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CABINET

FALKLAND ISLANDS: EMERGENCY BILL: FIRST REVISE

Note by the Secretary of the Cabinet

I circulated, for the information of members of the Cabinet, the first print of the Falkland Islands Emergency Bill on 14 April as C(82) 12. The Bill has been revised by the Home Secretary and the new version is attached.

Signed ROBERT ARMSTRONG

Cabinet Office

16 April 1982

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Emergency Powers (Falkland Islands) Bill

EXPLANATORY AND FINANCIAL MEMORANDUM

The Bill confers a temporary power, by Order in Council, to make Defence Regulations in connection with the unlawful occupation of the Falkland Islands by the Argentine Republic.

Clause 1 contains a general power to make Defence Regulations, in connection with that unlawful occupation, for the defence of the realm (including dependent territories); for meeting special circumstances; and for the efficient prosecution of hostilities. The Regulations may, in particular, include provision for the expulsion of persons from the United Kingdom; for the taking of possession or control of property or undertakings or the acquisition of property other than land; for the control of the supply or transport of goods or the provision of services; for the suspension of the Trading with the Enemy Act 1939 and the common law relating to trading with the enemy; and for the creation and punishment of offences. They will be subject to affirmative resolution.

Clause 2 makes provision for the extra-territorial operation of Defence Regulations.

Clause 3 provides that clauses 1 and 2 are to remain in force for a period of 3 months and may be continued in force for further periods not exceeding 3 months at a time by an order made by the Secretary of State. Any such order will be subject to affirmative resolution.

Clause 4 enables the Bill to be extended to the Channel Islands, the Isle of Man or any colony, and to off-shore installations.

Clause 5 includes a saving for the powers exercisable by virtue of the prerogative of the Crown.

Financial effects of the Bill and effects on public service manpower

The financial effects of the Bill cannot be quantified. Public service manpower implications are small.

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Emergency Powers (Falkland Islands) Bill

ARRANGEMENT OF CLAUSES

Clause

1. Defence Regulations.
2. Extra-territorial operation of Defence Regulations.
3. Duration of ss. 1 and 2.
4. Extent.
5. Citation and other supplementary provisions.

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Emergency Powers (Falkland Islands)

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Confer on Her Majesty certain powers which it is A.D. 1982 expedient that Her Majesty should be enabled to exercise in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 1.—(1) Her Majesty may by Order in Council make such Defence Regulations, regulations (to be known as "Defence Regulations") as appear to Her to be necessary or expedient for any of the following purposes (in this Act referred to as "the authorised purposes"), that is to say—
- 10 (a) the defence of the realm (including Her Majesty's dependent territories) in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic;
- 15 (b) meeting special circumstances arising or likely to arise out of that occupation; and
- (c) the efficient prosecution of any hostilities in which Her Majesty may be engaged in consequence of that occupation;
- and nothing in the following provisions of this Act shall prejudice
20 the generality of the powers conferred by this subsection.

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Emergency Powers (Falkland Islands)

(2) Defence Regulations may for any of the authorised purposes make provision—

- (a) for the expulsion from the United Kingdom of persons whose expulsion appears to the Secretary of State to be expedient; 5
- (b) authorising the taking of possession or control, on behalf of Her Majesty, of any property or undertaking, or the acquisition on behalf of Her Majesty of any property other than land; 10
- (c) imposing prohibitions or restrictions on the supply or transport of goods or the provision of services; 10
- (d) suspending, to such extent and in relation to such period (whether beginning before, on or after the date of the passing of this Act) as may be specified in the Regulations, the operation of— 15
 - (i) the Trading with the Enemy Act 1939 and any related enactment; and
 - (ii) any rule of law relating to trading with the enemy; 15
- (e) for the creation and punishment of offences. 20

1939 c. 89.

(3) Defence Regulations may make provision for requiring or authorising the payment of compensation in respect of things done for any of the authorised purposes, whether by virtue of Defence Regulations, the prerogative of the Crown, or otherwise. 20

(4) Defence Regulations may— 25

- (a) make such incidental, consequential and supplementary provisions as appear to Her Majesty necessary or expedient for the purposes of the Regulations, including in particular provision for the enforcement of the Regulations; 30
- (b) make different provision for different parts of the United Kingdom; 30
- (c) empower any Minister of the Crown to make provision for any of the authorised purposes by such instrument as may be specified in the Regulations; 35
- (d) include provision for the proof of any instrument made or authority given under Defence Regulations. 35

(5) No Order in Council under this section shall be made unless— 40

- (a) a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament; 40
- or
- (b) it is declared in the Order that it appears to Her Majesty that by reason of urgency it is necessary to make the Order without a draft having been so approved. 45

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(6) Every Order in Council under this section (except such an Order of which a draft has been so approved)—

(a) shall be laid before Parliament; and

5 (b) shall cease to have effect at the expiry of a period of 7 days beginning with the date on which it was made unless, before the expiry of that period, the Order has been approved by a resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new Order.

