

# EXECUTIVE COUNCIL

## CONFIDENTIAL

**Title of Report:** Memorandum of Understanding between the Governor and the Commander British Forces South Atlantic Islands on arrangements for the policing and security of the Falkland Islands

**Paper No:** 127/10

**Date:** 24th June 2010

**Report of:** Director of Community Safety and Chief Police Officer/Principal Crown Counsel

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### 1.0 Purpose

To seek approval from the Executive Council for the Memorandum of Understanding between His Excellency the Governor and the Commander British Forces South Atlantic Islands on arrangements for the policing and security of the Falkland Islands

### 2.0 Recommendation

It is recommended that:

- a) Executive Council/Honourable Members consider and agree the Memorandum of Understanding on arrangements for the policing and security of the Falkland Islands; and
- b) the Governor makes an order under the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965 so that the definition of a member of the civilian component of Her Majesty's Forces for the purposes of that order follows the definition in paragraph 3 of the MOU.

### 3.0 Summary of Financial Implications

None.

### 4.0 Background

- 4.1 The Memorandum of Understanding (MOU) sets out the arrangements which have been determined between His Excellency the Governor of the Falkland Islands on behalf of the Falkland Islands Government and the Commander British Forces South Atlantic Islands (CBFSAI) on behalf of the Secretary of

State for Defence for the policing and security of the Falkland Islands. **The latest draft of the MOU is attached at Appendix 1.**

- 4.2 The MOU replaces the Operating Agreement signed in June 2003 by the Force Provost Marshal and the Chief Police Officer of the Royal Falkland Islands Police.
- 4.3 The revised MOU differs from the Operating Agreement signed in 2003. The main differences are that the revised MOU:
- a) for ease of reference, re-states the provisions of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965, which governs the jurisdiction of the Falkland Islands courts in relation to a member of the armed forces;
  - b) provides guidance in relation to cases which involve overlap of Falkland Islands criminal offences and service offences, both in terms of investigation by the police, and in terms of how prosecution decisions will be made. JSPSU will seek agreement regarding the relevant jurisdiction of the civilian or service prosecuting authorities, by way of initial liaison with the RFIP Inspector, who will consult with the Attorney General as appropriate. Ultimately, the MOU provides for the Governor to consult with CBFSAI where necessary in relation to the appropriate jurisdiction under the 1965 Order;
  - c) defines the specific roles and responsibilities of the JSPSU and RFIP;
  - d) provides greater clarity on mutual aid support between JSPSU and RFIP;
  - e) reiterates the RFIP right of access to MPC and other military sites, and sets out practical arrangements for the exercise of that right;
  - f) defines how roads within MPC will normally be policed;
  - g) includes a clause on liability and indemnity for any claims for damages, or other compensation, arising from any police investigation or activity under this MOU;
  - h) states the intention to develop a service level agreement between the parties to address detailed operational issues concerning the working together of the RFIP and JSPSU;
  - i) stipulates a minimum review period of 3 years and allows for the Governor or CBFSAI to withdraw from it in writing giving a minimum of 6 months notice; and
  - j) states that all disputes will be settled through negotiation with the participants.

