



FALKLAND ISLANDS GAZETTE

Supplement

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The following are published in this Supplement —

Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) (Amendment) Order 2023 (SR&O No 2 of 2023);

Fisheries (Conservation and Management) (Schedule 2 Amendment) Order 2023 (SR&O No 3 of 2023);

Financial Assistance Bill 2023;

Family Allowances Bill 2023; and

Travel Credit Scheme (Amendment) Ordinance 2023 (No 2 of 2023).

SUBSIDIARY LEGISLATION

**Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) (Amendment)
Order 2023**

(No. 2 OF 2023)

ARRANGEMENT OF PROVISIONS

Article

1. Title
2. Commencement
3. Amendment of Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) Order 2022
4. Part 1 of Schedule amended (designated employers and start date of exemption)

SUBSIDIARY LEGISLATION

Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) (Amendment) Order 2023

(made: 10 April 2023)
(commencement: on publication)
(published: 30 April 2023)

I make this Order under section 9A of the Taxes and Duties (Special Exemptions) Ordinance 1987 on the advice of the Standing Finance Committee.

1. Title

This Order is the Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) (Amendment) Order 2023.

2. Commencement

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

3. Amendment of Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) Order 2022

This Order amends the Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) Order 2022.

4. Part 1 of Schedule amended (designated employers and start date of exemption)

In Part 1 of the Schedule, insert the following under the appropriate headings, in alphabetical order—

“Bristow Helicopters Limited	1 January 2023
Obsidian Construction Services Limited	1 January 2023”.

Made 10 April 2023

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

EXPLANATORY NOTE
(not part of the order)

This order exempts additional qualifying employees working in defence related companies from Falkland Islands income tax by adding two employers to Part 1 of the Schedule to the Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) Order 2022. The exemption is granted to qualifying employees of companies that are listed in the Schedule from liabilities arising on or after 1 January 2023. The exemption ends on 31 December 2023.

SUBSIDIARY LEGISLATION

Fisheries (Conservation and Management) (Schedule 2 Amendment) Order 2023

(No. 3 OF 2023)

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 2023

(made: 12 April 2023)
(commencement: on publication)
(published: 30 April 2023)

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 2023.

2. Commencement

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

3. Change of dates within which certain fisheries operate

Schedule 2 to the Fisheries (Conservation and Management) Ordinance is amended by replacing—

Squid (Winter)	Falkland Calamari (<i>Doryteuthis gahi</i>)	27 July - 29 September	NO	X
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with —

Squid (Winter)	Falkland Calamari (<i>Doryteuthis gahi</i>)	30 July - 1 October	NO	X
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Made 12 April 2023

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 the Squid (Winter) fishery operates to 30 July to 1 October.

Financial Assistance Bill 2023

(ORDINANCE No. OF 2023)

ARRANGEMENT OF PROVISIONS

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2. Interpretation
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Financial Assistance Bill 2023

(assented to: 2023)
(commencement: on publication)
(published: 2023)

A BILL

for

AN ORDINANCE

To provide financial assistance for residents of the Falkland Islands who are in need of such assistance and connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 - INTRODUCTORY

1. Title and commencement

This Ordinance is the Financial Assistance Ordinance 2023 and comes into force on publication in the *Gazette*.

2. Interpretation

(1) In this Ordinance —

“**applicant**” means a person who applies for financial assistance;

“**assisted person**” means a person receiving an attendance allowance;

“**attendance allowance**” and “**attendance allowance policy**” have the meaning in section 15;

“**child**” means a child or young person who is either —

- (a) under the age of 18 years and in full time education; or
- (b) under the age of 16 years;

“**compulsory education age**” has the meaning in the Education (Governance and Accountability) Ordinance 2022;

“**date of application**” means the date on which an application for financial assistance is submitted to the Head of Service;

“**eligible person**” has the meaning in section 5;

“financial assistance” means income support, attendance allowance and financial assistance provided under section 20 (financial assistance in an emergency);

“Head of Service” means the person employed for the time being as Head of Social Services;

“income support” has the meaning in section 4(1);

“means test” means the requirements set out in the operational manual relating to the savings, income, outgoings and other circumstances of an eligible person or, if the person lives with one or more other persons in the same household, the savings income and other circumstances of the household;

“medical treatment” means medical or dental investigations, treatment or care arranged by King Edward VII Memorial Hospital;

“normal retirement age” means the age of 65 years or older;

“operational manual” has the meaning in section 4(2);

“overseas” means any country or territory that is not the Falkland Islands;

“parent” includes any person who has parental responsibility for a child under the Children Ordinance 2014;

“personal information” means any information about an identifiable individual including, but not limited to —

- (a) their name, address and telephone number;
- (b) their race or ethnic origin;
- (c) their age, sex, marital status or family status;
- (d) their religion;
- (e) any identifying case number, symbol or other identifier assigned to the individual;
- (f) any disability;
- (g) their health;
- (h) their education;
- (i) their criminal record; or
- (j) their finances; and

“winter fuel allowance” and **“winter fuel allowance policy”** have the meaning in section 12.

(2) A reference in this Ordinance, in relation to attendance allowance, to “**high rate**”, “**medium rate**”, “**low rate**” or “**variable low rate**” (as the case may be) is a reference to those terms as defined in section 16(2).

3. Expenditure chargeable on Consolidated Fund

Expenditure on financial assistance is chargeable upon the Consolidated Fund.

PART 2 - INCOME SUPPORT

4. Income support

(1) The Head of Service must provide financial assistance to residents of the Falkland Islands who are eligible for, and entitled to, it to enable them to meet their basic needs for shelter, food, clothing and personal care whilst promoting their independence and self-reliance (“**income support**”).

(2) The scheme operates in accordance with a manual approved by the Governor (“**operational manual**”) and laid before the Legislative Assembly.

5. Eligibility for income support

(1) A person is eligible for income support (“**an eligible person**”) if, on the date of application, the person meets the requirements in subsection (2).