10 In reckoning for the purposes of this subsection any period of 7 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

2.—(1) Subject to subsection (2), any provision made by or
15 under Defence Regulations may apply to—

Extra-territorial operation of Defence Regulations.

(a) persons outside the United Kingdom;

(b) ships, aircraft and hovercraft outside, or registered outside, the United Kingdom; and

(c) acts or omissions outside the United Kingdom,

20 to such extent and in such circumstances as may be specified in the Regulations.

(2) No provision made (otherwise than by virtue of section 1(3)) by or under Defence Regulations shall—

25 (a) apply to any ship, aircraft or hovercraft outside the United Kingdom unless it is registered in the United Kingdom or in any territory to which the provisions of this Act can be extended by Order in Council;

30 (b) apply to any person outside the United Kingdom or to anything done or omitted by any person outside the United Kingdom unless the person in question is at the material time—

(i) a citizen of the United Kingdom and Colonies, a person who is a British subject by virtue of section 2, 13 or 16 of the British Nationality Act 1948 or the 1948 c. 56. British Nationality Act 1965 or a British protected 1965 c. 34. person within the meaning of the said Act of 1948;

or

35 (ii) a body incorporated or constituted under the law of any part of the United Kingdom or the law of any territory to which the provisions of this Act can be extended by Order in Council; or

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4. *Emergency Powers (Falkland Islands)*

(iii) in command or charge of a ship, aircraft or hovercraft registered in the United Kingdom or any such territory.

Duration of
ss. 1 and 2.

3.—(1) Sections 1 and 2 shall remain in force until the expiry of the period of three months beginning with the day on which this Act is passed, and shall then expire unless continued in force by an order under subsection (2). 5

(2) The Secretary of State may from time to time by order made by statutory instrument provide that sections 1 and 2 shall continue in force for a period not exceeding three months from the coming into operation of the order. 10

(3) No order under subsection (2) shall be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(4) Her Majesty may by Order in Council make such provision as appears to Her to be necessary or expedient in connection with the expiration of sections 1 and 2; and an Order in Council under this subsection may make or authorise the making of such incidental, supplemental and consequential provisions as appear to Her Majesty to be expedient for the purposes of the Order. 15 20

(5) Any Order in Council made under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Extent.

4.—(1) Without prejudice to subsection (3), Her Majesty may by Order in Council direct that the provisions of this Act shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any of the following territories, namely any of the Channel Islands, the Isle of Man and any colony. 25

(2) Without prejudice to the generality of subsection (1), an Order in Council made under that subsection with respect to any territory may direct that any authority specified in the Order shall be substituted for Her Majesty in Council as the authority empowered to make Defence Regulations for that territory. 30

(3) A Defence Regulation may be expressed to extend to any of the Channel Islands or the Isle of Man as if the island in question formed part of the United Kingdom. 35

1964 c. 29.

(4) Without prejudice to section 3 of the Continental Shelf Act 1964, subsections (1) to (3) above shall apply in relation to, and to any waters within 500 metres of, any installation in a designated area within the meaning of that Act as they apply in relation to the Channel Islands and the Isle of Man. 40

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5.—(1) This Act may be cited as the Emergency Powers (Falkland Islands) Act 1982. Citation and other supplementary provisions.

(2) The powers conferred by or under this Act shall be in addition to, and not in derogation of, the powers exercisable by virtue of the prerogative of the Crown.

(3) In this Act any reference to the United Kingdom includes a reference to the territorial waters thereof, and any reference to any other territory includes a reference to the territorial waters of that territory.

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Emergency Powers (Falkland
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To confer on Her Majesty certain powers which it is expedient that Her Majesty should be enabled to exercise in the circumstances arising out of the unlawful occupation of the Falkland Islands and their Dependencies by the Argentine Republic; and for connected purposes.

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16th April, 1982

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