



FALKLAND ISLANDS

Public Accounts Committee Ordinance 2009

(ORDINANCE No. 11 OF 2009)

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FALKLAND ISLANDS

Public Accounts Committee Ordinance 2009

[DATE OF COMMENCEMENT: 1st FEBRUARY 2010]

PART I INTRODUCTORY PROVISIONS

1 Title

This Ordinance is the Public Accounts Committee Ordinance 2009.

2 Commencement

This Ordinance commences on a date to be fixed by the Governor by notice published in the Gazette.

3 Interpretation

In this Ordinance, unless the context otherwise requires-

"appointed member" means a member of the Public Accounts Committee who is appointed by the Governor, under section 81(1) of the Constitution;

"chairperson" means the member who is appointed by the Governor, under section 81(1) of the Constitution, as the chairman of the Committee;

"Committee" means the Public Accounts Committee established by section 81(1) of the Constitution;

"deputy chairperson" means the person who is appointed by the Committee, under section 4, to be its deputy chairperson;

"elected member" means a member of the Committee who is elected by the Legislative Assembly, under section 81(1) of the Constitution;

"Governor", in sections 27(1) and 28, includes the Governor in his or her capacity as the Commissioner for South Georgia and the South Sandwich Islands;

"member" means a member of the Committee;

"registrable interest" means-

- (a) in relation to an appointed member, an interest of which the member would be required under the Standing Orders of the Legislative Assembly to furnish particulars to the Clerk of the Legislative Assembly, if he or she were a member of the Assembly;
- (b) in relation to an elected member, an interest of which he or she is required under those Standing Orders, as a member of the Assembly, to furnish particulars to the Clerk;

"secretary" means the secretary to the Committee appointed under section 9(1) by the Governor.

4 Deputy chairperson

(1) At its first meeting, and whenever there is subsequently a vacancy under this section, the Committee is to appoint one of its members to be its deputy chairperson.

(2) The deputy chairperson holds office until the expiry of the period for which he or she is appointed, or elected, as a member.

(3) However, a person ceases to be deputy chairperson on vacating a seat on the Committee, or on resigning as deputy chairperson by notice in writing under his or her hand addressed to the chairperson.

(4) The Committee may reappoint a member to be its deputy chairperson.

(5) While the chairperson is unable to exercise or discharge a function, power or duty under the Constitution, or under this or any other Ordinance, the deputy chairperson may do so on his or her behalf.

5 Disqualification for membership

(1) A person who is elected under section 58(1) of the Constitution as a member of the Executive Council is disqualified for membership of the Committee.

(2) An elected member of the Committee who is elected under section 58(1) of the Constitution as a member of the Executive Council vacates his or her seat on the Committee.

(3) An elected member of the Committee who is elected under section 60(1) of the Constitution as a member of the Executive Council vacates his or her seat on the Committee on attending two consecutive meetings of the Executive Council.

6 Period of appointment

A person is ordinarily appointed or elected as a member for a period of four years.

7 Members' interests

- (1) The secretary is to maintain a register of the registrable interests of the appointed members.
- (2) Before taking part in the proceedings of the Committee, an appointed member must complete and furnish to the secretary in writing, in the prescribed form or in such other form as the Governor may approve, the particulars of the member's registrable interests.
- (3) If there is a change in his or her particulars, an appointed member must as soon as reasonably practicable notify the secretary in writing of the details of the change.
- (4) On receiving particulars of an appointed member's registrable interests, or of any change in those particulars, the secretary is to-
 - (a) enter the particulars or the change in the register;
 - (b) deliver copies of the particulars or of the change to the Governor and to the chairperson; and
 - (c) publish the particulars or the change in the Gazette.
- (5) The register is to be available for public inspection at all reasonable times during office hours, at the office of the secretary.

8 Members' allowances

- (1) A member is entitled to be reimbursed his or her actual and reasonable travelling and accommodation expenses for each day on which the member attends a meeting of the Committee.
- (2) However-
 - (a) if the Governor by notice published in the Gazette sets a maximum amount or rate of travelling expenses or accommodation expenses, the member is not entitled to be reimbursed a greater amount or at a higher rate; and
 - (b) in any event, a member is not entitled to be reimbursed under this section any travelling or accommodation expenses to which he or she is entitled under the Elected Councillors' Allowances Ordinance.

9 Secretary and staff

- (1) The Governor may, with the agreement of the chairperson, appoint a public officer or some other person to be the secretary to the Committee.
- (2) If the Governor appoints a person other than a public officer to be the secretary-
 - (a) the Committee may enter, in its own name, into a contract of employment or for services with that person, but
 - (b) the terms and conditions on which that person is employed or engaged must be agreed between the Governor and the chairperson.

