



## FALKLAND ISLANDS

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### Education (Governance and Accountability) Ordinance 2022

(ORDINANCE No. 6 OF 2022)

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## FALKLAND ISLANDS

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### Education (Governance and Accountability) Ordinance 2022

*(assented to: 20 April 2022)*

*(commencement: see section 2)*

*(published: 3 May 2022)*

#### AN ORDINANCE

To promote the education of persons in the Falkland Islands by the provision of schools, colleges, the national library service and other services suitable to their age and needs, ensure good governance of such provision and that those tasked with delivering it can be held to account; and to amend the Stanley Town Public Services Ordinance 1973.

ENACTED by the Legislature of the Falkland Islands —

#### PART 1 - General

##### *Introductory*

#### **1. Title**

This Ordinance is the Education (Governance and Accountability) Ordinance 2022.

#### **2. Commencement**

This Ordinance comes into force on a day appointed by the Governor by notice in the *Gazette*.

#### **3. Education Ordinance 1989 amended and consequential amendments**

(1) This section amends the Education Ordinance 1989 (“**the Ordinance**”).

(2) Repeal sections 3 to 15, 17 to 21, 29, 30, 33 to 46, 50 to 56, 67 to 78 of, and the Schedule to, the Ordinance.

(3) Amend the provisions of the Ordinance listed in the first column of Part 1 of Schedule 1 in accordance with the second column of that Part.

(4) Make the consequential amendments to other primary and secondary legislation in accordance with Part 2 of Schedule 1.

#### **4. Interpretation**

In this Ordinance —

“**academic year**” means the period of 12 months commencing on 1 September and ending on 31 August;

“**approved school**” means a school approved by the Director under section 40;

“**Board**” means the Board of Education established under section 20;

“**boarding arrangements**” means arrangements for the accommodation of children and young persons to enable such children and young persons to attend educational provision;

“**Camp Education**” means educational provision that is made in Camp (being any place in the Falkland Islands that is not Stanley) for children of compulsory education age up to the end of the academic year in which they attain the age of eleven years;

“**College Advisory Committee**” means the committee of the Board established under section 29;

“**college leader**” means a person designated under section 14;

“**compulsory education age**” has the meaning in section 7(3);

“**Director**” means the person who is for the time being employed as the Government’s Director of Education;

“**educational provision**” means education provision made under section 9 and includes, unless otherwise specified, —

- (a) Government schools, Falkland College and other educational institutions;
- (b) Camp Education;
- (c) financial assistance provided under section 19;
- (d) boarding arrangements;
- (e) the national library service; and
- (f) any other premises, facilities, equipment or services provided for educational purposes;

“**efficient education**” in relation to a child or young person, means education suitable to the child’s or young person’s age, ability and aptitudes;

“**Falkland College**” means the educational institution referred to in section 14;

“**Government school**” means a school that is funded out of money appropriated from the Consolidated Fund;

“**parent**” in relation to a child or young person, means any person —

- (a) who has parental responsibility for that child or young person within the meaning of the Children Ordinance 2014; or
- (b) who has care of the child or young person, and in determining whether an individual has care of a child or young person, any absence of the child or young person at a hospital or in boarding accommodation and any other temporary absence is disregarded;

“**regulations**” means regulations made under this Ordinance;

“**school**” means an educational institution that provides full-time or part-time education suitable wholly or mainly for the needs of children and young persons of compulsory education age;

“**School Governance Committee**” means the committee of the Board established under section 25; and

“**school leader**” means any person who is —

- (a) the executive headteacher for Government schools and Camp Education;
- (b) the headteacher of a Government school;
- (c) responsible for Camp Education; or
- (d) responsible for boarding arrangements.

## **5. Secondary legislation**

Powers conferred by this Ordinance to make regulations may be exercised —

- (a) to make different provision for different areas, for different descriptions or classes of person or for different purposes; and
- (b) to make such incidental or supplemental provision as the Governor considers necessary or appropriate in the circumstances.

### *Purpose*

## **6. Purpose of this Ordinance**

(1) The purpose of this Ordinance is to promote the intellectual, social, cultural, spiritual, moral and physical development and well-being of the people of the Falkland Islands by making educational provision in a manner that is consistent with sections 11 (protection of freedom of conscience), 12 (protection of right to education) and 16 (protection from discrimination) of the Constitution.

(2) Subject to subsection (1), nothing in this Ordinance requires educational provision to be made—

- (a) for any person who is not —
  - (i) ordinarily resident in the Falkland Islands; or
  - (ii) of compulsory education age;
- (b) in any language of instruction other than English; or
- (c) in accordance with any particular religious or other beliefs or cultural practices.

### *Compulsory education*

#### **7. Duty of parents to secure education of children of compulsory education age**

(1) The parent of a child or young person of compulsory education age must ensure the child or young person receives an efficient education.

(2) A parent may fulfil the duty in subsection (1) by ensuring that the child or young person —

- (a) is registered as a pupil at a Government school;
- (b) is registered as a pupil at an approved school;
- (c) is educated outside the Falkland Islands and the Director has been notified of that fact;  
or
- (d) subject to section 42 (approval of home education), is educated at home or by other means.

