FALKLAND ISLANDS

Retirement Pensions Ordinance 1996

(ORDINANCE No. 20 OF 1996)

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FALKLAND ISLANDS

Retirement Pensions Ordinance 1996

AN ORDINANCE To make fresh provisions relating to pensions payable on retirement or to widows and widowers and for connected matters.

[DATE OF COMMENCEMENT: 6TH JANUARY 1997]
(Unless otherwise indicated)

GENERAL PROVISIONS

1 Short title and commencement

This Ordinance may be cited as the Retirement Pensions Ordinance 1996 and shall come into force on such date as the Governor may by Order appoint.

2 Interpretation

(1) In this Ordinance unless the context otherwise requires-

"the 1952 Ordinance" means the Old Age Pensions Ordinance 1952;

"annual earnings limit" means the weekly rate prescribed for the purposes of section 10(4) multiplied by 52;

[S. 4/Ord. 9/25/w.e.f. 01/01/2026]

"appointed day" means the day appointed under section 1;

"the Board" means the Board of Management appointed in accordance with section 3;

"contract of service" means any contract of service whether written or oral and whether express or implied;

"contributor" means any person as respects whom contributions under this Ordinance are payable but does not include an employer;

“couple’s supplement” means the supplement to a pension that is payable under section 6;

[S. 4/Ord. 9/25/w.e.f. 01/01/2026]

"designated area" has the meaning given by Proclamation No. 1 of 1991;

“earnings” in relation to any person and any period means that person’s earned income as computed in accordance with the Taxes Ordinance 1997 before any deductions (whether or not any of that income is subject to income tax);

[S. 4/Ord. 9/25/w.e.f. 01/01/2026]

"employee"-

(a) means any person over the age of 17 years and gainfully occupied in the Falkland Islands under a contract of service or as an office-holder; but

(b) . . .

[S. 22(a)/Ord. 12/13/w.e.f. 8/11/2013]

"employer" includes the Government and any person acting as agent or manager for an employer;

"MLA" means either-

(a) an elected member of the Legislative Assembly, or

(b) during the period between a dissolution of the Legislative Assembly and the next meeting of the Legislative Assembly after that dissolution, a person who was an elected member of the Legislative Assembly immediately before that dissolution took place;

[S. 4(2)(b)/Ord. 14/09/w.e.f. 6/11/2009]

"employment" includes any trade, profession, office or vocation;

“partner” means one of the parties to a marriage or a civil partnership;

[S. 4/Ord. 9/25/w.e.f. 01/01/2026]

“pensionable age” means the age of 65 years;

[S. 4/Ord. 9/25/w.e.f. 01/01/2026]

"pension year", means the period beginning with the appointed day and ending with 31st December 1997 and any subsequent period of 12 months ending on 31st December;

"prescribed" means prescribed by regulations made by the Governor in Council;

[S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

"regulations" means regulations made by the Governor in Council;

"relevant MLA" means an MLA other than one who is entitled to a pension under section 4;

[S. 4(2)(c)/Ord. 14/09/w.e.f. 6/11/2009]

"self-employed person" means an individual over the age of 17 years gainfully occupied in the Falkland Islands otherwise than as an employee (but this definition is subject to subsection (3) below);

"standard weekly rate", in relation to a pension, has the meaning given by section 5, and in relation to the couple's supplement, has the meaning given by section 6;

[S. 4/Ord. 9/25/w.e.f. 01/01/2026]

"temporary absence" means absence from the Falkland Islands for any purpose other than the purpose of residing permanently outside the Falkland Islands;

"week" means any period of 7 days commencing with a Monday.

(2) In this Ordinance any reference to a person who is ordinarily resident in the Falkland Islands is a reference to a person who is habitually resident there except for any temporary absence.

(3) Where a person is both an employee and a self-employed person during any period, he shall be taken for the purposes of this Ordinance to be an employee and, subject to section 10(4), not a self-employed person during that period.

(3A) . . .

[S. 22(b)/Ord. 12/13/w.e.f. 8/11/2013]

(4) A person shall not cease to be an employee or a self-employed person for the purposes of this Ordinance by reason only of a period of temporary absence from the Falkland Islands.

(5) For the purposes of calculating the amount of any pension, any contribution made under this Ordinance or the 1952 Ordinance after the date on which it was due shall, if it is made before the pension is granted, be regarded as having been made in accordance with this Ordinance or the 1952 Ordinance, as the case may be.

(6) For the purposes of this Ordinance, the time when a person reaches any age shall be taken to be the beginning of the week in which he reaches that age.

(7) In this Ordinance any reference to the Falkland Islands includes a reference to a designated are.

3 The Board of Management

(1) Subject to subsection (2) below, the Board of Management ("the Board") established under section 3 of the 1952 Ordinance shall be responsible for the carrying out of provisions of this Ordinance and of any regulations under this Ordinance.

(2) The Board shall consist of the Financial Secretary who shall be the chairman and 3 other persons who shall be appointed by the Governor on such terms and conditions as the Governor may determine.

(3) The quorum for a meeting of the Board shall be the chairman and at least one other member of the Board but subject to that the Board shall have power to determine its own procedure.

