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The following are published in this Supplement —

Taxes and Duties (Special Exemptions) (Amendment) Bill 2024;

Fisheries (Conservation and Management) (Amendment) Bill 2024; and

Road Traffic (Mobile Devices) Regulations 2024 (SR&O No 1 of 2024).

Taxes and Duties (Special Exemptions) (Amendment) Bill 2024

(ORDINANCE No. OF 2024)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Taxes and Duties (Special Exemptions) Ordinance 1987 amended
4. Section 2 amended (interpretation)
5. Section 9A replaced (exemption of persons in defence-related employment)
6. Transitional provision

Taxes and Duties (Special Exemptions) (Amendment) Bill 2024

(assented to: 2024)
(published: 2024)
(commencement: on publication)

A BILL

for

AN ORDINANCE

To amend the Taxes and Duties (Special Exemptions) Ordinance 1987 to make changes to the administrative procedure for granting exemptions under section 9A and for connected matters.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Taxes and Duties (Special Exemptions) (Amendment) Ordinance 2024.

2. Commencement

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

3. Taxes and Duties (Special Exemptions) Ordinance 1987 amended

This Ordinance amends the Taxes and Duties (Special Exemptions) Ordinance 1987.

4. Section 2 amended (interpretation)

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

“**Commissioner**” has the same meaning as in the Taxes Ordinance 1997;

“**designated employer**” means an employer designated by the Commissioner under section 9A;

“**qualifying employee**” means a person who is employed by a designated employer;

“**retirement pension contributions**” means contributions payable by an employee under the Retirement Pensions Ordinance 1996;

“**relevant employment**” means —

- (a) employment only for the purpose of providing services in the Falkland Islands —
 - (i) to His Majesty’s regular armed forces; or
 - (ii) to the Ministry of Defence of His Majesty’s Government in the United Kingdom; or

- (b) employment only for the purposes of providing services to persons who are themselves in relevant employment by virtue of paragraph (a) or by virtue of this paragraph;

“**relevant income**” means income from relevant employment.”.

5. Section 9A replaced (exemption of persons in defence-related employment)

Replace section 9A with —

“9A. Exemption of persons in defence-related employment

(1) Without prejudice to the foregoing provisions of this Ordinance, the Commissioner may on the advice of the Standing Finance Committee grant an exemption from liability to tax to a person who meets the requirements of this section.

(2) Subject to subsection (3), a person meets the requirements of this section if they are —

- (a) present in the Falkland Islands in the course of relevant employment; and
- (b) entitled to be accommodated upon land which is, for the purposes of the defence of the Falkland Islands, in the occupation of His Majesty in right of His Government in the United Kingdom.

(3) An exemption granted under this section does not apply for the benefit of a person who —

- (a) was present in the Falkland Islands at the time that the person was engaged for relevant employment; or
- (b) was present in the Falkland Islands at any time during the three months before being engaged for relevant employment.

(4) Subsection (3) does not apply to a person who is present in the Falkland Islands in the course of relevant employment immediately before being engaged for new relevant employment.

(5) An exemption granted under this section does not apply for the benefit of a person who absents themselves from the Falkland Islands for a period of three months or more and, in the opinion of the Commissioner, the principal reason for that absence is to enable the person to qualify for an exemption.

(6) An exemption under this section may confer exemption from liability to pay income tax and retirement pension contributions in relation to relevant income, but does not confer any exemption from liability to pay customs duty.

(7) An exemption under this section —

- (a) may be granted subject to conditions and has effect in respect of a person for such period as subsection (2)(a) and (b) are satisfied by that person;
- (b) may be granted with retrospective effect; and
- (c) may be granted indefinitely or for a definite period.

- (8) The Commissioner may designate an employer who provides relevant employment for the purposes of granting an exemption to qualifying employees of that employer under this section.
- (9) A designated employer must complete a return relating to the relevant income of qualifying employees in respect of each year for which an exemption is granted and the return must —
- (a) provide such information as the Commissioner may request, and the request may include a requirement for a designated employer to submit their accounts for the period when the relevant income was earned; and
 - (b) be lodged with the Commissioner within a time specified by the Commissioner.
- (10) The Commissioner must maintain an up to date list of designated employers whose qualifying employees have been granted an exemption under this section showing —
- (a) whether the exemption is from liability to pay tax or retirement pension or both;
 - (b) the date with effect from which the exemption was granted; and
 - (c) the duration of the exemption.
- (11) The list and information under subsection (10) must be available from the Falkland Islands Government Taxation Office and on their website.”.

6. Transitional provision

Exemptions granted under the Taxes and Duties (Defence Contractors’ Employees Exemption) Order 2023 continue in force for the period stated in that order.

OBJECTS AND REASONS

This Bill is the Taxes and Duties (Special Exemptions) (Amendment) Bill 2024. The Bill makes administrative changes to the granting of exemptions from liability to pay tax under section 9A of the Taxes and Duties (Special Exemptions) Ordinance 1987 (the Ordinance).