(2) The person must —

- (a) be 16 years of age or older;
- (b) be ordinarily resident in the Falkland Islands;
- (c) have been ordinarily resident in the Falkland Islands for not less than 3 years ending on the date of application; and
- (d) have the right to work in the Falkland Islands.

6. Entitlement to income support

The amount of income support to which an eligible person is entitled —

- (a) depends on whether the person meets the criteria in one or more of sections 7 (basic income support), 8 (rent and service charge support) or 9 (childcare support); and
- (b) is calculated in accordance with the means test.

7. Basic income support

(1) An eligible person to whom this section applies may be entitled to income support, to supplement their income.

(2) This section applies to an eligible person who is —

- (a) under normal retirement age and meets one of the following criteria —
- (i) is in paid employment;
 - (ii) is actively seeking paid work and not participating in the Employment Programme;
 - (iii) is not capable of working whether temporarily or permanently, by reason of pregnancy, illness or disability;
 - (iv) is the sole or main carer of a person who receives attendance allowance at the high or medium rate; or
 - (v) is a parent, and sole or main carer, of a child who is under compulsory education age; or
- (b) is over normal retirement age.

(3) In this section, “**Employment Programme**” means a programme of training and skills development provided by Falkland College to support individuals into employment and includes regular weekly payments in lieu of wages.

8. Rent and service charge support

(1) Subject to subsection (2), an eligible person may be paid income support in respect of the person’s liability to pay rent or service charge in relation to their only or main home.

(2) A person whose accommodation is provided by their employer as part of the terms and conditions of their employment is not entitled to income support under this section.

(3) In this section, “**service charge**” means the charges for the supply of water and refuse collection for which a person is liable as the occupier of domestic premises, under section 30 of the Stanley Rates Ordinance 1973.

9. Childcare support

(1) This section applies to an eligible person who is a parent.

(2) Subject to subsection (3), a parent may be paid income support in relation to the cost of childcare for up to 2 of their children —

- (a) who live in the parent’s household; and
- (b) who are under the age of 12 years.

(3) A parent is not entitled to income support under this section if another person receives such support in respect of the same children.

10. Cessation of income support

(1) Income support must not be provided for an eligible person while the person is —

- (a) in custody, whether on remand or serving a term of imprisonment, if the period spent in custody exceeds or is likely to exceed 30 days;
- (b) overseas, unless —
 - (i) the person is overseas for the purpose of receiving medical treatment;
 - (ii) the person is accompanying a close family member who is overseas for the purpose of receiving medical treatment; or
 - (iii) the Head of Service determines before the person departs the Falkland Islands that the person should continue to receive income support while overseas.

(2) A person who becomes entitled to financial support or assistance that is equivalent to income support in any other country or territory is not entitled to income support.

11. Reassessment

The Head of Service may at any time reassess a person's eligibility for, and entitlement to, income support and vary the amount of, or cease to provide, income support in accordance with the operational manual as it applies at the time of reassessment.

PART 3 - WINTER FUEL ALLOWANCE

12. Winter fuel allowance

(1) Subject to subsection (2), the Head of Service must provide financial assistance for households that are eligible for it with the cost of heating their only or main home during the period 1 June to 30 September each year ("**winter fuel allowance**").

(2) Winter fuel allowance must be provided in accordance with the policy approved by the Governor and laid before Legislative Assembly ("**winter fuel allowance policy**").

13. Eligibility for winter fuel allowance

A household is eligible for winter fuel allowance if, on the date of application —

- (a) the household income is below the financial threshold set out in the winter fuel allowance policy;
- (b) at least one member of the household ("**M**") —
 - (i) is of normal retirement age on or before 30 September in the year in which an application for winter fuel allowance is made;
 - (ii) receives a retirement pension under section 4 of the Retirement Pensions Ordinance 1996;
 - (iii) is entitled to attendance allowance at the high rate or the medium rate; or

- (iv) is an eligible person, whether or not the person receives income support; and
- (c) M or, if M is a child, M's parent who lives in the same household, is ordinarily resident in the Falkland Islands.

PART 4 - ATTENDANCE ALLOWANCE

14. Interpretation of Part 4

In this Part —

“activities of daily living” includes (but is not limited to) eating, bathing, dressing, mobility, continence and toileting, cleaning, laundry, driving, shopping and caring for a person's own health (including taking prescription medication); and

“long term illness or disability” means an illness or disability (whether physical or mental) that has lasted for a period of not less than 3 months ending on the date of application.

15. Attendance allowance

(1) The Head of Service must provide financial assistance for persons who are eligible for it and need assistance from others with the activities of daily living due to long-term illness or disability and who do not receive such assistance from King Edward VII Memorial Hospital or any other publicly available service (**“attendance allowance”**).

(2) Attendance allowance must be provided in accordance with a policy approved by the Governor (**“attendance allowance policy”**) and laid before the Legislative Assembly.

16. Rates of attendance allowance

(1) Attendance allowance is paid at a rate that depends on a person's needs for assistance, as assessed in accordance with the attendance allowance policy.

(2) The rates are —

- (a) for persons with the greatest need for assistance (**“high rate”**);
- (b) for persons with moderate needs for assistance (**“medium rate”**);
- (c) for persons with low needs for assistance (**“low rate”**); and
- (d) for persons with the least need for assistance, such sum not exceeding the low rate as meets the cost of services required by the assisted person (**“variable low rate”**).

17. Eligibility for and entitlement to attendance allowance

(1) A person is eligible for attendance allowance if the person is ordinarily resident in the Falkland Islands and either —

- (a) the person has a long-term illness or disability that is likely to last for not less than 6 months or more from the date of application; or
- (b) a medical practitioner has advised that the person has a serious illness and may have less than 6 months to live.

(2) The Head of Service must determine the appropriate rate of attendance allowance payable (if any) and assess a person who is eligible under subsection (1)(a) by reference to the extent to which the person —

- (a) if not a child, needs assistance from others with the activities of daily living; or
- (b) if a child, needs significantly more assistance with the activities of daily living than a child of the same age who does not have a long-term illness or disability.

(3) A person who is eligible for attendance allowance by virtue of subsection (1)(b) is entitled to the high rate of attendance allowance.