(3) A child or young person becomes of compulsory education age at the start of the academic year in which they attain the age of five and ceases to be of compulsory education age at the end of the academic year in which they attain the age of sixteen.

(4) A person who fails to comply with subsection (1) commits an offence.

**Penalty:** A fine up to level 4 on the standard scale.

## **PART 2 - Duties of Governor and Director of Education**

### *Governor*

#### **8. General duty**

The Governor must, in the performance of the Governor's duties under this Ordinance, have regard to section 6.

## **9. Duty to make educational provision**

(1) The Governor must ensure sufficient educational provision is made —

- (a) for children and young persons of compulsory education age who are ordinarily resident in the Falkland Islands; and
- (b) for persons of such other description as may be prescribed in regulations,

to receive an efficient education.

(2) Educational provision under subsection (1) includes —

- (a) schools in Stanley and Camp Education; and
- (b) boarding arrangements.

(3) The Governor may make educational provision for any persons to whom subsection (1) does not apply.

(4) Provision under subsection (3) may include arrangements for children and young persons who are over compulsory education age but under the age of eighteen years to attend a school or other educational institution or boarding arrangements.

### *Director of Education*

## **10. General duty**

The Director must, in the exercise of the Director's functions, have regard to —

- (a) section 6; and
- (b) the importance of promoting equality of opportunity and social mobility.

## **11. Functions of the Director**

(1) The Director must advise the Governor on the strategic planning of educational provision in the Falkland Islands and other matters of education policy.

(2) The Director is responsible for the delivery, supervision and improvement of educational provision and in particular for —

- (a) ensuring that all Government schools, Camp Education and Falkland College —
  - (i) are efficiently conducted and managed;
  - (ii) achieve high standards of teaching and learning; and
  - (iii) engage staff who have the skills, qualifications and experience appropriate for their roles;



- (b) ensuring that children receiving Camp Education receive an efficient education that is of an equivalent standard to that which they would receive at a Government school; and provides a similarly broad and balanced curriculum;
- (c) determining such curricula and syllabuses as may be necessary or convenient for use in any educational provision;
- (d) boarding arrangements;
- (e) the national library service;
- (f) skills development and work-based training programmes to meet the needs of persons over compulsory education age and the economic and social needs of the Falkland Islands; and
- (g) administering financial assistance for the purpose of education and training;
- (h) careers information, advice and guidance; and
- (i) safeguarding and promoting the welfare of children and young persons and vulnerable adults for whom educational provision is made.

(3) The Director must assist the Governor, the Board, the School Governance Committee and the College Advisory Committee in the performance of their functions under this Ordinance by providing such information and advice as they may reasonably require.

*Financial and other resources*

**12. Educational provision chargeable on the Consolidated Fund**

Educational provision is expenditure chargeable on the Consolidated Fund.

**13. Functions of the Director in relation to financial and other resources**

(1) The Director must ensure the resources available to the Director are used efficiently and effectively to support the purpose of this Ordinance.

(2) The resources available to the Director include —

- (a) financial resources;
- (b) staff;
- (c) premises, including grounds and other facilities used for educational provision.

(3) The Director may, having consulted the Board, make arrangements for the premises referred to in subsection (2) to be made available for use by the public at any time when such premises are not required as educational provision and may charge a reasonable fee for such use.

## **PART 3 - Education and Training and National Library Service**

### *Falkland College*

#### **14. Establishment of Falkland College**

(1) The Governor has established an educational institution known as Falkland College to meet the needs of persons over compulsory education age for education and training and the economic and social needs of the Falkland Islands.

(2) To fulfil the purpose in subsection (1), full-time or part-time education, training and other services may be provided by Falkland College for persons over compulsory education age including —

- (a) skills development and work-based training programmes;
- (b) careers information, advice and guidance;
- (c) personal development and other support to prepare such persons for employment;
- (d) programmes suitable for persons who have special educational needs or disabilities; and
- (e) leisure-time occupation and recreational activities.

(3) The Director may arrange for careers information, advice and guidance, personal development and other services to be provided at Falkland College for young persons of compulsory education age.

(4) The Director may designate one or more members of the Director's staff ("college leaders") to be responsible for Falkland College.

#### **15. Power to charge for educational provision**

(1) Any person for whom educational provision is made by Falkland College may be charged for the whole or any part of the cost of making such provision ("**a fee**").

(2) A charge under subsection (1) must be calculated in accordance with the policy of the Board, which may provide for a person's age and financial resources to be taken into consideration.

(3) The person must be informed of the fee before the educational provision is made.

(4) The Board's policy on charging for educational provision at Falkland College must be published.

### *National library service*

#### **16. National library service**

(1) There is a national library service for the benefit of the people of the Falkland Islands, which includes libraries in Government schools and a lending library service for the public.

(2) The national library service provides —

- (a) books and other printed materials and audio or visual recordings for use or loan, by pupils and staff at Government schools or by members of the public; and
- (b) such other services as may, in the opinion of the Director, be conveniently combined with services provided under paragraph (a).