[S. 4/Ord. 1/10/w.e.f. 1/3/10.]

(3) The Governor may appoint other public officers as staff of the Committee.

(4) The secretary and other members of the staff are subject to the direction of the Committee, and are responsible to it through the chairperson.

[S. 4/Ord. 1/10/w.e.f. 1/2/10.]

9A Assistance

If the Committee invites a person to assist it in its work and participate in its proceedings in accordance with section 81(4) of the Constitution-

- (a) it may enter, in its own name, into a contract for services with that person, but
- (b) the terms and conditions of that contract must have been agreed beforehand between the Governor and the chairperson.

[S. 5/Ord. 1/10/w.e.f. 1/3/10.]

9B Other contracts

The Committee may enter into other contracts, in its own name, for the purpose of carrying out its functions but only if either-

- (a) the terms and conditions of the contract have been agreed beforehand between the Governor and the chairperson; or
- (b) the contract is within the scope of authority that has been agreed between the Governor and the chairperson.

[S. 5/Ord. 1/10/w.e.f. 1/3/10.]

10 Funds

The Committee's funds consist of money appropriated for the purpose by the Legislative Assembly.

PART II FUNCTIONS OF THE PUBLIC ACCOUNTS COMMITTEE

11 Additional functions

(1) In addition to the function specified in section 81(5) of the Constitution, the Committee has the following functions-

- (a) to advise the Governor on appropriate arrangements for the auditing of accounts under section 80(1) of the Constitution, the respective priorities of audits under that subsection and the effectiveness of those audits;
- (b) in its discretion, to examine and report to the Legislative Assembly on the accounts of any body of a kind that is specified in the Schedule;

- (c) to examine and report to the Assembly on all internal audit reports produced by the Internal Audit Department of the Government;
 - (d) to consider and report to the Assembly on the effectiveness of the regulation by the Government of bodies to whom the Assembly or the Government has granted franchises to provide services of a public nature; and
 - (e) to consider and report to the Governor on any other matter that the Governor may refer to the Committee.
- (2) The functions of the Committee do not include-
- (a) the consideration of matters of policy; or
 - (b) the examination of estimates of expenditure.
- (3) In carrying out its functions-
- (a) the Committee is to consider, in terms of economy, effectiveness and efficiency, the benefit derived from the expenditure of public money; and
 - (b) it may consider the adequacy of the Government's arrangements for the management of financial risk.
- (4) The Governor may by Order amend the Schedule.

12 Consultation with the Legislative Assembly

- (1) Within six months after the commencement of this Ordinance, and within six months after the beginning of each subsequent year, the Committee is to submit to the Legislative Assembly in writing the Committee's intended programme for the year next following the one in which it is submitted.
- (2) The submission must show how the Committee intends to apply its funds in carrying out the programme.
- (3) In carrying out the programme for which a submission is made, the Committee is to consider any views expressed by the Legislative Assembly in respect of the programme.

13 Delivery of internal audit reports to Committee

The Internal Audit Department of the Government is to deliver to the secretary a copy of each internal audit report within seven days after the report is produced.

14 Response to Committee's report

- (1) If the Committee, in reporting to the Legislative Assembly, recommends that the Government should or should not take a course of action, the Governor is to submit within six months a written response to the Assembly.
- (2) The response is to state-
- (a) whether the recommendation is accepted or rejected; and

- (b) if a recommendation to take a course of action is accepted, how it is intended to take that course of action.
- (3) The response may include any other relevant comments or explanations.

PART III

PROCEEDINGS OF THE PUBLIC ACCOUNTS COMMITTEE

15 Convening of meetings

- (1) The first meeting of the Committee is to be held within three months after the commencement of this Ordinance, at a time and place within the Falkland Islands to be appointed by the chairperson.
- (2) The Committee is to hold subsequent meetings within the Falkland Islands at least once every six months.
- (3) The Committee's meetings, other than its first meeting, shall be held at such times and places as it may agree or as the chairperson may appoint.
- (4) The secretary is to send to each member, at least three clear days before each meeting-
 - (a) notice in writing of the time and place of the meeting;
 - (b) copies of the agenda and of the reports, background papers and other documents to be considered at the meeting.

16 [Repealed]

[S. 4/Ord. 11/10/w.e.f. 31/10/10.]

17 Quorum

At a meeting of the Committee, the quorum is three members of whom-

- (a) one is the chairperson or deputy chairperson;
- (b) one is an appointed member; and
- (c) one is an elected member.