(4) When making a determination under subsection (2), the Head of Service must seek the advice of a medical practitioner.

18. Cessation of attendance allowance

(1) A person who becomes entitled to financial support or assistance that is equivalent to attendance allowance in any other country or territory is not entitled to attendance allowance.

(2) An assisted person is only entitled to receive attendance allowance while overseas if —

- (a) the period overseas does not exceed 13 weeks in total in any 12 month period;
- (b) the person is overseas for medical treatment; or
- (c) the Head of Service determines before the person departs the Falkland Islands that they should continue to receive attendance support.

19. Reassessment

(1) The Head of Service may reassess an assisted person's eligibility for, and entitlement to, attendance allowance at any time and may vary the rate of payment in accordance with the attendance allowance policy as it applies at the time of reassessment or cease payment.

(2) The Head of Service must reassess an assisted person's eligibility for and entitlement to attendance allowance if the assisted person —

- (a) is admitted to King Edward VII Memorial Hospital for 3 months or more;
- (b) is provided with residential care for 3 months or more;
- (c) is receiving medical treatment overseas and has been receiving such treatment for 12 months or more; or

- (d) was awarded the high rate of attendance allowance and has been in receipt of attendance allowance for 12 months or more.

PART 5 - FINANCIAL ASSISTANCE IN EMERGENCY

20. Financial assistance in emergency

- (1) The Head of Service may provide financial assistance to any person (“P”) if satisfied that P—
 - (a) is in immediate and urgent need of financial assistance; and
 - (b) has exhausted all other sources of financial support.
- (2) Financial assistance under this section —
 - (a) may be a grant or a loan;
 - (b) may be paid to P or to a third person for goods or services provided for the benefit of P or another member of P’s household;
 - (c) must not be provided to enable P to settle their debts.
- (3) The Head of Service may review, vary or cease to pay financial assistance under this section at any time.

PART 6 - ADMINISTRATION OF FINANCIAL ASSISTANCE

21. Functions of Head of Service in relation to financial assistance

- (1) The Head of Service must administer financial assistance in a fair, effective and efficient manner.
- (2) The Head of Service must —
 - (a) provide and publish for use by applicants such forms as may be necessary or expedient;
 - (b) receive, consider and determine applications for financial assistance;
 - (c) assess the eligibility and entitlement of applicants;
 - (d) decide whether to pay, vary or cease payment of, financial assistance;
 - (e) reconsider or review any decision to pay, vary or cease payment of, financial assistance when it is appropriate to do so;
 - (f) take all such steps as may reasonably be required to recover repayments due in respect of financial assistance;

- (g) publish guidance for persons in the Falkland Islands about eligibility for, and entitlement to, financial assistance; and
- (h) perform any other function of the Head of Service under this Ordinance.

22. Annual review of allowances

(1) At least once in each financial year, the Governor must review in relation to the financial assistance paid under this Ordinance —

- (a) the basis for entitlement to each allowance; and
- (b) the rates payable.

(2) Any changes to the matters reviewed under subsection (1) must be published by notice in the *Gazette*.

23. Applications for financial assistance

(1) An application for financial assistance must include such information as the Head of Service may reasonably require in order to determine the applicant's eligibility and entitlement.

(2) An application for income support must be submitted in accordance with the operational manual.

(3) The Head of Service must not, save in exceptional circumstances —

- (a) accept more than one application for income support at a time from members of the same household; or
- (b) consider an application for income support or financial assistance under section 20 if a person living in the same household as the applicant receives income support.

(4) An application for attendance allowance must be submitted in accordance with the attendance allowance policy.

(5) An application for winter fuel allowance must be submitted in accordance with the winter fuel allowance policy.

(6) An applicant must —

- (a) ensure that their application is true and complete as far as is reasonably practicable;
- (b) cooperate with the assessment of their eligibility and entitlement, and any subsequent reassessment; and
- (c) consent to their personal information being shared in accordance with this Ordinance.

(7) A person who receives financial assistance must inform the Head of Service as soon as is reasonably practicable of any change in their personal circumstances or in the circumstances of any other person included in their application.

(8) An application made on behalf of a child must be submitted by a parent of the child or, if there is no such person, by a person who is responsible for caring for the child.

24. Notification of assessments and determinations

The Head of Service must give written notice to the applicant or, if the applicant is a child, the person who submitted the application on the child's behalf, about any assessment or determination under this Ordinance, including reasons for the decision.

25. Applicant's breach of duty

The Head of Service may cease payment of financial assistance to any person who is in material breach of section 23(6) or (7) and may require the person to repay all or any part of the financial assistance paid to them or for their benefit or the benefit of a member of their household.

26. Personal information

(1) A person who is or was the Head of Service, or who carries or carried out duties under the authority of the Head of Service for and in connection with the administration of this Ordinance, must not directly or indirectly give any other person personal information or make a record of or use any personal information acquired under this Ordinance about an applicant or recipient except—

- (a) in the course of carrying out the person's duties for or in connection with the administration of this Ordinance; and
- (b) with the authority of the applicant or recipient, or in accordance with the law (including a court order).

(2) The Commissioner of Taxes or any other public officer acting under the Commissioner's direction may provide information relating to the financial circumstances of an applicant for or recipient of financial assistance or any member of an applicant's or recipient's household to the Head of Service for the purpose of assisting the Head of Service to perform the Head of Service's functions under this Ordinance.

(3) A person who provides information in accordance with subsection (2) is not guilty of an offence under section 202 of the Taxes Ordinance 1997.

(4) The Head of Service must ensure that, as far as is reasonably practicable, personal information about applicants and recipients is —

- (a) collected only for the purpose of this Ordinance;
- (b) accurate and relevant;
- (c) held securely; and
- (d) retained for no longer than is reasonably necessary.

(5) In this section, "**recipient**" means a person who receives financial assistance under this Ordinance.