ENTITLEMENT OF PENSIONS

4 Retirement pensions, widow's pensions and widower's pensions

(1) Subject to the provisions of this Ordinance, every person-

(a) who has made or who is deemed to have made contributions in respect of 250 weeks or more in accordance with this Ordinance or the 1952 Ordinance, and

(b) who has reached pensionable age,

[S.4/Ord. 5/18/w.e.f. 01/01/2020; S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

shall, on making a claim, in such form as the Board may require, be entitled to a retirement pension payable at a weekly rate calculated in accordance with section 5.

(2) Subject to the provisions of this Ordinance, every person who is a widow or widower, and-

(a) who has or is deemed to have made, or whose spouse has or is deemed to have made, contributions in respect of 250 weeks or more in accordance with this Ordinance or the 1952 Ordinance, and

(b) has reached the age of 60 years,

shall, on making a claim, in such form as the Board may require, be entitled to a widow's pension or, as the case may be, a widower's pension payable at a weekly rate calculated in accordance with section 5.

(3) Where a person was immediately before the appointed day in receipt of a pension under the 1952 Ordinance (other than a pension under section 26)-

(a) that person shall be entitled to a pension under this section, and

(b) if that pension was payable at the married man's rate and his wife was over 64 years of age immediately before the appointed day, his wife shall also be entitled to a pension under this section.

A pension payable by virtue of this subsection shall be payable at the standard weekly rate without the making of a claim.

(4) Subject to section 7(3A), a person shall be entitled to a pension under this section notwithstanding that-

(a) he or she is gainfully employed in the Falkland Islands, whether as an employee, office-holder or self-employed person;

(b) he or she is not ordinarily resident in the Falkland Islands.

[S. 4(1)/Ord. 5/98/w.e.f. 6/1/1997]

(5) A person who, apart from this subsection, is entitled to a pension under subsection (1) and also to a pension under subsection (2), shall not be entitled to both pensions but shall instead be entitled to only one of them and where the weekly rates of the two pensions differ, shall be entitled to whichever has the higher rate of payment.

4A Women undergoing course of education before appointed day

(1) A woman who shows to the satisfaction of the Board-

(a) that in respect of a period or periods before the appointed day and while she was ordinarily resident in the Falkland Islands she was following a course of education or training outside the Falkland Islands;

(b) that that period or periods of a course of education or training, but for the fact that it or they fell before the appointed day, would for the purposes of section 13(4) have been a prescribed course of education or training; and

(c) that she is entitled to a retirement pension or a widow's pension under section 4(1) or 4(2), as the case may be; and

(d) that that pension would be greater if the credit of contributions provided for by this subsection is made,

shall, on making a claim in such form as may be prescribed be entitled to be credited with contributions under the 1952 Ordinance in respect of every week that she was attending at such course or absent from the Falkland Islands in connection with it.

(2) A claim for credit of contributions under subsection (1) cannot be made until such time as the woman is entitled to claim a pension under section 4(1) or 4(2) as the case may be.

[S. 2/Ord. 6/02/w.e.f. 13/3/2002]

5 Amount of pension

(1) The standard weekly rate of a pension shall be such amount as may be specified by regulations which shall be subject to approved by the Legislative Assembly.

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

(2) Subject to the provisions of this Ordinance, the weekly rate of a pension under section 4 shall be equal to —

$$A\left(\frac{B}{2200}\right);$$

where A is the standard weekly rate of pension, and

B is the number of weeks, not exceeding 2200, in respect of which contributions under this Ordinance or the 1952 Ordinance have been made —

(i) by or in respect of the pensioner, or

(ii) in a case of a widow's or widower's pension, by or in respect of the deceased spouse if that produces the greater pension for the survivor.

[S.R.&O 14/2024/w.e.f. 31/07/2017]

6 Couple's supplement

[S. 5/Ord. 9/25/w.e.f. 01/01/2026]

(1) A couple's supplement is payable to a partner ("**partner 1**") who is entitled to a retirement pension and whose partner ("**partner 2**") has not yet reached pensionable age.

[S. 5/Ord. 9/25/w.e.f. 01/01/2026]

(2) The couple's supplement is payable in respect of every week beginning before partner 2 reaches pensionable age.

[S. 5/Ord. 9/25/w.e.f. 01/01/2026]

(3) To qualify for a couple's supplement the following requirements must be met —

(a) partner 1 must —

(i) have made contributions, under the 1952 Ordinance or be deemed to have made contributions under that Ordinance; and

(ii) be entitled to a retirement pension under section 4; and

(b) partner 2's earnings are less than the annual earnings limit, in the year before the year in which the supplement is paid.

[S. 5/Ord. 9/25/w.e.f. 01/01/2026]

(4) The couple's supplement is payable to partner 1 after partner 2 has reached pensionable age if —

(a) either —

(i) partner 2 is not entitled to a pension under this Ordinance; or

(ii) partner 2 is entitled to a pension which is less than the couple's supplement; and

(b) partner 2's earnings (if any) were equal to or less than the annual earnings limit, in the year before the year in which the supplement is paid.

[S. 5/Ord. 9/25/w.e.f. 01/01/2026]

(4) Where partner 2's pension is less than the supplement, the supplement payable to partner 1 is reduced by the amount of the pension payable to partner 2.