(3) The Director may accept gifts for the benefit of the national library service provided that a gift of money must be paid into the Consolidated Fund until such time as it is applied for that purpose.

(4) Subject to subsection (6), the Director may, with the approval of the Governor, require any person using the national library service to pay a reasonable charge for any aspect of the service including for the loan of any printed materials or recordings.

(5) A charge under subsection (4) includes a fine for the late return of any printed materials or recordings that are provided on loan.

(6) A charge must not be made for lending a book to a child or young person who is of, or under, compulsory education age.

#### **17. Designation of a person to be responsible for national library service**

The Director may designate a school or college leader to be responsible for the national library service.

#### **18. Stanley Town Public Services Ordinance 1973 amended**

Amend the Stanley Town Public Services Ordinance 1973 by —

- (a) in the heading to Part III, omit “, Public Library and Museum”;
- (b) in section 25, replacing “, Public Library and Museum shall be” with “is” and omit “, together with all books, papers, manuscripts and documents now forming the Public Library, and all objects, trophies and specimens now forming the Public Museum”; and
- (c) repealing sections 26 to 28.

#### *Financial assistance for education and training*

#### **19. Financial assistance for education and training**

(1) The Governor may give financial assistance to any person who is ordinarily resident in the Falkland Islands for the purpose of enabling that person to secure education and training suitable to their needs, whether in the Falkland Islands or elsewhere, including skills development and work-based training.

(2) The Governor may discriminate in the provision of financial assistance under subsection (1) between —

- (a) persons who are Falkland Islanders and persons who are not; or
  - (b) persons who have permanent residence permits and persons who do not.
- (3) Regulations may provide for financial assistance to be paid in respect of the whole or any part of —
- (a) registration, tuition and examination fees;
  - (b) travel expenses;
  - (c) materials or other equipment required for the purpose of education or training;
  - (d) accommodation expenses and reasonable living costs; or
  - (e) any other expenses reasonably and properly incurred in connection with, or incidental to, such education or training.
- (4) Regulations may provide for financial assistance to be subject to conditions, including conditions requiring —
- (a) the recipient to be available for suitable employment in the Falkland Islands for a specified period of time after the conclusion of the education or training for which the assistance was provided; or
  - (b) the assistance to be repaid in full or in part, with or without the addition of interest.
- (5) Regulations may provide for the eligibility of persons for financial assistance, including criteria relating to —
- (a) the person, including the person's age, educational attainments and the person's means;
  - (b) the education or training for which the financial assistance is requested; or
  - (c) the institution or location of the institution providing the education or training.
- (6) In this section, “**Falkland Islander**” means a person who has Falkland Islands status by virtue of section 22(5) of the Constitution.

## **PART 4 - Governance**

### *Board of Education*

#### **20. Establishment of Board of Education**

- (1) There is established a Board of Education (“**the Board**”).
- (2) The members of the Board are the Director and not less than six eligible persons appointed by the Governor.

- (3) The eligible persons must include —
- (a) two persons nominated by the Legislative Assembly from among the elected members;
  - (b) two persons representing Government schools and Camp Education;
  - (c) one person representing Falkland College; and
  - (d) one person representing the business community.
- (4) When filling a vacancy arising in the membership of the Board for —
- (a) a person of a description in subsection (3)(b), the Governor must appoint an eligible person nominated by the committee established under section 25; or
  - (b) a person of a description in subsection (3)(c), the Governor must appoint an eligible person nominated by the committee established under section 29.
- (5) The Governor may appoint such other eligible persons to the Board as the Governor considers are likely to assist the Board in the discharge of its functions.
- (6) A member of the Board ceases to be a member on whichever is the earlier of the date on which—
- (a) in the case of a person of a description in subsection (3)(a), the person ceases to be an elected member of the Legislative Assembly;
  - (b) in the case of a person appointed under subsection (4), the relevant committee nominates another eligible person to replace a person appointed under subsection (4);
  - (c) in the case of any person of a description in subsection (3)(b) to (d) or subsection (5), the third anniversary of the person's appointment falls;
  - (d) the person is sentenced to a term of imprisonment;
  - (e) the Governor accepts the person's resignation as a member of the Board; or
  - (f) the person ceases to be an eligible person.
- (7) Nothing in subsection (6) prevents any person from being re-appointed as a member of the Board.
- (8) In this section “**an eligible person**” means a person who is eligible to be appointed as a member of the Board and a person is not eligible if —
- (a) the person's only or main employment is in any educational provision for which the Director is responsible or as a member of the staff of the Director;
  - (b) the person, not being a person nominated under subsection (3)(a), is an elected member of the Legislative Assembly; or

- (c) the Governor, having made appropriate enquiries, determines that the person is not suitable to be a member of the Board.