- 4.4 In summary, the MOU; codifies the existing and future working arrangements between the RFIP and JSPSU; re-states provisions for the trial of service offenders by the courts in the Falkland Islands etc; clarifies the role of the Joint Service Provost and Security Unit (JSPSU) and the role of the Royal Falkland Islands Police; and makes provision for mutual aid support, disposal of cases and transfer of jurisdiction, joint operations, access to military sites, communications, accommodation, equipment, use of force, and firearms contingent.
- 4.5 During the re-negotiation of the agreement, the question arose which civilians working with the military should be defined as a member of the civilian component of Her Majesty's forces for the purposes of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965. Whilst the order provides for a member of the civilian component to be treated in the same way as a member of the military in terms of the jurisdiction of the Falkland Islands courts, because the phrase has never been legally defined, and so all civilians currently remain subject to Falkland Islands jurisdiction.
- 4.6 It was recognised, in particular in the light of the provisions of the Armed Forces Act 2006, which makes certain civilians subject to service discipline/courts, that those provisions should be reflected in the jurisdictional arrangements in the Falkland Islands. The limited groups of civilians working with the military who it is intended should come within this definition are listed in paragraph 3 of the MOU:
- a. a crown servant, including an MOD civil servant, or
  - b. a retired officer employed by the armed forces, or
  - c. a member or employee of the Navy, Army and Air Force Institutes (NAAFI), or
  - d. a member or employee of the Service Children's Education, or
  - e. a member or employee of the Services Sound and Vision Corporation (SSVC), or
  - f. a member or employee of the Soldiers, Sailors, Airmen and Families Association (SSAFA) – Forces Help, or
  - g. Any person subject to designation by or on behalf of the Defence Council as being subject to the provisions of the Armed Forces Act 2006 (should this designation be applied CBFSAI will inform the Governor in writing), or
  - h. Any person residing or staying with any of those persons described in paragraphs (a) to (g).
- 4.7 In this respect, it is requested that the Governor makes an order under the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965 so that the definition of a member of the civilian component of Her Majesty's Forces for the purposes of that order follows the same definition. It should be noted that the significant majority of civilians working at MPA, ie employees of most service providers to the military, would remain subject to the criminal and other jurisdiction of the Falkland Islands courts. **A copy of the Order is attached at Appendix 2.**

- 4.8 The MOU has been the subject of extensive discussion and negotiation between the Director of Community Safety and Chief Police Officer, Attorney General's Department, Command Secretary British Forces South Atlantic Islands and Force Provost Marshal. The MOU has undergone numerous iterations and the latest draft is Version 7.
- 4.9 Members of the Police Committee were briefed on the MOU by the Director of Community Safety and Chief Police Officer on 15<sup>th</sup> April 2010 and no issues were raised.
- 4.10 Members of the Legislative Assembly were briefed on the MOU by Principal Crown Council at the General Purposes Committee on 28<sup>th</sup> April 2010 where it was noted the document would be submitted for approval by the Executive Council.
- 4.11 The Chief Executive, Director of Community Safety and Chief Police Officer, the Governor and the CBFSAI discussed the MOU at a Military Liaison meeting on 29<sup>th</sup> April 2010 and no issues were raised. It was agreed to remit the MOU to the Executive Council for consideration in June 2010.
- 4.12 The MOU is not time limited but should, as a minimum, be reviewed every 3 years. The MOU contains a provision for the Governor or CBFSAI to formally withdraw from it in writing giving a minimum of 6 months notice.

## **5. Financial Implications**

- 5.1 None.

## **6. Legal Implications**

- 6.1 The legal implications of making the attached draft United Kingdom Forces (Jurisdiction of Colonial Courts; Civilian Component) Order 2010, are already set out in paragraphs 4.5 to 4.7 above.
- 6.2 There are no other specific legal implications, other than to note that the MOU should assist in ensuring that decisions about criminal cases involving overlap of Falkland Islands criminal offences and service offences, are made consistently and appropriately.

## **7.0 Human Resources Implications**

- 7.1 There are no Human Resources implications.

## **APPENDIX 1**

### **MEMORANDUM OF UNDERSTANDING**

#### **BETWEEN**

**HIS EXCELLENCY THE GOVERNOR OF THE FALKLAND ISLANDS ON BEHALF OF THE GOVERNMENT OF THE FALKLAND ISLANDS**

#### **AND**

**THE COMMANDER BRITISH FORCES SOUTH ATLANTIC ISLANDS ON BEHALF OF THE SECRETARY OF STATE FOR DEFENCE**

### **ON ARRANGEMENTS FOR THE POLICING AND SECURITY OF THE FALKLAND ISLANDS**

#### Introduction

1. This Memorandum of Understanding ('MOU') sets out the arrangements, which have been determined between His Excellency the Governor of the Falkland Islands on behalf of the Government of the Falkland Islands ('the Governor') and the Commander British Forces South Atlantic Islands on behalf of the Secretary of State for Defence ('CBFSAI') (hereinafter referred to as "the Participants") for the policing and security of the Falkland Islands.