[S. 5/Ord. 9/25/w.e.f. 01/01/2026]

(5) The standard weekly rate of the couple's supplement must be specified by regulations which must be approved by the Legislative Assembly.

[S. 5/Ord. 9/25/w.e.f. 01/01/2026]

[S. 3/Ord. 5/98/w.e.f. 6/1/1997 & s. 4/Ord. 5/18/w.e.f. 01/01/2020]

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

7 Transitional provisions for existing contributors and others

(1) The following provisions of this section shall have effect, in relation to a person falling within any of subsection (4) to (9) below who becomes entitled to a pension under section 4 on or after the appointed day, for the purpose of calculating the weekly rate at which that pension should be paid.

(2) In this section a "relevant week"-

(a) in relation to a retirement pension, means a week during which the person entitled to the pension was over the age of 17 years and not over pensionable age; and

(b) in relation to a widow's or widower's pension, means a week during which the person entitled to the pension was over the age of 17 years and not over the age of 60 years.

[S. 2/Ord. 5/98/w.e.f. 6/1/1997; s. 4/Ord. 5/18/w.e.f. 01/01/2020; S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

(3) The following provisions of this section do not apply in relation to any person who is entitled to a pension under section 4(3).

(3A) A woman who is not ordinarily resident in the Falkland Islands on the appointed day shall not be entitled, by virtue of subsection (5) or (7) below, to receive any payment by way of a pension under this Ordinance in respect of any period before she becomes ordinarily resident in the Falkland Islands (but irrespective of whether she continues to be so resident thereafter).

[S. 4(2)/Ord. 5/98/w.e.f. 6/1/1997]

(4) A person who-

(a) made or is deemed to have made contributions in respect of any week under 1952 Ordinance (including any falling within section 8(2)), and

(b) makes contributions in accordance with this Ordinance in respect of every relevant week beginning on or after the appointed day,

shall, if the weeks in respect of which those contributions were made amount in aggregate to at least 728 weeks (14 years), be entitled to a pension payable at the standard weekly rate.

(5) Subject to subsection (3A) a woman who was married before the appointed day shall be deemed to have made a contribution under the 1952 Ordinance in respect of every week during which she was married and living with or being maintained by her husband and ordinarily resident in the Falkland Islands.

[S. 4(3)/Ord. 5/98/w.e.f. 6/1/1997]

(6) A woman who is a widow immediately before the appointed day shall be entitled to a pension payable at the standard weekly rate if-

(a) she was contributing under the 1952 Ordinance as a widow, and

(b) she makes a contribution in accordance with this Ordinance in respect of every relevant week beginning on or after the appointed day.

(7) Subject to subsection (3A) a woman who by reason only of her age has been prevented from making a contribution under the 1952 Ordinance in respect of any week during which she was ordinarily resident in the Falkland Islands shall be deemed to have made a contribution under that Ordinance in respect of that week.

[S. 4(3)/Ord. 5/98/w.e.f. 6/1/1997]

(8) A person who-

(a) first became ordinarily resident in the Falkland Islands after reaching the age of 50 years but before the appointed day, and

(b) was an employee or self-employed person from his arrival in the Falkland Islands until the appointed day but did not make any contribution under the 1952 Ordinance because of his age, and

(c) is ordinarily resident in the Falkland Islands on the appointed day,

shall be deemed to have made contributions in accordance with this Ordinance in respect of every relevant week beginning before the appointed day during which he was ordinarily resident in the Falkland Islands.

(9) The wife of a person who is deemed to have made contributions by virtue of subsection (8) above in respect of any week shall be deemed to have made contributions for the same week.

(10) Any reference in this section to a contribution made by any person does not include a reference to a contribution made by an employer otherwise than on behalf of an employee, but does include a reference to any contribution deemed to have been made by that person.

8 Refunds of contributions under 1952 Ordinance

(1) Subject to subsections (2) to (4) below, where a refund of any amount was made to a person in respect of any contribution made or deemed to have made in respect of any week by that person under the 1952 Ordinance, then for the purposes of this Ordinance-

(a) that contribution shall be deemed not to have been made, and

(b) a contribution shall not be deemed to have been made, by virtue of section 7 or otherwise, by that person in respect of the same week.

(2) Subsection (1) above does not apply in relation to any refund of a contribution made on account of a person's marriage or remarriage, and any such contribution may be taken into account under this Ordinance as if it had not been refunded.

(3) In any case where a refund within subsection (1) above has been made and a payment is made to the Board of an amount equal to the aggregate of-

(a) the amount of that refund, and

(b) compound interest at the annual rate of 5 per cent, on the mount of the refund from the date of the refund,

by a person who received such a refund, the, as from the date of that payment, subsection (1) shall cease to apply in relation to any contribution in respect of which the refund was made.

(4) Subsection (3) above does not apply unless-

(a) at the time of the payment required to be made under subsection (3) is made, that person is ordinarily resident in the Falkland Islands, and

(b) that time falls before the expiry of the period of two years beginning with the date on which he first became ordinarily resident in the Falkland Islands after the refund was made to him.

