



FALKLAND ISLANDS

Statistics Ordinance 2010

(ORDINANCE No. 10 OF 2010)

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FALKLAND ISLANDS

Statistics Ordinance 2010

AN ORDINANCE To establish a Statistical Service and for related purposes.

[DATE OF COMMENCEMENT: 31ST OCTOBER 2010]

PART 1 PRELIMINARY PROVISIONS

1 Title

This Ordinance is the Statistics Ordinance 2010.

2 Commencement

This Ordinance comes into force on publication in the Gazette.

3 Interpretation

In this Ordinance-

"authorised officer" means either-

- (a) the Statistician; or
- (b) another member of the staff of the Service appointed to be an authorised officer by the Statistician under section 7(1);

"function" includes a power or duty;

"Service" means the Statistical Service established by section 4(1);

"staff of the Service" means-

- (a) the Statistician;

- (b) the other public officers appointed by the Statistician under section 5(1) to be members of the staff of the Service; and
- (c) the other persons appointed by the Statistician under section 5(2) to carry out functions of the Service; and

"the Statistician" means-

- (a) the person appointed to the office of Statistician; or
- (b) a person for the time being carrying out the functions of the office.

PART 2 STATISTICAL SERVICE

4 Statistical Service

- (1) There is established, as the central statistical authority for the Falkland Islands Government, a Statistical Service.
- (2) It consists of the Statistician and the other members of the staff of the Service.
- (3) The Statistician has the control of, and overall responsibility for, the Service and its staff.
- (4) Accordingly, the Statistician must make such arrangements and do everything necessary to ensure that the functions of the Service are carried out.

5 Staff of the Service

- (1) The Statistician may appoint public officers to be members of the staff of the Service.
- (2) In addition, the Statistician may appoint persons (who need not be public officers) to carry out specific functions of the Service.
- (3) A person other than a public officer who is appointed under subsection (2) must enter into a contract with the Statistical Service through the Statistician.
- (4) Subsection (5) applies to-
 - (a) the terms and conditions on which public officers are appointed under subsections (1) and (2); and
 - (b) the terms and conditions of contracts entered into under subsection (3).
- (5) However, the Statistician must ensure that the terms and conditions-
 - (a) safeguard the confidentiality of the information gathered by the Service and made available to it; and
 - (b) create no conflict between the interests of the Service and the interests of the person appointed.

(6) Subject to section 9 (which provides for the independence of the Statistician in relation to the confidentiality of information and the integrity of the statistics produced), the functions of the Statistician under this section must be carried out within the scope of the Statistician's delegated authority within the Falkland Islands Government.

6 Oath of office

(1) The staff of the Service must, before entering on their duties under this Ordinance, take and subscribe the oath or affirmation set out in Schedule 1.

(2) If a person appointed by the Statistician to carry out a function of the Service is a body corporate, each of the following persons must take and subscribe the oath or affirmation set out in Schedule 2-

- (a) the chief executive officer of the body corporate; and
- (b) each of its officers, employees or agents who will be engaged in carrying out the function.

(3) An oath or affirmation under this section is to be taken before either-

- (a) a commissioner for oaths appointed under section 2 of the Commissioners for Oaths Ordinance 1969; or

[Revision w.e.f. 31/07/2017]

- (b) if an oath under subsection (2) is taken outside the Falkland Islands, a person with authority to administer oaths in the place where the oath is taken.

7 Authorised officers

(1) The Statistician may appoint a member of the staff of the Service to be an authorised officer.

(2) The appointment must be in writing signed by the Statistician.

8 Delegation of functions

(1) The Statistician may delegate to an authorised officer a function of the Service.

(2) The delegation must be in writing signed by the Statistician.

9 Independence of the Statistician and the Service

(1) No public officer may direct the Statistician or any member of the staff of the Service in any way that would affect either-

- (a) the integrity of the statistics produced by the Service;
- (b) the confidentiality of the information obtained or held by the Service.

(2) However, the Statistician must ensure that the Service carries out its functions in accordance with directions that do not affect either of these matters.

