

## SCHEDULE

### The Constitution of the Falklands Islands

## CHAPTER III

### THE LEGISLATURE

#### **Establishment and composition of the Legislative Assembly**

**26.**—(1) There shall be a Legislative Assembly for the Falkland Islands.

(2) The Legislative Assembly shall consist of eight elected members and two *ex officio* members, namely the Chief Executive and the Director of Finance, and the Speaker.

(3) The *ex officio* members shall not have the right to vote in the Legislative Assembly.

#### **Constituencies**

**27.**—(1) The Falkland Islands shall be divided into two constituencies, Camp and Stanley. Camp shall return three elected members to the Legislative Assembly and Stanley five elected members and the members shall be elected in such a manner as shall be prescribed by Ordinance.

(2) For the purposes of this section the boundaries of the Stanley constituency shall be such as shall be prescribed by the Ordinance which shall make provision for elections to the Legislative Assembly and “Camp” shall be the remainder of the Falkland Islands.

(3) Subsections (1) and (2) may be amended by Ordinance; but no Bill for any such Ordinance shall be enacted unless it has been supported in a referendum by at least two-thirds of those voting who are registered as electors in each constituency.

(4) In any referendum held under subsection (3), any person registered as an elector pursuant to section 32 at the time of the referendum shall be entitled to vote.

#### **Qualifications for election**

**28.** Subject to section 29, any person who has attained the age of eighteen years and who is registered as an elector pursuant to section 32 is qualified to be elected as a member of the Legislative Assembly in respect of either constituency.

#### **Disqualifications for election**

**29.**—(1) No person shall be qualified to be elected as a member of the Legislative Assembly who—

- (a) is, by virtue of his or her own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State;
- (b) is a member of the regular armed forces of Her Majesty;
- (c) holds, or is acting in, a public office except as may be specified (either individually or by reference to a class of office or otherwise) by Ordinance;
- (d) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged;
- (e) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law;

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- (f) at the date of election, is serving or has at any time within the period of five years immediately preceding that date been serving any part of a sentence of imprisonment (by whatever name called) of at least twelve months imposed on him or her by a court in any country or substituted by competent authority for some other sentence imposed on him or her by such a court; or is under such a sentence of imprisonment the execution of which has been suspended;
  - (g) is disqualified for membership of the Legislative Assembly by any law relating to offences connected with elections; or
  - (h) is disqualified for election by any law by reason of his or her holding, or acting in, any office the functions of which involve—
    - (i) any responsibility for, or in connection with, the conduct of any election; or
    - (ii) any responsibility for the compilation or revision of any register of electors.
- (2) The reference in subsection (1)(b) to a member of the regular armed forces of Her Majesty shall not include a reference to a member of the Falkland Islands Defence Force.
- (3) For the purposes of subsection (1)(f)—
- (a) where a person is serving two or more terms of imprisonment that are required to be served consecutively he or she shall be regarded as serving a single term of imprisonment for the aggregate period of those terms; and
  - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.
- (4) If it is so prescribed by Ordinance—
- (a) a person may stand as a candidate for election even though he or she holds or is acting in a public office which has not been specified, in the manner prescribed in subsection (1)(c), if he or she undertakes to relinquish or, as the case may be, to cease to act in that office if he or she is elected as a member of the Legislative Assembly; and
  - (b) any office the emoluments of which are paid, directly or indirectly, out of public funds, but which would not otherwise be a public office for the purposes of this section, shall be deemed to be a public office for those purposes.
- (5) Any Ordinance made in pursuance of subsection (1)(c) or subsection (4)(a) may contain incidental and consequential provisions, including provision that a member who has given such an undertaking as is referred to in subsection (4)(a) shall be incapable of taking his or her seat in the Legislative Assembly until he or she has fulfilled that undertaking and shall vacate his or her seat if he or she has not fulfilled it within such time as is specified by such Ordinance; and for the avoidance of doubt it is hereby declared that, where provision is made in pursuance of subsection (4)(b) in respect of any office, provision may also be made in pursuance of subsection (1)(c) or subsection (4)(a) in respect of that office.

### **Vacation of seats**

- 30.—**(1) The seat of an elected member of the Legislative Assembly shall become vacant—
- (a) at the next dissolution of the Legislative Assembly after his or her election;
  - (b) if he or she resigns it by writing under his or her hand addressed to the Governor;
  - (c) if he or she is absent from the meetings of the Legislative Assembly in such circumstances and for such period as may be prescribed by the Standing Orders of the Assembly;
  - (d) if he or she ceases to have Falkland Islands status;

- (e) if any circumstances arise that, if he or she were not a member of the Legislative Assembly, would cause him or her to be disqualified for election to the Assembly by virtue of paragraph (a), (b), (c), (d), (e), (g) or (h) of section 29(1); or
  - (f) in the circumstances specified in section 31.
- (2) In this section, “Falkland Islands status” has the meaning defined in section 22(5).

### **Vacation of seat on sentence**

**31.**—(1) Subject to the provisions of this section, if a member of the Legislative Assembly is sentenced by a court in any country to imprisonment (by whatever name called) for a term of at least twelve months, he or she shall forthwith cease to perform his or her functions as a member of the Assembly and his or her seat shall become vacant at the expiration of a period of thirty days thereafter; but the Governor may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his or her conviction and sentence.

