



## FALKLAND ISLANDS

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### **Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967**

#### **(ORDINANCE No. 10 OF 1967)**

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### Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967

AN ORDINANCE To make further and better provision for the conduct of certain matrimonial proceedings and matters incidental thereto or connected therewith.

*[DATE OF COMMENCEMENT: 1ST DECEMBER 1967]*  
*(Unless otherwise indicated)*

#### 1 Short title

This Ordinance may be cited as the Matrimonial Proceedings (Summary Jurisdiction) Ordinance 1967.

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

#### 2 Interpretation

In this Ordinance, unless the context otherwise requires-

"**child**", in relation to one or both of the parties to a marriage, includes an illegitimate or adopted child of that party or, as the case may be, of both parties, but does not include a child adopted by some other person or persons, and "**parent**", in relation to any child, shall be construed accordingly;

"**adopted**" means adopted in pursuance of an adoption order made under the Adoption Act 1976, or any enactment repealed by that Act or by the Adoption Act 1950;

"**adultery**" includes any act of infidelity and is not restricted to sexual intercourse;

*[S 19/Ord. 6/2017/w.e.f. 29/4/2017]*

"**child of the family**", in relation to the parties to a marriage, means-

- (a) any child of both parties; and
- (b) any other child of either party who has been accepted as one of the family by the other party;

**"dependant"** means a person-

- (a) who is under the age of sixteen years; or
- (b) who, having attained the age of sixteen but not of twenty-one years, is either receiving full-time instruction at an educational establishment or undergoing training for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years; or
- (c) whose earning capacity is impaired through illness or disability of mind or body and who has not attained the age of twenty-one years;

**"drug addict"** means a person (not being a mentally disordered person within the meaning of the Mental Health Ordinance 2010) who, by reason of the habitual taking or using, otherwise than upon medical advice, of any drug to which any of the provisions of the Misuse of Drugs Ordinance 1987, for the time being applies-

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

- (a) is at times dangerous to himself or to others, or incapable of managing himself or his affairs; or
- (b) so conducts himself that it would not be reasonable to expect a spouse of ordinary sensibilities to continue to cohabit with him;

**"habitual drunkard"** means a person (not being a mentally disordered person within the meaning of the Mental Health Ordinance 2010) who, by reason of habitual intemperate drinking of intoxicating liquor-

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

- (a) is at times dangerous to himself or to others, or incapable of managing himself or his affairs; or
- (b) so conducts himself that it would not be reasonable to expect a spouse of ordinary sensibilities to continue to cohabit with him;

**"interim order"** means an order under section 8 and includes any order made by virtue of section 10 varying or reviving an order under section 8;

**"marriage"** means a marriage solemnised or recognised under the Marriage Ordinance 1996;

*[S 19/Ord. 6/2017/w.e.f. 29/4/2017]*

**"matrimonial order"** means an order under section 4 and includes any order made by virtue of section 10 varying or reviving an order under section 4.

**"married man or married woman"** must be construed to include a party in a same sex marriage regardless of gender.

*[S 19/Ord. 6/2017/w.e.f. 29/4/2017]*

### **3 Matrimonial proceedings in court of summary jurisdiction**

(1) A married woman or married man may apply by way of complaint to a court of summary jurisdiction for an order under this Ordinance against the other party to the marriage on any of the

following causes of complaint arising during the subsistence of the marriage, that is to say, that the defendant-

