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STATUTORY INSTRUMENTS

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**2008 No. 2846**

**The Falkland Islands Constitution Order 2008**

**Citation, publication and commencement**

- 1.—(1) This Order may be cited as the Falkland Islands Constitution Order 2008.
- (2) This Order shall be published in the Gazette.
- (3) This Order shall come into force on the appointed day.

**Interpretation**

- 2.—(1) In this Order—

“the appointed day” means such day as may be prescribed by the Governor, acting in his or her discretion, by proclamation published in the Gazette;

“the Constitution” means the Constitution set out in the Schedule;

“the former Constitution” means the Constitution set out in Schedule 1 to the Falkland Islands Constitution Order 1985(1);

“Legislative Assembly” means the Legislative Assembly established by the Constitution;

“Legislative Council” means the Legislative Council established by the former Constitution.

- (2) Sections 98 to 100 of the Constitution shall apply for the purposes of interpreting sections 1 to 11 of this Order and otherwise in relation to those sections as they apply for the purpose of interpreting and in relation to the Constitution.

**Revocations**

3. The Falkland Islands Constitution Order 1985(2), the Falkland Islands Constitution (Amendment) Order 1997(3), and the Falkland Islands Constitution (Amendment) (No. 2) Order 1997(4) are revoked with effect from the appointed day.

**Establishment of Constitution**

4. The Constitution shall have effect in the Falkland Islands on the appointed day.

**Existing laws**

- 5.—(1) The existing laws shall, as from the appointed day, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

- (2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution is prescribed or provided for by or under an existing law (including any amendment to any such law

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(1) S.I. 1985/444, as amended by S.I. 1997/864 and 1997/2974.

(2) S.I. 1985/444.

(3) S.I. 1997/864.

(4) S.I. 1997/2974.

made under this section), that prescription or provision shall, as from the appointed day, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the Constitution) as if it had been made under the Constitution.

(3) The Governor may by order made at any time within twelve months after the appointed day make such alterations to any existing law as may appear to him or her to be necessary or expedient for bringing that law into conformity with the Constitution or otherwise for giving effect or enabling effect to be given to the Constitution.

(4) This section is without prejudice to any powers conferred by the Constitution or by any other law on any person or authority to make provision for any matter, including the alteration of any existing law.

(5) For the purposes of this section “existing law” means any Ordinance, rule, regulation, order or other instrument made in pursuance of or continued in force by or under the former Constitution and having effect as part of the law of the Falkland Islands immediately before the appointed day, but does not include any Act of Parliament of the United Kingdom or Order in Council or other instrument made under any such Act.

### **Existing offices and officers**

6.—(1) Any office established by or under the former Constitution and existing immediately before the appointed day shall on and after that day, so far as consistent with the Constitution, continue as if it had been established by or under the Constitution.

(2) Any person who immediately before the appointed day holds or is acting in an office continued by virtue of subsection (1) shall, on and after that day, continue to hold or act in that office or the corresponding office established by the Constitution as if he or she had been appointed to hold or act in it in accordance with or under the Constitution; but any person who under the law in force immediately before the appointed day would have been required to vacate his or her office at the expiration of any period shall vacate that office at the expiration of that period.

(3) Any person to whom subsection (2) applies who, before the appointed day, has made any oath required to be made before assuming the functions of his or her office shall be deemed to have made any like oath so required by the Constitution or any other law.

(4) The person who immediately before the appointed day holds or is acting in the office of Financial Secretary shall, on and after that day, hold or act in the office of Director of Finance as if he or she had been appointed to hold or act in that office under the Constitution.

### **Legislative Assembly**

7.—(1) Any person who immediately before the appointed day is a member of the Legislative Council shall on that day become a member of the Legislative Assembly, shall be deemed to have complied with section 42 of the Constitution, and shall hold his or her seat in accordance with the Constitution.

(2) The Governor shall dissolve the Legislative Assembly not later than the expiration of four years from the date when the Legislative Council first met after the last general election before the appointed day.

### **Standing Orders**

8. The Standing Orders of the Legislative Council as in force immediately before the appointed day shall, until it is otherwise provided under section 46 of the Constitution, be the Standing Orders of the Legislative Assembly, but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

### **Pending legal proceedings**

9.—(1) Any proceedings pending immediately before the appointed day in the Supreme Court or the Court of Appeal established by the former Constitution may be continued on and after that day in the Supreme Court or, as the case may be, the Court of Appeal established by the Constitution.

(2) Any judgment or order of the Supreme Court or the Court of Appeal established by the former Constitution given or made before the appointed day, in so far as it has not been fully executed or enforced, may be executed or enforced on or after that day as if it were a judgment or order of the Supreme Court or, as the case may be, the Court of Appeal established by the Constitution.

### **Management Code**

10. Until a Management Code has been issued in accordance with section 85(3) of the Constitution, the management code in operation immediately before the appointed day shall continue in operation.

### **Power reserved to Her Majesty**

11. There is reserved to Her Majesty full power to make laws for the peace, order and good government of the Falkland Islands including, without prejudice to the generality of the foregoing, laws amending this Order or the Schedule.

*Judith Simpson*  
Clerk of the Privy Council