



FALKLAND ISLANDS GAZETTE

Supplement

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The following are published in this Supplement —

Falkland Islands Pensions Scheme (Amendment) Bill 2022;

Fisheries (Individual Transferable Quota Fees) Regulations 2022 (SR&O No 23 of 2022);

Fisheries (Conservation and Management) (Schedule 2 Amendment) Order 2022 (SR&O No 24 of 2022);

Fishing, Trans-shipment and Export (Licence Fees etc) Regulations 2022 (SR&O No 25 of 2022);

Taxes (Amendment) Bill 2022; and

Road Traffic (Amendment) Ordinance 2022 (No 18 of 2022).

Falkland Islands Pensions Scheme (Amendment) Bill 2022

(ORDINANCE No. OF 2022)

ARRANGEMENT OF PROVISIONS

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**PART 2 - AMENDMENT OF FALKLAND ISLANDS PENSIONS SCHEME
ORDINANCE 1997**

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Falkland Islands Pensions Scheme (Amendment) Bill 2022

(assented to: 2022)
(commencement: 1 January 2023)
(published: 2022)

A BILL

for

AN ORDINANCE

To amend the Falkland Islands Pensions Scheme Ordinance 1997, to make consequential amendments to the Taxes Ordinance 1997 and to provide for connected matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 - INTRODUCTORY

1. Title

This Ordinance is the Falkland Islands Pensions Scheme (Amendment) Ordinance 2022.

2. Commencement

This Ordinance comes into force on 1 January 2023.

PART 2 - AMENDMENT OF FALKLAND ISLANDS PENSIONS SCHEME ORDINANCE 1997

3. Amendment of Falkland Islands Pensions Scheme Ordinance 1997

This Part amends the Falkland Islands Pensions Scheme Ordinance 1997 (“**the Ordinance**”).

4. Section 2 amended – (interpretation)

In section 2, insert the following definitions in the correct alphabetical order —

“**drawdown**” has the meaning given in section 28(1)(c);

“**lump sum**” has the meaning given in section 28(1)(a);”.

5. Section 17 amended (membership of the Scheme)

In section 17(9)(b), after “rejoining” insert “provided in this Ordinance or”.

6. Section 28 amended (benefits which must be provided under the Scheme)

In section 28 —

(a) replace subsection (1) with —

“(1) When a member of the Scheme retires they are entitled to any of the following benefits if they so elect —

- (a) to receive a sum as may be specified in the election, which must not exceed one quarter of the accrued value of their individual account as at the date of retirement (“**a lump sum**”) and enter into a qualifying annuity contract with an approved pension provider with the balance of the account;
- (b) to enter into a qualifying annuity contract with an approved pension provider in consideration of the payment of a sum equal to the accrued value of their individual account as at the date of their retirement; or
- (c) to withdraw the accrued value of their individual account in accordance with section 28A (“**drawdown**”) either as a single payment or in such amounts as may be specified by the member, provided that the first payment is not less than one quarter of the accrued value of their individual account as at the date of retirement.

(b) omit subsection (3A);

(c) replace subsection (4) with —

“(4) A member may elect to defer the payment of the lump sum, the purchase of the annuity or drawdown, for such period as specified in the election, provided the election is made on or before the member’s 75th birthday.”;

(d) in subsection (4A), after “subsection (1)” omit “(a)”;

(e) after subsection (4A) insert —

“(4AA) If a member has not made an election by their 75th birthday to receive a benefit in accordance with subsection (1), the Board must disinvest the accrued value of the individual account of that member.

(4AAA) The Board must transfer the amount disinvested under subsection (4AA) out of the Scheme Fund to the Financial Secretary who must pay the amount into the Old Scheme Fund.”;

(f) in subsection (8) —

- (i) replace the semi colon at the end of paragraph (b) with a full stop; and
- (ii) omit from “and the member” to the end of that subsection;

(g) after subsection (8) insert —

“(8A) (1) Where a member elects under subsection (4) to defer drawdown the amount deferred is the accrued value of the member’s individual account as at the date of that member’s retirement, but —

- (a) the member’s individual account continues until the deferral date;
- (b) the amount available for drawdown on the deferral date is an amount equal to the accrued value of the member’s individual account at that date; and
- (c) the member must withdraw the first amount for payment on the earliest date determined under section 28A(4) after the deferral date.

(2) The “**earliest date**” for purposes of subsection (1)(c) is the first date when drawdown is payable, taking into account the notice period that a member must give.”;

- (h) omit subsection (9);
- (i) in subsection (10), replace “subsection (3A), (8) or (9)” with “this section”; and
- (j) in subsection (11), replace “subsections (6) to (9)” with “subsections (6) to (8A)”.

7. New section 28A

After section 28, insert —

“28A. Drawdown of pension funds

- (1) This section applies where a member elects to drawdown.
- (2) A member may withdraw a sum equal to the accrued value of their individual account or a sum of not less than £5,000, and after the first withdrawal, may elect not to make a withdrawal in any subsequent year.
- (3) A member must withdraw the whole amount where the accrued value of their individual account amount is £5,000 or less.
- (4) A member may withdraw a sum once a year on a date which the Board must determine.
- (5) The Board must notify members of the date determined under subsection (4) at least 90 days before that date.
- (6) A member must give notice to the Board of their intention to withdraw a sum and the amount they wish to withdraw at least 60 days before the date determined under subsection (4).
- (7) A member may at any time elect to enter into an annuity contract with the balance in the accrued value of their individual account but once an annuity has been purchased, the member may not revert to the drawdown option.
- (8) A person to whom this section applies may only rejoin the Scheme in January of the year subsequent to ceasing to be a member.”.

8. Section 39 amended (information and records required for purposes of Ordinance)

In subsection (1)(a) —

- (a) in paragraph (i), replace “, and” with a semi-colon;
- (b) after subparagraph (i) insert —

“(ia) employers whose past or current employees were or are members of the Scheme; and”.