- (a) has deserted the complainant; or
- (b) has been guilty of persistent cruelty to-
  - (i) the complainant; or
  - (ii) an infant child of the complainant; or
  - (iii) an infant child of the defendant who, at the time of the cruelty, was a child of the family; or
- (c) has been found guilty-
  - (i) on indictment, of any offence which involved an assault upon the complainant; or
  - (ii) by a court of summary jurisdiction, of an offence against the complainant under section 20 or 47 of the Offences against the Person Act 1861 in its application to the Falkland Islands; or
  - (iii) of, or of an attempt to commit, an offence under any of sections 1 to 7 (inclusive), 9 to 12(1) (inclusive), 13 to 15(3) (inclusive), 16(1), 17, and 19 to 29 (inclusive) of the Sexual Offences Act 1956, or section 1 of the Indecency with Children Act 1960, in their respective application to the Falkland Islands, against an infant child of the complainant, or against an infant child of the defendant who, at the time of the commission of or attempt to commit the offence, was a child of the family; or
- (d) has committed adultery; or
- (e) while knowingly suffering from a venereal disease has insisted on, or has without the complainant being aware of the presence of that disease permitted, sexual intercourse between the complainant and the defendant; or
- (f) is for the time being a habitual drunkard or a drug addict;
- (g) being the husband, has compelled the wife to submit herself to prostitution or has been guilty of such conduct as was likely to result and has resulted in the wife's submitting herself to prostitution; or
- (h) being the husband, has wilfully neglected to provide reasonable maintenance for the wife or for any child of the family who is, or would but for that neglect have been, a dependant; or
- (i) being the wife, has wilfully neglected to provide, or to make a proper contribution towards, reasonable maintenance for the husband or for any child of the family who is, or would but for that neglect have been, a dependant, in a case where, by reason of the impairment of the husband's earning capacity through age, illness, or disability of mind or body, and having regard to any resources of the husband and the wife respectively which are, or should properly be made, available for the purpose, it is reasonable in all the circumstances to expect the wife so to provide or contribute.

(2) A court of summary jurisdiction shall have jurisdiction to hear a complaint under this section-

- (a) if at the date of the making of the complaint either the complainant or the defendant is resident in the Falkland Islands; or
- (b) except in the case of a complaint by virtue of paragraph (c) of the foregoing subsection, if the cause of complaint arose wholly or partly within the Falkland Islands; or
- (c) in the case of a complaint by virtue of the said paragraph (c), if the offence or attempt to which the complaint relates occurred within the Falkland Islands.

#### **4 Order by court of summary jurisdiction in matrimonial proceedings**

(1) Subject to the provisions of this section and of section 6, on hearing a complaint under section 3 by either of the parties to a marriage the court may make an order (in this Ordinance referred to as a "matrimonial order") containing any one or more of the following provisions:

- (a) a provision that the complainant be no longer bound to cohabit with the defendant (which provision while in force shall have effect in all respects as a decree of judicial separation);
- (b) a provision that the husband shall pay to the wife such weekly sum as the court considers reasonable in all the circumstances of the case;

*[S. 2(a)/Ord. 1/72/w.e.f. 1/5/72.]*

- (c) where, by reason of the impairment of the husband's earning capacity through age, illness, or disability of mind or body, it appears to the court reasonable in all the circumstances so to order, a provision that the wife shall pay to the husband such weekly sum as the court considers reasonable in all the circumstances of the case;

*[S. 2(a)/Ord. 1/72/w.e.f. 1/5/72.]*

- (d) a provision for the legal custody of any child of the family who is under the age of sixteen years;
- (e) if, in the case of any child committed by the order to the legal custody of any person, it appears to the court that there are exceptional circumstances making it desirable that the child should be under the supervision of an Independent person, a provision that the child be under the supervision of a probation officer;
- (f) a provision for access to any child of the family by either of the parties or by any other person who is a parent of that child, in a case where the child is committed by the order to the legal custody of a person other than that party or parent;
- (g) a provision for the making by the defendant or by the complainant or by each of them, for the maintenance of any child of the family, of weekly payments, being-
  - (i) if and for so long as the child is under the age of sixteen years, payments to any person to whom the legal custody of the child is for the time being committed by the order, or by any other order made by a court in the Falkland Islands and for the time being in force;
  - (ii) if it appears to the court that the child is, or will be, or if such payments were made would be, a dependant though over the age of sixteen years, and that it is expedient that such payments should be made in respect of that child while such a dependant, payments to such person (who may be the child) as may be specified in the order,

for such period during which the child is over the age of sixteen years but under the age of twenty-one years as may be so specified.

