

LAWS OF PITCAIRN, HENDERSON, DUCIE
AND OENO ISLANDS

Revised Edition 2001
including subsequent Annual Revisions

PART II
CONSTITUTIONAL AND JUDICIAL PROVISIONS

1970 No. 1434
PACIFIC ISLANDS
The Pitcairn Order 1970

Made — — — 30th September 1970
Laid before Parliament 6th October 1970
Coming into Operation 10th October 1970

At the Court at Balmoral, the 30th day of September,
1970

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in this behalf by the British Settlements Acts 1887(a) and 1945(b) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Pitcairn Order 1970 and shall come into operation on the appointed day. Short title and commencement.

2.—(1) In this Order unless the context otherwise requires— Interpretation.
“the appointed day” means 10th October 1970;
“the Governor” means the Governor of the Islands and includes any person for the time being lawfully performing the functions of the office of Governor;
“the Islands” means the Islands of Pitcairn, Henderson, Ducie and Oeno.

(2) Save as otherwise provided in this Order the Interpretation Act 1889 (c) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to an Act of Parliament.

3.—(1) The Pitcairn Order in Council 1952(d) and the Pitcairn (Amendment) Order 1966(e) are revoked. Revocations.

(2) The revocation of those Orders shall be without prejudice to the continued operation of any laws made thereunder and having effect as part of the law of the Islands immediately before the appointed day; and any such laws shall have effect on and after the appointed day as if they had been made under this Order and (without prejudice to their amendment or repeal by any law made under this Order) shall be construed with

(a) 50 & 51 Vict. c. 54. (b) 9 & 10 Geo. 6. c. 7. (c) 52 & 53 Vict. c. 63.
(d) S.I. 1952/459 (1952 II, p. 2307). (e) S.I. 1966/1459 (1966 III, p. 3959).

such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

Governor.

4.—(1) There shall be a Governor of the Islands who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Governor shall have such powers and duties as are conferred or imposed on him by or under this Order or any other law, and such other powers and duties as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Order and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office according to such instructions, if any, as Her Majesty may from time to time see fit to give him; but the question whether he has in any matter complied with such instructions shall not be enquired into by any court.

(3) During any period when the office of Governor is vacant or the holder thereof is for any reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by such person as Her Majesty may designate in that behalf by instructions given through a Secretary of State.

Power to make laws.

5.—(1) The Governor may make laws for the peace, order and good government of the Islands.

(2) Without prejudice to the generality of the power conferred by subsection (1) of this section, the Governor may, by any such law, constitute courts for the Islands with such jurisdiction, and make such provisions and regulations for the proceedings in such courts and for the administration of justice, as the Governor may think fit.

Inserted by the
Pitcairn (Amendment)
Order 2002

[(2A) Subject to the provisions of any law for the time being in force in the Islands, a court established under subsection (2) shall sit in such place in the Islands as the Governor, acting in accordance with the advice of the Chief Justice, may appoint:

Provided that it may also sit in the United Kingdom, or in such place as the Governor, acting in accordance with the advice of the Chief Justice, may appoint.

(2B) Where a court sits, by virtue of subsection (2A) of this section, in some place other than the Islands, it may there exercise its jurisdiction and powers in like manner as if it were sitting within the Islands, but anything done there by virtue of this subsection shall have, and shall have only, the same

validity and effect as if done in the Islands.

(2C) The references in subsections (2A) and (2B) of this section to a court sitting and exercising its jurisdiction and powers in any place include references to a judge or magistrate or officer of the court exercising in that place any jurisdiction or powers or other function vested in him as such by any law for the time being in force in the Islands.]

(3) All laws made by the Governor in exercise of the powers conferred by this Order shall be published in such manner and at such place or places in the Islands as the Governor may from time to time direct.

(4) Every such law shall come into operation on the date on which it is published in accordance with the provisions of subsection (3) of this section unless it is provided, either in such law or in some other enactment, that it shall come into operation on some other date, in which case it shall come into operation on that date.

6.—(1) Any law made by the Governor in exercise of the powers conferred by this Order may be disallowed by Her Majesty through a Secretary of State.

Disallowance of laws.

(2) Whenever any law has been disallowed by Her Majesty, the Governor shall cause notice of such disallowance to be published in such manner and in such place or places in the Islands as the Governor may from time to time direct.

(3) Every law so disallowed shall cease to have effect as soon as notice of disallowance has been published as aforesaid; and thereupon any enactment repealed or amended by, or in pursuance of, the law so disallowed shall have effect as if such law had not been made, and, subject thereto, the provisions of section 38 (2) of the Interpretation Act 1889 shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

7. The Governor may constitute all such offices as he may consider necessary for the purposes of this Order and may make appointments to any office so constituted, and any person so appointed, unless otherwise provided by law, shall hold his office during Her Majesty's pleasure.

Governor authorised to appoint officers.

8. The Governor may, subject to the provisions of any law for the time being in force in the Islands and to such instructions as may from time to time be given to him by Her Majesty through a Secretary of State, upon sufficient cause to him appearing, dismiss or suspend from the exercise of his office any person appointed by the Governor in exercise of the power conferred by section 7 of this Order, or, subject as aforesaid, may take such other disciplinary action as may seem

Disciplinary powers.

to him desirable.