2 This MOU replaces the Operating Agreement signed in June 2003 by the Force Provost Marshal and the Chief Police Officer of the Royal Falkland Islands Police ('RFIP').

#### Interpretation

3. For the purposes of this MOU, a reference to:

"Her Majesty's forces" means the naval, military or air forces of Her Majesty in right of Her Government of the United Kingdom, but does not include the Falkland Islands Defence Force ('FIDF');

"A member of a civilian component of any of Her Majesty's forces" means:

- a. a crown servant, including an MOD civil servant, or
- b. a retired officer employed by the armed forces, or

- c. a member or employee of the Navy, Army and Air Force Institutes (NAAFI), or
- d. a member or employee of the Service Children's Education, or
- e. a member or employee of the Services Sound and Vision Corporation (SSVC), or
- f. a member or employee of the Soldiers, Sailors, Airmen and Families Association (SSAFA) – Forces Help, or
- g. Any person subject to designation by or on behalf of the Defence Council as being subject to the provisions of the Armed Forces Act 2006 (should this designation be applied CBFSAI will inform the Governor in writing), or
- h. Any person residing or staying with:
  - i. a crown servant, including an MOD civil servant, or
  - ii. a retired officer employed by the armed forces, or
  - iii. a member or employee of the Navy, Army and Air Force Institutes (NAAFI), or
  - iv. a member or employee of the Service Children's Education, or
  - v. a member or employee of the Services Sound and Vision Corporation (SSVC), or
  - vi. a member or employee of the Soldiers, Sailors, Airmen and Families Association (SSAFA) – Forces Help, or
  - vii. any person subject to designation by or on behalf of the Defence Council as being subject to the provisions of the Armed Forces Act 2006.

“A person having a relevant association with Her Majesty's forces” means a person who is either a member of Her Majesty's forces, or a civilian component of those forces, or a person who is dependent on any such a person;

A “service court” means an officer or court exercising jurisdiction under the Armed Forces Act 2006

A “coroner” means any person or authority having jurisdiction under the laws of the Falkland Islands to hold inquests.

#### Trial of Service Offenders by the Courts of the Falkland Islands

4. The United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965 ('the Order') governs the jurisdiction of the courts of the Falkland Islands with regard to members of Her Majesty's forces. A copy of the Order is to be found in Title 7 of the Revised Laws of the Falkland Islands.

5. The Order provides that a person charged with an offence against the laws of the Falkland Islands will not be liable to be tried for that offence by the courts of the Falkland Islands if at the time the offence is alleged to have been committed he was a member of Her Majesty's armed forces or a member of a civilian component of those forces and

- a) the alleged offence arose out of and in the course of his duty as a member of Her Majesty's forces or as a member of that civilian component or;
  - b) the alleged offence is an offence against the person and the person (or if more than one, each of the persons) in relation to whom the offence is alleged to have been committed had at the time a relevant association with Her Majesty's forces; or
  - c) the alleged offence is an offence against property, and the whole of the property in question at the time was the property either of a department of the Government of the United Kingdom or of some other authority of the United Kingdom or of Her Majesty's forces or of the Navy, Army and Air Force Institutes or of any other institution or organisation operating for the benefit of Her Majesty's forces that is prescribed by order of the Governor of the Falkland Islands or the property of a person having such an association.
6. Nothing in the Order or in this MOU prevents such a person from being tried by the courts of the Falkland Islands where the Governor has issued a certificate stating that CBFSAI has notified the Governor that it is not proposed the case should be dealt with by a service court. Such a certificate may be issued by or on behalf of the Governor before or in the course of the trial.
7. Further, nothing in the Order or this MOU affects:
- a) any powers of arrest, search, entry, seizure or custody exercisable under the laws of the Falkland Islands with respect to offences committed or believed to have been committed against the laws of the Falkland Islands;
  - b) any obligation of any person in respect of a recognizance or bail bond entered into in consequence of his arrest, or the arrest of any other person, for such an offence; or
  - c) any power of any court to remand (whether on bail or in custody) a person brought before the court in connection with such an offence.