PART 3
FUNCTIONS OF THE STATISTICAL SERVICE

10 Primary functions of the Service

- (1) The primary functions of the Service are-
- (a) to assist the Falkland Islands Government in determining its policies by producing-
 - (i) an annual national account; and
 - (ii) social, economic and cultural statistics; and
 - (b) to provide these to the Governor and the Legislative Assembly.
- (2) The Governor may prescribe by order the matters in relation to which the Service is to collect, compile, analyse, abstract and include in the annual national account and other statistics produced by the Service.

11 Power of authorised officer to obtain information

- (1) This section applies where information is required to enable the Service to carry out its functions.
- (2) An authorised officer may require a person who has the information to supply it to the officer.
- (3) The officer may require the person to supply the information-
- (a) by interviewing the person; or
 - (b) by giving the person a notice requiring the information to be provided within a specified period.
- (4) A notice given under subsection (3)(b) may be-
- (a) left at the person's last known address;
 - (b) posted to the person at that address; or
 - (c) sent to the person by fax or e-mail.

12 Information held by a governmental body

- (1) It is the duty of a governmental body, if required to do so by an authorised officer, to supply to the officer information that is in the possession of the body.
- (2) If the information required by the officer is subject to any restriction or prohibition on its supply or publication, it must still be supplied to the authorised officer but, except as provided by this Ordinance, otherwise remains subject to the restriction or prohibition.
- (3) The public officer with responsibility for a governmental body must ensure that the body complies with its duty under subsection (1).
- (4) In this section, "governmental body " means-
- (a) a department of the Falkland Islands Government;

- (b) a court;
- (c) a statutory body; or
- (d) a company in which the Government owns all or a majority of the shares.

PART 4 CENSUS AND SURVEYS

13 Service to carry out census

- (1) It is a further function of the Service-
 - (a) to organise and to carry out censuses of the population of the Falkland Islands; and
 - (b) to provide the Governor and the Legislative Assembly with a report on the findings of each such census as soon as reasonably possible after the census has been carried out.
- (2) A census is to be carried out in 2011, and in every fifth year thereafter, in a month to be fixed by the Governor by order.ⁱ
- (3) The Governor may, by order, either-
 - (a) bring forward a census to be held in one year to an earlier year; or
 - (b) postpone a census to be held in one year to the following year (and may do so even if that census has already been postponed).ⁱⁱ
- (4) The questions to be asked in a census are to be prescribed by the Governor by order.
- (5) The Governor may prescribe by order the method by which the census is to be undertaken.

14 Business surveys

- (1) It is a function of the Service to carry out business surveys.
- (2) As far as possible, business surveys are to be carried out at 12 month intervals.
- (3) The questions to be asked in a business survey are to be prescribed by the Governor by order.
- (4) The Governor may prescribe by order-
 - (a) the method by which a business survey is to be carried out; and
 - (b) what an authorised officer may require a person to do for the purposes of a business survey.

15 Additional business surveys

- (1) The Governor may by order make it a function of the Service to carry out additional business surveys that are more limited in scope, both as to the number of businesses surveyed and the information sought.

- (2) An order under subsection (1) may specify-
- (a) the scope of additional business surveys;
 - (b) the intervals at which they are to be carried out;
 - (c) the questions to be asked in an additional business survey; and
 - (d) what an authorised officer may require a person to do for the purposes of an additional business survey.

16 Household surveys

- (1) It is a function of the Service to carry out household surveys.
- (2) As far as possible, household surveys are to be carried out at 12 month intervals.
- (3) The questions to be asked in a household survey are to be prescribed by the Governor by order.
- (4) The Governor may prescribe by order-
- (a) the method by which a household survey is to be carried out; and
 - (b) what an authorised officer may require a person to do for the purposes of a household survey.

PART 5 CONFIDENTIALITY

17 Prohibition on divulging information

- (1) This section applies to information supplied to the Service that identifies (or could be used to identify) one or more of the following-
- (a) the supplier of the information;
 - (b) the individual, company, body or organisation that it is about; and
 - (c) the undertaking or business to which it relates.
- (2) A person who is or has been a member of the staff of the Service must not-
- (a) permit a person who is not a member of the staff of the Service to examine the information; or
 - (b) otherwise knowingly or recklessly disclose the information.

[S.R. & O. No. 23/10/w.e.f. 31/10/10.]