CONTRIBUTORS AND CONTRIBUTIONS

9 The register of contributions

(1) The Board shall keep a register of contributors and shall allot each contributor a registration number.

(2) The employer of a person who is liable to make contributions under section 10 shall notify the Board that he is employing that person within 14 days of the commencement of the employment and shall give the Board such information relating to the employee and the employment as the Board may require.

(3) Every person who is liable to make contributions under section 10, except any person as respects whom the Board has been notified under subsection (2) above, shall register with the Board, in such form as the Board may require, within 60 days of first becoming liable to make such contributions and shall produce such evidence of his date of birth as the Board may require.

(4) Subsections (2) and (3) above do not apply in relation to any employee or self-employed person as respects whom contributions were made under the 1952 Ordinance.

(5) Any person who fails to comply with subsection (2) or (3) above shall be guilty of an offence and liable on conviction to a fine not exceeding level 5 on the standard scale.

10 Compulsory contributions

(1) Subject to section 13A every contributor shall make a contribution in respect of each week during the whole or part of which he is a contributor at the prescribed weekly rate.

[S. 2(a)/Ord. 1/01/w.e.f. 1/1/2001]

(2) Regulations under subsection (1) may specify different rates for different classes of contributor and shall be subject to approval by the Legislative Assembly.

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

(3) Subject to subsections (4) to (5) below, for the purposes of subsection (1) above "contributor" means-

(a) every employee who is between 17 years and pensionable age;

(b) every self-employed person who is between 17 years and pensionable age;

(c) every retired person under pensionable age years who has been a contributor under this section or the 1952 Ordinance at any time either as an employee or a self-employed person;

(d) every relevant MLA;

[S. 5/Ord. 14/09/w.e.f. 6/11/2009; s. 4/Ord. 5/18/w.e.f. 01/01/2020; S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

but does not include any person who is ordinarily resident outside the Falkland Islands and is an employee of Her Majesty's Government in the United Kingdom.

(3A) Despite subsection (3), a person referred to in subsection (3) is not obliged to make a contribution in respect of any week that occurs after the person has made or is deemed to have made 2200 weekly contributions.

[S. 36(a)/Ord. 5/15/w.e.f. 1/7/2015]

(4) Regulations under subsection (1) may provide that a person shall not be liable to make a contribution under this section in respect of any week for which his income does not exceed such amount as may be prescribed, and for the purposes of this subsection and regulations made under it, where section 2(3) applies to a person in respect of any week, his earnings for that week shall be taken to be the aggregate of his earnings as an employee and as a self-employed person for that week.

[S. 3/Ord. 6/02/w.e.f. 13/3/2002]

(5) Subsection (1) above shall not apply in relation to a person as respects any period during which that person is entitled to a widow's or widower's pension under section 4.

(6) Regulations may provide for the calculation of a person's earnings over any period for the purposes of this section, and may in particular make provision for-

(a) disregarding certain amounts;

(b) taking into account pensions, redundancy payments and other compensation for loss of employment or payments in lieu of notice of termination of employment, holiday pay and other amounts;

(c) taking into account benefits received otherwise than in cash;

(d) aggregating earnings where a person has more than one employer;

but, subject to such regulations, a person's earnings for any period shall be taken to be his earned income for that period computed in accordance with the Taxes Ordinance 1997 (whether or not any of his income is subject to income tax).

[S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

(7) Regulation may make provision determining when a person is to be taken to have retired for the purposes of this section.

11 Contributions by employers

(1) Regulation may provide that contributions at the prescribed rate shall be made by employers except in so far as they are exempted by an Order under section 13A(1) in respect of each employee who is between 17 years and pensionable age.

[S. 2(b)/Ord. 1/01/w.e.f. 1/1/2001; s. 4/Ord. 5/18/w.e.f. 01/01/2020; S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

(1A) The Office of the Legislative Assembly must pay contributions at the prescribed rate for each relevant MLA.

[S. 6/Ord. 14/09/w.e.f. 6/11/2009]

(2) A contribution shall not be payable by an employer under this section in respect of any employee who is not liable to make a contribution under section 10 by reason of section 10(4).

(3) Regulations under subsection (1) shall be subject to approval by the Legislative Assembly.

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

12 Voluntary contributions

(1) Any person under pensionable age years who-

(a) has been, but is no longer, required to make contributions under section 10 or under the 1952 Ordinance as an employee or a self-employed person or retired person in respect of any period ("the compulsory contribution period"), and

(b) has not been granted a widow's or widower's pension under section 4, and

(c) has given notice to the Board, in such form as the Board may require, before the expiry of the period of 12 months beginning with the day immediately following the end of the compulsory contribution period that he wishes to make contributions under this subsection,

may make voluntary contributions at the prescribed rate in respect of any period beginning after the end of the compulsory contribution period.

[S.4/Ord. 5/18/w.e.f. 01/01/2020; S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

(2) A person over pensionable age who-

(a) has made contributions under this Ordinance or the 1952 Ordinance in respect of any period ("the compulsory contribution period"), and

(b) has not been granted a pension under the Ordinance or the 1952 Ordinance, and

(c) has given notice to the Board, in such form as the Board may require, before the expiry of the period of 12 months beginning with the day immediately following the day on which they reach pensionable age, that he wishes to make contributions under this subsection,

may make voluntary contributions at the prescribed rate in respect of any period beginning after the end of the compulsory contribution period, irrespective of whether he has retired or is still gainfully employed.