### Evidence

8. In accordance with the Order, a certificate issued by or on behalf of CBFSAI stating that:
- a) a person was or was not a member of Her Majesty's forces; or
  - b) the alleged offence, if committed by the person in question, arose out of and in the course of his duty as a member of Her Majesty's forces or arose out of and in the course of his duty as a civilian component of any of those forces,

will in any proceedings before the court of the Falkland Islands be sufficient evidence of those facts unless the contrary is proven.

Further, a certificate issued by or on behalf of CBFSAI stating that a person specified in the certificate:

- a) has been charged before a service court with the homicide of a deceased person or is detained in custody by an authority of the United Kingdom with a view to being so charged; or
- b) has been tried, at a time and place specified in the certificate, by a service court for a crime so specified,

will in any proceedings in any court of the Falkland Islands be conclusive evidence of the facts so stated.

### Coroner's Inquests

9. In accordance with the Order, if a coroner having jurisdiction to hold an inquest relating to a death is satisfied that the deceased person at the time of his death had a relevant association with Her Majesty's forces, then, unless the Governor otherwise directs, the coroner will not hold the inquest or, if the inquest has been begun but not completed, will adjourn the inquest and will not resume it except on the direction of the Governor.

10. Subject to the paragraph above, if the coroner is satisfied:

- a) that a person who is subject to the jurisdiction of a service court has been charged before a service court with a homicide of the deceased person, whether or not that charge has been dealt with; or
- b) that such a person is being detained by an authority of the United Kingdom with a view to being so charged,

then, unless the Governor otherwise directs, the coroner will adjourn the inquest and will not resume it except on the direction of the Governor.

### The Role of the Joint Service Provost and Security Unit

11. The Joint Service Provost and Security Unit ('JSPSU') is established to provide CBFSAI with police and security services in times of peace and tension.

12. The JSPSU is based at the Mount Pleasant Complex ('MPC') and provides a 24 hour police service to all service personnel and the civilian component located at MPC and military installations outside MPC. For the purposes of this MOU, MPC may be identified by reference to the lease between the parties dated 29 April 1988, and includes Mare Harbour.

13. JSPSU will conduct all routine police activity within the confines of MPC and military installations outside MPC, but nothing will prevent RFIP investigating when appropriate, subject to clause 47.

14. To meet fully these requirements, and because of the remote location of MPC (and military installations outside of MPC), to which civilians have access, members of the JSPSU are also sworn in voluntarily as RFIP Reserve Officers under the Police Ordinance 2000.

15. Under s.49 of the Police Ordinance RFIP Reserve Officers when on duty as such are deemed to be police officers and have all the powers, privileges, liabilities and immunities which are conferred or imposed on police officers by any law of the Falkland Islands. JSPSU officers on duty in their substantive role who are also RFIP Reserve officers are similarly on duty as RFIP Reserve officers.

16. When exercising their powers as RFIP Reserve Officers, JSPSU officers will act under the direction and control of the Chief Police Officer of the RFIP.

17. When exercising their powers as RFIP Reserve Officers, JSPSU officers are subject to the provisions of the Police Ordinance 2000, including provisions relating to complaints and discipline.

#### Service Police Powers

18. Service powers originate from the Armed Force Act 2006.

19. The enforcement of service law, criminal law and standing orders are the primary areas of policing responsibility for the JSPSU under this act.

#### The Royal Falkland Islands Police

20. The RFIP is under the direction and control of Chief Police Officer of the RFIP and is based in Stanley. The office of Chief Police Officer means the person for the time being occupying the post of Chief Police Officer and, so far as the context permits, includes any person for the time being acting in the post.

21. The Chief Police Officer of the RFIP is appointed by the Governor and holds such a rank as the Governor determines.

22. The RFIP is organised along similar lines to UK Constabularies and provides the Islands with a 24 hour police response.

23. The RFIP has statutory responsibility for the civil policing of the whole of the Falkland Islands and its territorial waters. However JSPSU will ordinarily conduct civil police activity within the confines of MPC and other UK Military sites on the Falkland Islands on behalf of the Chief Police Officer of the RFIP using their RFIP Reserve Officer status.