*[S. 2(b)/Ord. 1/72/w.e.f. 1/5/72.]*

(2) Where, on a complaint under section 3, the court makes a matrimonial order on the ground that the defendant is for the time being a habitual drunkard or a drug addict, and the order contains such a provision as is mentioned in subsection (1)(a), then, if in all the circumstances, and after giving each party to the proceedings an opportunity of making representations, the court thinks it proper so to do, the court may include in that order-

- (a) if the complainant is the husband, a provision such as is mentioned in subsection (1)(b);  
or
- (b) if the complainant is the wife, a provision such as is mentioned in subsection (1)(c);

but save as aforesaid the said subsection (1)(b) or (c) shall not authorize the court to require any payment such as is therein mentioned to be made by the complainant.

(3) The court hearing a complaint under section 3 shall not make a matrimonial order containing a provision such as is mentioned in subsection (1)(a), (b) or (c) of this section-

- (a) on the ground that the defendant has committed an act of adultery, unless the court is satisfied that the complainant has not condoned or connived at, or by wilful neglect or misconduct conducted to, the act of adultery; or
- (b) where the complainant is proved to have committed an act of adultery during the subsistence of the marriage, unless the court is satisfied that the defendant has condoned or connived at, or by wilful neglect or misconduct conducted to, that act of adultery.

(4) The court shall not make an order containing such a provision as is mentioned in subsection (1)(d) in respect of any child with respect to whose custody an order made by a court in the Falkland Islands is for the time being in force.

(5) In considering whether any, and if so what, provision should be included in a matrimonial order by virtue of subsection (1)(g) for payments by one of the parties in respect of a child who is not a child of that party, the court shall have regard to the extent, if any, to which that party had, on or after the acceptance of the child as one of the family, assumed responsibility for the child's maintenance, and to the liability of any person other than a party to the marriage to maintain the child.

## **5 Supplementary provisions as to supervision of a child**

(1) Where a matrimonial order provides for a child to be under the supervision of a probation officer, that officer shall be selected in like manner as if the order were a probation order.

(2) Any provision of a matrimonial order that a child be under the supervision of a probation officer shall cease to have effect as respects any child when the child attains the age of sixteen years.

## **6 Special powers and duties with respect to children**

(1) Where the court has begun to hear a complaint-

- (a) under section 3; or
- (b) for the variation of a matrimonial order-
  - (i) by the revocation, addition or alteration of provision for the legal custody of a child; or
  - (ii) by the revocation of a provision that a child be under the supervision of a probation officer; or
- (c) for the revocation of a matrimonial order consisting of or including any such provision as aforesaid,

then, whether or not the court makes the order for which the complaint is made, but subject to section 4(4) and (5) and subsection (6) of this section, the court may make a matrimonial order, containing, or, as the case may be, vary the matrimonial order so that it contains, any provision such as is mentioned in section 4(1)(d) to (g) which, after giving each party to the proceedings an opportunity of making representations, the court thinks proper in all the circumstances; and the court shall not dismiss or make its final order on any complaint in a case where the powers conferred on the court by this subsection are or may be exercisable until it has decided whether or not, and if so how, those powers should be exercised.

(2) Where, on hearing such a complaint as aforesaid or a complaint for the variation of a matrimonial order by the revocation, addition or alteration of provision for access to a child, the court, after it has made any decision which falls to be made on the complaint with respect to any provision such as is mentioned in section 4(1)(a) to (c), is of the opinion that it has not sufficient information to make the decision required by the foregoing subsection or, as the case may be, to make a decision as to access to the child, the court may call for a report, either oral or in writing, by a probation officer, with respect to such matters as the court may specify, being matters appearing to the court to be relevant to that decision.

(3) Any statement which is or purports to be a report in pursuance of the last foregoing subsection shall be made, or if in writing be read aloud, before the court at a hearing of the complaint, and immediately after it has been read aloud the court shall ask whether any party to the proceedings who is present at the hearing objects to anything contained therein; and where objection is made-

- (a) the court shall require the officer by whom the statement was or was purported to be made to give evidence on oath with respect to the matters referred to therein; and
- (b) any party to the proceedings may give or call evidence with respect to any matter referred to in the statement or in any evidence given by the officer.

