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STATUTORY INSTRUMENTS

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**1997 No. 864**

**SOUTH ATLANTIC TERRITORIES**

**The Falkland Islands Constitution (Amendment) Order 1997**

<i>Made</i>	- - - -	<i>19th March 1997</i>
<i>Laid before Parliament</i>		<i>26th March 1997</i>
<i>Coming into Operation</i>		<i>1st September 1997</i>

Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts 1887 and 1945(1), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Citation, construction and commencement**

1. (1) This Order may be cited as the Falkland Islands Constitution (Amendment) Order 1997 and shall be construed as one with the Falkland Islands Constitution Order 1985(2).

(2) The Falkland Islands Constitution Order and this Order may be cited together as the Falkland Islands Constitution Order 1985 to 1997.

(3) This Order shall come into operation on 1st September 1997.

**Interpretation**

2. In this Order, “the Constitution” means the Constitution of the Falkland Islands set out in Schedule 1 to the Falkland Islands Constitution Order 1985.

**Amendment of Section 17 of the Constitution**

3. Section 17 of the Constitution is amended by substituting for subsection (5) the following—

“(5) For the purposes of the foregoing provisions of this Chapter a person shall be regarded as belonging to the Falkland Islands if he enjoys Falkland Islands status and a person enjoys such status if that person is—

(a) a citizen who was born in the Falkland Islands; or

(b) a citizen who was born outside the Falkland Islands—

(i) whose father or mother was born in the Falkland Islands; or

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(1) 1887 c. 54 and 1945 c. 7 (9 and 10 Geo 6).

(2) S.I.1985/444.

- (ii) who is domiciled in the Falkland Islands and whose father or mother became, while resident in the Falkland Islands, a citizen by virtue of having been naturalised or registered as such or as a British subject or as a citizen of the United Kingdom and Colonies; or
- (c) a citizen by virtue of having been so naturalised or registered while resident in the Falkland Islands; or
- (d) a Commonwealth citizen who is domiciled in the Falkland Islands who either
  - (i) was ordinarily resident in the Falkland Islands for the seven years immediately preceding 1st September 1997; or
  - (ii) has been granted such status under the provisions of an Ordinance providing for the grant of that status to Commonwealth citizens who have been ordinarily resident in the Falkland Islands for a period of at least seven years and has not, in accordance with the provisions of that Ordinance, lost or been deprived of such status; or
- (e) The spouse, widow or widower of such a person as is referred to in any of the preceding paragraphs of this subsection, and, in the case of a spouse, is not living apart from her husband or his wife, as the case may be, under a decree of a competent court or a deed of separation; or
- (f) under the age of eighteen years and is the child, stepchild or child adopted in a manner recognised by law, of such a person as is referred to in any of the preceding paragraphs of this subsection.”.

#### **Amendment of Section 21 of the Constitution**

4. Section 21 of the Constitution is amended by substituting for subsection (2) the following—
- “(2) The Legislative Council shall consist of eight elected members and two *ex-officio* members, namely, the Chief Executive and the Financial Secretary, and at any time when there is a person holding the office of Speaker, the Speaker.”.

#### **Amendment of Section 22 of the Constitution**

5. Section 22 of the Constitution is amended by substituting for subsection (1) the following—
- “(1) The Falkland Islands shall be divided into two constituencies, Camp and Stanley. Camp shall return three elected members to the Legislative Council and Stanley five elected members and the members shall be elected in such a manner as shall be prescribed by Ordinance.”.

#### **Amendment of Section 24 of the Constitution**

6. Section 24 of the Constitution is amended by substituting for subsection (1)(f) the following—
- “(f) “(f) at the date of election, is under sentence of death imposed on him by a court of law in any part of the Commonwealth, or is serving or has at any time within the period of five years immediately preceding that date been serving any part of a sentence of imprisonment (by whatever name called) of at least twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or is under such a sentence of imprisonment the execution of which has been suspended;”.

#### **Amendment of Section 27 of the Constitution**

7. Section 27 of the Constitution is amended by substituting for subsection (1) the following—

“(1) Subject to the provisions of subsection (2) of this Section, a person shall be qualified to be registered as an elector for the purpose of the election of members of the Legislative Council if he is a Commonwealth citizen who has attained the age of 18 years and either—

- (a) he enjoys Falkland Island status; or
- (b) his name appeared on the register of electors for a constituency in force on 1st September 1997.

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

#### **Replacement of Section 33 of the Constitution**

8. Section 33 of the Constitution is replaced by the following—

“33. (1) There shall preside at each sitting of the Legislative Council—

- (a) the Governor; or
- (b) at any time when there is a person holding the office of Speaker, the Speaker; or
- (c) in the absence of the Governor or, as the case may be, of the Speaker, such member of the Legislative Council as the Governor, acting in his discretion, may appoint to preside at that sitting; or
- (d) if no such appointment has been made, such person as shall be prescribed by the Standing Orders of the Council.

(2) The Legislative Council may elect a Speaker of the Council, who shall be a person, whether or not a member of the Council, who is qualified and not disqualified to be a member of the Council.

(3) The Speaker shall be elected for the life of the Council and shall be removable by a vote of no less than six of the elected members voting in favour of the motion.”.

#### **Amendment of Section 37 of the Constitution**

9. Subsection (2) of Section 37 of the Constitution is amended by substituting the number “six” for “five” and deleting the proviso.

#### **Amendment of Section 50 of the Constitution**

10. Section 50 of the Constitution is amended by inserting after subsection (2) the following subsection—

“(3) The Governor, acting in his discretion but after consultation with the members of the Legislative Council, may assign to one or more members of the Legislative Council responsibility for the conduct of any business in the Legislative Council.”.

#### **Amendment of Section 51 of the Constitution**

11. Section 51 of the Constitution is amended by adding the following at the end of the section—

“The *ex-officio* members shall have no right to vote on any matter that is put to the vote at a meeting of the Executive Council.”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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### **Amendment of Annex A to the Constitution**

**12.** Paragraph 2 of Annex A to the Constitution is amended by the deletion of the words, “in the margin”.

*N. H. Nicholls*  
Clerk of the Privy Council

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes a number of amendments to the Constitution of the Falkland Islands following a constitutional review of that territory and the report on that review by a Select Committee of the Legislative Council of the Falkland Islands.