



FALKLAND ISLANDS GAZETTE

Supplement

PUBLISHED BY AUTHORITY

Vol. 34

30 November 2023

No. 10

The following are published in this Supplement —

Maritime (Ship to Ship Transfer) Regulations 2023 (SR&O No 10 of 2023);

Currency (Coins) Regulations 2023 (SR&O No 11 of 2023); and

Taxes and Duties (Defence Contractors' Employees Exemption) (No 2) (Amendment No 2) Order 2023 (SR&O No 12 of 2023).

SUBSIDIARY LEGISLATION

Maritime (Ship to Ship Transfer) Regulations 2023

(No. 10 OF 2023)

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Purpose
4. Interpretation: general
5. Interpretation: oil tanker
6. Application
7. STS operations plans
8. Cargo transfers in Falkland Islands controlled waters
9. Notification of cargo transfers
10. Cargo transfers by Falkland Islands oil tankers in waters of other coastal States
11. Notification of bunkering operations
12. Offences and penalties

SUBSIDIARY LEGISLATION

Maritime (Ship to Ship Transfer) Regulations 2023

(made: 24 November 2023)

(commencement: on publication)

(published: 30 November 2023)

I make these Regulations under sections 131(2) and 133(1) of the Maritime Ordinance 2017 on the advice of Executive Council.

1. Title

These Regulations are the Maritime (Ship to Ship Transfer) Regulations 2023.

2. Commencement

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

3. Purpose

The purpose of these Regulations is —

- (a) to give effect in the law of the Falkland Islands to Chapter 8 (Prevention of pollution during transfer of oil cargo between oil tankers at sea) of Annex I of MARPOL; and
- (b) to require the notification of bunkering operations in Falkland Islands waters.

4. Interpretation: general

In these Regulations, except where the context otherwise requires —

“**bunkering operation**” means the transfer between ships of a substance consisting wholly or mainly of oil for consumption by the engines of the ship receiving the substance;

“**cargo transfer**” means the transfer between two oil tankers of a substance consisting wholly or mainly of oil which is transported by either or both of the oil tankers for reward, but does not include —

- (a) a bunkering operation; or
- (b) a transfer of —
 - (i) the remnants of any cargo material on board in cargo holds or tanks which remain after unloading procedures and cleaning operations are completed;
 - (ii) excesses or spillages from loading or unloading; or

- (iii) ship-generated waste; and for this purpose, “**ship generated waste**” has the meaning given to it in regulation 2 (interpretation, etc) of the United Kingdom Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809), as applied by the Law Revision and Publication Ordinance 2017;

“**Falkland Islands controlled waters**” means the waters within —

- (a) the limits of a port or harbour;
- (b) Falkland Islands waters;
- (c) the Interim Fishery Conservation and Management Zone (Proclamation No 4 of 1986); and
- (d) the Fishery Conservation Outer Zone (Proclamation No 2 of 1990);

“**Falkland Islands oil tanker**” means an oil tanker registered under Part 3 of the Ordinance;

“**GT**” means —

- (a) in the case of a Falkland Islands ship, the gross tonnage determined in accordance with the Merchant Shipping (Tonnage) Regulations 1997 (SI 1510/1997), as applied by the Law Revision and Publication Ordinance 2017;
- (b) in the case of a non-Falkland Islands registered ship —
 - (i) the gross tonnage determined in accordance with the International Convention on Tonnage Measurement of Ships, 1969; or
 - (ii) if the ship does not have a gross tonnage determined in accordance with the Convention, the gross tonnage or equivalent measure determined in accordance with the law of the ship’s flag State;

“**harbour**” has the same meaning as in section 3 of the Harbours and Ports Ordinance 2017;

“**IMO**” means the International Maritime Organization;

“**IMO best practice guidelines for STS operations**” means the Manual on Oil Pollution, Section 1, Prevention, 2011 Edition and the OCIMF Ship to Ship Transfer Guide for Petroleum, Chemicals and Liquefied Gases (2013) (as amended from time to time) published by the IMO;

“**MARPOL**” means the International Convention for the Prevention of Pollution from Ships, as amended by the Protocol of 1978 and 1997 (as amended from time to time);

“**non-Falkland Islands registered ship**” means any ship which is not a Falkland Islands ship;

“**oil**” means oil of any description and includes —

- (a) spirit produced from oil of any description; and

- (b) coal tar;

“the Ordinance” means the Maritime Ordinance 2017;

“owner”, in relation to a ship, means —

- (a) the registered owner or, in the absence of registration, the person owning the ship; and
- (b) any other person (such as the ship manager, agent or bareboat charterer) who has agreed to assume responsibility for the operation of the ship;

“port” means a port declared by the Governor under section 6 of the Harbours and Ports Ordinance 2017;

“STS operation” means —

- (a) a cargo transfer; and
- (b) a bunkering operation; and

“STS operations plan” means a plan required by regulation 7 prescribing how, in relation to an oil tanker to which that regulation applies, STS operations must be conducted.