(4) Subject to the next following subsection, the court may take account of any statement made or read aloud under subsection (3) and of any evidence given under paragraph (a) of that subsection, so far as that statement or evidence relates to the matters specified by the court under subsection (2), notwithstanding any law relating to the admissibility of evidence.

(5) A report in pursuance of subsection (2) shall not include anything said by either of the parties to a marriage in the course of an interview which took place with, or in the presence of, a probation officer with a view to the reconciliation of those parties, unless both parties have consented to its inclusion; and if anything so said is included without the consent of both those parties as part of

any statement made or read aloud under subsection (3), then, unless both those parties agree otherwise, that part of the statement shall, for the purposes of the giving of evidence under subsection (3) and for the purposes of subsection (4), be deemed not to be contained in the statement.

(6) On the hearing of a complaint under section 3 in the case of which there is a child of the family who is not a child of both parties, other than a child with respect to whose custody an order made by a court in the Falkland Islands is for the time being in force-

- (a) subsections (1) and (3) of this section shall have effect as if any person, who, though not a party to the proceedings, is a parent of that child and who is present at the hearing were a party to the proceedings; and
- (b) if any such person is not so present, the court shall not make a matrimonial order on the complaint unless it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that such steps have been taken as may be so prescribed with a view to giving notice to that person of the making of the complaint and of the time and place appointed for the hearing:

Provided that nothing in paragraph (b) of this subsection shall require notice to be given to any person as the father of an illegitimate child unless that person has been adjudged by a court to be the father of that child.

(7) Where for the purposes of this section the court adjourns the hearing of any complaint, then, subject to section 54(2) of the Magistrates' Courts Act 1980 in its application to the Falkland Islands (which requires adequate notice of the time and place of the resumption of the hearing to be given to the parties) the court may resume the hearing at the time and place appointed notwithstanding the absence of both or all of the parties.

(8) In any proceedings in which the powers conferred on the court by subsection (1) of this section are or may be exercisable, the question whether or not, and if so how, those powers should be exercised shall be excepted from the issues arising in the proceedings which, under the proviso to section 72(1) of the Magistrates' Courts Act 1980 in its application to the Falkland Islands, must be determined by the court before the court may direct a probation officer to make to the court under that section a report on the means of the parties.

## **7 Refusal of order in case more suitable for Supreme Court**

Where on hearing any complaint under section 3 a court of summary jurisdiction is of the opinion that any of the matters in question between the parties would be more conveniently dealt with by the Supreme Court, the court of summary jurisdiction may refuse to make a matrimonial order on the complaint, and no appeal shall lie from that refusal; but if in any proceedings in the Supreme Court relating to or comprising the same subject-matter as that complaint, the Supreme Court so orders, the complaint shall be re-heard and determined by a court of summary jurisdiction.

## **8 Interim orders**

(1) Where in the case of any complaint made to a court of summary jurisdiction under section 3-

- (a) the court of summary jurisdiction, at any time before making its final order on the complaint, adjourns the hearing of the complaint for any period exceeding one week; or

- (b) the court of summary jurisdiction refuses by virtue of section 7 to make a matrimonial order on the complaint; or
- (c) after such a refusal by the court of summary jurisdiction as aforesaid or on an appeal under section 13 from, or from the refusal of, a matrimonial order on the complaint, the Supreme Court by virtue of sections 7 or 13 orders that the complaint shall be re-heard by a court of summary jurisdiction,

then, in a case falling within paragraphs (a) or (b) of this subsection the court of summary jurisdiction, or in a case falling within paragraph (c) thereof the Supreme Court, may make an order under this section (in this Ordinance referred to as an "interim order").

(2) An interim order may contain-

- (a) any such provision as is mentioned in section 4(1)(b), (c) or (g); and
- (b) where by reason of special circumstances the court thinks it proper, but subject to section 4(4), any provision such as is mentioned in paragraphs (d) or (f) of that subsection;

and for the purposes of paragraph (a) of this subsection the reference in section 4(1)(g)(i) to any person to whom the legal custody of a child is for the time being committed by an order shall be construed as including a reference to any person, being one of the parties or a parent of the child, who for the time being has the care of the child, and an appeal against an interim order shall not lie if the appeal relates only to such a provision of the order as is mentioned in paragraph (a) of this sub-section.