## **21. Terms of reference of Board of Education**

- (1) The Director must not vote on any matter that is put to the vote at a meeting of the Board.
- (2) The Board must adopt terms of reference approved by the Governor to provide for —
  - (a) the appointment of a Chair, Vice-Chair and secretary;
  - (b) a member of the Board to represent the interests of Camp;
  - (c) quorum, voting and other matters relating to the proceedings of the Board, including attendance of members of the public and arrangements for convening meetings;
  - (d) establishment, membership terms of reference and proceedings of committees of the Board, including such further provision for committees established in accordance with sections 25 and 29 as may be necessary;
  - (e) the right of members to nominate deputies;
  - (f) agendas for and any papers to be considered at meetings and minutes of meetings;
  - (g) arrangements for publication of minutes of meetings and any other information; and
  - (h) travelling and other expenses reasonably and properly incurred by members of the Board in performance of, and incidental to, their duties.

## **22. Functions of Board of Education**

- (1) The Board must assist the Governor in the performance of the Governor's functions by providing such information and advice as the Governor may reasonably require about educational provision for which the Director is responsible and the exercise of the Director's functions.
- (2) The Board must advise the Director on the performance of the Director's functions, in particular on strategic planning of educational provision in the Falkland Islands, in response to a request by the Director or may do so on its own initiative.
- (3) For the purposes of this section, the Board must receive and consider, and may comment on, reports from the Director, the School Governance Committee and the College Advisory Committee.
- (4) The Board must, in the exercise of its functions, have regard to section 6.

## **23. Director's annual report to Board of Education**

- (1) To assist the Board in the performance of its functions, the Director must on or before 31 October in each academic year make a written report to the Board on —

- (a) the exercise of the Director's functions, in particular the performance of Government schools, Camp Education, Falkland College, boarding arrangements and the national library service in the preceding academic year; and
- (b) such proposals or policies as the Director wishes to make or adopt in relation to the Director's functions for the purpose of improving educational provision in the Falkland Islands.

(2) As soon as reasonably practicable after the Board's consideration of the report, the Director must send it and the Board's comments and recommendations on it, if any, to the Governor.

#### **24. Director's duty to request and consider Board's advice**

(1) The Director must request the advice of the Board if required to do so by the Governor.

(2) The Director must consider any advice provided by the Board before exercising any function to which it relates and, if the Director decides not to act in accordance with the Board's advice, the Director must notify the Governor in writing, giving reasons for the decision and include that fact in the Director's annual report to the Board made under section 22(1).

(3) Save in a case where the Director must take urgent action, notice under subsection (2) must be given not less than 5 working days before acting on the decision and in any other case, notice must be given as soon as reasonably practicable, whether before or after urgent action is taken.

#### *School Governance Committee*

#### **25. Establishment of School Governance Committee**

(1) The Board must establish a committee for all Government schools, Camp Education and boarding arrangements ("**School Governance Committee**").

(2) Schedule 2 makes provision for the functions, constitution and terms of reference of the School Governance Committee.

#### **26. School leaders report to School Governance Committee**

(1) To assist the School Governance Committee in the performance of its functions, each school leader must undertake an assessment of the performance of the educational provision for which that school leader is responsible at least once in each academic year and provide a written report on the assessment to the Committee.

(2) As soon as reasonably practicable after the School Governance Committee has considered the report, the Chair of the Committee must send it and the Committee's comments and recommendations on it, if any, to the Board and the Director.

#### **27. Duty of school leaders to consider advice of School Governance Committee**

(1) School leaders must consider any advice provided by the School Governance Committee before taking any action to which it relates.

(2) In any case where the school leaders or any of them decide not to act in accordance with the advice of the School Governance Committee, the person making the decision in question must report that fact to the Director as soon as reasonably practicable together with the reasons for not acting in accordance with the advice and must inform the Committee at its next meeting.

## **28. Amendment of functions of School Governance Committee**

(1) The Governor may by regulations remove functions relating to any educational provision from, or to add functions relating to any other educational provision to, the functions of the Committee and for that purpose may amend Schedule 2.

(2) Before making regulations under subsection (1), the Governor must consult the Board and the Director.

### *College Advisory Committee*

## **29. Establishment of College Advisory Committee**

(1) The Board must establish a committee for Falkland College (“College Advisory Committee”).

(2) Schedule 3 makes provision for the functions, constitution and terms of reference of the College Advisory Committee.

## **30. College leaders report to College Advisory Committee**

(1) To assist the College Advisory Committee in the performance of its functions, each college leader must undertake an assessment of the performance of the educational provision for which that college leader is responsible at least once in each academic year and provide a written report on the assessment to the Committee.

(2) As soon as reasonably practicable after the College Advisory Committee has considered the report, the Chair of the Committee must send it and the Committee’s comments and recommendations on it, if any, to the Board and the Director.

## **31. Duty of college leaders to consider advice of College Advisory Committee**

(1) College leaders must consider any advice provided by the College Advisory Committee before taking any action to which it relates.

(2) In any case where college leaders or any of them decide not to act in accordance with the advice of the College Advisory Committee, the person making the decision in question must report that fact to the Director as soon as reasonably practicable together with the reasons for not acting in accordance the advice and must inform the Committee at its next meeting.

## **32. Amendment of functions of College Advisory Committee**

(1) The Governor may, by regulations remove functions relating to any educational provision from, or add functions relating to any other educational provision to, the functions of the Committee and for that purpose may amend Schedule 3.