9. Further amendments

The provisions of the Ordinance in the first column of the Schedule are amended to the extent set out in the second column.

PART 3 - AMENDMENT OF TAXES ORDINANCE 1997

10. Amendment of Taxes Ordinance 1997

This Part amends the Taxes Ordinance 1997.

11. Section 74 amended (commutation of pension)

In section 74 —

- (a) replace subsection (1) with —

“(1) Where a retirement benefits scheme which is or has at any time been an approved scheme contains a rule allowing —

- (a) a single payment in commutation of the whole or part of the accrued value of an employee’s pension, and any pension is commuted, under the rule, income tax is charged on the amount by which the sum receivable exceeds one quarter of the accrued value of the pension entitlement at the time the payment is made; or
- (b) a payment in commutation of the whole or part of the accrued value of an employee’s pension by instalments, and any pension is commuted, under the rule, the first instalment up to a maximum of one quarter of the total accrued value of the pension entitlement is not chargeable to income tax but to the extent that any amount withdrawn in the first or subsequent instalments exceeds in total one quarter of the accrued value of the pension entitlement, the payment is chargeable to income tax at the time the payment is made.

(1A) Sections 89 (payments on account of tax: application) and 90 (repayment of sums deducted) apply to any sums deducted in accordance with this section.”; and

- (b) in subsection (2B) —

- (i) omit “not”; and
- (ii) replace “any other provision of this Ordinance” with “section 8(f)”.

PART 4 - TRANSITIONAL PROVISION

12. Transitional provision

(1) In this section —

“**Board**” means the Pensions Board constituted in accordance with section 5 of the Ordinance;

“**capitalised account value**” means the fund value of an individual who is in receipt of a benefit claimed under section 28(1)(b) of the Ordinance for converting a monthly pension to a lump sum;

“**Ordinance**” means the Falkland Islands Pensions Scheme Ordinance 1997.

(2) This section applies to an individual who is in receipt of a monthly pension, where the capitalised account value of the pension is £40,000 or less.

(3) On or before 1 August 2023 an individual may elect to withdraw a sum equal to the capitalised account value by giving notice to the Board.

(4) A claim under this section is available only once to individuals and the sum withdrawn is payable in September 2023.

SCHEDULE - Further amendments

(section 9)

Provision	Amendment
Section 3	1. Replace “64 years” with “65 years”. 2. Omit the numbering (1).
Section 14	In subsection (1) — (a) replace the full stop at the end of paragraph (d) with “; or”; (b) insert the following after paragraph (d) — “(e) a member of the Scheme.”
Section 26	In subsections (1) and (2) replace “2 years” in each place it occurs with “4 years”.
Section 32	In subsection (1)(a) after “payable” insert “or is fully paid” and omit “and”.
Section 32A	In subsection (3) —

	<p>(a) replace “this Part of the Ordinance shall apply” with “this Chapter applies”; and</p> <p>(b) in paragraph (a), replace “subsections (3), (4) to (9) and (11)” with “subsections (3), (4) to (8A) and (11)”.</p>
Section 33	<p>In subsection (1) —</p> <p>(a) after “17(2)(a)”, insert “or 17(2)(ba)”;</p> <p>(b) replace “64 years” with “75 years”.</p>
Section 33A	<ol style="list-style-type: none"> 1. In subsection (1), after “17(2)(a)” insert “or 17(2)(ba)”. 2. In subsection (5)(a) replace “this Part” with “this Chapter”. 3. In subsection (8) — <ul style="list-style-type: none"> (a) in the introductory words, replace “this Part” with “this Chapter”; and (b) in paragraph (a), replace “subsections (3), (4) to (9) and (11)” with “subsections (3) to (8A) and (11)”.
Section 33B	<p>In subsection (2) replace —</p> <p>(a) “apples” with “applies”; and</p> <p>(b) “this Part” with “this Chapter”.</p>
Section 35	<p>In subsection (3)(b)(ii) replace “m the aggregate” with “in aggregate”.</p>
Part 4A	<p>Replace the heading to “Part 4A” with “Chapter IVA - Pension Sharing”.</p>
Schedule 1	<p>In paragraph 7(1), replace “5(2)(d)” with “5(2)(a)”.</p>
Schedule 2	<p>After paragraph 1(1) insert —</p> <p>“(1A)The Board has the power to disinvest the accrued value of the individual account of a member under section 28(4AA).”.</p>

OBJECTS AND REASONS

This Bill amends the Falkland Islands Pensions Scheme Ordinance 1997 (“the Ordinance”).

The main purpose of the amendment is to add the option for members to drawdown their pension on retirement. Currently on retirement a member may enter into a qualifying annuity contract with all their funds. Alternatively a member may opt to receive a sum not exceeding 25% lump sum and enter into a qualifying annuity contract with the balance.

Drawdown will allow members to withdraw the full amount in their accrued individual account or withdraw not less than £5,000 provided the initial withdrawal is not less than 25%. The whole amount must be withdrawn if the accrued value of the individual account is £5,000 or less. A member may opt not to withdraw from their account in any year. Notice of withdrawal and the amount to be withdrawn must be given to the Board. Payment for drawdown is available once a year and the Board must determine a date when it is payable and advise members of the date at least 90 days before.

In the transition an individual whose capitalised account value is £40,000 or less has a single chance to withdraw the whole amount. The amount withdrawn is payable in September 2023.

In more detail, the clauses in the Bill provide as follows:

Part 1 contains introductory matters which include the commencement date set at 1 January 2023.

Part 2 effects amendments to the Ordinance.

Clause 4 inserts the definitions of “drawdown” and “lump sum” in section 2. Drawdown is withdrawal of a sum from the accrues value of an individual account referred to in section 28(1)(c). The term “lump sum” is used extensively in the Ordinance and it refers to the lump sum benefit (25% of accrued value of individual account) that a member may elect to be paid under section 28(1)(a).