5. Interpretation: oil tanker

(1) In these Regulations, **“oil tanker”** means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes a combination carrier, a NLS tanker and a gas carrier when carrying a cargo or part cargo of oil in bulk.

(2) For the purpose of this regulation —

“cargo ship” means a ship which is not a passenger ship;

“combination carrier” means a ship designed to carry either oil or solid cargoes in bulk;

“gas carrier” means a cargo ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other products listed in either —

- (a) Chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk adopted by the Maritime Safety Committee of the IMO by resolution MSC.5(48); or
- (b) Chapter XIX of the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk adopted by the IMO by resolution A.328(IX);

“NLS tanker” means a ship constructed or adapted to carry a cargo of noxious liquid substances in bulk, and includes an oil tanker certified to carry a cargo or part cargo of noxious liquid substances in bulk; and

“passenger ship” means a ship which carries more than twelve passengers.

6. Application

(1) Subject to subregulations (2) and (3) and regulation 11(1), these Regulations apply —

- (a) to a Falkland Islands ship; and
- (b) to a non-Falkland Islands registered ship in Falkland Islands controlled waters.

(2) These Regulations do not apply to —

- (a) an STS operation necessary —
 - (i) for the purpose of securing the safety of a ship or saving life at sea;
 - (ii) for combating specific pollution incidents in order to minimise the damage from pollution; or
- (b) an STS operation where either of the ships involved is —
 - (i) a warship;
 - (ii) a naval auxiliary;
 - (iii) another ship owned or operated by a State and used, for the time being, only on government non-commercial service.

(3) These Regulations do not apply to —

- (a) oil transfer operations associated with fixed or floating platforms including drilling rigs;
- (b) floating production, storage and offloading facilities used for the offshore production and storage of oil; or
- (c) floating storage units used for the offshore storage of produced oil.

7. STS operations plans

(1) This regulation applies to —

- (a) a Falkland Islands oil tanker of 150 GT and above which engages in cargo transfers, wherever it may be; and
- (b) a non-Falkland Islands registered oil tanker of 150 GT and above which engages in cargo transfers in Falkland Islands controlled waters.

(2) An oil tanker to which this regulation applies must carry on board an STS operations plan that has been approved by —

- (a) in the case of a Falkland Islands oil tanker, the Authority;
- (b) in the case of a non-Falkland Islands registered oil tanker, the oil tanker's flag State.

(3) An STS operations plan must —

- (a) be written in the working language of the oil tanker; and
- (b) be developed taking into account the IMO best practice guidelines for STS operations.

(4) Where the requirements of Chapter IX of SOLAS (Management for the safe operation of ships) apply to an oil tanker, the STS operations plan may be incorporated into the oil tanker's existing safety management system.

(5) In this regulation —

“Chapter IX of SOLAS” means Chapter IX of the Annex to the International Convention for the Safety of Life at Sea 1974, as amended by the Protocols of 1978 and 1988 (as may be amended from time to time);

“flag State”, in relation to an oil tanker, means the State whose flag the oil tanker is entitled to fly;

“International Safety Management Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the IMO by Resolution A.741(18) (as may be amended from time to time); and

“safety management system” means a safety management system which is required to be developed, implemented and maintained in accordance with paragraph 1.4 of the International Safety Management Code.

8. Cargo transfers in Falkland Islands controlled waters

(1) A cargo transfer must not be carried out in Falkland Islands controlled waters unless —

- (a) the Authority has been notified in accordance with regulation 9;
- (b) a record of the cargo transfer is made in each oil tanker's oil record book; and
- (c) in the case of a cargo transfer to or from an oil tanker of 150 GT or more, the requirements of subregulation (2) are met.