- (3) Subsection (2) does not apply to information that identifies (or could be used to identify) an undertaking, a business or an organisation solely because the undertaking, a business or an organisation is the only one in the Falkland Islands within a particular sphere of activity.
- (4) However, subsection (2) does apply to information that reveals any of the following in relation to an undertaking or business-

- (a) the costs of production;
 - (b) the capital employed; or
 - (c) the profits made.
- (5) This section does not apply to information required for the purposes of either-
- (a) proceedings relating to an offence or alleged offence against this Ordinance; or
 - (b) the reference of the details of an alleged offence to the Attorney General under section 31(1).

18 Publication of information

(1) This section applies to information supplied to the Service that identifies (or could be used to identify) one or more of the following-

- (a) its supplier;
- (b) the individual, company, body or organisation that it is about; or
- (c) the undertaking or business to which it relates.

(2) The Service may publish the information if it is already available to the public.

(3) The Service may publish the information, even if it is not already available to the public, but only with the consent of both-

- (a) its supplier; and
- (b) either-
 - (i) the individual, company, body or organisation that the information is about; or
 - (ii) the owner of the undertaking or business to which it relates.

(4) The Service may also publish the information in the form of an index or list of undertakings, businesses and organisations, showing-

- (a) their names, addresses and telephone numbers; and
- (b) the products they produce, manufacture, process, transport, store, purchase or sell, or the services they provide.

19 Confidentiality and data security: power to make regulations

The Governor may make regulations in relation to-

- (a) the confidentiality of information supplied to the Service; and
- (b) the security of data held by it.

20 Information privileged

(1) This section applies to information supplied to the Service under this Ordinance that the Service is prohibited by this Ordinance from divulging.

(2) The information is privileged and may not be used as evidence in any proceedings (apart from those relating to an offence or alleged offence against this Ordinance).

(3) A person who is or has been a member of the staff of the Service may not, by an order of a court, tribunal or other body, be required in any proceedings (other than those relating to an offence or alleged offence against this Ordinance)-

(a) to give oral testimony in respect of information; or

(b) to produce a record that contains the information.

(4) In this section, "record" means any method of storing information.

PART 6 OFFENCES

Offences by members of the staff of the Service

21 False declarations, statements and reports

(1) A member of the staff of the Service who wilfully makes a false declaration, statement or report when carrying out a function of the Service is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

22 Obtaining information by pretending to carry out function of the Service

(1) A member of the staff of the Service who pretends to be carrying out a function of the Service to obtain information that the officer is not authorised to obtain is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

23 Publishing false or misleading information

(1) A member of the staff of the Service who publishes, under the name of the Service, information that the person knows or ought to reasonably know is false or misleading is guilty of an offence.

(2) A person who is convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

Offences by members (or former members) of the staff of the Service

24 Divulging information

- (1) A person who is or has been a member of the staff of the Service and who contravenes section 17 is guilty of an offence.
- (2) A person convicted of an offence against subsection (1) is liable to a fine not exceeding level 4 on the standard scale.

25 Use of information for gain

- (1) A member or former member of the staff of the Service who uses for gain (whether by that person or another) information that is held by the Service but that is not available to the public is guilty of an offence.
- (2) A person convicted of an offence against subsection (1) is liable to one or more of the following penalties-
 - (a) forfeiture of the amount gained;
 - (b) a fine not exceeding level 6 on the standard scale;
 - (c) imprisonment for up to 1 year.

Offences by persons required to provide information

26 Application of sections 27 and 28

Sections 27 and 28 apply to persons required to provide information by an authorised officer carrying out a function of the Service.

27 Failure to provide information

- (1) A person who, without reasonable excuse, refuses or neglects to provide information is guilty of an offence.
- (2) A person convicted of an offence under subsection (1) is liable-
 - (a) in the case of an individual, to a fine not exceeding level 3 on the standard scale; or
 - (b) in any other case, to a fine not exceeding level 6 on the standard scale.

28 Providing false or misleading information

- (1) A person who knowingly provides information that is false or misleading in a material particular is guilty of an offence.
- (2) A person who provides information but is reckless as to whether the information is false or misleading in a material particular commits an offence.
- (3) A person convicted of an offence under subsection (1) or (2) is liable-

- (a) in the case of an individual, to a fine not exceeding level 5 on the standard scale; or
- (b) in any other case, to a fine not exceeding level 7 on the standard scale.