18 Procedure

- (1) At a meeting of the Committee-
 - (a) the chairperson presides while present; and
 - (b) while the chairperson is not present, the deputy chairperson presides.
- (2) A member who has a direct or indirect interest in any matter arising for consideration at a meeting of the Committee must disclose that interest to the Committee before taking part in its consideration of the matter.

(3) A member who is required by subsection (2) to disclose an interest must not take part in the Committee's consideration of the matter to which that interest relates without the prior leave of the person presiding.

(4) On any question arising for decision by the Committee-

- (a) a member has one vote;
- (b) the question is to be decided by a simple majority of the votes; and
- (c) if there is an equality of votes, the person presiding has a casting vote.

(5) The secretary is to keep minutes of the Committee's meetings and of the decisions taken by it.

(6) Subject to the other provisions of this Ordinance, the Committee may regulate its own procedure.

PART IV HEARINGS

18A Hearings ordinarily to be open to public

(1) Meetings at which the Committee is hearing evidence are to be open to the public, except as provided in section 21.

(2) The secretary is to give at least three clear days' public notice of-

- (a) the time and place of each meeting that is to be open to the public; and
- (b) the fact that the documents mentioned in subsection (3) are available for public inspection at all reasonable times during office hours, at the office of the secretary.

(3) The secretary must, from the date of the notice, make available for public inspection the statements, reports, background papers and other documents that are to be considered at the meeting while, in the secretary's view, it is likely to be open to the public.

[S. 5/Ord. 11/10/w.e.f. 31/10/10.]

19 Summons to witness

(1) The Committee may exercise its powers under section 81(6) of the Constitution, to summon a person to appear before it and to provide information to it, by serving on the person a summons under this section.

(2) A summons under this section is to be in writing in the prescribed form.

(3) If a person on whom a summons is served under this section fails to appear before the Committee on the day and at the time and place specified in the summons; the chairperson may issue a warrant in the prescribed form, authorizing and directing a police officer to detain and bring the person before the Committee.

- (4) If, without reasonable excuse, a person on whom a summons is served under this section-
- (a) fails to appear before the Committee on the day and at the time and place specified in the summons; or
 - (b) fails to produce to the Committee on that day, and at that time and place, any document or publication that the summons requires the person to produce to the Committee,

he or she is liable to a fine determined by the Committee in accordance with section 30.

[S. 6/Ord. 1/10/w.e.f. 1/2/10.]

(5) Subsection (4) does not apply in respect of a document or publication in respect of which the Governor issues a certificate under section 28(1).

20 Evidence

(1) A person giving evidence to the Committee, whether or not on oath or affirmation, has the same privileges and immunities as if he or she were giving evidence in proceedings in the Supreme Court.

(2) The Committee may, when exercising its powers under section 81(6) of the Constitution to require a person to answer questions and to provide information to it, require the person to give evidence on oath or affirmation.

(3) For the purposes of this section, any member or the secretary may administer an oath or take an affirmation.

- (4) If, without reasonable excuse, a person who is required to give evidence to the Committee-
- (a) if required by the Committee to take an oath, refuses to do so or to make an affirmation instead of taking an oath; or
 - (b) refuses to answer any lawful and relevant question that is put by a member of the Committee,

that person is liable to a fine determined by the Committee in accordance with section 30.

[S. 6/Ord. 1/10/w.e.f. 1/2/10.]

(5) Subsection (4) does not require a person to provide to the Committee information in respect of which the Governor issues a certificate under section 28(1).

21 Exclusion of public

(1) The Committee is to exclude the public from its meetings when it is hearing evidence of the following nature-

- (a) evidence in respect of which the Governor has issued a certificate under section 28(2);
- (b) evidence that relates to information that is exempt information for the purposes of the Committees (Public Access) Ordinance 2012; or

[S. 29/Ord. 10/12/w.e.f. 1/6/13 and Revision w.e.f. 31/07/2017.]

- (c) evidence by a member of the Executive Council, where disclosure of the evidence would contravene the oath of secrecy to which section 64 of the Constitution refers.

[S. 6/Ord. 11/10/w.e.f. 31/10/10.]

(2) The Committee may exclude the public from its meetings when-

- (a) it is hearing evidence by a witness who has asked to give it in private; and

[S. 6/Ord. 11/10/w.e.f. 31/10/10.]

- (b) the Committee is satisfied that the evidence is of a secret or confidential nature, and that it should be heard in private.

22 Recording of evidence

The secretary is to record evidence that is given to the Committee.

23 Publication of evidence

(1) The Committee is to publish evidence to which section 21 does not apply.

(2) Neither the Committee nor any member or other person may publish evidence to which section 21 applies without the consent of the Governor and of the Committee.