(3) Without prejudice to sections 9, 10 and 13, an interim order in connection with any complaint shall cease to be in force on whichever of the following dates occurs first:

- (a) the date, if any, specified for the purpose in the interim order;
- (b) the date of the expiration of the period of three months beginning with the date of-
  - (i) the making of the interim order; or
  - (ii) if the interim order is one of two or more such orders made with respect to the same complaint by virtue of the same paragraph of subsection (1) of this section, the making of the first of those interim orders;
- (c) the date of the making of a final order on, or the dismissal of, the complaint by a court of summary jurisdiction.

(4) An interim order made by the Supreme Court under this section on ordering that a complaint be re-heard by a court of summary jurisdiction shall, for the purposes of its enforcement and for the purposes of section 10, be treated as if it were an order of that court of summary jurisdiction and not of the Supreme Court.

(5) The powers conferred on the Supreme Court by this section shall be without prejudice to the powers of that court on an appeal under section 13 from the refusal of an interim order by a court of summary jurisdiction.

## **9 Suspension or cessation of order**

(1) Where a matrimonial or interim order is made while the parties to the marriage in question are cohabiting-

- (a) the order shall not be enforceable and no liability shall accrue thereunder until they have ceased to cohabit; and
- (b) if in the case of a matrimonial order they continue to cohabit for the period of three months beginning with the date of the making of the order, the order shall cease to have effect at the expiration of that period:

Provided that, unless the court in making the order directs otherwise, this subsection shall not apply to any provision of the order-

- (i) committing a child to the legal custody of a person other than one of the parties, or for access to that child by either of the parties or by any other person who is a parent of the child; or
- (ii) providing for a child to be under the supervision of a probation officer; or
- (iii) for the making by either or each of the parties to a person other than one of the parties of payments for the maintenance of a child.

(2) Without prejudice to section 10, any provision of a matrimonial or interim order other than such a provision as is referred to in the proviso to subsection (1) shall cease to have effect upon the parties to the marriage in question resuming cohabitation.

(3) Where after the making by a court of summary jurisdiction of-

- (a) a matrimonial order consisting of or including a provision such as is mentioned in section 4(1)(b), (c) or (g); or
- (b) an interim order,

proceedings between, and relating to the marriage of, the parties to the proceedings in which that order was made have been commenced in the Supreme Court, the Supreme Court may, if it thinks fit, direct that the said provision or, as the case may be, the interim order shall cease to have effect on such date as the Supreme Court may specify.

## **10 Revocation, revival and variation of orders**

(1) Subject to section 6 of this Ordinance, section 60 of the Magistrates' Courts Act 1980 in its application to the Falkland Islands (which provides for the revocation, revival or variation, by order on complaint, of an order of a court of summary jurisdiction for the periodical payment of money) and the proviso to section 64(1) of that Act (which relates to costs on the hearing of such a complaint) shall apply for the purpose of the revocation, revival or variation of any matrimonial or interim order as if that order were an order for the periodical payment of money, whether or not it is in fact such an order; and a complaint for the said purpose may be heard whatever the time at which it is made; and for the avoidance of doubt it is hereby declared that for the purposes of this Ordinance the expression "variation" in relation to any order includes the addition to that order of any provision authorized by this Ordinance to be included in such an order:

Provided that, without prejudice to the powers and duties of the court under section 6, nothing in this section shall authorize the making of a complaint-

- (a) for the variation of an order by the addition of a provision that a child be under the supervision of a probation officer; or
- (b) for the revival of any such provision as aforesaid which has ceased to be in force.

(2) Where on a complaint for the revocation of a matrimonial order it is proved that the parties to the marriage in question have resumed cohabitation or that the party on whose complaint the order was made has during the subsistence of the marriage committed an act of adultery, the court shall revoke the order:

Provided that-

- (a) the court shall not be bound by reason of such a resumption of cohabitation to revoke any provision of the order such as is mentioned in the proviso to section 9(1);
- (b) the court shall not revoke the order by reason of such an act of adultery as aforesaid-
  - (i) except at the request of the person who was the defendant to the proceedings in which the order was made; or
  - (ii) if the court is of the opinion that the person aforesaid has condoned or connived at, or by wilful neglect or misconduct condoned to, that act of adultery,

and shall not be bound by reason of that act of adultery to revoke any provision of the order included therein by virtue of section 4(1)(d) to (g).