Under section 9A of the Ordinance, the Governor may grant an exemption to persons in defence related employment by Order. The Order must be published in the *Gazette* before the exemption takes effect.

The Order granting exemptions provided for a system whereby relevant employers are designated for purposes of granting exemptions to their qualifying employees. This administrative convenience is not authorised under the Ordinance. Designation of relevant employers is convenient in that it avoids naming each qualifying employee individually when granting an exemption. The Bill will allow the designation of employers and granting of exemptions to qualifying employees by reference to the designated employer.

In previous years the Governor issued an order once a year granting all the exemptions considered and recommended that year or extended for another year. Applications were considered throughout the year but took effect when the order was made. Usually exemptions were granted retrospectively.

Under the new provisions, the exemption is granted by the Commissioner on the recommendation of the Standing Finance Committee. When this amending Bill is enacted, a list of designated employers whose employees have been granted exemptions under the new section 9A must be kept by the Commissioner and that information must be available from the Falkland Islands Government Tax Office and on their website. The information must include the date when the exemption becomes effective and for how long it is granted.

The specific clauses of the Bill provide as follows:

Clauses 1, 2 and 3 are preliminary provisions providing for title, commencement and amendment of the Taxes and Duties (Special Exemptions) Ordinance 1987.

Clause 4 amends section 2 by adding some definitions. Some of the definitions are currently in section 9A(5) (i.e. “retirement pension contributions”, “relevant employment and “relevant income”) and there is no change in meaning. The other definitions are taken from the current order (i.e. “designated employee” and “qualifying employee”) as part of the regularisation of the practice in the Falkland Islands Government Tax Office of designating employers before granting exemptions to their qualifying employees as a group.

Clause 5 replaces section 9A and the new section empowers the Commissioner to grant exemptions. New subsections are inserted which allow for the designation of employers and for exemptions to be granted to qualifying employees of designated employers.

The new subsection 9A(9) reproduces a condition that is currently part of the Taxes and Duties (Defence Contractors’ Employees Exemption) Order 2023. The condition requires a designated employer to complete a return relating to the relevant income of qualifying employees. The return must be lodged with the Commissioner. The Commissioner is required to maintain an up to date list of designated employers whose employees have been granted an exemption, showing the date with effect from which the exemption is granted and for how long it is granted. The list must be available in the Tax Office and on their website.

Clause 6 provides for a transitional provision. Exemptions that were granted by the Taxes and Duties (Defence Contractors’ Employees Exemption) Order 2023 continue until the expiry date provided in the Order.

Fisheries (Conservation and Management) (Amendment) Bill 2024

(ORDINANCE No. OF 2024)

ARRANGEMENT OF PROVISIONS

Clause

1. Title
2. Commencement
3. Fisheries (Conservation and Management) Ordinance 2005 amended
4. Section 184 amended (observer programme)
5. Validation in relation to contracted observers

Fisheries (Conservation and Management) (Amendment) Bill 2024

(assented to: 2024)
(published: 2024)
(commencement: on publication)

A BILL

for

AN ORDINANCE

To amend the Fisheries (Conservation and Management) Ordinance 2005 in relation to the appointment of observers.

BE IT ENACTED by the Legislature of the Falkland Islands —

1. Title

This Ordinance is the Fisheries (Conservation and Management) (Amendment) Ordinance 2024.

2. Commencement

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

3. Fisheries (Conservation and Management) Ordinance 2005 amended

This Ordinance (other than section 5) amends the Fisheries (Conservation and Management) Ordinance 2005.

4. Section 184 amended (observer programme)

(1) Replace section 184(2) with —

“(2) The Director may appoint any person who the Director considers to have suitable qualifications and experience to be an observer.”.

(2) After section 184(5) insert —

“(6) A person appointed as an observer does not, by reason of that appointment, become an employee in the Department of Fisheries or an employee of the Government.”.

5. Validation in relation to contracted observers

(1) Each contracted observer is taken to have been appointed as an observer by the Director under section 184 of the Fisheries (Conservation and Management) Ordinance 2005 when they were first provided under the service provider contract (even though they were not employed in the Department of Fisheries).

(2) Everything done by a contracted observer in the purported exercise of the powers and functions of an observer is taken to be, and to always have been, as valid as it would have been had they been employed in that Department and been appointed under that section at that time.

(3) In this section —

“**contracted observer**” means a person who, before this Ordinance came into force, was provided to the Government under a service provider contract and purported to exercise the powers and functions of an observer; and

“**service provider contract**” means a contract, entered into by the Director on behalf of the Government before this Ordinance came into force, for the provision by the other contracting party of persons to be observers for the purposes of the Fisheries (Conservation and Management) Ordinance 2005.

OBJECTS AND REASONS

This Bill amends the Fisheries (Conservation and Management) Ordinance 2005 (“the FCM Ordinance”). When assented to, the Ordinance will come into force when it is published in the *Gazette*.