[S.4/Ord. 5/18/w.e.f. 01/01/2020; Revision w.e.f. 01/01/2020; S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

(2A) A person (irrespective of his age)-

(a) in respect of whom contributions are deemed to have been made under this Ordinance or the 1952 Ordinance in respect of any period ("the contribution period"), and

(b) who has not in fact made any contributions himself under this Ordinance or the 1952 Ordinance (disregarding any contributions made by virtue of this subsection), and

(c) who has not been granted a pension under this Ordinance or the 1952 Ordinance, and

(d) who is ordinarily resident in the Falkland Islands on the appointed day or a later date, and

(e) who has given notice to the Board, in such form as the Board may require, before the first anniversary of the end of the contribution period, that he wishes to make contributions under this subsection,

may make voluntary contributions at the prescribed rate in respect of any period beginning after the end of the contribution period, irrespective of whether he has retired or is still gainfully employed.

[S. 5/Ord. 5/98/w.e.f. 6/1/1997]

(3) Regulations under subsection (1) or (2) above may prescribe different rates of contributions in respect of periods during which a person is not ordinarily resident in the Falkland Islands and in respect of periods during which a person is so resident.

(4) Regulations under subsection (1) or (2) above may prohibit a person resuming making contributions under this section after any period during which-

(a) he does not continue contribute under this section, and

(b) does not contribute or have contributions made in respect of him under any other provision of this Ordinance.

(5) Regulations prescribing a rate at which contributions may be made under subsection (1) or (2) above shall be subject to the approval of the Legislative Assembly.

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

13 Assisted contributions

(1) Subject to subsection (8), a person to whom this subsection applies during any period consisting of whole weeks shall, on a claim being made, in such form as the Board may require, have contributions made at the prescribed rate in respect of that period in his behalf by the Government; but a contribution shall not be made under this subsection-

(a) in respect of any person and any period as respects which a contribution is made under section 12(1);

(b) in respect of any person who is not between 17 years and pensionable age; or

(c) in respect of any whole week commencing more than five years before the claim was made.

[S. 4/Ord. 6/02/w.e.f. 13/03/2002; S. 2/Ord. 22/02/w.e.f. 04/12/2002; S. 4/Ord. 5/18/w.e.f. 01/01/2020; S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

(2) Subsection (1) above applies to any person ordinarily resident in the Falkland Islands during any period when that person-

(a) is not required to make contributions under section 10 as an employer, a self-employed person or a retired person, and

(b) either-

(i) is entitled to family allowance, or

(ii) shows to the satisfaction of the Board that he or she is looking after another person who is entitled to attendance allowance.

(3) Subsection (1) above applies to any person ordinarily resident in the Falkland Islands during any period as respects which the Board is satisfied-

(a) that he is unable to work by reason of ill-health, and is not in receipt of any remuneration, and

(b) that, in the week preceding the week in which he became unable to work by reason of ill-health, he was an employee or a self-employed person and a contributor for the purposes of section 10(1),

but a contribution shall not be payable by virtue of this subsection in respect of the first week of any such period.

(4) Subsection (1) above applies to any person ordinarily resident in the Falkland Islands during any period when that person-

(a) is neither an employee nor self-employed, but shows to the satisfaction of the Board that he or she is actively seeking employment during that period; or

(b) shows to the satisfaction of the Board that he or she is following a prescribed course of education or training and is aged 21 years or over; or

(c) is self-employed and shows to the satisfaction of the Board that his or her income does not exceed the amount prescribed under section 10(4); or

(d) is in receipt of welfare payments as determined by the Department of Social Services and shows to the satisfaction of the Board the number of weeks that the welfare payments were received.

[S. 11(1)/Ord. 3/05/w.e.f. 1/1/2006; s.12(1)/Ord. 4/18/w.e.f. 1/7/2018]

(5) A contribution made in respect of any person under this section shall for all purposes of this Ordinance (except section 16) be deemed to have been made by that person.

(6) Contributions made by the Government under this section shall be paid out of and charged upon the Consolidated Fund.

(7) Regulations prescribing a rate for the purposes of subsection (1) above shall be subject to approval by the Legislative Assembly.

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

(8) No contribution shall be made by the Government under subsection (1) in respect of a person whose income from all sources during the period of 12 months immediately preceding the date

on which the payment would otherwise fall to be made exceeded such sum as is prescribed by Regulations under section 26 of this Ordinance.

[S. 5/Ord. 6/02/w.e.f. 13/3/2002]

13A Special exemptions

(1) The Governor may by Order under this section-

(a) authorise the Board to exempt contributors who would otherwise be liable to make contributions under section 10(1)-

(i) by virtue of employment falling within a category specified in the Order;

(ii) by virtue of any employment the duties of which fall to be performed wholly or mainly in a part or area of the Falkland Islands specified in the Order; or

(iii) by virtue of employment falling within a category specified in the Order the duties of which fall to be performed wholly or mainly in a part or area of the Falkland Islands specified in the Order,

from the obligation to make such contributions; and

(b) authorise the Board to exempt employers who would otherwise be liable to make contributions under section 11(1)-

(i) in respect of employees employed in a category specified in the Order;

(ii) in respect of employees engaged in any employment the duties of which fall to be performed wholly or mainly in a part or area of the Falkland Islands specified in the Order; or

(iii) in respect of employees employed in a category specified in the Order the duties of whose employment fall to be performed wholly or mainly in a part or area of the Falkland Islands specified in the Order,

from the obligation to make such contributions.