(2) Before making regulations under subsection (1), the Governor must consult the Board and the Director.

## **PART 5 - Inspection of educational provision**

### **33. Timing and purpose of inspections**

(1) The Director must ensure that Government schools, Camp Education, Falkland College and boarding arrangements are each inspected within four years of commencement of this Ordinance and thereafter at least once in every four academic years.

(2) The purpose of inspection is to ensure that —

- (a) educational provision made under this Ordinance is efficiently conducted and managed and achieves high standards of teaching and learning; and
- (b) the welfare of children, young persons and vulnerable adults for whom the provision is made is safeguarded and promoted.

### **34. Appointment of inspectors**

The Director —

- (a) must appoint suitably qualified persons to carry out inspections under section 33 (“**inspectors**”) either generally or for a particular inspection; and
- (b) must not personally undertake inspections for the purposes of section 33.

### **35. Inspection of Government schools and Camp Education**

(1) Subject to subsections (2) and (3), an inspector may, for the purposes of inspecting Government schools and Camp Education —

- (a) enter and remain in any school classroom or other premises on which education for children of compulsory education age is provided;
- (b) put or cause any teacher to put questions to pupils generally or to a particular pupil;
- (c) observe the manner in which any teacher instructs any pupil or any particular pupil in any subject or part of a subject or, in relation to services provided under section 14(3), how any person delivering the service does so;
- (d) require any pupil to demonstrate the pupil’s knowledge or skill in any subject in which the pupil is being or has been taught at the school;
- (e) inspect any register or other records maintained by the school or Camp Education, as the case may be; or
- (f) put or cause a school leader to put any question to parents of pupils generally.

(2) An inspector must not require any pupil who is excused from attendance at religious instruction to do anything specifically related to religious instruction.

### **36. Inspection of Falkland College**

An inspector may, for the purposes of inspecting the College —

- (a) enter and remain in any teaching space, workshop or other part of the College used for teaching purposes or other premises on which education or training is provided by the College;
- (b) put or cause any lecturer, tutor or other instructor or person charged with delivering any service to a student to put questions to students generally or to a particular student;
- (c) observe the manner in which —
  - (i) any lecturer, tutor or other instructor instructs any student or any particular student in any subject or skill;
  - (ii) any person charged with delivering education and training within section 14(2)(b) and (c) to any student or group of students delivers that education and training;
- (d) require any student to demonstrate the student's knowledge or ability in any subject or skill in which the student is being or has been instructed at the College; and
- (e) inspect any register or other records maintained by the College.

### **37. Inspection of boarding arrangements**

An inspector may, for the purpose of inspecting boarding arrangements —

- (a) enter and remain in any part of premises in which boarding accommodation is provided;
- (b) put or cause any member of staff to put questions to children or young persons for whom boarding arrangements are made (“**boarders**”) generally or to a particular boarder;
- (c) observe the manner in which any persons providing accommodation or who care for boarders interact with those boarders;
- (d) inspect any register or other records maintained at the accommodation; or
- (e) put or cause a member of staff to put any question to parents of boarders generally.

### **38. Reports on inspections**

(1) An inspector must, as soon as possible after concluding the inspection, provide a written report on it to the Director.

(2) The Director must provide a copy of the report to the school or college leader responsible for the educational provision within two weeks of receiving it and advise the school or college leader (as the case may be) that any representations on the report must be made to the Director in writing within one month.

(3) As soon as possible after the period mentioned in subsection (2) has expired, the Director must—

- (a) provide a copy of the report and any representations made by the relevant school or college leader to the Governor, the Board and —
  - (i) in the case of a report relating to a Government school, Camp Education or boarding arrangements, to the School Governance Committee; or
  - (ii) in the case of a report relating to the College, to the College Advisory Committee; and
- (b) publish a summary of the inspection findings on the Government website.

(4) The School Governance Committee or the College Advisory Committee, as the case may be, must within 8 weeks of receiving the report submit a plan setting out the action to be taken by the educational provision in question to address the findings of the inspector to the Board for approval.

### **39. Regulation of inspections**

The Governor may by regulations make further provision for inspections.

## **PART 6 - Educational provision not made by Government**

### *Independent schools*

### **40. Approval of independent schools**

(1) It is unlawful for any person to provide education for a child or young person of compulsory education age at a school that is not either a Government school or a school that has been approved by the Director (“**an approved school**”).

(2) A person who acts in contravention of subsection (1) commits an offence.

**Penalty:** A fine.

### **41. Regulation of independent schools**

The Governor may by regulations make such provision as is necessary or desirable for approved schools and in particular may provide for —

- (a) the form and content of any application for approval of a school and any fee payable for making an application;
- (b) criteria that may be applied for the purpose of determining whether an application for approval is eligible for consideration or not;

- (c) the matters that the Director must take into consideration in determining whether to approve a school;
- (d) the Director to give approval subject to conditions and for such conditions to apply to all approved schools, to approved schools of a specified type or class or to a particular approved school;
- (e) in the case of an approval that is subject to conditions, the conditions to be varied or waived by the Director;
- (f) if approval is refused, the applicant to apply to the Governor for a review of the Director's decision and the process for conducting a review;
- (g) the period for which approval of a school is valid;
- (h) the syllabus or curriculum to be provided at an approved school;
- (i) arrangements to be made for the health, safety and well-being of children attending the school including provision for medical care and treatment in case of illness or injury to the children;
- (j) inspection of approved schools;
- (k) financial assistance for approved schools;
- (l) the qualifications or other requirements that apply to persons employed or engaged to teach or provide instruction or tuition of any kind at an approved school; and
- (m) contravention of the regulations to be an offence.