(3) Neither the Committee nor any member or other person may publish evidence to which section 21(2) refers without the consent of the witness concerned.

(4) A person who contravenes either of subsections (2) and (3) is liable to a fine determined by the Committee in accordance with section 30.

[S. 6/Ord. 1/10/w.e.f. 1/2/10.]

24 False evidence

If a person, in giving evidence to the Committee (whether or not on oath) knowingly or recklessly makes a statement that is false in a material particular, he or she is liable to a fine determined by the Committee in accordance with section 30.

[S. 6/Ord. 1/10/w.e.f. 1/2/10.]

25 Witnesses' expenses

(1) A person who appears before the Committee at its request, or is summoned to appear before the Committee, is entitled to be reimbursed his or her actual and reasonable travelling and accommodation expenses of doing so.

(2) However, if the Governor by notice published in the Gazette sets a maximum amount or rate of travelling expenses or accommodation expenses, the person is not entitled to be reimbursed a greater amount or at a higher rate.

**PART V
OTHER PROVISIONS**

26 Copies of Committee's reports

(1) The secretary shall deliver to the Governor a copy of each report to which section 81(7) of the Constitution refers.

(2) The secretary shall deliver to the Clerk of the Legislative Assembly a copy of each report that the Committee makes to the Governor under section 11(1) of this Ordinance.

27 Service on Governor's staff and British forces

(1) If the Committee wishes to request or summon a member of the Governor's staff to attend before the Committee, the request or summons is to be delivered to the office of the Governor.

(2) If the Committee wishes to request or summon a member of Her Majesty's forces or of the civilian component of any of those forces to attend before the Committee, the request or summons is to be delivered to the headquarters of the Commander British Forces.

(3) A summons to which either of subsections (1) and (2) refers is served on the person to whom it is addressed when it is delivered in accordance with that subsection.

28 Public interest certificates

(1) The Governor may certify in writing for the purposes of this Ordinance that-

- (a) the production of a specified document or publication to the Committee; or
- (b) the provision of any specified information to the Committee,

is not in the interests of national security, or is likely to adversely affect the Government's relations with the United Kingdom Government or any other government.

(2) The Governor may certify in writing for the purposes of this Ordinance that the public disclosure of any specified evidence is not in the interests of national security, or is likely to adversely affect the Government's relations with the United Kingdom Government or any other government.

(3) The powers under this section, so far as they relate to the production of a document by the Governor, or to the provision of any information by the Governor, are exercisable by the Governor acting on the instructions of a Secretary of State.

(4) Where subsection (3) does not apply, the powers under this section are exercisable by the Governor acting in his or her discretion.

29 Immunity

No civil or criminal proceedings may be instituted against any member of the Committee for words spoken before the Committee, or written or published by the person as a member of the Committee, or by reason of any matter or thing brought by the person in the Committee by resolution, motion or otherwise.

30 Power of Committee to impose civil fines

(1) If the Attorney General refers the matter to the Committee, it may impose a fine, not exceeding the prescribed maximum fine, on a person who is liable to a fine under any of sections 19(4), 20(4), 23(4) and 24.

(2) The fine is recoverable by civil action in the Supreme Court at the suit of the Attorney General.

31 Orders

The Governor may make Orders for any of the following purposes-

- (a) prescribing, for the purposes of section 7, the form of particulars of registrable interests;
- (b) prescribing, for the purposes of section 19(2), the form of a summons to appear before the Committee;

[S. 7(2)/Ord. 11/10/w.e.f. 31/10/10.]

- (c) prescribing, for the purposes of section 19(3), the form of a warrant authorizing and directing a police officer to detain and bring a person before the Committee; and

[S. 7(3)/Ord. 11/10/w.e.f. 31/10/10.]

- (d) prescribing the maximum fine that the Committee may impose under section 30.

[S. 6/Ord. 1/10/w.e.f. 1/2/10.]

32 Committees (Public Access) Ordinance 2012 not to apply

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

The Committees (Public Access) Ordinance 2012 does not apply to the Committee.

SCHEDULE
BODIES WHOSE ACCOUNTS THE PUBLIC ACCOUNTS COMMITTEE MAY
EXAMINE

(section 11)

[S.R. & O. 3/10/w.e.f. 1/2/10.]

1. A body that receives or deals with public money, other than a statutory body within the meaning of section 80(1) of the Constitution.
2. A body in which the Government is a shareholder, other than a statutory body within the meaning of section 80(1) of the Constitution.
3. A body in which a statutory body within the meaning of section 80(1) of the Constitution is a shareholder.