Clause 5 amends section 17(9) to clarify that a member rejoins the Scheme in accordance with the Ordinance.

Clause 6 amends section 28 (benefits which must be provided under the Scheme). Drawdown is added as one of the benefits on retirement under section 28(1) which a member may elect. A member may elect one of three options on retirement in respect of their accrued value of their individual account. A member may elect to receive a lump sum of up to 25%, and enter into a qualifying annuity contract with the balance; elect to enter into a qualifying annuity contract in consideration of a sum equal to the accrued value of their individual account; or elect to drawdown and withdraw either 100% or withdraw amounts as specified by the member provided the initial withdrawal is not less than 25%. Details of drawdown are set out in the new section 28A.

A member may defer an election of any of the options under section 28(1) up to their 75th birthday. A member who has opted for drawdown must withdraw the initial amount on the earliest date determined under section 28A(4) after the deferral date. The Board must disinvest the funds of a member who fails to make an election by their 75th birthday (section 28(4AA)). The disinvested

funds are transferred to the Financial Secretary who in turn must pay the money into the Old Scheme Fund (section 28(4AAA)).

Clause 7 inserts new section 28A in the Ordinance. Section 28A provides the details of drawdown. A member may withdraw the whole amount accrued in their individual account or withdraw an amount of not less than £5,000 per withdrawal provided the initial withdrawal is not less than 25% of the accrued value of the member's individual account. If the amount in the account is £5,000 or less, the member must withdraw the whole amount.

The withdrawal is payable once a year on a date that the Board must determine and notify members at least 90 days before. A member must notify the Board at least 60 days before the date of payment determined by the Board of their intention to withdraw and the sum to be withdrawn. A member may at any time change from drawdown to enter into a qualifying annuity contract with the balance in the accrued value of their individual account. However, once an annuity contract has been entered into, a member is barred from reverting to drawdown. A member who elects drawdown may only rejoin the Scheme in January of the year subsequent to ceasing to be a member.

Clause 8 amends section 39 in order to allow regulations to be made which will enable the Board to request previous employers to supply information about employees who are members or were members of the Scheme. The Board requires historic information for purposes of calculating benefits payable on grounds of ill health, disablement, death or severe illness and benefits under Schedule 3 (persons in government service on 1 January 1997).

Clause 9 provides for further amendments set out in the Schedule. Some of the significant changes are as follows:

(a) amendment to section 3 (meaning of normal retirement age), to change the normal retirement age from 64 to 65. This gives effect to an Executive Council (Exco) decision to increase retirement age by 1 year every 10 years, from 1 January 2020;

(b) section 26 (refund of contributions in certain cases) is amended to revise the period that a person must be employed before getting a refund from "less than 2 years" to "less than 4 years". The period was set to align with the maximum term of a work permit which has since been increased to 4 years. The amendment aligns section 26 with the changes to immigration permits;

(c) section 32 (death before becoming entitled to pension, and severe illness at retirement) is amended to extend its application to a member who dies after partial drawdown;

(d) section 33 (benefits payable on death) is amended to extend the death in service benefit to Members of Legislative Assembly ("MLAs"). Another amendment to cover MLAs is made to section 33A (early retirement on grounds of ill-health or disablement: benefits for FIG employees);

(e) Schedule 1 (the Pensions Board) corrects members who constitute quorum of the Board. The member appointed under section 5(2)(d) (representative of employers) is replaced with a member appointed under section 5(2)(a), (person with appropriate knowledge and experience on investment matters);

(f) Schedule 2 (functions of the Pensions Board) is amended to give power to the Board to disinvest a member's accrued value of their individual account in accordance with section 28(4AA);

(g) minor amendments are made to sections 33B, 35, Part 4A.

Part 3 makes consequential amendments to section 74 (commutation of pension) of the Taxes Ordinance 1997. The amendment mainly provides that 25% of a persons commuted pension is free of tax and the balance is treated as income for purposes of section 8(f). Further, sections 89 and 90 will apply to sums deducted under section 74. The effect of this is that the Falkland Islands Government Tax Office ("FIGTO") is given the right to include in assessments any tax deducted to reduce liability and in the case of an overpayment, FIGTO must refund the excess (*clause 11*).

Part 4 contains a transitional provision which applies to those individuals who previously entered into a qualifying annuity contract under section 28 of the Ordinance before commencement of the Falkland Islands Pension Scheme (Amendment) Ordinance 2022 (*clause 12*). Individuals with a capitalised account value of £40,000 or less may elect to receive the whole amount as one payment.

In 2018 section 28 of the Ordinance was amended to allow a member whose accrued value of their individual account was £40,000 or less to withdraw the whole amount. The amendments are revoked and the transitional provision gives those individuals who did not take advantage of the change in 2018 a single opportunity to access their fund. Individuals who qualify and elect to access their fund in this way will receive payment in September 2023. The individual concerned must give notice of their intention to withdraw by August 2023.

SUBSIDIARY LEGISLATION

Fisheries (Individual Transferable Quota Fees) Regulations 2022

(No. 23 OF 2022)

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement and term
3. Fees and Payment Schedule
 - Schedule 1 - Fishery fees
 - Schedule 2 - Payment schedule

SUBSIDIARY LEGISLATION

Fisheries (Individual Transferable Quota Fees) Regulations 2022

(made: 8 November 2022)

(commencement: 1 January 2023)

(published: 9 November 2022)

I make the following regulations under sections 35 and 223 of the Fisheries (Conservation and Management) Ordinance 2005 on the advice of Executive Council.

1. Title

These regulations are the Fisheries (Individual Transferable Quota Fees) Regulations 2022.

2. Commencement and term

These regulations come into force on 1 January 2023 and cease to have effect on 31 December 2023.

3. Fees and Payment Schedule

(1) The fees set out in Schedule 1 are the total of the fees payable in 2023 for the entire Individual Transferable Quota granted for the specified fisheries.