*Home education etc.*

**42. Approval of home education**

- (1) This section applies to home education.
- (2) Home education is not efficient education for the purposes of section 8(1) unless it has been approved as such by the Director.
- (3) The Director may approve home education for an unlimited or a specified period and in either case may impose conditions.
- (4) The Director may inspect, or may arrange for another appropriately qualified person to inspect, home education in order to satisfy the Director that the education is efficient.
- (5) The Director may withdraw approval of home education at any time on not less than seven days' notice in writing if the Director is not satisfied that it is efficient education.
- (6) A parent must provide such information about home education as the Director may reasonably require for the purposes of exercising the Director's functions under this section.

(7) In this section, “**home education**” means education provided for a child of compulsory education age at home or by other means and does not include education provided at a school, through Camp Education or Falkland College.

**SCHEDULE 1 - AMENDMENTS TO EDUCATION ORDINANCE 1989 AND  
CONSEQUENTIAL AMENDMENTS TO OTHER LEGISLATION**

*section 3*

**Part 1 - Amendments to Education Ordinance 1989**

<b>Section</b>	<b>Amendment</b>
2 (interpretation)	<p>(1) Replace the following definitions —</p> <p>(a) “academic year” with “<b>academic year</b>” has the meaning in section 57(1);”;</p> <p>(b) “Board” with “<b>Board</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;”;</p> <p>(c) “Camp Education Service” with “<b>Camp Education</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;”;</p> <p>(d) “compulsory education age” with “<b>compulsory education age</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;”;</p> <p>(e) “Government School” with “<b>Government school</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;” and</p> <p>(f) “parent” with “<b>parent</b>” has the meaning in section 4 of the Education (Governance and Accountability) Ordinance 2022;”.</p> <p>(2) Omit the definitions of “bursary”, “independent school”, “lower limit of compulsory education”, “recognized school”, “the Secretary”, “scholarship”, “Training Award”, “transition programme” and “upper age limit of compulsory education”.</p> <p>(3) In the definition of “Director” omit “created by section 3(1)”.</p>
22 (duty of parent to secure attendance of child who is registered pupil)	In subsection (2)(a), replace “section 19” with “section 8 of the Education (Governance and Accountability) Ordinance 2022”.
25 (school attendance orders)	<p>(1) In subsection (1), replace “section 19(1)” with “section 8 of the Education (Governance and Accountability) Ordinance 2022”.</p> <p>(2) After subsection (2) insert —</p> <p>“(2A) In subsection (2) a reference to attending school includes a reference to receiving Camp Education.”.</p> <p>(3) In subsection (3)(c), replace “there is available in respect of the child a place at a hostel maintained by the Government in relation to</p>

	<p>the school” with “suitable boarding arrangements have been made for the child”.</p> <p>(4) Omit subsection (4).</p>
28 (duty of parent of child enrolled with Camp Education Service)	<p>(1) In the heading, replace “enrolled with Camp Education Service” with “receiving Camp Education”.</p> <p>(2) Replace subsection (1) with —</p> <p>“(1) The parent of a child for whom Camp Education is provided must, so far as is reasonably practicable, ensure that the child diligently engages with such education except insofar as the child may be excused by reason of illness or other reasonable cause.”.</p>
31 (children with special educational needs)	<p>(1) In subsection (1), replace “section 29” with “section 10 of the Education (Governance and Accountability) Ordinance 2022”.</p> <p>(2) In subsection (2)(a), replace “any school provided and maintained under section 29(1) or 30(1)” with “Government school”.</p> <p>(3) Replace subsection (2)(b) with “make boarding arrangements for such children or contribute towards or pay the cost of accommodation for such children overseas; or”.</p>
32 (register of children with special educational needs)	<p>In subsection (2), replace “required by section 9(2)” with “under section 22 of the Education (Governance and Accountability) Ordinance 2022”.</p>
64 (general medical attention)	<p>(1) Replace subsection (1) with —</p> <p>“(1) This section applies to children for whom boarding arrangements are made.</p> <p>(1A) It is the duty of the school leader who is responsible for boarding arrangements to ensure that every child or young person for whom such arrangements are made receives such medical care as a prudent parent would ensure that child or young person received.”.</p> <p>(2) In subsection (2), replace “subsection (1)” with “subsection (1A)”.</p>

## Part 2 - Consequential amendments to other legislation

### *A – Primary legislation*

#### **1. Children Ordinance 2014, Schedules 2 (Crown support for children and families) and 3 (education supervision orders) amended**

(1) In Schedule 2, Part 2, paragraph 12(3) of the Children Ordinance 2014, replace “(see sections 17 and 57 of that Ordinance)” with “(see section 2 of that Ordinance)”.