The FCM Ordinance provides for the Director of Fisheries to establish an observer programme for the purpose of collecting reliable and accurate information for fisheries research, management and enforcement. Observers are to be appointed by the Director.

In 2020 the Director engaged a service provider to provide suitably qualified and experienced people to be observers. The people provided have been carrying out the functions of observers and continue to do so. However, it has become apparent that they have not been properly appointed in accordance with the FCM Ordinance, which limits the appointment of observers to employees in the Fisheries Department.

This Bill amends the FCM Ordinance to enable the Director to appoint any suitably qualified and experienced person as an observer, whether or not they are departmental employees. It also deems the contracted observers to have been properly appointed and validates their actions prior to this Bill coming into force.



FALKLAND ISLANDS

Road Traffic (Mobile Devices) Regulations 2024

(No. 1 OF 2024)

ARRANGEMENT OF PROVISIONS

Regulation

1. Title
2. Commencement
3. Interpretation
4. Use of mobile devices prohibited
5. Hands-free use
6. Use in emergency
7. Use for remote-controlled parking
8. Use for contactless payment while stationary
9. Use of 2-way radio
10. Order revoked



FALKLAND ISLANDS

Road Traffic (Mobile Devices) Regulations 2024

(made: 4 April 2024)
(published: 8 April 2024)
(coming into force: on publication)

I make these Regulations under section 59 of the Road Traffic Ordinance 1948 on the advice of the Executive Council —

1. Title

These Regulations are the Road Traffic (Mobile Devices) Regulations 2024.

2. Commencement

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

3. Interpretation

In these Regulations, unless the context otherwise requires —

“**application**” means a software programme that runs through a web browser or offline on a mobile device;

“**contactless payment**” means a payment made at a contactless payment terminal using the contactless payment facility of a card or mobile device;

“**mobile device**” means a mobile phone or other communication device that is capable of transmitting and receiving data (whether or not those capabilities are enabled);

“**use**”, in relation to a mobile device, includes to do any of the following —

- (a) illuminate the screen;
- (b) check the time;
- (c) check notifications;

- (d) unlock the device;
- (e) make, receive or reject a telephone or internet based call;
- (f) send, receive or upload oral or written content;
- (g) send, receive or upload a photo or video;
- (h) use camera, video or sound recording functionality;
- (i) draft any text;
- (j) access any stored data (such as a document, book, audio file, photo, video, film, playlist, note or message);
- (k) access an application;
- (l) access the internet.

4. Use of mobile devices prohibited

- (1) A person must not use a mobile device while they are —
 - (a) driving a motor vehicle on a road; or
 - (b) supervising the holder of a provisional driving licence who is driving on a road (in accordance with regulation 5(9) of the Road Traffic (Provisional) Regulations Order 1986).
- (2) A person must not cause or permit a person to use a mobile device contrary to subregulation (1).
- (3) A person who contravenes subregulation (1) or (2) commits an offence, unless regulations 5 to 9 say otherwise.

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

5. Hands-free use

A person does not contravene regulation 4(1) if they —

- (a) are not holding the device; and
- (b) are using it in such a way that they are able to do so without needing to hold it at any point during that use.

6. Use in emergency

A person does not contravene regulation 4(1) if —

- (a) the person is using the device to call an emergency service on 999 or 112;

- (b) the person is making the call in response to a genuine emergency; and
- (c) it is unsafe or impracticable for the person (or, if the person is supervising the driver, for the driver) to stop driving while the call is made.

7. Use for remote-controlled parking

A person does not contravene regulation 4(1) if —

- (a) the person is using the device only to perform a remote controlled parking function of the motor vehicle; and
- (b) the device only enables the vehicle to move when —
 - (i) there is continuous activation of the remote control application of the device by the driver;
 - (ii) the signal between the motor vehicle and the device is maintained; and
 - (iii) the distance between the motor vehicle and device is not more than 6 metres.

8. Use for contactless payment while stationary

A person does not contravene regulation 4(1) if —

- (a) the person is using the device to make a contactless payment for goods or services that are received when, or after, the payment is made; and
- (b) the vehicle is stationary.

9. Use of 2-way radio

A person does not contravene regulation 4(1) if —

- (a) the device is a 2-way radio; and
- (b) the use is only to conduct a voice conversation using a push-to-talk handset and loudspeaker.

10. Order revoked

The Road Traffic (Mobile Phones etc) Order 2011 is revoked.

Made 4 April 2024

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

EXPLANATORY NOTE
(not part of the regulations)

These Regulations prohibit the use of a mobile phone or other communication by a person who is driving a motor vehicle or supervising a driver who holds a provisional licence.

The Regulations replace the Road Traffic (Mobile Phones etc) Order 2011. The changes from that Order reflect recent amendments to the equivalent UK regulations. They modernise the law to take account of changes to the types of mobile devices that now exist, what they are used for, and the ways in which they can be used (particularly the ways in which they can be used in a hands-free way).

The basic prohibition on using a device while driving, and the penalty for doing so, remain the same.

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