(2) The fees payable by each company holding Individual Transferable Quota in a fishery are calculated by reference to the proportion of Individual Transferable Quota held by that company bears of the total Individual Transferable Quota for the fishery.

(3) A company must pay the applicable fees in accordance with the payment schedule in Schedule 2.

SCHEDULE 1 - FISHERY FEES

(regulation 3(1))

Description of Fishery	Licence Code	Fees (£)
Finfish	A	2,145,683
Squid (Summer)	C	4,061,676
Skate	F	142,342
Squid and Restricted Finfish	G	735,049

Restricted Finfish - Pelagic	S	60,419
Restricted Finfish	W	224,552
Toothfish - Longline	L	1,538,224
Squid (Winter)	X	7,761,268

SCHEDULE 2 - PAYMENT SCHEDULE

(regulation 3(3))

Description of Fishery	Licence Code	Payment Schedule	Proportion of fee payable on or before each date
Finfish	A	31 March, 30 June, 30 September, and 17 December	A quarter
Squid (Summer)	C	30 June	Full amount
Skate	F	31 March, 30 June, 30 September, and 17 December	A quarter
Squid and Restricted Finfish	G	31 March and 30 June	Half
Restricted Finfish - Pelagic	S	30 September and 17 December	Half
Restricted Finfish	W	30 June and 17 December	Half
Toothfish - Longline	L	Monthly (beginning of each month)	One twelfth
Squid (Winter)	X	17 December	Full amount

Made 8 November 2022

A. M. BLAKE C.M.G.,
Governor.

EXPLANATORY NOTE
(not forming part of these Regulations)

The Regulations are made annually under sections 35 and 223 of the Fisheries (Conservation and Management) Ordinance 2005.

The regulations provide for the total fees payable for access to fisheries under the Individual Transferable Quota regime in 2023 (*Schedule 1*). The fisheries are operated on an annual basis. A company which has been granted Individual Transferable Quota pays fees calculated by reference to the proportion of their grant of the total Individual Transferable Quota (*regulation 3(2)*). Schedule 2 sets out the payment schedule for the fees relating to the individual fisheries (*regulation 3(3)*).

SUBSIDIARY LEGISLATION

Fisheries (Conservation and Management) (Schedule 2 Amendment) Order 2022

(No. 24 OF 2022)

ARRANGEMENT OF PROVISIONS

Article

1. Title
2. Commencement
3. Change of dates within which certain fisheries operate

SUBSIDIARY LEGISLATION

Fisheries (Conservation and Management) (Schedule 2 Amendment) Order 2022

(made: 8 November 2022)

(commencement: 1 January 2023)

(published: 9 November 2022)

I make the following order under section 16 of the Fisheries (Conservation and Management) Ordinance 2005 on consideration of a recommendation by the Director after the Director consulted the Committee and on the advice of Executive Council.

1. Title

This Order is the Fisheries (Conservation and Management) (Schedule 2 Amendment) Order 2022.

2. Commencement

This Order comes into force on 1 January 2023.

3. Change of dates within which certain fisheries operate

Schedule 2 to the Fisheries (Conservation and Management) Ordinance is replaced with —

“SCHEDULE 2 FISHERIES

(section 16)

Description of Fishery	Valid species	Dates within which fishery operates	Provisional Quota permitted to be granted	Licence Code
Finfish	All finfish species except Skate (<i>Rajidae</i>) and Toothfish (<i>Dissostichus eleginoides</i>)	All year	YES	A
Scallops	(<i>Zygochlamys patagonica</i>)	All year	YES	
Squid - JIG or Trawl	(<i>Illex argentinus</i>) and (<i>Martialia hyadesi</i>)	1 February - 15 June	YES	B
Squid (Summer)	Falkland Calamari (<i>Doryteuthis gahi</i>)	26 February - 30 April	NO	C
Skate	All species of Skate (<i>Rajidae</i>)	All year	YES	F
Squid and Restricted Finfish	(<i>Illex argentinus</i>), (<i>Martialia hyadesi</i>), all Finfish species except Hake (<i>Merluccius spp.</i>), Skate (<i>Rajidae</i>) and Toothfish (<i>Dissostichus eleginoides</i>)	1 February - 31 May	YES	G

Restricted Finfish - Pelagic	Southern Blue Whiting (<i>Micromesistius australis</i>) and Hoki (<i>Macruronus magellanicus</i>)	All year	YES	S
Restricted Finfish	All finfish species except Hake (<i>Merluccius spp.</i>) Skate (<i>Rajidae</i>) and Toothfish (<i>Dissostichus eleginoides</i>)	1 January - 31 March and 1 October - 31 December	YES	W
Toothfish - Longline	Toothfish (<i>Dissostichus eleginoides</i>)	All year	NO	L
Squid (Winter)	Falkland Calamari (<i>Doryteuthis gahi</i>)	27 July - 29 September	NO	X

Made 8 November 2022

A. M. BLAKE C.M.G.,
Governor.

EXPLANATORY NOTE
(not part of the order)

Section 16 of the Fisheries (Conservation and Management) Ordinance 2005 allows the Governor to amend Schedule 2 of the Ordinance on consideration of the recommendation made by the Director after consulting the Committee. This Order changes the dates within which Squid (Summer), Squid and Restricted Finfish, Restricted Finfish and Squid (Winter) fisheries operate.