PART 7 - TRANSITIONAL PROVISION AND CONSEQUENTIAL AMENDMENTS

27. Transitional provision

(1) Subsections (3) and (4) apply to financial assistance provided before the commencement of this Ordinance and that continues to be provided on the same basis after that date (“**continuing financial assistance**”).

(2) Continuing financial assistance that was described as “income support”, “rent support”, “service charge support”, “childcare support”, “winter fuel allowance” or “attendance allowance” is treated after the commencement of this Ordinance as the equivalent financial assistance given under this Ordinance.

(3) Continuing financial assistance may be reassessed, varied or ended in accordance with this Ordinance.

(4) An application for financial assistance made and not determined before the commencement of this Ordinance must be treated as if it is an application for financial assistance under this Ordinance.

28. 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 28

Legislation	Amendment
Taxes Ordinance 1997	In section 57(1), omit paragraph (t).
Legal Aid Regulations 2020	<p>In regulation 3(1) replace the definition of “welfare allowances” with —</p> <p style="padding-left: 40px;">““welfare allowances” means —</p> <p style="padding-left: 80px;">(a) family allowance received under the Family Allowances Ordinance 1960;</p> <p style="padding-left: 80px;">(b) payments received for participation in the employment programme; and</p> <p style="padding-left: 80px;">(c) income support, attendance allowance or other financial assistance received under the Financial Assistance Ordinance 2023 that is not a loan made under section 20 of the Ordinance.”.</p>

OBJECTS AND REASONS

This Bill establishes a scheme for the provision of financial assistance to those who are in need of such assistance and eligible for it as residents of the Falkland Islands, putting the existing schemes for income support, winter fuel allowance, attendance allowance and discretionary assistance on a statutory footing.

In more detail the individual clauses of the Bill provide as follows:

Part 1, *clauses 1* and *2* provide for preliminary matters of title, commencement and interpretation. *Clause 3* establishes that public expenditure under the Bill is chargeable on the Consolidated Fund.

Part 2 sets out the income support scheme: financial assistance provided to eligible residents who are on low incomes to enable them to meet their basic needs and those of other members of their household. The detailed operational aspects of the scheme are set out in the operational manual, which is approved by the Governor in Council and laid before Legislative Assembly (*clause 4*).

To be eligible for income support, a person must —

- be 16 years or over,
- have been ordinarily resident in the Falkland Islands for at least 3 years and
- have the right to work here.

A person is ordinarily resident if they reside in the Falkland Islands lawfully, voluntarily and for settled purposes as part of the regular order of their lives for the time being. A person has the right

to work in the Falkland Islands if they have Falkland Islands status or a permanent residence permit, a work permit, an accompanying dependent permit, a dependent permit or a carer permit (*clause 5*).

An eligible person is entitled to income support that may include basic income support, rent and service charge support or childcare support if they meet the relevant criteria. In accordance with *clause 6*, the amount of an eligible person's entitlement is calculated in accordance with the means test (defined in *clause 2*). The means test is set out in the operational manual and is applied to the income of the person who has applied for income support and the income of anyone else who lives in the same household.

An eligible person's entitlement (how much money they receive) depends on whether they meet the particular criteria that apply to each of the 4 elements of income support and the financial circumstances of their household. *Clause 7* sets out the criteria for payment of basic income support - an eligible person has to meet one of the criteria in *subsection (2)*.

Clause 8 sets out the entitlement to rent and service charge support. Any eligible person who pays rent, whether a private tenant or occupying government-owned accommodation, is entitled to income support in respect of their rent, unless they live in accommodation provided by their employer at their place of work. Any eligible person is entitled to income support in respect of the service charge whether they live in rented accommodation or own their own home.

Clause 9 provides that income support will be paid to eligible parents to assist with childcare costs for up to 2 children who are under 12 years of age.

A person who is in custody for 30 days or more (whether on remand or serving a sentence of imprisonment) is not entitled to income support and nor is a person who becomes eligible to equivalent welfare benefits in the UK. A person who is overseas is only entitled to continue receiving income support in limited circumstances (*clause 10*).

The Head of Social Services may reassess eligibility and entitlement at any time (*clause 11*).

Part 3 *Clause 12* provides for winter fuel allowance to be paid to a household in respect of the costs of heating the home between June and September in each year.

To be eligible for winter fuel allowance, a household must include a person who —

- is over 65 years;
- receives a retirement pension under section 4 of the Retirement Pensions Ordinance 1996; or
- is entitled to attendance allowance at the high or medium rate.

That person (or, in the case of a child, the person's parent) must be ordinarily resident in the Falkland Islands (*clause 13*).

Part 4 provides for attendance allowance, which is financial assistance provided for those who need assistance with the activities of daily living due to long-term illness or disability (*clause 15*). “**Activities of daily living**” and “**long-term illness or disability**” are defined in *clause 14*. A

long-term illness or disability is one that has lasted for at least 3 months before a person applies for the allowance.

To be eligible, a person must be ordinarily resident in the Falkland Islands and either —

- the illness or disability is expected to last at least 6 months more (i.e. the total period of disability is at least 9 months), or
- the person's life expectancy is less than 6 months (*clause 17*).

The amount of allowance paid depends on the Head of Social Services' assessment (informed by advice from a doctor) of the extent to which the person needs help with the activities of daily life (*clause 17*). It is paid at 4 rates: the high rate (paid to persons with the greatest need for assistance), the medium rate, the low rate and the low variable rate (paid to the persons with the least need) (*clause 16*).

A person who becomes eligible to equivalent welfare benefits in any other country is not entitled to attendance allowance. A person who is overseas is only entitled to continue receiving income support in limited circumstances (*clause 18*).

The Head of Social Services may reassess eligibility and entitlement at any time and must reassess eligibility and entitlement if the recipient of the allowance is admitted to hospital or residential care in the Falkland Islands for 3 months or more, or receives medical treatment overseas for 12 months or more (*clause 19*).

Part 5 makes provision for discretionary financial assistance in emergency situations. *Clause 20* provides for financial assistance to persons who are in immediate and urgent need and have no other means of support: this usually takes the form of a one-off grant or (more usually) a repayable loan.