(2) The requirements are that —

- (a) a copy of an STS operations plan approved in accordance with regulation 7(2) relating to the oil tanker is carried on board;
- (b) the cargo transfer is carried out in compliance with the STS operations plan; and
- (c) the person in overall advisory control of the cargo transfer is qualified to perform all relevant duties in accordance with the IMO best practice guidelines for STS operations.

(3) A record of a cargo transfer referred to in subregulation (1)(b) must —

- (a) be retained on board the oil tanker for a period of three years from the date of the transfer; and

- (b) be made available for inspection by —
 - (i) the Authority; and
 - (ii) an authorised official of any State which is a party to MARPOL.

9. Notification of cargo transfers

(1) Not less than 48 hours in advance, the owner or master of each oil tanker which is to be involved in a cargo transfer in Falkland Islands controlled waters must notify the Authority of the scheduled transfer.

(2) A notification under subregulation (1) must contain the following information —

- (a) the name, flag, call sign, IMO number and estimated time of arrival of the oil tankers involved in the cargo transfer;
- (b) the date, time and geographical location at the commencement of the planned cargo transfer;
- (c) whether the cargo transfer is to be conducted at anchor or underway;
- (d) the oil type and quantity;
- (e) the planned duration of the cargo transfer;
- (f) the identification of, and contact information for, the person responsible for the cargo transfer or the person in overall advisory control; and
- (g) confirmation that, if required under regulation 7, the oil tankers have on board an STS operations plan.

(3) If the estimated time of arrival of an oil tanker at the location or area for the cargo transfer changes by more than six hours, the master or owner of the oil tanker must provide a revised estimated time of arrival to the Authority.

(4) Where, in an exceptional case, all of the information required by subregulation (2) is not available, the master or owner of the oil tanker must —

- (a) not less than 48 hours in advance, notify the Authority that the scheduled cargo transfer will occur; and
- (b) provide the information required by subregulation (2) at the earliest opportunity.

10. Cargo transfers by Falkland Islands oil tankers in waters of other coastal States

(1) This regulation applies to a Falkland Islands oil tanker of 150 GT and above engaged in a cargo transfer in the waters of a coastal State.

(2) A cargo transfer to or from an oil tanker to which this regulation applies must not be carried out unless —

- (a) a copy of the STS operations plan approved by the Authority is on board the oil tanker;
 - (b) not less than 48 hours in advance of the scheduled cargo transfer, the owner or master of the oil tanker has notified the appropriate authority of the coastal State of the scheduled transfer;
 - (c) the person in overall advisory control of the cargo transfer is qualified to perform all relevant duties in accordance with the IMO best practice guidelines for STS operations;
 - (d) the cargo transfer is carried out in compliance with —
 - (i) the STS operations plan; and
 - (ii) the requirements (if any) of the coastal State; and
 - (e) a record of the cargo transfer is made in the oil tanker's oil record book.
- (3) A notification required under subregulation (1)(b) must contain the information prescribed in regulation 9(2).
- (4) A record of a cargo transfer mentioned in subregulation (2)(e) must —
- (a) be retained on board the oil tanker for a period of three years from the date of the transfer; and
 - (b) be made available for inspection by —
 - (i) the Authority; and
 - (ii) an authorised official of the coastal State.
- (5) In this regulation, “**waters of a coastal State**” means the territorial sea and exclusive economic zone of a State, other than the Falkland Islands, which is a party to MARPOL in which a cargo transfer is to be, or is being, carried out.

11. Notification of bunkering operations

- (1) This regulation applies to a bunkering operation carried out —
- (a) within the limits of a harbour or port in the Falkland Islands, or
 - (b) in Falkland Islands waters.
- (2) A bunkering operation must not be carried out unless, not less than 24 hours in advance, the owner or master of the ship from which oil is to be transferred has notified the Authority of the scheduled operation.
- (3) A notification under subregulation (2) must contain the following information —
- (a) the name, flag, call sign, IMO number and estimated time of arrival of the ships involved in the bunkering operation;

- (b) the date, time and geographical location at the commencement of the planned bunkering operation;
- (c) whether the bunkering operation is to be conducted at anchor or underway;
- (d) the oil type and quantity;
- (e) the planned duration of the bunkering operation; and
- (f) the identification of, and contact information for, the person responsible for the bunkering operation or the person in overall advisory control.

12. Offences and penalties

(1) The owner and master of a ship each commit an offence if an oil tanker fails to carry an STS operations plan in accordance with regulation 7(2).