(2) If at any time before the member vacates his or her seat he or she is granted a free pardon or his or her conviction is set aside or his or her sentence is reduced to a term of imprisonment of less than twelve months or a punishment other than imprisonment is substituted, the seat of that member in the Legislative Assembly shall not become vacant under subsection (1), and that member may again perform his or her functions as a member of the Assembly.

(3) For the purposes of this section—

- (a) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively he or she shall be regarded as serving a single term of imprisonment for the aggregate period of those terms; and
- (b) no account shall be taken of a sentence of imprisonment as an alternative to or in default of the payment of a fine.

### **Qualifications of electors**

**32.**—(1) Subject to subsection (2), a person shall be qualified to be registered as an elector for the purpose of the election of members of the Legislative Assembly if he or she has attained the age of eighteen years and either—

- (a) he or she is a citizen and has Falkland Islands status; or
- (b) his or her name appeared on the register of electors for a constituency in force on the date of commencement of this Constitution,

and, in either case, he or she was resident in the Falkland Islands on the qualifying date in relation to which his or her entitlement to be registered as an elector falls to be considered and had on that qualifying date been so resident for the qualifying period.

(2) No person shall be qualified to be registered as an elector under this section who on the qualifying date—

- (a) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law;
- (b) is serving a sentence of imprisonment (by whatever name called) for a term of at least twelve months imposed on him or her by a court in any country or substituted by competent authority for some other sentence imposed on him or her by such a court;
- (c) is disqualified by or under any law from being registered as an elector by reason of having been convicted of an offence relating to elections;

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(d) is a member of the regular armed forces of Her Majesty, unless he or she possesses Falkland Islands status; or

(e) is, by virtue of his or her own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State.

(3) Section 29(3) shall apply for the purposes of subsection (2)(b) as it applies for the purposes of section 29(1)(f).

(4) The reference in subsection (2)(d) to a member of the regular armed forces of Her Majesty shall not include a reference to a member of the Falkland Islands Defence Force.

(5) In this section—

(a) “citizen” means a British citizen, a British overseas territories citizen or a British Overseas citizen;

(b) “Falkland Islands status” has the meaning defined in section 22(5);

(c) “qualifying date” and “qualifying period” means such date or period as may be prescribed by or under any Ordinance as the date or period with reference to which the qualifications of persons for registration as electors for elections of members of the Legislative Assembly are to be ascertained; and a different qualifying period may be prescribed in respect of persons not born in the Falkland Islands;

(d) “resident” has such meaning as may be prescribed by or under any Ordinance.

#### **General elections and filling vacant seats**

**33.—**(1) A general election shall be held at such time after every dissolution of the Legislative Assembly as the Governor shall appoint by proclamation published in the Gazette; but the date so appointed shall not be more than 70 days after the date of dissolution.

(2) Whenever an elected member of the Legislative Assembly vacates his or her seat for any reason other than a dissolution of the Assembly, an election shall be held to fill the vacancy, on such date as the Governor shall appoint by proclamation published in the Gazette, within 70 days of the occurrence of the vacancy unless the Assembly is sooner dissolved or under section 34(2) will be dissolved within 126 days of the occurrence of the vacancy.

#### **Dissolution**

**34.—**(1) The Governor may dissolve the Legislative Assembly by proclamation published in the Gazette.

(2) The Governor shall dissolve the Legislative Assembly at the expiration of four years from the date when the Assembly first meets after any general election, unless it has been sooner dissolved.

#### **Recalling dissolved Legislative Assembly in case of emergency**

**35.** If, between a dissolution of the Legislative Assembly and the next ensuing general election, an emergency arises of such a nature that, in the opinion of the Governor, it is necessary for the Assembly to be recalled, the Governor may summon the Assembly that has been dissolved, and that Assembly shall thereupon be deemed (except for the purposes of section 33(1)) not to have been dissolved, but shall be deemed (except as aforesaid) to be dissolved on the date on which the next ensuing general election is held.

#### **Determination of questions as to membership**

**36.—**(1) The Supreme Court shall have jurisdiction to hear and determine any question whether—

- (a) any person has been validly elected as a member of the Legislative Assembly; or
    - (b) any member of the Legislative Assembly has vacated his or her seat or is required, under section 31, to cease to perform his or her functions as such.
  - (2) An application to the Supreme Court for the determination of—
    - (a) any question under subsection (1)(a) may be made by any person entitled to vote in the election to which the application relates, or by any person who was a candidate at the election, or by the Attorney General;
    - (b) any question under subsection (1)(b) may be made by any person registered as an elector in the constituency for which the member concerned was elected, or by any elected member of the Legislative Assembly, or by the Attorney General,
- and if any application under this subsection is made by a person other than the Attorney General, the Attorney General may intervene and may then appear or be represented in the proceedings.
- (3) Provision may be made by Ordinance with respect to—
    - (a) the circumstances and manner in which, and the imposition of conditions on which, any application may be made to the Supreme Court for the determination of any question under this section; and
    - (b) the powers, practice and procedure of the Supreme Court in relation to any such application.
  - (4) No appeal shall lie from any determination by the Supreme Court in proceedings under this section.
  - (5) In the exercise of his or her functions under this section the Attorney General shall not be subject to the direction or control of any other person or authority.