24. Except where there is an operational need, RFIP will only carry out policing duties in UK Military sites with the agreement of OC JSPSU and CBFSAI.

### The Laws of the Falkland Islands

25. The Falkland Islands Legislative Assembly has extensive legislative powers. There are a considerable number of Ordinances in force together with subsidiary legislation. Many Ordinances are based on equivalent English statutory provisions but some are widely different from those in force in England.

26. The common law of England applies in the Falkland Islands, except where its application is inconsistent with an English Act which applies in the Falkland Islands or an Ordinance.

27. Unlike the United Kingdom, the Falkland Islands has a written constitution. This incorporates provisions as to the fundamental rights and freedoms of the individual (Title 1 of the Revised Laws of the Falkland Islands).

### Mutual Aid Support

#### The JSPSU

28. The priority of the JSPSU is the policing of MPC and other UK military sites outside MPC. However, the JSPSU will provide assistance to the RFIP when called upon to do so, subject to the exigencies of duty. Police support will be requested through the Duty JSPSU Ord Sergeant, the Provost Ops Sergeant, the Duty SIB or the Officer Commanding JSPSU.

29. The JSPSU will assist the RFIP by providing at a minimum:

- a) JSPSU support in Stanley through Service Police officers having regular contact with Hillside Camp and the Police Station in Stanley. When approved or requested by the CPO, patrols may be undertaken in Stanley;
- b) The deployment of Reserve Officers as requested by the Chief Police Officer of the RFIP;
- c) Investigation assistance for major investigations; and
- d) Forensic support;
- e) The recording and exchange of relevant criminal and security intelligence, in accordance with the "Information Sharing Agreement" entered into by RFIP, Customs and Immigration, and the JSPSU.

30. The JSPSU will provide its services to the RFIP at no charge.

#### The RFIP

31. The priority of the RFIP is the civil policing of the Falkland Islands and its territorial waters. Civil policing, as defined by the Police Ordinance, means the preservation of the peace, maintenance of law and order, and apprehension and guarding of offenders and the protection of life and property.

However, the RFIP will provide assistance to the JSPSU when called upon to do so, subject to the exigencies of duty. Police support will be requested through the Chief Police Officer of the RFIP or the Police Inspector of the RFIP.

32. The RFIP will assist the JSPSU by providing at a minimum:
- a) Investigation assistance for major investigations;
  - b) Forensic support;
  - c) The recording and exchange of relevant criminal and security intelligence in accordance with the Information Sharing Agreement entered into by; RFIP, Customs and Immigration and JSPSU.
  - d) RFIP training for all members of JSPSU, including continuation training.
33. The RFIP will provide its services to the JSPSU at no charge.

#### Disposal of Cases and Transfer of Jurisdiction

##### Cases investigated under wholly or partly under Falkland Islands Law

34. All cases dealt with by JSPSU personnel in accordance with their RFIP Reserve Officer powers, will be staffed through the JSPSU Special Investigations Branch office to the Officer Commanding JSPSU, following which they will be forwarded to the RFIP Inspector in Stanley.

35. The RFIP Inspector will forward, in turn, the case papers to the Attorney General's Chambers of the Falkland Islands for a determination as to whether there is criminal jurisdiction, whether there is sufficient evidence to prosecute, and, if so, whether it is in the public interest to do so.

36. Prosecutions will be instituted before the Stanley Magistrate's Court.

##### Cases investigated wholly or partly under Armed Forces Act 2006

37. All cases investigated by JSPSU personnel under Service Police Powers will be staffed through the JSPSU Special Investigations Branch office to the Officer Commanding JSPSU. Such cases will be processed through the Service Prosecuting Authority.

38. Cases investigated both under Falkland Islands law and under Armed Forces Act 2006:

- 38.1 Investigations by JSPSU personnel may involve offences which are both offences under the criminal law of the Falkland Islands, and service offences. Cases may involve more than one offence, the multiple offences being a combination of criminal offences and service offences or joint offences.