(3) The court before which there falls to be heard any proceedings for the variation of a provision for the payment of money contained in a matrimonial or interim order may, if it thinks fit, order that those proceedings and any other proceedings being heard therewith shall be treated for the purposes of the Magistrates' Courts Act 1980 (in its application to the Falkland Islands) as family proceedings; and that Act shall thereupon have effect accordingly notwithstanding anything in section 65(1) thereof; and no appeal shall lie from, or from the refusal of, an order under this subsection.

## **11 Complaint for variation, etc., by or against person abroad**

(1) It is hereby declared that any jurisdiction conferred on a court by virtue of section 10 is exercisable notwithstanding that the proceedings are brought by or against a person residing outside the Falkland Islands:

Provided that a matrimonial order shall not be varied by the addition of such a provision as is mentioned in section 4(1)(a) if the defendant to the complaint for the variation resides outside the Falkland Islands.

(2) Where, at the time and place appointed for the hearing of a complaint by virtue of section 10, the defendant does not appear but-

- (a) the court is satisfied that there is reason to believe that the defendant has been outside the Falkland Islands during the whole of the period beginning one month before the making of the complaint and ending with the date of the hearing; and

- (b) it is proved to the satisfaction of the court, on oath, or in such other manner as may be prescribed, that such steps have been taken as may be so prescribed with a view to giving notice to the defendant of the making of the complaint and of the time and place aforesaid,

the court may, if it thinks it reasonable in all the circumstances so to do, proceed to hear and determine the complaint at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the defendant had appeared at that time and place.

(3) Where a complaint for the revocation or variation of any provision for the making of payments by the complainant to the defendant is heard by virtue of subsection (2) in the absence of the defendant, and the court is satisfied that there is reason to believe that during the period of six months immediately preceding the making of the complaint the defendant was continuously outside the Falkland Islands or was not in the Falkland Islands on more than thirty days, then, if in all the circumstances, and having regard to any communication to the court in writing purporting to be from the defendant, the court thinks it reasonable so to do, the court may make the order for which the complaint is made or make such variation in that provision by way of reducing the amount of the payments as the court thinks fit.

(4) For the purposes of the hearing by virtue of subsection (2), in the absence of the defendant, of a complaint for the revocation or variation of a matrimonial order under which payments fall to be made by the complainant to the defendant through a court of summary jurisdiction, a certificate in writing by an officer of the court dated not earlier than ten days before the date of the hearing and stating that, during the period mentioned in subsection (2)(a) (or so much as precedes the date of the certificate) or, as the case may be, during the period mentioned in subsection (3)-

- (a) every payment made under the order has been forwarded by the court collecting officer to an address outside the Falkland Islands; and
- (b) the defendant has not to the knowledge of the court collecting officer been in the Falkland Islands at any time or, in the case of the period mentioned in subsection (3), on more than thirty days, shall be sufficient evidence that there is reason to believe as mentioned in subsection (2)(a) or, as the case may be, in subsection (3).

(5) Nothing in this section shall be construed as authorizing the making of an order by virtue of section 10 against a person residing outside the Falkland Islands for the inclusion in a matrimonial or interim order of any provision requiring payments to be made by that person exceeding in amount those, if any, required to be made by him under the order sought to be varied, unless the order by virtue of section 10 is made at a hearing at which either that person appears or the requirements of section 55(3) of the Magistrates' Courts Act 1980 in its application to the Falkland Islands, with respect of proof of service of summons or appearance on a previous occasion are satisfied in respect of that person.