Part 6 provides for general matters including the functions of the Head of Social Services (*clause 21*), the annual review of the basis for entitlement to, and rates or allowances by the Governor in Council (*clause 22*). Requirements relating to the process of applying for financial assistance are set out in *clause 23*, including applicants' duty to ensure that they provide complete information, cooperate with the assessment of their eligibility and entitlement and the requirement that they consent to their personal information being shared for the purpose of the assessments etc. *Clause 24* provides for applicants to be notified of the outcome of their application and any reassessment. *Clause 25* enables payments to any person who is in breach of their duties under the Ordinance to cease. *Clause 26* sets out a framework for protecting personal information about applicants while ensuring that information can be shared between government departments to ensure assessments of need are accurate.

Finally, in **Part 7** *clause 27* sets out transitional arrangements to ensure that the entitlements of those who are already receiving income support are preserved. Applications made but not determined before the Bill is passed and comes into force will be treated as if made under the Ordinance. *Clause 28* and the *Schedule* provide for consequential amendments.

Family Allowances Bill 2023

(ORDINANCE No. OF 2023)

ARRANGEMENT OF PROVISIONS

Clause

PART 1 - INTRODUCTORY

1. Title
2. Commencement
3. Interpretation

PART 2 - PAYMENT, ELIGIBILITY AND ENTITLEMENT

4. Payment of family allowance
5. Eligibility and entitlement
6. Persons to whom family allowances are to be paid

PART 3 - ADMINISTRATION OF FAMILY ALLOWANCES

7. Functions of administrator
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Family Allowances Bill 2023

(assented to: 2023)
(commencement: 1 July 2023)
(published: 2023)

A BILL

for

AN ORDINANCE

To provide for the payment of family allowances and connected matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

PART 1 - INTRODUCTORY

1. Title

This Ordinance is the Family Allowances Ordinance 2023.

2. Commencement

This Ordinance comes into force on 1 July 2023.

3. Interpretation

In this Ordinance, unless the context otherwise requires —

“**administrator**” means the Financial Secretary or their nominated representative;

“**allowance**” means the allowance payable in accordance with section 4;

“**applicant**” means a parent who applies for a family allowance;

“**child**” means a child or young person who is either —

(a) 16 years of age and under; or

(b) under the age of 18 years and is in full-time education;

“**date of entitlement**” means the date when a parent and child became eligible for an allowance under this Ordinance;

“**education**” means educational provision made to children and young persons in accordance with section 9 of the Education (Governance and Accountability) Ordinance 2022;

“**eligible child**” means a child who meets the requirements in section 5(1);

“**head of department**” means a person employed as a Director to head a government department;
and

“**parent**”, in relation to an eligible child includes any person who has parental responsibility for that child within the meaning of the Children Ordinance 2014.

PART 2 - PAYMENT, ELIGIBILITY AND ENTITLEMENT

4. Payment of family allowance

(1) An allowance at the maximum rate of £85.10 per month is payable to a parent who meets the requirements of section 5 in respect of a child.

(2) An allowance under subsection (1) is payable by the administrator.

(3) The Governor may by Order vary the amount of an allowance per month set out in subsection (1).

5. Eligibility and entitlement

(1) An allowance is payable in respect of an eligible child under this Ordinance if the child —

(a) has been ordinarily resident in the Falkland Islands for not less than six months immediately before payment of the allowance;

(b) was born in the Falkland Islands less than six months before payment of the allowance;
or

(c) was born outside the Falkland Islands less than six months before payment of the allowance, to a mother who was ordinarily resident in the Falkland Islands at the time of the child’s birth.

(2) A parent to whom an allowance is to be paid in respect of an eligible child must —

(a) have Falkland Islands status or a permanent residence permit unless the eligible child —

(i) has Falkland Islands status; or

(ii) has been ordinarily resident in the Falkland Islands for not less than three years immediately before payment of the allowance; or

(b) have been ordinarily resident in the Falkland Islands for not less than three years immediately before payment of the allowance.

(3) Subject to section 19(4), an allowance in respect of a child under subsection (1)(a) is payable retrospectively for the six-month period as soon as the child has been ordinarily resident for six months.

- (4) An allowance begins to accrue —
- (a) if the claim is made within six months from the date of entitlement, on the date of entitlement; or
 - (b) if the claim was not made within six months from the date of entitlement, then at the beginning of the period of six months immediately preceding the date on which the claim was made.
- (5) An allowance must not be paid —
- (a) in respect of a child who is not ordinarily resident in the Falkland Islands;
 - (b) to a parent who —
 - (i) is not ordinarily resident in the Falkland Islands;
 - (ii) is entitled to a payment from another country which the administrator is satisfied is similar to the allowance, in respect of the child; or
 - (iii) is exempted from the liability to pay income tax by virtue of a law of the Falkland Islands or by extra-statutory concession from the Commissioner of Taxation.
- (6) For the purposes of this section a parent or eligible child's absence from the Falkland Islands must be disregarded if the principal reason for the absence is any of the following purposes —
- (a) to receive medical treatment;
 - (b) to undertake a course of education or training;
 - (c) to support a dependent or relative who is absent from the Falkland Islands and whose principal reason for being absent from the Falkland Islands is for one of the purposes described in paragraphs (a) or (b);
 - (d) to undertake work or to conduct business for a period not exceeding nine months.
- (7) In the case of doubt, the question whether the presence or absence of a person is or is not to be treated as temporary must be determined by the administrator.

6. Persons to whom family allowances are to be paid

- (1) Where parents of an eligible child are living together, the allowance is payable to either of the parents.
- (2) In any other case, the administrator may decide the parent to whom the allowance should be paid, and should consider all relevant circumstances including —
- (a) the living arrangements for the child; and
 - (b) any court orders that have been made regarding residence of the child.

- (3) The administrator may issue guidelines for the exercise of their discretion under subsection (2).