(2) In Schedule 3, Part 3, paragraph 10(1) of the Children Ordinance 2014, replace “section 19” with “section 8 of Education (Governance and Accountability) Ordinance 2022”.

## **2. Children and Young Persons (Tobacco) Ordinance 2007, section 3 amended (interpretation)**

In section 3(1) of the Children and Young Persons (Tobacco) Ordinance 2007, replace the definition of “school premises” with —

“**school premises**” in relation to the Falkland Islands Community School, includes land adjoining the school premises and in particular, during the school day, the stand of trees and land in the vicinity of the Falkland Islands Community School commonly known as “The Forest”.”.

## **3. Crimes Ordinance 2014, section 222 amended (positions of trust)**

In section 222(2)(g) of the Crimes Ordinance 2014, replace “Education Ordinance” with “Education Ordinance 1989 or the Education (Governance and Accountability) Ordinance 2022”.

## **4. Employment of Women, Young Persons and Children Ordinance 1967, section 2 amended (interpretation)**

In section 2 of the Employment of Women, Young Persons and Children Ordinance 1967, replace the definition of “child” with —

“**child**” means a person who is under compulsory education age within the meaning of section 7 of the Education (Governance and Accountability) Ordinance 2022;”.

## **5. Matrimonial Causes Ordinance 1979, section 32 amended (duration of continuing financial provision orders in favour of children, and age limit on making certain orders in their favour)**

In section 32(2)(a) of the Matrimonial Causes Ordinance 1979, replace “Education Ordinance, section 17” with “Education (Governance and Accountability) Ordinance 2022”.

## **6. Minimum Wage Ordinance 2013, Schedule 2 amended ( “Eligible Work” – special cases)**

In Schedule 2, paragraph 5(a) (work experience) of the Minimum Wage Ordinance 2013, omit subparagraph (ii).

## **7. Sex Discrimination Ordinance 1998, section 19 amended (discrimination in respect of education)**

Replace section 19 of the Sex Discrimination Ordinance 1998 with —

### **“19. Discrimination in respect of education**

(1) This section applies to —

- (a) the Government in relation to a Government school or Falkland College; and
- (b) the proprietor in relation to an approved school or any other educational institution.



(2) It is unlawful in relation to a Government school, Falkland College, an approved school or any other education institution (“an educational institution”) in the Falkland Islands for a person to whom this section applies to discriminate against a person on grounds of their sex—

- (a) in the terms on which it offers to admit the person to the educational institution;
- (b) by refusing or deliberately omitting to accept an application from the person for admission to the educational institution;
- (c) in the way it affords any pupil or student (as the case may be) access to any benefits, facilities or services at the educational institution or by refusing or deliberately omitting to afford that person access to those benefits, facilities and services; or
- (d) by excluding any pupil or student from the educational institution or subjecting a pupil or student to any other detriment.

(3) Subsection (1) does not apply to any course in physical education.

(4) In this section, “**Government school**” and “**approved school**” have the same meaning as in the Education (Governance and Accountability) Ordinance 2022.”.

#### *B – Secondary legislation*

### **8. Management of Health and Safety at Work Order 1998, article 1 amended (citation, commencement and interpretation)**

In article 1 of the Management of Health and Safety at Work Order 1998, in the definition of “child” replace “the upper limit of compulsory school age” with “compulsory education age”.

### **9. Education Regulations 1989, Schedule amended**

In paragraph 1 of the Schedule to the Education Regulations 1989, omit subparagraph (3).

## SCHEDULE 2 - SCHOOL GOVERNANCE COMMITTEE

*section 25*

1. The School Governance Committee must advise school leaders on the performance of their functions with a view to ensuring that —
  - (a) school leaders adopt a strategic approach to the delivery of education and business planning;
  - (b) the quality of education provided is of a high standard and the outcomes achieved for pupils are appropriate for their ages, abilities and aptitudes;
  - (c) engagement with stakeholders including parents, pupils, staff and the wider community is consistent and effective;
  - (d) policies and systems to ensure the safety and well-being of pupils attending Government schools, receiving Camp Education or using boarding arrangements are appropriate and effectively implemented, the impact of those policies and systems is monitored and the policies and systems are regularly reviewed; and
  - (e) all available resources are used efficiently and effectively to support the strategic objectives of school leaders.
2. The School Governance Committee may provide advice on any matter within its remit to the Board, the Director or school leaders (as the case may be) in response to a request from that person or on its own initiative.
3. The School Governance Committee must consist of not more than ten persons appointed by the Board (“**School Governors**”), including —
  - (a) not more than three persons who are parents of pupils at a Government school that is a primary school;
  - (b) not more than three persons who are parents of pupils at a Government school that is a secondary school;
  - (c) not more than two persons who work in a Government school or Camp Education, not being a school leader; and
  - (d) not more than two other persons.
4. A School Governor ceases to be a School Governor on whichever is the earlier of the date on which—
  - (a) the third anniversary of the person’s appointment falls;
  - (b) in the case of a person of a description in paragraph 3(a) or (b), the person ceases to be the parent of a pupil at a primary school or a secondary school, as the case may be;

- (c) in the case of a person a description in paragraph 3(c), the person ceases to be employed to work in a Government school or Camp Education;
- (d) the person is sentenced to a term of imprisonment;
- (e) the person resigns as a School Governor in writing to the Director of Education; or
- (f) the Governor, having made appropriate enquiries, determines that the person is not suitable to be a School Governor.