SUBSIDIARY LEGISLATION

Fishing, Trans-shipment and Export (Licence Fees etc) Regulations 2022

(No. 25 OF 2022)

ARRANGEMENT OF PROVISIONS

Regulation

PART 1 - INTRODUCTORY

1. Title
2. Commencement and term
3. Interpretation

PART 2 - FISHING LICENCES

4. Application of this Part
5. Application for fishing licences
6. Fishing licences
7. Fishing licence fees
8. Payment of licence fees
9. Prompt payment discount
10. Loyalty discount
11. Refund of licence fees

PART 3 - TRANS-SHIPMENT AND EXPORT

12. Application of this Part
13. Trans-shipment and export licences
14. Trans-shipment and export licence fees

PART 4 - SCIENTIFIC PERMITS

15. Application of this Part
16. Scientific permits

Schedule 1 - Fishing Licence Fees

Schedule 2 - 2022 Fishing Licence Fees Refund Policy

SUBSIDIARY LEGISLATION

Fishing, Trans-shipment and Export (Licence Fees etc) Regulations 2022

(made: 8 November 2022)
(commencement: in accordance with regulation 2)
(published: 9 November 2022)

I make the following Regulations under sections 41(1), 42(1), 46, 223(1), (2)(b), and (p) of the Fisheries (Conservation and Management) Ordinance 2005 on the advice of Executive Council.

PART 1 - INTRODUCTORY

1. Title

These Regulations are the Fishing, Trans-shipment and Export (Licence Fees etc) Regulations 2022.

2. Commencement and term

- (1) This Part and regulation 5 come into force on publication in the *Gazette*.
- (2) The remainder of these regulations come into force on 1 January 2023.
- (3) These Regulations cease to have effect on 31 December 2023.

3. Interpretation

In these regulations —

“**adjusted catch**” is the adjusted catch as a result of an adjustment under paragraph 2 of Schedule 2;

“**FIPASS**” means the Falkland Interim Port and Storage System as defined under the Falkland Interim Port and Storage System Ordinance 1989;

“**fishery**” means the Squid - JIG or Trawl fishery (Licence Code B);

“**fishing licence**” means a fishing licence under section 41 of the Ordinance granted under regulation 6(1);

“**International Fishing Vessel Safety Certificate**” means an International Fishing Vessel Certificate issued in accordance with the Torremolinos Protocol 1993;

“**Licence Allocation Policy**” means the policy relating to fishing licences determined by the Governor;

“**licence fee**” means a fee for a fishing licence;

“**refund policy**” means the policy referred to in regulation 11 and set out in Schedule 2;

“**the Ordinance**” means the Fisheries (Conservation and Management) Ordinance 2005;

“**Torremolinos Convention**” means the Torremolinos International Convention for the Safety of Fishing Vessels 1977;

“**Torremolinos Protocol**” means the 1993 Torremolinos Protocol to the Torremolinos Convention; and

“**trans-ship**” means to trans-ship fish in a port or harbour in the Falkland Islands specified in a trans-shipment licence.

PART 2 - FISHING LICENCES

4. Application of this Part

This Part applies to fishing licences for Squid - JIG or Trawl fishery (Licence Code B).

5. Application for fishing licences

(1) An application for a fishing licence must —

(a) be made to the Director; and

(b) be submitted during the period starting from midnight 28 October 2022 to midday 16 November 2022 (“**application period**”) or such other date as may be set by the Director by notice.

(2) A person who applies for a fishing licence in respect of a fishing vessel that they do not own must submit proof with the application that they have the consent of the owner of the vessel to apply.

(3) The Director may only consider and assess one complete application per fishing vessel.

(4) For purposes of subregulation (3), a complete application is one where all the required documentation and information has been submitted.

(5) Where more than one application is submitted in respect of a fishing vessel, the Director may only consider the first complete application that the Director received during the application period.

6. Fishing licences

(1) The Director may only grant a fishing licence for the whole period of the fishery.

(2) The Director must determine an application for a fishing licence in accordance with the Licence Allocation Policy.

(3) In assessing each application, the Director must take account of information provided by the applicant and any other information that is available to the Director about the applicant, the vessel, the master and the crew.

(4) The Director must give reasons for their decision to an applicant.

7. Fishing licence fees

The licence fee is determined by using the formula set out in Schedule 1.

8. Payment of licence fees

(1) Subject to subregulation (2), the licence fee must be paid no later than 13 January 2023.

(2) The Director may, in exceptional circumstances, accept payment of 10% of a licence fees by 13 January 2023, provided the balance of 90% is guaranteed by a letter of credit (or other equivalent security for payment is provided, as approved by the Director).

(3) A letter of credit under subregulation (2) must have an expiry date of 31 August 2023.

(4) If payment is not received by 31 May 2023, the Director may call for payment under the letter of credit.

9. Prompt payment discount

A discount of 4% of a licence fee must be given to a licensee who intends to pay and pays the full licence fee on or before 13 January 2023 in accordance with regulation 8(1).

10. Loyalty discount

(1) The Director may give a licensee a discount per vessel for each year in which the vessel has fished in the fishery in the past ten years (“**the loyalty discount**”) at the rates set out in subregulation (2).

(2) A licensee is eligible for —

(a) a discount at the rate of 1% per year up to a maximum of 10% if the vessel holds either an International Fishing Vessel Safety Certificate or an equivalent certificate or statement of compliance from either the flag state or a class society, which is accepted by the Director in accordance with subregulation (3);

(b) a discount at the rate of 0.5% per year up to a maximum of 5%, in respect of a vessel that does not meet the requirements under paragraph (a).

(3) For purposes of subregulation (2)(a), where a fishing vessel is not registered under the flag of a country which is a party to the Torremolinos Convention, the Director may accept in their discretion a certificate of compliance equivalent to the International Fishing Vessel Safety Certificate issued by the vessel’s flag state or a class society.

(4) Where a licensee replaces a fishing vessel in the fishery (“**the old vessel**”) with a new one (“**the new vessel**”), and the new vessel is the only one owned by that licensee, then any loyalty discount that applied to the old vessel is transferred to the new vessel.

(5) Where a licensee adds a new vessel and the licensee owns more than one vessel (old vessels) in the fishery, the loyalty discount attaching to each fishing vessel is the combined loyalty discount for all the old vessels divided by the total number of old vessels in the fleet (for example, a licensee owns 3 vessels which have each, a loyalty discount of 3%, 5%, and 4% = 12% total, divided by 3 = 4%. So the 3 vessels including the new vessel would each have a discount of 4%).