(2) A contributor under section 10(1) of the Retirement Pensions Ordinance 1996 who would otherwise be entitled to otherwise eligible for the benefit of any exemption provided for by an Order under subsection (1) may be disqualified from receiving it if his income or the joint income of that contributor and his spouse in respect of the year expired on the preceding 31st December exceeds an amount specified for the purpose in the Order.

(3) An Order under subsection (1) may be expressed to have effect for such period of time as is specified in the Order but shall otherwise have effect until the Order is revoked.

(4) Where any person is exempted by the Board from making contributions by virtue of an Order under subsection (1), the Government shall make the contributions that person is exempted from making.

[S. 2(c)/Ord. 1/01/w.e.f. 1/1/2001]

14 Payment and collection of contributions

(1) Subject to regulations, any contribution payable by an employee under section 10 shall in the first instance be payable by the employer on behalf of and to the exclusion of the employee, and for the purposes of this Ordinance any contribution paid by the employer under this section shall be deemed to be a contribution paid by the employee.

(1A) The contributions payable by relevant MLAs under section 10 are payable in the first instance by the Office of the Legislative Assembly on behalf of the relevant MLAs.

[S. 7(2)/Ord. 14/09/w.e.f. 6/11/2009]

(1B) For the purposes of this Ordinance, the contributions paid by the Office of the Legislative Assembly on behalf of each relevant MLA under subsection (1A) are to be treated as contributions paid by that relevant MLA.

[S. 7(2)/Ord. 14/09/w.e.f. 6/11/2009]

(2) Subject to regulations, an employee shall be entitled to recover form the employee the amount of any contribution paid by the employee under this section, and, notwithstanding the provisions of the Labour Minimum Wage Ordinance, regulations shall provide for the employer to recover any such amount by deduction from earnings and not in any other way.

(2A) The Office of the Legislative Assembly must deduct from the salary payable to each relevant MLA the amount of any contributions paid by the Office of the Legislative Assembly under this section on behalf of that relevant MLA.

[S. 7(3)/Ord. 14/09/w.e.f. 6/11/2009 & s. 23/Ord. 12/13/w.e.f. 8/11/2013]

(3) An employer shall not deduct from a person's earnings or any other sum, or otherwise seek to recover from a person, any amount in respect of any contribution payable by the employer under section 11, and any provision of a contract, agreement or arrangement to the contrary shall be void and unenforceable.

(4) Any person who acts in breach of subsection (3) above commits an offence and shall be liable on conviction to a fine not exceeding level 5 on the standard scale.

(5) Subject to subsections (1) to (4) above, contributions under section 10, 11 or 12 shall be paid and collected in the prescribed manner.

(6) Subject to regulations, an employer may, at the request of an on behalf of an employee, make voluntary contributions which the employee wishes to make, and, notwithstanding the provisions of the Labour Minimum Wage Ordinance, regulations shall provide for the employer to recover any such amount by deduction from earnings and not in any other way.

(7) Regulations under this section may-

(a) where section 10(6)(d) applies in relation to any employee, specify which employer should be responsible for the payment of that employee's contributions under subsection (1) above;

(b) require contributors to make returns at prescribed intervals to the Board in such form as the Board may require;

(c) provide that a breach of any specified requirement of the regulations by an employer or a self-employed person is an offence punishable on conviction with a fine not exceeding level 7 on the standard scale; and

(d) may make different provision in respect of different cases or different classes of cases.

15 Contributions not paid when due

(1) Subject to subsections (1A) and (1B), where a compulsory contribution payable under this Ordinance is paid after the 30 June next following the end of the pension year in which the week in respect of which the contribution was payable fell, the person liable or eligible to pay the contribution is liable to pay compound interest on the contribution at the rate of 5 per cent per annum.

[S. 36(b)/Ord. 5/15/w.e.f. 1/7/2015]

(1A) A person referred to in subsection (1) is not liable to pay any interest in respect of any week referred to under subsection (1) for which the person's earnings do not exceed such amount as may be prescribed in accordance with section 10(4).

[S. 36(b)/Ord. 5/15/w.e.f. 1/7/2015]

(1B) Where a person's financial year ends between 1 January and 30 June, the person will not be liable to pay any interest until 6 months after the date on which the person's financial year ended.

[S. 36(b)/Ord. 5/15/w.e.f. 1/7/2015]

(1C) For the purposes of this section, "financial year" means the period of 12 consecutive months in relation to which a person records and reports on the person's financial affairs for accounting and tax purposes, provided that-

(a) the person is not prohibited by legislation from so recording and reporting in relation to a period of 12 consecutive months other than January to December of the same calendar year; and

(b) the person habitually and consistently so records and reports in relation to the same period of 12 consecutive calendar months.