5. Nothing in paragraph 4 prevents any person being re-appointed as a School Governor.

6. The Director and school leaders may attend and speak at any meeting of the School Governance Committee.

7. Subject to the approval of the Board, the School Governance Committee must adopt terms of reference.

8. The terms of reference must provide for —

- (a) the appointment of a Chair, Vice-Chair and Secretary;
- (b) the nomination of two of their number to be members of the Board;
- (c) the arrangements for convening meetings, quorum, voting and other matters relating to the proceedings of the School Governance Committee;
- (d) the establishment, membership and proceedings of a sub-committee for each Government school and any other sub-committee;
- (e) the remit of one of the sub-committees to include Camp Education and boarding arrangements;
- (f) the preparation and circulation of agendas for, and any papers to be considered at, meetings and minutes of meetings;
- (g) arrangements for publication of minutes of meetings; and
- (h) travelling and other expenses reasonably and properly incurred by School Governors in performance of, and incidental to, their duties.

9. In this Schedule —

“**primary school**” means a school wholly or mainly for children of compulsory education age who have not attained the age of 11 years; and

“**secondary school**” means a school wholly or mainly for children and young persons of compulsory education age who are aged 11 years or older.

## SCHEDULE 3 - COLLEGE ADVISORY COMMITTEE

section 29

1. The College Advisory Committee must advise college leaders on the performance of their functions with a view to ensuring that —
  - (a) college leaders adopt a strategic approach to the delivery of education and training for students at Falkland College and business planning;
  - (b) the quality of education, training and other services provided by Falkland College is of a high standard and outcomes for students meet their needs and the economic and social needs of the Falkland Islands;
  - (c) engagement with stakeholders including students, staff and the wider community is consistent and effective;
  - (d) policies and systems to ensure the safety and well-being of students are appropriate and effectively implemented, the impact of those policies and systems is monitored and the policies and systems are regularly reviewed; and
  - (e) the resources available for Falkland College are used efficiently and effectively to support the purposes for which Falkland College was established.
2. The College Advisory Committee may provide advice on any matter within its remit to the Board, the Director or college leaders (as the case may be) in response to a request from that person or on its own initiative.
3. The College Advisory Committee must consist of —
  - (a) the Director *ex officio* and designated college leaders;
  - (b) the elected member of the Legislative Assembly who is the portfolio holder for education; and
  - (c) not less than four additional persons appointed by the Board to include —
    - (i) not less than one person who is a student at Falkland College;
    - (ii) not less than one person who works at Falkland College and is not a college leader; and
    - (iii) a person representing the business community.
4. A member of the College Advisory Committee ceases to be a member on whichever is the earlier of the date on which —
  - (a) the third anniversary of the person's appointment falls;

- (b) in the case of a person of a description in paragraph 3(c)(i), the person ceases to be a student at Falkland College;
  - (c) in the case of a person of a description in paragraph 3(c)(ii), the person ceases to work at Falkland College;
  - (d) the person is sentenced to a term of imprisonment;
  - (e) the person resigns as a member of the College Advisory Committee in writing to the Director of Education; or
  - (f) the Governor, having made appropriate enquiries, determines that the person is not suitable to be a member of the College Advisory Committee.
5. Nothing in paragraph 4 prevents any person being re-appointed as a member of the College Advisory Committee.
6. The Director and college leaders must not vote on any matter that is put to the vote at a meeting of the Committee.
7. Subject to the approval of the Board, the College Advisory Committee must adopt terms of reference.
8. The terms of reference may make further provision for —
- (a) the appointment of persons to the College Advisory Committee including requirements for a person appointed under paragraph 3(c)(i) and (ii) to be a person nominated by students at Falkland College or persons employed to work at the College;
  - (b) the appointment of a Chair, Vice-Chair and Secretary;
  - (c) the arrangements for convening meetings, quorum, voting and other matters relating to the proceedings of the College Advisory Committee;
  - (d) the establishment, membership and proceedings of sub-committees;
  - (e) the nomination of a member of the College Advisory Committee to the Board;
  - (f) the preparation and circulation of agendas for, and any papers to be considered at, meetings and minutes of meetings;
  - (g) arrangements for publication of minutes of meetings; and
  - (h) travelling and other expenses reasonably and properly incurred by members of the College Advisory Committee in performance of, and incidental to, their duties.

Passed by the Legislature of the Falkland Islands on 31 March 2022.

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Assembly and is found by me to be a true and correctly printed copy of the said Bill.

IMOGEN FIONA DIDLICK,  
*Deputy Clerk of the Legislative Assembly.*