11. Refund of licence fees

(1) The Director, in consultation with the Financial Secretary, may refund a portion of fishing licence fees in accordance with Schedule 2.

(2) A refund is payable as provided in column B of the table set out in Schedule 2 if the average catch is less than 1000 tonnes, and after taking into account the catch value, the adjusted catch is less than 1500 tonnes.

PART 3 - TRANS-SHIPMENT AND EXPORT

12. Application of this Part

This Part applies to trans-shipment and export licences.

13. Trans-shipment and export licences

(1) A licence for trans-shipment or export issued under section 46 of the Ordinance is valid for such period or periods as are stated in it, and the period or periods of validity may be extended by the Director.

(2) A licence is valid only in respect of trans-shipment in such ports or harbours in the Falkland Islands as are stated in the licence.

(3) A licence may be stated to be valid only for so long as the vessel to which it relates remains continuously in the port or harbour stated in the licence.

14. Trans-shipment and export licence fees

(1) No fee is payable in respect of a trans-shipment or export licence if the licence is issued only in respect of any of the following matters —

- (a) trans-shipment or export by a fishing vessel holding a fishing licence which permits the vessel to fish in the fishing waters at the time of the trans-shipment;
- (b) trans-shipment or export by a Falkland Islands fishing vessel; or
- (c) trans-shipment by a vessel at FIPASS, provided that the trans-shipment involves cargo crossing the dock.

(2) The owner, charterer or operator of a vessel not exempted under subregulation (1) must pay a fee of £1,925 in respect of a licence issued under section 46 of the Ordinance.

PART 4 - SCIENTIFIC PERMITS

15. Application of this Part

This Part applies to scientific permits.

16. Scientific permits

- (1) The Director may issue such number of scientific permits within the meaning of section 42 of the Ordinance as may be appropriate to verify the presence of valid species of a fishery in the fishing waters or any part of them.
- (2) The Director must specify in each scientific permit the fishery and the expiry date for that permit.
- (3) The fee payable for a scientific permit is the fee as the Director may determine in each case.

SCHEDULE 1 - FISHING LICENCE FEES

(regulation 7)

Fee Formula

Jigging Vessels:

$$\text{Fee (£)} = \mathbf{£0.486 * (GT * (S + 1.5D)) + 130064}$$

GT = Gross Tonnage

S = Number of Single Jigging Machines

D = Number of Double Jigging Machines

Trawling Vessels:

$$\text{Fee (£)} = \mathbf{(4.928 * GT) + 141454}$$

GT = Gross Tonnage

SCHEDULE 2 - 2022 FISHING LICENCE FEES REFUND POLICY

(regulation 11)

1. General principles

A refund —

- (a) is paid in the event of a poor season (a poor season is a season where the actual catch is less than 1000 tonnes or where the adjusted catch is less than 1500 tonnes);
- (b) is assessed by taking into account the average catch (arrived at by calculating the whole catch in a season, divided by the total number of vessels fishing in that season);
- (c) will be based on actual catch using volume and value; and
- (d) is paid in accordance with the following table.

Catch (MT)	Column A Percentage Refund based on catch volume only. For use where average catch ≥ 1000 tonnes	Column B Percentage Refund using catch volume and value. For use where average catch < 1000 tonnes
> 1500	No refund	0%
1500 – 1250	No refund	10%
1249 – 1000	No refund	25%
999 – 750		40%
749 – 500		50%
499 – 250		70%
< 250		90%

2. Catch Value

A refund is to be calculated by reference to the average catch and catch value. The base price used to calculate the figures in the table in paragraph 1 is \$936 per tonne (whole *illex argentinus* (*illex*)). If the 2023 *illex* price is higher than the current base rate this will be factored into the refund calculation. In any case where the average *illex* price is above \$936 the calculation will be as follows:

$$(Average Price \$ / \$ 936) * Average Catch = Revised average catch for refund.$$

For example if the 2023 *illex* price is \$3000 and the average catch is 400 tonnes the calculation will be:

$$(\$3000 / \$936) = 3.2$$

*Average catch (400 tonnes) * 3.2 = 1280 tonnes (This is the adjusted catch figure used for the refund calculation in column B of the table above).*

The adjustment will only be made if the price is above \$936. Price information will be collected from available sources.

3. Full Season equivalent catch

The catch total used for a refund will take account of the full season catch (1 February – 15 June). If the average catch of vessels fishing for 100% of the season exceeds 1000 tonnes there will be no refund for any vessel.

4. High Seas Catches

The calculation of catch rates and totals in relation to a refund will take account of high seas catches taken by licensed vessels during 1 February – 15 June. Owners/operators of licensed vessels wishing to access a refund must provide catch reports for any days spent fishing on the high seas during the period of validity of their Falkland Islands fishing licence.

5. Monitoring of Catch Levels

The Director will be the ultimate arbiter of catch levels and reserves the right to weight the assessment in favour of verified information. To give effect to this paragraph, vessels may need to undergo additional inspections.

Any refund will be calculated on the basis of average vessel catch and not on an individual vessel basis.

Subject to paragraph 6, a refund will only apply to vessels which comply with the requirements of catch monitoring which are covered by mandatory requirements in the Ordinance such as —

- (a) full and reliable catch reporting;
- (b) other fishery monitoring reports (Fishcom/end Trans-shipment logs);
- (c) embarkation of an observer if required; and
- (d) sufficient notice of intention to leave fishing zones to allow for inspection.

6. Eligibility to claim a refund

Subject to this paragraph, a refund may only be paid in respect of fishing vessels which report high seas catches during the fishing season (1 February – 15 June) and conduct trans-shipment operations in Falkland Islands ports and harbours.

Vessels which do not satisfy the criteria set out in this paragraph will not ordinarily be eligible for a refund.

In exceptional circumstances, if it is determined that a vessel which has not complied should receive a refund, that refund will be at a reduced rate, to be determined by the Director according to the circumstances.