- 38.2 JSPSU will advise and liaise with the RFIP Inspector in relation to any cases investigated by JSPSU officers which concern an offence or offences both under Falkland Island criminal law and the Armed Forces Act 2006, with a view to agreement regarding the relevant jurisdiction of the civilian or service prosecuting authorities.
- 38.3 After the RFIP has consulted with the Attorney General and the Governor as appropriate in relation to any such case, the Governor will consult with the CBFSAI in relation to the matter, in particular whether to issue a certificate under section 3(2)(a) of the Order.

#### Consequences of Transfer of Jurisdiction

39. There will be circumstances where a person is initially investigated under the laws of the Falkland Islands but a decision is later made in accordance with section 38 to deal with the offence under the Armed Forces Act 2006 ('a transfer of jurisdiction').

40. In this regard it should be noted that in accordance with the laws of the Falkland Islands, when a criminal matter falls to be investigated under the law of the Falkland Islands the RFIP caution will be used i.e. "You do not have to say anything unless you wish to do so, but anything you do say may be given in evidence".

41. The RFIP caution will be used by all JSPSU officers when exercising the powers of RFIP Reserve Officers.

42. Further, it should be noted that under the laws of the Falkland Islands no adverse inferences may be drawn from the exercise of the right to silence.

43. The implications of the above will be considered on a case by case basis where there is a transfer of jurisdiction.

#### Roads

44. All roads within MPC which are subject to the Road Traffic Ordinance, without exception, will be policed in accordance with the laws of the Falkland Islands, using RFIP powers, which means, for the avoidance of doubt, those roads which are the subject of the Mount Pleasant and Mare Harbour (Designation and Speed Limits) Order 2004, which will be policed on a day to day basis by JSPSU.

#### Joint Operations

45. The very nature of police and security operations within the Falkland Islands may require the mounting of joint operations between the RFIP and the JSPSU. Such operations may only proceed with the respective authority of both the Chief Police Officer of the RFIP and the Officer Commanding JSPSU.

46. During the course of such joint operations RFIP officers, and JSPSU officers exercising the powers of RFIP Reserve Officers, will remain under the direction and control of the Chief Police Officer of the RFIP, unless otherwise expressly determined.

#### Access

47. RFIP has a right of access to all UK Military sites including all areas of MPC, including Mount Pleasant International Airport, all areas of Hillside Camp, and all military installations outside those areas, in pursuit of their civil policing powers, as set out in sections 23 and 32.

47.1 However, where the RFIP require such access, the RFIP will first seek agreement from CBFSAI or the Officer Commanding JSPSU or his delegated representative to facilitate access. However such agreement will not be sought if there is an operational need e.g. saving life or limb or preventing serious damage to property.

47.2 During military exercise periods, or periods of heightened security alert, for Health and Safety reasons, RFIP officers, who will have notified JSPSU as above, may need to be escorted by JSPSU or the department sponsoring their visit.

#### Communications

48. Access to RFIP radio communications channels is an absolute requirement for the joint tasks conducted between the RFIP and the JSPSU. Accordingly, all JSPSU radios are permitted access to RFIP frequencies and RFIP radios are permitted access to JSPSU frequencies.

#### Accommodation

49. Subject to military operational requirements, the JSPSU will provide to the RFIP within MPC appropriate accommodation for the undertaking of RFIP duties at no charge.

50. Similarly the RFIP will provide to the JSPSU within Stanley Police Station appropriate accommodation for the undertaking of RFIP Reserve duties free of charge.

#### Equipment and Use of Force

51. RFIP officers and Reserves are required to be properly trained in unarmed defence tactics and the use of approved personal protective equipment. Officers must never knowingly use more force than is reasonably necessary.

### Firearms Contingent

52. Under the Police Ordinance 2000, in such circumstances and subject to such arrangements for control as may have been approved by the Governor, RFIP officers may bear and use arms in the performance of their duties. It is not anticipated that the RFIP will call upon the JSPSU to provide armed officer support.

