

Haskard

Governor.



No. 3



1966

Colony of the Falkland Islands.

IN THE FIFTEENTH YEAR OF THE REIGN OF

Her Majesty Queen Elizabeth II.

SIR COSMO HASKARD, K.C.M.G., M.B.E.

Governor.

An Ordinance

To provide for Appeals from the Supreme Court of the Falkland Islands to the Falkland Islands Court of Appeal.

Title.

(1st June, 1966)

Date of commencement.

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows —

Enacting clause.

1. This Ordinance may be cited as the Appeals Ordinance, 1966, and shall come into operation on such day as the Governor by notice in the Gazette may appoint.

Short title and date of operation.

2. In this Ordinance unless the context otherwise requires —

Interpretation.

“COURT OF APPEAL” means the Falkland Islands Court of Appeal;

“SUPREME COURT” means the Supreme Court of the Falkland Islands;

“JUDGMENT” includes a decree, order or finding and a refusal to make any order.

3. (1) Any person convicted by the Supreme Court and sentenced to death or to a term of imprisonment exceeding twelve months or to a fine exceeding one hundred pounds, may, subject to the provisions of this Ordinance appeal to the Court of Appeal —

Appeals from original judgments of Supreme Court in criminal cases.

(a) as of right against his conviction on a matter of law or of fact or of mixed law and fact;

(b) with the leave of the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law.

(2) Any person convicted by the Supreme Court and sentenced —

- (a) to any term of imprisonment or to a fine exceeding ten pounds; or
- (b) to a fine not exceeding ten pounds, if, in the opinion of the Supreme Court, or the Court of Appeal, his case involves a question of law of great general or public importance;

may, subject to the provisions of this Ordinance, with the leave of the Court of Appeal or upon the certificate of the Supreme Court that it is a fit case for appeal, appeal against his conviction on any ground which appears to the Court of Appeal or the Supreme Court as the case may be to be a sufficient ground of appeal or against the sentence passed on his conviction, unless the sentence is one fixed by law.

(3) No appeal shall be allowed in the case of any person who has pleaded guilty and has been convicted on such plea by the Supreme Court, except as to the extent and legality of the sentence.

Second appeals.

4. Any party to criminal proceedings held before the Supreme Court in its appellate jurisdiction who is dissatisfied with any part of its judgment may appeal to the Court of Appeal on a matter of law (not including severity of sentence) but not on a matter of fact or of mixed law and fact.

Bail.

5. Save in a case where the appellant has been sentenced to death the Supreme Court may in its discretion in any case in which under this Ordinance an appeal to the Court of Appeal is filed grant bail pending the hearing and determination of the appeal.

Stay of execution of death sentence.

6. In the case of a sentence of death —

- (a) the sentence shall not be executed until after the expiration of the time within which an appeal under this Ordinance may be filed;
- (b) if an appeal is filed the sentence shall not be executed until the appeal has been disposed of or abandoned;
- (c) if a petition for leave to appeal out of time is presented the sentence shall not be executed until leave to file the appeal out of time has been refused or the appeal has been disposed of or abandoned:

Provided that if the sentence has been confirmed by the Governor it may be executed without further extension notwithstanding that a petition for leave to appeal out of time may have been presented after the time for leave has expired.

Power of Court of Appeal in determining an appeal under this part.

7. (1) The Court of Appeal in determining an appeal against conviction may —

- (a) dismiss the appeal;
- (b) allow the appeal and quash the conviction;
- (c) set aside the conviction and convict the appellant of any offence of which he might be convicted by the Supreme Court on the evidence which has been adduced and sentence him accordingly;
- (d) order a new trial before the Court which passed sentence or before any court having jurisdiction in the matter;
- (e) remit the case together with its judgment or order thereon to the Supreme Court or to a Court subordinate to the Supreme Court with such directions as may to the Court of Appeal appear necessary:

Provided that the Court of Appeal notwithstanding that it is of opinion that the point raised on the appeal might be decided in

favour of the appellant, shall dismiss the appeal if it considers that no substantial miscarriage of justice has occurred.

(2) In determining an appeal the Court of Appeal may increase, modify or reduce the sentence.

8. An appeal shall lie in all civil cases from the Supreme Court to the Court of Appeal —

Appeal in civil cases.

- (a) as of right from any final judgment of the Supreme Court where the appeal involves directly or indirectly some claim or question respecting property of the value of three hundred pounds or upwards;
- (b) with the leave of the Supreme Court from any other judgment of the Supreme Court whether final or interlocutory if in the opinion of the Supreme Court the question involved in the appeal is one of great general or public importance or involves some substantial civil right;
- (c) with the leave of the Court of Appeal where the Court of Appeal considers that leave to appeal ought to be granted:

Provided that no appeal shall lie from a decree passed by the Supreme Court with the consent of the parties.

9. An appeal shall lie against a decision in a criminal or civil case given prior to the commencement of this Ordinance but subsequent to the 1st day of April, 1965, in the same manner as the appeals lie against the decisions given subsequent to the commencement of this Ordinance:

Appeal against decision given prior to date of the Ordinance.

Provided notice of appeal is given within twenty-one days from the commencement of this Ordinance.

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


Clerk of the Legislative Council.

Ref. 2312.