Official Stamp.

9. There shall be an Official Stamp for the Islands. The Governor shall keep and use the Official Stamp for stamping all such documents as may by law required to be stamped therewith.

Prerogative of mercy.

10. The Governor may, in Her Majesty's name and on Her Majesty's behalf—

- (a) grant to any person convicted of any offence under the law of the Islands a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on any person for such an offence; and
- (d) remit the whole or part of any punishment imposed on any person for such an offence or of any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

PACIFIC ISLANDS

The Pitcairn Royal Instructions 1970

Dated: the 30th September 1970

ELIZABETH R.

INSTRUCTIONS to Our Governor of Pitcairn, Henderson, Ducie and Oeno Islands or other Officer for the time being administering the Government thereof.

We do hereby direct and enjoin and declare Our will and pleasure as follows:—

1. (1) These Instructions may be cited as the Pitcairn Royal Instructions 1970 and shall take effect on 10th October, 1970.

Citation, commencement and revocation.

(2) The Instructions issued under Our Sign Manual and Signet to the Governor of the Islands dated 14th March, 1952, as amended by Additional Instructions dated 27th February, 1963 (a) and 22nd November, 1966 (b) are revoked.

2. The provisions of section 2 of the Pitcairn Order 1970 shall apply for the purpose of interpreting these Instructions as they apply for the purpose of interpreting that Order.

Interpretation.

3. The Governor may, whenever he thinks fit, require any person in the public service of the Islands to make an oath or affirmation of allegiance in the form set out in the Schedule to these Instructions together with such other oaths or affirmations as may from time to time be prescribed by any law in force in the Islands, in the form prescribed by any such law. The Governor shall administer such oaths or affirmations or cause them to be administered by some public officer in the Islands.

Administration of oaths.

4. In the making of laws for the Islands the Governor shall observe, as far as is practicable, the following rules:—

Rules for the making of laws.

(1) All laws shall be styled “Ordinances” and the words of enactment shall be “Enacted by the Governor of the Islands of Pitcairn, Henderson, Ducie and Oeno”.

(2) Matters having no proper relation to each other shall not be provided for by the same law; no law shall contain anything foreign to what the title of the law imports; and no provision having indefinite duration shall be included in any law expressed to have limited duration.

(3) All laws shall be distinguished by titles, and shall be divided into successive sections consecutively numbered, and

(a) 1963 I, p. 1423.

(b) 1966 III p. 5185.

to every section there shall be annexed in the margin a short indication of its contents.

(4) All laws shall be numbered consecutively in a separate series for each year commencing with the number one and the position of each law in the series shall be determined with reference to the day on which the Governor shall have made the same.

Certain laws not to be made without instructions.

5. The Governor shall not, without having previously obtained instructions through a Secretary of State, make any law within any of the following classes, unless such law contains a clause suspending the operation thereof until the signification of Our pleasure thereon, that is to say—

- (1) any law for the divorce of married persons;
- (2) any law whereby any grant of land or money, or other donation or gratuity, may be made to himself;
- (3) any law affecting the currency of the Islands or relating to the issue of bank notes;
- (4) any law imposing differential duties;
- (5) any law the provisions of which shall appear to him to be inconsistent with obligations imposed upon Us by Treaty;
- (6) any law affecting the discipline or control of Our Forces by land, sea or air;
- (7) any law of any extraordinary nature and importance whereby Our prerogative, or the rights or property of Our subjects not residing in the Islands or the trade, transport or communications of any part of Our dominions or any territory under Our protection or any territory in which We may for the time being have jurisdiction may be prejudiced;
- (8) any law whereby persons of any community or religion may be subjected or made liable to disabilities or restrictions to which persons of other communities or religions are not also made liable, or become entitled to any privilege or advantage which is not conferred on persons of other communities or religions;
- (9) any law containing provisions which have been disallowed by Us:

Provided that the Governor may, without such instructions as aforesaid and although the law contains no such clause as aforesaid, enact any such law (except a law the provisions of which appear to him to be inconsistent with obligations imposed upon Us by Treaty) if he shall have satisfied himself that an urgent necessity exists requiring that the law be brought into immediate operation; but in any such case he shall

forthwith transmit a copy of the law to Us together with his reasons for so enacting the same.

6. When any law shall have been made, the Governor shall at the earliest convenient opportunity transmit to Us, through a Secretary of State, for the signification of Our pleasure, a transcript in duplicate of the law, duly authenticated under the Official Stamp of the Islands and by his own signature, together with an explanation of the reasons and occasion for the making of the law.

Laws to be sent through a Secretary of State.

7. Every appointment by the Governor of any person to any office or employment shall, unless otherwise provided by law, be expressed to be during pleasure only.

Appointments to be during pleasure.

(Paragraph 8 is omitted as having no application following the abolition of the death penalty in Pitcairn law.)

Given at Our Court at St. James's, the thirtieth day of September 1970, in the nineteenth year of Our Reign.

SCHEDULE

I, _____, do swear [or solemnly affirm] that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors, according to law.

So help me God. [To be omitted in affirmation.]