

Assented to in Her Majesty's name this 6th day of June 1970.



*Stewart*  
Governor.

No. 1



1970

Colony of the Falkland Islands.

IN THE NINETEENTH YEAR OF THE REIGN OF

Her Majesty Queen Elizabeth II.

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

*Governor.*

### An Ordinance

## Further to amend the Administration of Justice Ordinance.

Title.

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

Enacting clause.

1. This Ordinance may be cited as the Administration of Justice (Amendment) Ordinance 1970 and shall come into force on the 8th day of June 1970.

Short title and date of commencement.

2. Section 2 of the principal Ordinance is amended —

Amendment of section 2.

- (i) by the addition, after the definition of "Judgment", of the words "Magistrate's Court" means the Court constituted under Part IIa of this Ordinance";
- (ii) by the addition, after the definition of "Record", of the words "'Senior Magistrate" means the magistrate appointed under Part IIa of this Ordinance"; and
- (iii) by the deletion of the definition "Court", and the substitution therefor, after the definition of "Senior Magistrate", of the words "'Summary Court" means a magistrate sitting either alone in summary jurisdiction or with other justices or one or more justices sitting to hear any cause which they may be empowered to hear."

Amendment of section 5.

3. Section 5 of the principal Ordinance, as replaced by section 2 of the Administration of Justice (Amendment) Ordinance 1954, is amended by the addition of the word "Summary" before the word "Court" wherever the word "Court" appears in the section.

Appeal to Supreme Court.

4. Part II of the principal Ordinance is amended by the insertion after section 7 of the following new section —

"7A. An appeal to the Supreme Court shall lie —

(a) in civil cases from every decision of a Summary Court; and

(b) in criminal cases from every decision of a Summary Court by which an accused person has been convicted and sentenced to imprisonment for a term exceeding one month or a fine exceeding £50:

Provided that where the accused shall have pleaded Guilty an appeal shall not lie save as to the amount or legality of the sentence."

Insertion of new Part II.

5. The principal Ordinance is amended by the addition, after Part II, of the following new part —

"PART II.

Constitution of Magistrates' Court.

7B. There is hereby constituted a court subordinate to the Supreme Court to be called the Magistrate's Court, which shall consist of and be held before a Senior Magistrate appointed by the Governor for this purpose.

7C. The Senior Magistrate shall have jurisdiction to try and determine any offence committed within the Colony other than treason, piracy, murder, manslaughter, rape or arson, and shall have power to impose a term of imprisonment not exceeding seven years, or a fine not exceeding £1,000, or both.

Practice and procedure.

7D. The criminal jurisdiction vested in the Magistrate's Court by virtue of section 7C of this Ordinance shall be exercised so far as regards practice and procedure in the manner provided in this Ordinance, and in default thereof in conformity with the practice and procedure for the time being observed in England in Courts of Assize and Quarter Sessions.

Assessors and jurors.

7E. The Senior Magistrate may summon two or more justices to sit with him as assessors in the Magistrate's Court, and, with the leave of the Judge may cause jurors to be summoned to attend any sitting of the Court, and may give such directions as to the time and place to which they will be summoned as he may deem fit.

Criminal appeal.

7F. A person convicted by the Magistrate's Court may appeal to the Supreme Court —

- (a) if he has pleaded guilty, against the sentence; and
- (b) if he did not, against any order, conviction or sentence.

Clerk.

7G. The Judge with the approval of the Governor may appoint a suitable person to be Clerk to the Magistrate's Court.

General civil jurisdiction.

7H. The Magistrate's Court shall have civil jurisdiction to try and determine all actions and suits of a civil nature in the Colony where the amount in dispute or the value of the subject matter does not exceed £1000.

Civil procedure and practice.

7I. The civil jurisdiction vested in the Magistrate's Court shall be exercised so far as regards powers practice and procedure in the manner provided by this Ordinance and by such rules of court as may be made pursuant to this Ordinance and in default thereof in substantial conformity with the practice and procedure for the time being observed in England in the County Courts.

7j. An appeal shall lie to the Supreme Court —

Appeal in civil cases.

- (a) from all final judgments and decisions; and
- (b) by leave of the Senior Magistrate or the Judge from all interlocutory orders and decisions made in a suit before the Magistrate's Court.

7k. An appeal from the Magistrate's Court in any civil or criminal matter shall be commenced by the appellant giving notice of appeal within fourteen days after the day on which the decision of the Magistrate's Court was given:

Time for appeal.

Provided that the Judge may, if he thinks fit, direct that any notice given after the expiration of the time fixed shall be treated as given within the said period.

Transfer of actions.

7l. (1) Where there is commenced in the Magistrate's Court any action founded on contract or tort where the plaintiff claims a sum exceeding £750 the defendant may, within such time as may be prescribed by rules of court, give notice that he objects to the action being tried in the Magistrate's Court.

(2) Where such notice is given, the Senior Magistrate or the Judge may order that the case be transferred to the Supreme Court, if

- (a) the defendant gives security approved by the Senior Magistrate for the amount claimed and the costs of the trial in the Supreme Court; and
- (b) the Senior Magistrate certifies that in his opinion some important question of law or fact is likely to arise."

6. The principal Ordinance is amended by the deletion of section 53 and the substitution of the following —

Powers of Supreme Court on criminal appeal.

"53. The Supreme Court shall have the following powers in relation to an appeal from the Magistrate's Court or a Summary Court —

- (a) on an appeal against conviction, or against conviction or sentence, the power to
  - (i) quash the conviction and acquit the appellant; or
  - (ii) affirm the conviction; or
  - (iii) to substitute a conviction for any other offence of which the appellant could have been lawfully convicted; or
  - (iv) to affirm the sentence passed or to substitute therefor any other sentence, whether more or less severe and whether of the same nature or not, which the Magistrate's Court or Summary Court would have had power to pass; and
  - (v) to order a retrial of the appellant before a court of competent jurisdiction; and
- (b) on an appeal against sentence only, the power
  - (i) to affirm the sentence; or
  - (ii) to substitute any other sentence, whether more or less severe and whether of the same nature or not, which the court would have had power to pass; and
- (c) on an appeal against any other order, the power to affirm, quash or vary the order, and in such case the Judge may make any consequential or incidental order which may appear just and proper.
- (d) in the exercise of his appellate jurisdiction under this section the Judge may in his discretion hear additional evidence, and may substitute a finding of guilty but insane for any sentence.

Powers of Supreme Court.  
on civil appeal.

7. On the hearing of an appeal, the Judge may draw any inference of fact and either —

- (a) order a new trial on such terms as he thinks just; or
- (b) order judgment to be entered for any party; or
- (c) make a final or other order on such terms as he thinks proper to ensure the determination on the merits of the real question in controversy between the parties.

Amendment of section 69.

8. Section 69 of the principal Ordinance is amended by the addition of the words "the Magistrate's Court" after the words "in the Supreme Court", and the words "and of the Magistrate's Court" after the words "officers of the Supreme Court".

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.

Ref. 0457/III.

  
Clerk of the Legislative Council.