[S. 36(b)/Ord. 5/15/w.e.f. 1/7/2015]

16 . . .

[S. 25/Ord. 2/11/w.e.f. 1/1/2011]

DISCRETIONARY PENSIONS

17 Ex gratia pensions

(1) Where the Governor is advised by the Executive Council that it considers that it would be desirable so to do having regard-

(a) to the facts of the particular case; and

(b) by the person circumstances of the person concerned,

he may, subject to subsection (2) below, by writing authorise the payment of a pension to a person of such amount or on such basis of calculation and from such date as he thinks fit ("an ex gratia pension").

[S. 6/Ord. 5/98/w.e.f. 6/1/1997]

(2) The weekly rate of an ex gratia pension-

(a) shall not exceed an amount equal to the standard weekly rate of pension; and

(b) shall not be payable as of right; and

(c) may be brought to an end at any time by the Governor on the advice of the Executive Council revoking the authority for such payment.

(3) An ex gratia pension shall be paid out of and charged upon the Consolidated Fund.

FINANCIAL PROVISIONS

18 Pensions Equalisation Fund

(1) The Pensions Equalisation Fund ("the Fund") established under section 8 of the Old Age Pensions Ordinance 1952 shall continue to be maintained by the Financial Secretary.

(2) All contributions paid under this Ordinance and all sums paid under section 8(3) shall be paid into the Fund together with all interest and penalties paid under this Ordinance.

(3) All pensions payable under this Ordinance except ex gratia pensions paid under section 17, shall be paid out of the Fund.

(4) Any moneys forming part of the Fund shall not be applied in any way to the purposes of the Falkland Islands but, except for such sums as in the opinion of the Financial Secretary are required to be kept in hand for the purposes of this Ordinance, shall be invested on behalf of the Board under the direction of the Financial Secretary in such securities, or be employed at interest in such manner, as shall be approved from time to time by the Governor in Council, and the interest arising from such investment shall be from time to time paid to the credit of the Fund.

19 Reports by Government Actuary

(1) The Financial Secretary must arrange for–

(a) the operation of this Ordinance during the five year period ending on 31st December 2011 (and each five year period afterwards) to be reviewed by an independent actuary; and

(b) the actuary to report to the Governor on–

(i) the financial condition of the Pensions Equalisation Fund; and

(ii) the adequacy or otherwise of the contributions payable under this Ordinance to support the pensions payable under this Ordinance out of the Fund.

[S. 4(2)/Ord. 3/12/w.e.f. 9/3/2012]

(2) The Governor may at any time direct that the period to be covered by a review and report under subsection (1) shall be reduced, and the making of that and subsequent reviews shall be accelerated accordingly.

(3) . . .

[S. 4(3)/Ord. 3/12/w.e.f. 9/3/2012]

20 Administrative expenses

Any expenses incurred in the administration of this Ordinance shall be paid out of the Pensions Equalisation Fund.

SUPPLEMENTARY PROVISIONS

21 Payment of pension, determination of claims and appeals

(1) A pension under section 4 shall be paid at such times, in such manner and subject to such conditions as to identification or otherwise as may be prescribed.

(2) All claims for pensions shall be considered and determined by the Board.

(3) Any person who is aggrieved by a decision of the Board under this Ordinance may appeal in the prescribed manner to the Governor whose decision shall be final.

22 Penalties for false statements etc. and repayment of pension where recipient not entitled to payment

(1) If for the purpose of obtaining or continuing a pension under this Ordinance, either for himself or for any other person, any person knowingly makes any false statement or false representation, he shall be liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 7 on the standard scale or to both such fine and imprisonment.

[S. 7(1)/Ord. 5/98/w.e.f. 6/1/1997]

(2) Where any sum is paid by way of a pension under section 4 to any person and that person was not entitled to the pension or to a pension of that amount, he or, in the case of his death, his personal representative shall be liable to repay the Government any such sums, and the amount of those sums may be recovered at any time as a debt due to the Government.

(3) Where any person who is in receipt of a pension under section 4 is liable to repay to the Government any sum under this section, or under section 21 of the 1952 Ordinance, the Board shall be entitled, without prejudice to any other means of recovering such sum, to direct the deduction of such sum from any sums to which that person becomes entitled on account of a

pension under section 4, but in the case of a personal administrative the deduction shall only be made from any sums to which that person becomes entitled, or which he could claim, as such personal representative.

(4) Subsections (2) and (3) above shall apply, with any necessary modifications, where an amount has been paid to any person by way of pension under section 17 which would not have been so paid but for false statements or representations made by that or any other person, as they apply where an amount has been paid by way of pension to any person who was not entitled to that payment.

[S. 7(2)/Ord. 5/98/w.e.f. 6/1/1997]

23 Inspectors

(1) For the purposes of this Ordinance the Governor may appoint such inspectors as he may consider necessary.