Made 8 November 2022

A. M. BLAKE C.M.G.,
Governor.

EXPLANATORY NOTE
(not forming part of these regulations)

The Regulations are made annually and are valid for one year. The regulations provide for applications for a fishing licence during the application period (from midnight 28 October 2022 to mid-day 16 November 2022). The fishing licence fees are not changing from the current levels. The Regulations also provide for trans-shipment, export licences and fees and scientific permits.

The following changes are made by these Regulations —

- (a) application fees are no longer required;
- (b) prompt payment discount is reduced from 6% to 4%;
- (c) one application per fishing vessel is allowed and where duplicate applications are submitted, only the first application received in respect of a vessel will be considered by the Director;
- (d) if a person who does not own a fishing vessel applies in respect of that vessel, they must, together with the application, submit proof that the owner consents to the application;
- (e) loyalty discount will now range between 0.5% and 1% per applicant per vessel for each year the vessel has fished up to a maximum of 10% of the licence fees (it was previously 1%); and
- (f) the higher rate of discount is awarded if the licensee meets the requirements set out in regulation 10(2) (carrying an International Fishing Vessel Safety Certificate or equivalent).

Part 1 of the Regulations deals with preliminary matters. Part 1 and regulation 5 commence on publication in the *Gazette*. The rest of the regulations commence on 1 January 2023. The Regulations cease to have effect on 31 December 2023.

Part 2, regulations 4 to 11 provides for fishing licences for Squid – JIG or Trawl fishery (Licence Code B). Regulation 5 provides for application for licences which must be done during the application period (from midnight 28 October to mid-day 16 November 2022). An application must be submitted to the Director. The Director may only consider one application per fishing

vessel. If more than one application is submitted, then the first application received during the application period takes precedence, (*regulation 5*). The Director may only grant a fishing licence for the whole period of the fishery (*regulation 6*). An application is determined in accordance with the Licence Allocation Policy determined by the Governor.

Under *regulation 7*, a licence fee must be paid in full by 13 January 2023. A licence fee is calculated using the formula in Schedule 1.

In exceptional circumstances, the Director may accept 10% deposit coupled with a letter of credit for the balance of 90%. If full payment is not received by 31 May, the Director may activate the letter of credit for payment (*regulation 8*).

The Director may grant a licensee a loyalty discount of between 0.5% and 1% per vessel for each year fished by that vessel in the fishery in the past ten years. The maximum discount is 10% (*regulation 10*). A fishing vessel that has an International Fishing Vessel certificate issued in accordance with the Torremolinos Protocol or equivalent compliance certificate gets a higher rate of discount (*regulation 10(2)(a)*).

Where a fishing vessel is replaced, the new vessel inherits the old vessel's loyalty discount provided it is the only vessel owned by the licensee. Where a new fishing vessel is added to a fleet, the new loyalty discount for the new vessel is the average of the combined loyalty discount of all the old vessels owned by that licensee in the fishery. An example is given in *regulation 10(4) and (5)*.

Part 3 provides for trans-shipment and export licences and fees. There is no change in the trans-shipment fee.

Part 4 provides for scientific permits as provided under section 42 of the Ordinance. The Director may issue such number of scientific permits to verify the presence of valid species of a fishery.

Schedule 1 sets out the formula for calculating licence fees.

Schedule 2 contains the fishing licence refund policy.

Taxes (Amendment) Bill 2022

(ORDINANCE No. OF 2022)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Amendment of Taxes Ordinance 1997
4. Royalties arising between 1 January 2020 and 31 December 2022
5. Section 61 repealed
6. Consequential amendments

Schedule - Consequential Amendments

Taxes (Amendment) Bill 2022

(assented to: 2022)
(commencement: in accordance with section 2)
(published: 2022)

A BILL

for

AN ORDINANCE

To amend the Taxes Ordinance 1997.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Taxes (Amendment) Ordinance 2022.

2. Commencement

(1) Subject to subsection (2), this Ordinance comes into force on publication in the *Gazette*.

(2) Sections 5 and 6 come into force on 1 January 2023.

3. Amendment of Taxes Ordinance 1997

This Ordinance amends the Taxes Ordinance 1997 (“**the Ordinance**”).

4. Royalties arising between 1 January 2020 and 31 December 2022

No tax is payable on royalties that would otherwise be subject to tax under section 61 of the Ordinance in the period starting on 1 January 2020 and ending on 31 December 2022.

5. Section 61 repealed

Section 61 of the Ordinance is repealed.

6. Consequential amendments

The sections of the Ordinance mentioned in the first column of the Schedule are amended to the extent specified in the second column.

SCHEDULE - CONSEQUENTIAL AMENDMENTS

(section 6)

Section	Amendment
163	In subsection (6) omit paragraph (b).
192A	<p>1. Replace subsection (1) with —</p> <p>“(1) Any person within the charge to tax must preserve all accounting records and documents that are necessary to explain —</p> <p style="padding-left: 40px;">(a) any accounts that must be delivered under sections 12 or 30, and</p> <p style="padding-left: 40px;">(b) the computation of taxable income stated in any return that must be furnished under sections 12 or 30,</p> <p>for at least 6 years after the end of the chargeable period to which the accounts or return relate.”.</p> <p>2. In subsection (5) —</p> <p style="padding-left: 40px;">(a) in the introductory words, after “or return for a chargeable period” omit “or to any deduction required to be made under section 61 in a chargeable period”; and</p> <p style="padding-left: 40px;">(b) in paragraph (a), after “for that period” omit “, or double the amount of the deduction”.</p>

OBJECTS AND REASONS

The Taxes (Amendment) Bill 2022 amends the Taxes Ordinance 1997 (“the Ordinance”).

The Bill will come into force following assent and publication except for the repeal in *clause 5* and the consequential amendments in *clause 6* which will come into force on 1 January 2023 (*clause 2*).