Penalty: A fine not exceeding level 5 on the scale set out in Schedule 7 to the Ordinance.

(2) The owner and master of each oil tanker carrying out a cargo transfer each commit an offence if the cargo transfer is carried out in contravention of regulation 8 or 10.

Penalty: A fine not exceeding level 5 on the scale set out in Schedule 7 to the Ordinance.

(3) The owner and master of each ship carrying out a bunkering operation each commit an offence if notice of a bunkering operation has not been given in accordance with regulation 11.

Penalty: A fine not exceeding level 5 on the scale set out in Schedule 7 to the Ordinance.

(4) Where a person is charged with an offence under this regulation, it is a defence for that person to prove that the cargo transfer or bunkering operation, as the case may be, was for one or more of the following purposes —

- (a) securing the safety of any ship;
- (b) preventing damage to any ship or cargo;
- (c) saving life; or
- (d) preventing pollution,

unless the court is satisfied that the cargo transfer or bunkering operation was not necessary for any of those purposes and was not a reasonable action to take in the circumstances.

Made 24 November 2023

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

EXPLANATORY NOTE
(not part of the regulations)

The Regulations give effect in the law of the Falkland Islands to Chapter 8 of Annex I of the International Convention for the Prevention of Pollution from Ships (“MARPOL”) which seeks to prevent pollution during the transfer of oil cargoes between oil tankers (referred to as a “cargo transfer”). The principles of Chapter 8 apply to oil transfers involving (a) a Falkland Islands registered oil tanker wherever it may be and (b) non-Falkland Islands registered oil tankers whilst they are in Falkland Islands controlled waters.

The Regulations also contain provision requiring the Falkland Islands Maritime Authority (FIMA) to be notified of bunkering operations (i.e. the transfer of fuel oil from an oil tanker to another ship) carried out within the limits of ports or harbours in the Falkland Islands or in Falkland Islands waters.

Regulations 1 to 3 provide for general matters. In accordance with *regulation 2*, the regulations will come into force on the date of their publication in the *Gazette*. *Regulation 3* describes the purpose of the Regulations.

Various terms used in the Regulations are defined in *regulation 4*, including the meaning of bunkering operations, cargo transfers and the Falkland Islands controlled waters. Falkland Islands controlled waters comprise: (a) the waters within the limits of ports or harbours in the Falkland Islands; (b) Falkland Islands waters (i.e. the sea or other waters (including national or internal waters) within the seaward limits of the territorial sea of the Falkland Islands); and (c) the Interim Fishery Conservation and Management Zone and the Fishery Conservation Outer Zone.

Regulation 5 contains the definition of an oil tanker and the types of ship that may be treated as an oil tanker for the purpose of the Regulations.

Regulation 6 provides that the Regulations apply to Falkland Islands ships wherever they may be. They also apply to non-Falkland Islands registered ships which (a) engage in cargo transfers in Falkland Islands controlled waters or (b) carry out bunkering operations within the limits of a harbour or port in the Falkland Islands, or in Falkland Islands waters. The Regulations do not apply to cargo transfers or bunkering operations that are necessary to secure the safety of a ship, saving life at sea or for combatting specific pollution incidents to minimise pollution damage. They also do not apply to cargo transfers or bunkering operations where one of the ships involved is a warship, a naval auxiliary or a ship owned or operated by a State and used only on government non-commercial service. Further, (a) oil transfer operations associated with fixed or floating platforms including drilling rigs, (b) floating production, storage and offloading facilities used for the offshore production and storage of oil and (c) floating storage units used for the offshore storage of produced oil are outside the scope of the Regulations.

Regulation 7 requires Falkland Islands oil tankers of 150 gross tonnage and above to carry an STS operations plan approved by FIMA. Non-Falkland Islands registered oil tankers of this size must carry such a plan approved by their flag State whilst in Falkland Islands controlled waters.

Regulation 8 prohibits cargo transfers in Falkland Islands controlled waters unless, in all cases, (a) FIMA has been notified in advance and (b) a record of the transfer is made in the tanker’s oil

record book. In the case of a transfer involving a tanker of over 150 GT, additional requirements are that a copy of the ships' STS operations plan must be carried on board, the transfer must be completed in accordance with the plan and (c) the person in overall advisory control of the transfer must be properly qualified.