## **12 Parties to complaint for variation, etc.**

(1) A complaint by virtue of section 10 for the revocation, revival or variation of a matrimonial or interim order may be made in the following cases by the following persons in addition to the parties to the marriage in question:

- (a) where a child of the family is not a child of both the parties to the marriage, a complaint relating to any provision with respect to the child such as is mentioned in section

4(1)(d) or (f) maybe made by any person who, though not one of the parties to the marriage, is a parent of the child;

- (b) a complaint relating to payments under the order such as are mentioned in section 4(1)(g) may be made by any person to whom such payments fall, or upon the making of the order for which the complaint is made would fall, to be made;
- (c) where under the order a child is for the time being committed to the legal custody of some person other than one of the parents, a complaint relating to any provision with respect to the child such as is mentioned in section 4(1)(d or (f) may be made by any person to whose legal custody the child is committed by the order or who seeks the legal custody of the child by the complaint;
- (d) where under the order a child is for the time being under the supervision of a probation officer, the probation officer may make a complaint relating to any provision with respect to the child such as is mentioned in section 4(1)(d), (f) and (g);
- (e) a complaint for the variation or revocation of a provision of the order that a child be under the supervision of a probation officer, may be made by a probation officer, or by any person to whose legal custody the child is for the time being committed by the order or who by the same complaint also seeks the legal custody of the child.

(2) Provision may be made by rules as to what person shall be made defendants to any such complaint as aforesaid; and where in the case of any such complaint there are two or more defendants, the powers of the court under section 64(1) of the Magistrates' Courts Act 1980 in its application to the Falkland Islands, shall be deemed to include power, whatever adjudication the court makes on the complaint, to order any of the parties to pay the whole or part of the costs of all or any of the other parties.

### **13 Appeals**

(1) Subject to section 7, section 8(2) and section 10(3), an appeal shall lie to the Supreme Court from, and from the refusal or revocation of, or a refusal to revoke, a matrimonial or interim order by a court of summary jurisdiction.

(2) Subject to subsection (3) of this section, any order of the Supreme Court on an appeal under this section shall for the purposes of the enforcement of the order and for the purposes of section 10 be treated as if it were an order of the court of summary jurisdiction from which the appeal was brought and not of the Supreme Court.

(3) Subsection (2) shall not apply to an order directing that a complaint shall be re-heard by a court of summary jurisdiction or, without prejudice to the provision of section 8(4), to an order to which that subsection applies.

### **14 Time limit for complaint on ground of adultery**

(1) A complaint under section 3 on the ground of the commission of an act of adultery by the defendant may be heard if it is made within six months of the date when that act of adultery first became known to the complainant.

(2) Such a complaint as aforesaid shall not be dismissed by reason only that it was not made within the six months allowed by subsection (1) if the court is satisfied that the complainant, on the date of the making of the complaint, had not been in the Falkland Islands for a continuous period of three months since the date of his return to the Falkland Islands after the expiration of the six said months or, if he was in the Falkland Islands at the expiration of those six months, the date of his last return to the Falkland Islands during those six months.

## **15 Enforcement, etc.**

(1) The court making an order by virtue of this Ordinance for payment of a periodical sum by one person to another may direct that it shall be paid through the court or to some third party on that other person's behalf instead of directly to that person.

(2) Where an order made by virtue of this Ordinance contains a provision committing a child to the legal custody of any person, a copy of the order may be served on any other person in whose actual custody the child for the time being is; and thereupon that provision without prejudice to any other remedy which may be available, be enforced under section 63(3) of the Magistrates' Courts Act 1980 in its application to the Falkland Islands, as if it were in order of the court requiring that other person to give up the child to the person to whom the legal custody of the child is committed.

(3) Any person for the time being under an obligation to make payments under an order made in proceedings brought by virtue of this Ordinance shall give notice to such persons, if any, as may be specified in the order of any change of address; and any person who without reasonable excuse fails to comply with this subsection commits an offence and is liable on summary conviction to a fine exceeding level 1 on the standard scale.

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

## **16 Rules**

The Governor in Council may make rules-

- (a) prescribing the manner of, and the practice and procedure to be followed in, appeals to the Supreme Court under this Ordinance;
- (b) prescribing anything which may be prescribed;
- (c) generally for the better carrying out of the purposes and provisions of this Ordinance.