Other offences

29 Hindering or obstructing an authorised officer

(1) A person who hinders or obstructs an authorised officer carrying out a function of the Service is guilty of an offence.

(2) A person convicted of an offence under subsection (1) is liable-

- (a) in the case of an individual, to a fine not exceeding level 3 on the standard scale; or
- (b) in any other case, to a fine not exceeding level 6 on the standard scale.

30 Pretending to be a member of the staff of the Service or an authorised officer to obtain information

(1) A person who pretends to be a member of the staff of the Service or an authorised officer to obtain information from a person is guilty of an offence.

(2) A person convicted of an offence against subsection (1) is liable to one or more of the following penalties-

- (a) forfeiture of the amount (if any) gained (whether by that person or another) as a result;
- (b) a fine not exceeding level 6 on the standard scale;
- (c) imprisonment for up to 1 year.

Civil penalties

31 Civil penalties

(1) This section applies if the Statistician is satisfied that a person has committed an offence under section 27, 28 or 29.

(2) The Statistician may refer details of the alleged offence to the Attorney General.

(3) If the Attorney General is satisfied that it is an appropriate case in which to do so, the Attorney General may, instead of bringing a prosecution for the alleged offence, authorise the Statistician to impose a penalty on the person.

(4) If the Attorney General does so, the Statistician may impose a penalty on the person not exceeding-

- (a) in the case of an individual, an amount equivalent to a fine of level 1 on the standard scale; or

- (b) in any other case, an amount equivalent to a fine of level 5 on the standard scale.
- (5) If the Statistician imposes a penalty on a person under subsection (4), the Statistician must notify the person of
- (a) the decision that has been made;
 - (b) the reasons for it; and
 - (c) the period (which must be at least 14 days) within which the penalty is to be paid.
- (6) A penalty imposed under subsection (4)-
- (a) must be paid by the person within the period specified in the notice given under subsection (5); and
 - (b) if not paid, may be recovered from the person as a statutory debt.

**PART 7
FINAL PROVISIONS**

32 Subsidiary legislation

The Governor may make regulations and orders necessary or convenient for the purposes of this Ordinance.

33 Census Ordinance and subsidiary legislation repealed

- (1) The Census Ordinance 1990 is repealed.
- (2) The following are revoked-
 - (a) Census Order (No 19 of 2006);
 - (b) Census (Forms) Regulations (No 20 of 2006); and
 - (c) Census (Forms) Regulation Order (No 21 of 2006).

**SCHEDULE 1
OATH (OR AFFIRMATION) TO BE TAKEN BY MEMBERS OF THE STAFF OF THE
SERVICE**

(section 6(1))

"I,, solemnly swear (or affirm) that:

- (a) I will fulfil my duties as a member of the staff of the Statistical Service (of the Falkland Islands Government*);
- (b) I will do that faithfully and honestly;
- (c) I will abide by the Statistics Ordinance (of the Falkland Islands*); and

- (d) I will only divulge anything that comes to my knowledge when carrying out my duties if I have lawful authority to do so."

Note: The bracketed words marked "*" are to be included if the oath (or affirmation) is taken outside the Falkland Islands.

SCHEDULE 2
OATH (OR AFFIRMATION) TO BE TAKEN BY INDIVIDUALS IF A BODY CORPORATE IS APPOINTED TO CARRY OUT FUNCTIONS OF THE SERVICE

(section 6(2))

"I, , solemnly swear (or affirm) that:

- (a) I will fulfil my duties as an (officer/employee/agent) of (name of body corporate) to enable it to fulfil its contract with the Statistical Service (of the Falkland Islands Government*);
- (b) I will do that faithfully and honestly;
- (c) I will abide by the Statistics Ordinance (of the Falkland Islands*); and
- (d) I will only divulge anything that comes to my knowledge when carrying out my duties if I have lawful authority to do so."

Note: The bracketed words marked "*" are to be included if the oath (or affirmation) is taken outside the Falkland Islands.

ⁱ S. R. & O. No. 17 of 2011 dated 31/08/11 provided as follows:

"The census due to be held in 2011 under section 13(2) of the Statistics Ordinance is postponed to 2012."

ⁱⁱ S. R. & O. No. 17 of 2011 dated 31/08/11 provided as follows:

"The census due to be held in 2011 under section 13(2) of the Statistics Ordinance is postponed to 2012."