Regulation 9 provides that the owner or master of each oil tanker involved in a cargo transfer in Falkland Islands controlled waters must notify FIMA at least 48 hours in advance of the transfer. *Regulation 9(2)* sets out the information that must be contained in the notification.

Regulation 10 applies to a Falkland Islands registered oil tanker of 150GT and above engaged in a cargo transfer in the territorial sea or exclusive economic zone of another State. The cargo transfer must not be carried out unless conditions specified in regulation 10(2) are met, including notifying the appropriate authority of the coastal State of the scheduled transfer not less than 48 hours in advance of the scheduled cargo transfer. The notification must contain the information prescribed in regulation 9(2).

Records of any cargo transfers that fall within the Regulations must be retained on board the relevant tanker for three years and be made available for inspection (*regulations 8(3) and 10(4)*).

Regulation 11 governs bunkering operations within the limits of harbours or ports in the Falkland Islands or in Falkland Islands waters. The master or owner of a ship from which fuel oil is to be transferred must notify FIMA at least 24 hours in advance of the scheduled time for the operation (*regulation 11(2)*). *Regulation 11(3)* sets out the information that must be included in the notification.

Regulation 12 provides for offences where an owner or master does not comply with the requirements of the Regulations. Conviction for an offence under the Regulations is punishable by a fine not exceeding level 5 on the scale set out in Schedule 7 to the Ordinance.

SUBSIDIARY LEGISLATION

Currency (Coins) Regulations 2023

(No. 11 OF 2023)

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Coins that may be minted

Schedule - Details of coins

SUBSIDIARY LEGISLATION

Currency (Coins) Regulations 2023

(made: 24 November 2023)

(commencement: on publication)

(published: 30 November 2023)

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

1. Title

These regulations are the Currency (Coins) Regulations 2023.

2. Commencement

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

3. Coins that may be minted

For the purposes of section 6(5)(a) of the Currency Ordinance 1987, the Commissioners may arrange the minting of the three coins described in the Schedule.

SCHEDULE – DETAILS OF COINS

regulation 3

	Circulation coin	Commemorative coin	Proof coin
<i>Denomination</i>	50p	50p	50p
<i>Metal</i>	Cupro Nickel	Cupro Nickel	Silver
<i>Weight (grams)</i>	8.00	8.00	8.00
<i>Diameter (millimetres)</i>	27.30	27.30	27.30
<i>Fineness</i>	75% Cu / 25% Ni	75% Cu / 25% Ni	925
<i>Quality</i>	Uncirculated	Diamond Finish	Proof
<i>Shape</i>	Heptagonal	Heptagonal	Heptagonal
<i>Edge</i>	Plain	Plain	Plain
<i>Design (all 3 coins)</i>	As shown in the pictures below and described as follows:		
<i>Obverse - design</i>	Effigy of His Majesty King Charles III		
<i>Obverse - wording</i>	KING CHARLES III • FIFTY PENCE • FALKLAND ISLANDS • 2023		
<i>Reverse – design</i>	Five penguins (three King Penguins and two Southern Rockhopper Penguins) in the shape of a Christmas tree with the upper penguins holding a star all surrounded by the Pale Maiden flower.		
<i>Reverse – wording</i>	CHRISTMAS 50		



Made 24 November 2023

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

EXPLANATORY NOTE
(not part of the regulations)

Section 6(5)(a) of the Currency Ordinance 1987 gives the Commissioners of Currency the right to arrange for the minting of coins of such denominations, weight, form and design and made of such metal or metals as are prescribed by regulations.

These regulations prescribe the details for three 50p coins as set out in the Schedule.

SUBSIDIARY LEGISLATION

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

(No. 12 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 No 2) Order 2023

(made: 24 November 2023)
(commencement: on publication)
(published: 30 November 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 No 2) 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—

“Recruitment & Manpower Services Limited 1 January 2023”

Made 24 November 2023

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

EXPLANATORY NOTE (not part of the order)

This order exempts qualifying employees of Recruitment & Manpower Services Limited from paying income tax and retirement contributions in relation to relevant income. Recruitment & Manpower Services Limited is added 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 from liabilities arising on or after 1 January 2023 ending 31 December 2023.

Published at the Attorney General's Chambers, Stanley, Falkland Islands
Price: £4.90

© *Crown Copyright* 2023

To access **Falkland Islands Laws** online visit: www.legislation.gov.fk