### Liability and indemnity

53. Liability for any claim for damages, or other compensation arising from any police investigation or activity under this MoU, will be the responsibility of –

- (a) the Falkland Islands Government, where the investigation, or activity, in relation to which the claim is made, is carried out under the authority of the Chief Police Officer of the RFIP, or
- (b) the Secretary of State, where the investigation, or activity, in relation to which the claim is made, is carried out under the authority of the Officer Commanding JSPSU.

54. Each Participant will indemnify the other in connection with the liability referred to in section 53 and will assist the other, as far as reasonably possible, in connection with establishing the merit of any claim and, where appropriate, defending any claim for damages, or other compensation, arising in the circumstances referred to in section 53.”

### Service Level Agreement

55. It is intended that this MOU may be supplemented by a service level agreement, to be agreed between the parties, to address detailed operational issues concerning the working together of the RFIP and JSPSU.

### Period of Agreement

56. This MOU will enter into effect on the date of last signature. It is not time limited but should, as a minimum, be reviewed every 3 years. In the event that the Governor or CBFSAI wish to withdraw from this MOU such an intention will be formally stated, in writing, to the other Participant, giving a minimum of 6 months notice. A copy of this MOU will be retained by the Chief Police Officer of the RFIP and the Officer Commanding JSPSU. Any proposed changes to this MOU will be communicated by the Chief Police Officer to the Chief Executive of the Falkland Islands Government and by the Officer Commanding JSPSU to the Command Secretary. The Chief Executive and the Command Secretary will consider the proposals and determine text for presentation to the Governor and CBFSAI for their consideration and signature. This MOU may not be amended without the written consent of both the Governor and CBFSAI.

57. All disputes that may arise as a result of the interpretation or application of this MOU will be settled through negotiation between the Participants and will not be referred to any national or international tribunal or third party for settlement.

Signature

58. The foregoing represents the understanding between the Governor and the CBFSAI upon the matters referred to.

.....  
Alan Edden Huckle  
Governor of the Falkland Islands  
on behalf of the Government of the Falkland Islands

Dated this                      day of    2010

.....  
Commodore Philip Thicknesse RN  
Commander British Forces South Atlantic  
on behalf of the Secretary of State for Defence

Dated this                      day of    2010

## APPENDIX 2

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### SUBSIDIARY LEGISLATION

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#### ARMED FORCES

#### **United Kingdom Forces (Jurisdiction of Colonial Courts; Civilian Component) Order 2010**

S. R. & O. No.                      of 2010

*Made:* ..... 2010

*Published:* ..... 2010

*Coming into force:* on publication

I make this order under the United Kingdom Forces (Jurisdiction of Colonial Courts) Order (SI 1965/1203) on the advice of Executive Council.

#### **1. Title**

This order is the United Kingdom Forces (Jurisdiction of Colonial Courts; Civilian Component) Order 2010.

#### **2. Commencement**

This order comes into force on publication in the Gazette.

#### **3. Civilian component of Her Majesty's forces**

For the purposes of section 2(5) of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order, "a member of a civilian component of Her Majesty's forces" has the following meaning

- 
- (a) a person employed by or in the service of the Government of the United Kingdom whose sole or main role is to work in support of any of Her Majesty's forces;
  - (b) a retired officer of Her Majesty's forces who is employed by Her Majesty's forces following retirement;
  - (c) a member or employee of the following organisations —
    - (i) The Navy, Army and Air Force Institutes;
    - (ii) Service Children's Education;
    - (iii) The Services Sound and Vision Corporation;
    - (iv) The Soldiers, Sailors, Airmen and Families Association – Forces Help

(d) Any person designated by or on behalf of the Defence Council as being subject to the provisions of the Armed Forces Act 2006;

(e) Any person residing or staying with any person described in paragraphs (a) to (d).

Made

2010

A. E. Huckle,  
*Governor.*

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EXPLANATORY NOTE  
*(not forming part of the this order)*

This order prescribes the persons who are a member of the civilian component of Her Majesty's armed forces for the purposes of the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965 (SI 1965/1203).

The principal effect of the order is that the persons within the definition of civilian component of Her Majesty's armed forces are, in certain circumstances, no longer subject to the criminal jurisdiction of Falkland Islands courts.