

### **10. Livestock and Meat Products (TSE Control) Regulations 2015 amended**

(1) This section amends the Livestock and Meat Products (TSE Control) Regulations 2015.

(2) In regulation 3(1) omit the definition of “livestock”.

**11. Livestock and Meat Products (Veterinary Medicinal Products) Regulations 2015 amended**

(1) This section amends the Livestock and Meat Products (Veterinary Medicinal Products) Regulations 2015.

(2) In regulation 2 omit the definition of “livestock”.

Passed by the Legislature of the Falkland Islands on 31 March 2022.

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

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

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

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