PART 3 - ADMINISTRATION OF FAMILY ALLOWANCES

7. Functions of administrator

- (1) The administrator must administer family allowances in accordance with this Ordinance.
- (2) The administrator must —
 - (a) provide and publish for use by applicants such forms as may be necessary or expedient;
 - (b) receive, consider and determine applications for family allowances;
 - (c) assess the eligibility and entitlement of applicants;
 - (d) determine whether to pay, vary or cease payment of, family allowances;
 - (e) reconsider or review any decision to pay, vary or cease payment of, family allowances when it is appropriate to do so;
 - (f) take all such steps as may reasonably be required to recover repayments due in respect of family allowances; and
 - (g) perform any other function of the administrator under this Ordinance.

8. Applications for family allowances

- (1) An application for family allowance must be submitted by a parent of the eligible child, in respect of whom the application is made.
- (2) An application must include such information as the administrator may reasonably require in order to determine eligibility and entitlement under section 5.
- (3) The administrator must not accept more than one application for family allowance at a time in respect of the same child.
- (4) An applicant must —
 - (a) ensure that their application is true and complete as far as is reasonably practicable; and
 - (b) co-operate with the assessment of the child's eligibility and the parent's entitlement, and any subsequent reassessment.

9. Determination of disputes

- (1) Any question as to eligibility or entitlement to be paid an allowance in respect of an eligible child must be decided by the administrator.

(2) The administrator must give written notice to the applicant about any assessment or determination under this Ordinance, including reasons for the decision.

(3) If an applicant is dissatisfied with a decision of the administrator the matter must be determined in accordance with the Falkland Islands Government complaints procedures.

10. Revision of family allowances

(1) Subject to subsection (2), the administrator may revise an award or decision not to award any family allowance or any other decision made by them under this Ordinance, if satisfied that the award or decision was erroneous.

(2) A revision under subsection (1) may only be done if —

- (a) further information has been brought to the notice of the administrator since the date on which the award or decision was made;
- (b) the circumstances existing at the time which formed the basis of the award or decision have changed; or
- (c) a mistake was made in respect of the circumstances existing at the time the award or decision was made.

(3) Section 9 applies to a dispute arising from any revision or decision not to revise, by the administrator under this section.

11. Adjustment of overpayments

(1) If it is found at any time that a sum has been paid which was not properly payable, the administrator may require it to be repaid.

(2) Any sum which a parent is required under this section to repay may be recovered as a civil debt.

12. Ceasing of payments

The administrator must cease payment of a family allowance to any parent who does not meet or no longer meets the requirements of section 5.

13. Notification of change in circumstances

(1) Subject to subsection (2), a parent must notify the administrator if there is a change to their circumstances —

- (a) which affects their entitlement to a family allowance; and
- (b) the parent knows that the change affects their entitlement to the allowance.

(2) A parent of an eligible child must notify the administrator if there is a change to the child's circumstances —

- (a) which affects the child's eligibility for a family allowance; and

- (b) the parent knows that the change affects the entitlement of the child under this Ordinance.
- (3) Notification under this section must be made as soon as reasonably practicable after the parent becomes aware of the change.
- (4) A parent who fails to notify the administrator as required under this section commits an offence and is liable on conviction to a fine not exceeding level 5 on the standard scale.

14. False statements

A parent who, in an application for family allowance knowingly or recklessly —

- (a) makes a statement or representation which is false in a material particular;
- (b) provides or causes or allows to be provided, a document or information which is false in a material particular; or
- (c) withholds any information which is material,

commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both.

PART 4 - GENERAL

15. Regulations

- (1) The Governor may make regulations for giving effect to this Ordinance, and in particular to prescribe the manner in which applications for allowances may be made.
- (2) Regulations made under subsection (1) may provide for a penalty for contravention of the regulations of a fine not exceeding level 2 on the standard scale.

16. Information sharing

- (1) A head of department or any other public officer acting under the direction of the head of department may, on request, provide information to the administrator relating to the affairs of a parent or a child for purposes of section 5.
- (2) A public officer who provides information in accordance with subsection (1) is not guilty of an offence under section 202 of the Taxes Ordinance 1997.
- (3) The administrator must ensure that, as far as is reasonably practicable, personal information about parents or children is —
 - (a) collected only for the purpose of this Ordinance;
 - (b) accurate and relevant;
 - (c) held securely; and

- (d) retained for no longer than is reasonably necessary.

17. Provisions as to legal proceedings

Proceedings for an offence under this Ordinance must not be instituted without the consent of the Attorney General.

18. Administrator to issue guidance

(1) The administrator may issue guidance for the general administration of family allowances, eligibility for and entitlement to family allowances, including for any matter which is to be prescribed under a provision of this Ordinance but which has not been prescribed.

(2) The administrator must arrange for any guidance made under subsection (1) to be published on the Government website.

19. Repeal and transitional provision

(1) The Family Allowances Ordinance 1960 is repealed (“**repealed Ordinance**”).

(2) The Family Allowances Regulations 1960 and the Family Allowances (Penalty Notice) Regulation 2009 are revoked.

(3) An application for family allowance made under the repealed Ordinance and not determined before the commencement of this Ordinance must be finalised in accordance with the repealed Ordinance.

(4) An allowance to a parent referred to in section 5(2)(b) is payable from the date that this Ordinance takes effect.

OBJECTS AND REASONS

This Bill repeals and replaces the Family Allowances Ordinance 1960 to give effect to a decision to extend family allowances to persons who have been resident in the Islands for three years or more and in the process update the provisions of the current Ordinance. The language in the Ordinance is now outdated and out of step with developments in family law and is now discriminatory against modern families.

Executive Council decided in October 2022 to extend eligibility criteria for payment of allowances to persons who have been ordinarily resident in the Falkland Islands for three years or more. The family allowance will be paid once a child or the person to whom the allowance is payable, has been ordinarily resident for three years or more. This is an additional category of beneficiaries to the current recipients. This extension in eligibility is the major policy change to the current Ordinance. Currently the Ordinance restricts eligibility to persons with status or permanent residence permits.

The administration of the family allowances is revised to modernise and bring it in line with current practice. References to some functionaries are no longer applicable, i.e. Superintendent of the Post Office.