(2) An inspector appointed under this Ordinance shall, for the purposes of the execution thereof, have power to do all or any of the following things, namely-

(a) to enter at all reasonable times any premises or place liable to inspection under this section;

(b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Ordinance are being or have been complied with in any such premises or place;

(c) to examine, either alone or in the presence of any other person, as he things fit, with respect to any matters under this Ordinance on which he may reasonably require information, any person whom he has reasonable cause to believe to be or to have been an employed person or an employer;

(d) to exercise such other powers as may be necessary for carrying this Ordinance into effect.

(3) Subject to subsection (4) below, the occupier of any premises or place liable to inspection under this section, and any person who is or has been employing any person, and the servants and agents of any such occupier or other person, and any employed person, shall furnish to an inspector all such information and produce for inspection all such documents as the inspector may reasonably require for the purpose of ascertaining whether contributions are or have been payable, or have been duly paid, by or in respect of any person.

(4) A person shall not be required under this section to answer any question or give any evidence tending to incriminate himself.

(5) If any person-

(a) wilfully delays or obstructs an inspector in the exercise of any power under this section; or

(b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this section;

he shall be liable on summary conviction in the case of a first offence under this subsection to a fine not exceeding level 5 on the standards scale and in the case of a second or subsequent offence to a fine not exceeding level 7 on the standards scale.

(6) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises or place in exercise of his powers under this section shall, if so required, produce that certificate.

(7) The premises and places liable to inspection under this section are any premises or places where an inspector has reasonable ground for supposing that any persons liable to contribute under this Ordinance are employed, except that they do not include any private dwelling house not used by or by permission of the occupier for the purposes of trade or business.

(8) An inspector appointed under this section may exercise his powers under this section for the purpose of determining whether the provisions of the 1952 Ordinance have been complied with, and accordingly any reference in subsection (2)(b) and (c) and (7) to this Ordinance includes a reference to the 1952 Ordinance.

24 Inalienability of pensions

(1) Every assignment of or charge on and every agreement to assign or charge a pension under section 4 shall be void and, on the bankruptcy of a person under section 4 shall be void and, on the bankruptcy of a person entitled to such a pension, the pension shall not pass to any trustee or other person acting on behalf of the creditors.

(2) Any sums received by any person by way a pension under section 4 shall not be included in calculating his means for the purposes section 5 of the Debtors Act 1869.

25 Disclosure of information by Commissioner of Taxation

(1) No obligation as to secrecy imposed by statute or otherwise shall prevent the disclosure of information obtained for the purposes of the Taxes Ordinance 1997 from being disclosed to the Board but information shall not be disclosed under this section without the agreement of the Commissioner of Taxation.

[S. 6 & Sch./Ord. 9/25/w.e.f. 01/01/2026]

(2) Information shall not be disclosed in pursuance of subsection (1) unless it is an aid to identifying any employer or contributor or to establishing the amount of any earnings payable by or to any person.

(3) Information disclosed in pursuance of subsection (1) shall not be further disclosed except in so far as it may be necessary for the purposes of this Ordinance or any regulations made under this Ordinance, including any civil or criminal proceedings arising out of this Ordinance or any such regulations.

26 Regulations

The Governor in Council may make regulations generally for carrying this Ordinance into effect, and in particular-

(a) for authorising the payment of any sum by way of pension during any period intervening between the making of a claim and its final determination;

(b) for enabling a person to be appointed to exercise, on behalf of any claimant or person entitled to or in receipt of a pension who is, by reason of any mental or other incapacity, unable to act, any right to which that claimant or person may be entitled under this Ordinance, and to authorise any person so appointed to receive any pension on behalf and for the benefit of the claimant or person;

(c) for providing that-

(i) in the case of the death of a person who was in receipt of a pension under this Ordinance, payment may be made of any sum which became payable on account of the pension within 3 months before the date of his death, but has not been paid;

(ii) in the case of the death of a person who was entitled to a pension under this Ordinance, payment may be made of any sum which, if a claim had been made, or, if made, had been allowed, immediately before his death, would be payable on account of the pension up to the date of his death;

(d) for providing that probate or other proof of the title of the personal representative of the deceased person may be dispensed with in the case of an such sum as is mentioned in paragraph (c) above, and that any such sum may be paid or distributed to or among the persons appearing to the Board to be entitled to receive the same or any part thereof, either as being persons beneficially entitled thereto under a will or as next of kin, or as being creditors of the deceased person, or to or among any one or more of such persons exclusive of the others, or, in the case of the illegitimacy of the deceased person or any child of his, to or among such persons as to the Board may seem just;

(e) for prescribing the procedure upon appeals from decisions of the Board.

27 Consequential amendments and repeals

(1) Subject to any contrary intention, any reference, however expressed, in any Ordinance, statutory instrument or other document passed or made before the coming into force of this Ordinance to the Falkland Islands contributory old age pension at the married man's rate shall be construed as a reference to the aggregate of the standard weekly rate of pension and the standard weekly rate of the married couples' supplement.

(2) Subject to any contrary intention, any reference, however expressed, in any Ordinance, statutory instrument or other document passed or made before the coming into force of this Ordinance to the Falkland Islands contributory old age pension at the single man's rate shall be construed as a reference to the standard weekly rate of pension.

(3) The following enactments are hereby repealed-

(a) the Old Age Pensions Ordinance 1952; and

(b) the Non-Contributory Old Age Pensions Ordinance 1961.