Clause 4 provides that no tax is payable on royalties that would otherwise be subject to tax under section 61 of the Ordinance between 1 January 2020 and 31 December 2022.

The effect of the repeal in *clause 5* is to remove the liability to tax of royalty payments that are of a description in section 61(2) of the Ordinance and therefore the duty on persons in the Falkland Islands paying such royalties to withhold a sum equal to the charge to tax from the payment and pay it to the Commissioner for Taxes.

Clause 6 and the *Schedule* make provision for minor, consequential amendments to sections 163(6) and 192A(1) and (5) of the Ordinance.

CHARLES III



FALKLAND ISLANDS

ALISON MARY BLAKE C.M.G.,
Governor.

Road Traffic (Amendment) Ordinance 2022

(ORDINANCE No. 18 OF 2022)

ARRANGEMENT OF PROVISIONS

Section

1. Title and commencement
2. Amendment of Road Traffic Ordinance 1948
3. Section 2 amended (interpretation)
4. Section 37 replaced
5. Section 38 repealed
6. Consequential amendments

Schedule - Consequential amendments

CHARLES III



FALKLAND ISLANDS

ALISON MARY BLAKE C.M.G.,
Governor.

Road Traffic (Amendment) Ordinance 2022

(assented to: 8 November 2022)
(commencement: on publication)
(published: 9 November 2022)

AN ORDINANCE

To amend the Road Traffic Ordinance 1948.

ENACTED by the Legislature of the Falkland Islands —

1. Title and commencement

This Ordinance is the Road Traffic (Amendment) Ordinance 2022 and comes into force on publication in the *Gazette*.

2. Amendment of Road Traffic Ordinance 1948

This Ordinance amends the Road Traffic Ordinance 1948 (“**the Ordinance**”).

3. Section 2 amended (interpretation)

In section 2(1) of the Ordinance —

(a) after the definition of “**drug**” insert —

““**electrically assisted cycle**” means a cycle with 2 or more wheels that is fitted with —

(a) pedals by means of which it is capable of being propelled;

(b) no motor other than an electric motor which —

(i) has an output of 750 watts or less; and

- (ii) cannot propel the vehicle when it is travelling at more than 20 miles per hour; and
- (c) does not include a throttle or any other mechanism by which the power or speed of the engine is regulated other than the cycle’s pedals or brakes;”;
- (b) replace the definition of “**invalid carriage**” with —
 - ““**mobility scooter**” means a mechanically propelled vehicle which is designed and constructed (not merely adapted) for the use of a person with a disability, is solely used by such a person and has an unladen weight not exceeding 254 kilograms;”;
- (c) replace the definition of “**motor vehicle**” with —
 - ““**motor vehicle**” means any vehicle propelled by any form of mechanical power and intended or adapted for use on roads but does not include —
 - (a) electrically assisted cycles; or
 - (b) mobility scooters;”.

4. Section 37 replaced

Replace section 37 of the Ordinance with —

“37. Cycles

- (1) Any person cycling on a road commits an offence if —
 - (a) the cycle is not equipped with a means of giving audible and sufficient warning of its approach; or
 - (b) when cycling at night, the cycle does not have —
 - (i) showing to the front a white light that is visible for a reasonable distance; and
 - (ii) showing to the rear a red light or red reflector that is visible for a reasonable distance.
- (2) Any person riding a cycle on the pavement or footway of a road or on a public jetty commits an offence.
- (3) In subsection (1), “**at night**” means the period between sunset and sunrise.

Penalty: A fine not exceeding level 2 on the standard scale.”.

5. Section 38 repealed

Section 38 of the Ordinance is repealed.

6. Consequential amendments

The Schedule has effect to amend the legislation listed in the first column to the extent specified in the second column.

SCHEDULE - CONSEQUENTIAL AMENDMENTS

(section 6)

Primary legislation	Amendment
Crimes Ordinance 2014	In sections 362(3) and (4) omit “pedal”.
Highways (Weight Limits) Ordinance 2004	<p>1. In section 2(1) —</p> <p>(a) omit the definition of “invalid carriage” and insert in the correct alphabetical sequence —</p> <p style="padding-left: 40px;">““mobility scooter” means a mechanically propelled vehicle which is designed and constructed (not merely adapted) for the use of a person with a disability, is solely used by such a person and has an unladen weight not exceeding 254 kilograms;” and</p> <p>(b) in the definition of “motor car” replace “an invalid carriage” with “a mobility scooter”.</p> <p>2. In section 3(a) replace “invalid carriages” with “mobility scooters”.</p>

Secondary legislation	Amendment
Construction and Use (Seat Belts) Regulations Order 1996	In article 2(1), in the definition of “ motor car ” replace “an invalid carriage” with “a mobility scooter”.
Road Traffic (Provisional) Regulations Order 1986	<p>1. In the second column (“Definitions”) of the table in regulation 5(1), in the entry for Class “B1” omit “, invalid carriage”.</p> <p>2. In the heading to regulation 19 replace “Pedal cycles” with “Cycles”.</p> <p>3. In regulation 19 replace “a pedal cycle” with “a cycle”.</p> <p>4. In Schedule 1, in the entry for Class B1 of column 1 of the table omit “, invalid carriage”.</p> <p>5. In Schedule 3 form D1, in the entry for Category B1 licence omit “, invalid carriage” under “Description”.</p>

Stanley Common (Restricted Driving on Beaches) Regulations 2020	<ol style="list-style-type: none"> 1. In regulation 3, omit the definitions of “electrically assisted pedal cycle” and “mobility scooter”. 2. In regulation 3, replace the definition of “motor vehicle” with — ““motor vehicle” has the same meaning as in the Road Traffic Ordinance 1948;”. 3. Omit regulation 4(3)(a).
Taxes (Benefits in Kind) Rules 2003	In regulation 2(3)(b) and (c) replace “an invalid carriage” with “a mobility scooter”.

Passed by the Legislature of the Falkland Islands on 27 October 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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