In more detail the individual clauses of the Bill provide as follows:

Part 1, clauses 1 to 3 provide for introductory matters. The Ordinance commences on 1 July 2023. “Superintendent” is replaced with “administrator” defined as the Financial Secretary or their nominated representative. A few other new definitions are included (“education”, “eligible child” and “parent”).

Part 2 deals with payment of family allowance, eligibility and entitlement. These are the substantive provisions of the Bill.

Clause 4 provides for payment of allowances to parents who meet criteria set in *clause 5* in respect of eligible children. The amount payable from 1 July 2023 by the administrator is £85.10 per child.

Clause 5 (eligibility and entitlement) sets out the eligibility and entitlement criteria for payment of family allowances. Eligibility requirements attach to both the parent and the child. The clause replicates the criteria set out in sections 3 and 17 of the current Ordinance and the new criteria of three years’ residence is added. Persons who have been resident in the Falkland Islands for three years or more will be eligible for payment of family allowance in respect of eligible children, with effect from the date that this Ordinance takes effect. The requirements attaching to a child are not changing.

The relevant provisions of section 17 of the current Ordinance provide that both the child and the person to whom the allowance is paid must be ordinarily resident in the Falkland Islands in order to benefit. Temporary absences do not count in determining ordinary residence. For purposes of *clause 5(1)*, an allowance is payable retrospectively for the six months from the date that a child became eligible for the allowance.

Clause 6 provides for the person to whom the allowance is to be paid. A family allowance is paid to either of the parents, where the parents live together or in any other case, in the discretion of the administrator. The administrator is to consider the relevant circumstances and factors in *clause 6(2)*.

Part 3; contains administrative provisions. This is where most of the updating changes are.

Clause 7 sets out the functions of the administrator. The administrator will administer family allowances in accordance with the Ordinance. They will publish forms, determine eligibility and entitlement to allowances.

Clause 8 provides for applications. An application must be submitted by the parent of an eligible child. The administrator accepts only one application in respect of an eligible child. An applicant must ensure that their application is complete and must cooperate with assessments.

Under *clause 9*, any disputes will be resolved in accordance with Falkland Islands Government complaints procedures.

Family allowances may be revised in light of new information surfacing (*clause 10*) and adjustments of any overpayments are made (*clause 11*). The administrator must stop a payment where a person does not meet or no longer meets the requirements of *clause 5* (*clause 12*).

Clause 13 provides that a parent has a duty to notify the administrator where there is a change of circumstances which affects, either their eligibility and entitlement or that of the child. Failure to comply with this clause is an offence punishable by a fine not exceeding level 5. Under *clause 14* if a parent knowingly or recklessly makes a false statement, they commit an offence and liable to a fine or imprisonment for up to six months.

Part 4 contains general provisions; the power to make regulations (*clause 15*); release of information by other Government Departments for purposes of *clause 5* (*clause 16*); proceedings under the Ordinance to be instituted with consent of Attorney General (*clause 17*); administrator given power to issue guidance (*clause 18*); repeal of current Ordinance and transitional provisions (*clause 19*). Regulations made under the repealed Ordinance are revoked. Payments in respect of persons who have been resident for three years or more take effect from the date this Ordinance commences. There is no payment retrospectively.

CHARLES III



FALKLAND ISLANDS

DAVID PAUL MORGAN,
Acting Governor.

Travel Credit Scheme (Amendment) Ordinance 2023

(ORDINANCE No. 2 OF 2023)

ARRANGEMENT OF PROVISIONS

Section

Part 1 - Introductory

1. Title
2. Commencement

Part 2 - Amendment of Travel Credit Scheme Ordinance 2019

3. Travel Credit Scheme Ordinance 2019 amended
4. Section 2 amended (interpretation)
5. Section 4 amended (object of Ordinance)
6. Section 16 amended (use of travel credits)
7. Section 18 amended (application to redeem travel credits)
8. Section 21 amended (adjustment of payments)
9. Section 24 amended (Scheme Administrator to issue guidance)
10. Section 25 amended (subsidiary legislation)

Part 3 - Amendment of Travel Credit Scheme Regulations 2019

11. Travel Credit Scheme Regulations 2019 amended

Schedule - Amendment of Travel Credit Scheme Regulations 2019

CHARLES III



FALKLAND ISLANDS

DAVID PAUL MORGAN,
Acting Governor.

Travel Credit Scheme (Amendment) Ordinance 2023

(assented to: 27 April 2023)
(commencement: 1 July 2023)
(published: 30 April 2023)

AN ORDINANCE

To amend the Travel Credit Scheme Ordinance 2019 and the Travel Credit Scheme Regulations 2019 to allow registered persons to claim travel credits to meet the cost of accommodation provided in the Falkland Islands; and to provide for connected matters.

ENACTED by the Legislature of the Falkland Islands —

PART 1 - Introductory

1. Title

This Ordinance is the Travel Credit Scheme (Amendment) Ordinance 2023.

2. Commencement

This Ordinance comes into force on 1 July 2023.

PART 2 - Amendment of Travel Credit Scheme Ordinance 2019

3. Travel Credit Scheme Ordinance 2019 amended

This Part amends the Travel Credit Scheme Ordinance 2019.

4. Section 2 amended (interpretation)

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

“**accommodation**” means a business facility where tourists stay for a short term in the Falkland Islands;”

“**accommodation provider**” means a person who is in the business of providing accommodation;” and

“**cost of accommodation**” means money that is paid for accommodation used by a registered person and includes the cost of meals provided as part of the person’s stay in the accommodation;”.

5. Section 4 amended (object of Ordinance)

In section 4 after “fares” insert “or the cost of accommodation or both;”.

6. Section 16 amended (use of travel credits)

In section 16 —

(a) in subsection (1) after “to pay for” insert “the cost of accommodation or”;

(b) after subsection (2), insert —

“(2A) If the claim under subsection (2) is for a journey back to the Falkland Islands, then the person making the claim must have undertaken the outward journey from the Falkland Islands not more than 12 months before.

(2B) A claim for the cost of accommodation may be made only for a stay that took place on or after the date of commencement of the Travel Credit Scheme (Amendment) Ordinance 2023.” and

(c) replace subsection (4) with —

“(4) Except as prescribed under subsection (5), travel credits may not be used to pay for embarkation tax, shipping or cargo costs, transfers, excess baggage charges, travel insurance, alcoholic or non-alcoholic drinks or any other charges which do not constitute the fare or cost of accommodation.”.

7. Section 18 amended (application to redeem travel credits)

In section 18 —

(a) in subsection (1)(a) —

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

(ii) at the end of subparagraph (ii), insert “or”; and

(iii) after subparagraph (ii), insert —

“(iii) the cost of accommodation.”;

(b) replace subsection (1)(b) with —

“(b) a travel provider or accommodation provider may, in respect of a registered person, redeem vouchers in advance of travel or a stay in accommodation or after travel or a stay in order to pay for the fare or the cost of accommodation; and”;

(c) in subsection (1)(c) after “advance of travel” insert “or a stay in accommodation”; and

(d) after subsection (1), insert —

“(1A) A registered person must apply to redeem travel credits after travel or after a stay in accommodation not more than six months after the completion of travel or completion of a stay in the accommodation.

(1B) For purposes of subsection (1A), travel is completed on the day a registered person arrives back to the place where the outward journey originated and a stay in accommodation is completed on the final day of the stay in the accommodation.”.

8. Section 21 amended (adjustment of payments)

In section 21(1)(c), after “travel provider” in each place it occurs, insert “or accommodation provider”.

9. Section 24 amended (Scheme Administrator to issue guidance)

In subsection (1)(a) and (b), after “travel providers” insert “or accommodation providers”.

10. Section 25 amended (subsidiary legislation)

In subsection (2) —

(a) in paragraph (a), replace “and registration” with “and registration procedures”;

(b) in paragraph (d), after “of travel” insert “or of a stay in accommodation”; and

(c) in paragraph (e), after “to travel” insert “or to stay in accommodation”.

PART 3 - Amendment of Travel Credit Scheme Regulations 2019

11. Travel Credit Scheme Regulations 2019 amended

(1) This Part amends the Travel Credit Scheme Regulations 2019.

(2) The regulation in the first column of the Schedule is amended to the extent set out in the second column.

SCHEDULE - Amendment of Travel Credit Scheme Regulations 2019

(section 11)

Regulation	Amendment
Regulation 2	<p>Insert the following definitions in the correct alphabetical order —</p> <p>“aborted stay” means a stay in accommodation that fails to take place as set out in regulation 11(1); and</p> <p>“designated accommodation provider” means a provider of accommodation who is designated by the Scheme Administrator under regulation 9(1);”.</p>
Regulation 8	<p>(a) After subregulation (5), insert —</p> <p>“(5A) Subregulation (5) does not apply to a claim for travel credits that is made to pay for the cost of accommodation.”; and</p> <p>(b) Omit subregulation (7).</p>
Regulation 9	<p>(a) Replace the heading with “Designation of travel providers and accommodation providers”;</p> <p>(b) In subregulation (1) —</p> <p>(i) after “travel providers” in each place it occurs, insert “and accommodation providers”;</p> <p>(ii) replace “this Ordinance” with “the Ordinance”; and</p> <p>(c) In subregulation (2) after “travel providers” insert “or accommodation providers”.</p>
Regulation 10	<p>(a) Replace the heading with “Payment for accommodation or travel and request for proof”;</p> <p>(b) In subregulation (1) —</p> <p>(i) after “fares” insert “or costs of accommodation”; and</p> <p>(ii) after “travel provider” insert “, accommodation provider”;</p> <p>(c) In subregulation (2), after “fare” in each place it occurs insert “or cost of accommodation”;</p> <p>(d) Replace subregulation (3) with —</p> <p>“(3) As an alternative to subregulation (2), a registered person may be issued with vouchers of a value of some or all of their travel credits and they</p>

	<p>may use the vouchers to pay a designated travel provider or designated accommodation provider for a fare or cost of accommodation in advance of travel or a stay, and the travel provider or accommodation provider may be reimbursed by the Scheme for the value of the vouchers.”; and</p> <p>(e) In subregulation (4) after “proof of” insert “a stay in accommodation,”.</p>
Regulation 11	<p>(a) Replace the heading with “Aborted travel or aborted stay”.</p> <p>(b) In subregulation (1) —</p> <p>(i) in the introductory words, after “Travel” insert “or a stay in accommodation”;</p> <p>(ii) in paragraph (a), after “travel provider” insert “or designated accommodation provider”;</p> <p>(iii) in paragraph (b), after “fare” insert “or cost of accommodation”;</p> <p>(iv) replace paragraph (c) with —</p> <p style="padding-left: 40px;">“(c) the registered person fails to travel to the same destination or stay in the accommodation as booked within 14 days of the date originally booked.”;</p> <p>(c) Replace subregulations (2) and (3) with —</p> <p style="padding-left: 40px;">“(2) A registered person must claim a refund for aborted travel or an aborted stay from the travel provider or accommodation provider and subject to subregulation (3), reimburse the Scheme with the amount that was refunded within 60 days of the date that the travel or the stay in accommodation was originally booked to take place.</p> <p style="padding-left: 40px;">(3) A designated travel provider or a designated accommodation provider who arranged travel or stay that aborted must reimburse the Scheme directly with the amount to be refunded.”; and</p> <p>(d) In subregulation (4), replace “subregulation (1)” with “this regulation”.</p>
Regulation 14	<p>In subregulation (4) —</p> <p>(a) in paragraph (a), after “fare” insert “or cost of accommodation”; and</p> <p>(b) in paragraph (b), replace “a travel provider for aborted travel” with “a travel provider or accommodation provider for aborted travel or for an aborted stay”.</p>

Passed by the Legislature of the Falkland Islands on 27 April 2023.

CHERIE YVONNE CLIFFORD,
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.

CHERIE YVONNE CLIFFORD,
Clerk of the Legislative Assembly.

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