

LAWS OF PITCAIRN, HENDERSON, DUCIE
AND OENO ISLANDS

Revised Edition 2014

CHAPTER I

**INTERPRETATION AND GENERAL CLAUSES
ORDINANCE**

Arrangement of sections

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36. Saving of rights of Crown in ordinances.

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An ordinance relating to interpretation and general clauses.

[16th October, 1952]

1. This ordinance may be cited as the Interpretation and General Clauses Ordinance.

2.—(1) In this ordinance and every other ordinance, and in all public documents enacted, made or issued before or after the coming into operation of this ordinance, the following words and expressions shall have the meanings hereby assigned to them respectively, unless there is something in the subject or context inconsistent with such construction or unless it is therein otherwise expressly provided—

“act” used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to illegal omissions;

“Act of the Parliament of the United Kingdom” means an Act passed by the Parliament of the United Kingdom, which may be cited by its short title (if any) or by reference to the regnal year in which it was passed and its chapter;

“amend” includes repeal, revoke, rescind, cancel, replace, add to or vary, and the doing of any two or more of such things simultaneously or in the same written law or instrument;

“applied Act” means any Act of the Parliament of the United Kingdom for the time being in force in the Islands;

[“Attorney General” means the person from time to time appointed by the Governor as Attorney General under section 35 of the Constitution of Pitcairn, and includes any person lawfully carrying out the

Ordinances Nos:
1 of 1952
1 of 1968
3 of 1970
3 of 1982
5 of 2005
1 of 2009
4 of 2010
3 of 2014.
Short Title.

Interpretation of terms.

functions of the Attorney General;]

(Inserted by Ordinance No. 4 of 2010)

“child” means a person under the age of [18] years;

(Amended by Ordinance No. 1 of 2009)

(Amended by Ordinance No. 3 of 2014)

“Christian name” means any name prefixed, or suffixed to a surname, whether received in Christian baptism or otherwise;

“commencement” used with reference to an ordinance means the date on which the ordinance comes into operation;

“common law” means the Common Law of England;

“Commonwealth” means the Commonwealth of Nations;

“contravene” in relation to any requirement or condition prescribed in any written law or in any grant, permit lease, licence or authority granted by or under any written law, includes a failure to comply with that condition;

“country or territory of the Commonwealth” means any member of the Commonwealth or any country or territory for whose international relations any member of the Commonwealth is responsible;

“court” means any court of the Islands of competent jurisdiction;

“daily penalty” means a penalty for each day on which the offence is continued after conviction therefor;

“document” includes any publication and any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used or may be used for the purpose of recording that matter;

“dollar”, “cent” and symbols therefor shall unless otherwise specified be construed as references to New Zealand currency or Pitcairn coin;

“export” means to take out or cause to be taken out of the Islands by air, land or water;

“Government” means the Government of the Islands;

“Governor” means the Governor of the Islands of Pitcairn, Henderson, Ducie and Oeno or any officer for the time being administering the government of the said Islands;

“Her Majesty” or “the Queen” includes Her Majesty the Queen, her Heirs and Successors;

“immovable property” includes land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

- “import” means to bring or cause to be brought into the Islands by air, land or water;
- “individual” means a natural person;
- “the Islands” means the Islands of Pitcairn, Henderson, Ducie and Oeno;
- “Judge” means a judge of the Supreme Court;
- “law” means any law for the time being in force in, having legislative effect in, extending to, or applicable in, the Islands;
- “master” means and includes any person in charge of a vessel or aircraft;
- “month” means calendar month;
- “motor vehicle” means any mechanically propelled vehicle intended or adapted for use on roads and includes a trailer attached to or towed by any such vehicle;
- “movable property” means property of every description except immovable property;
- “oath” and “affidavit”, in the case of persons allowed by law to affirm instead of swearing, include affirmation; and “swear”, in the like case, includes affirm;
- “occupy” includes use, inhabit, be in possession of or enjoy the land or premises to which the word relates, otherwise than as a mere servant or for the mere purpose of the care, custody or charge thereof;
- “offence” includes any crime, unlawful act or contravention or other breach of, or failure to comply with, any provision of any law, for which a penalty is provided;
- “Official Printer” includes any printer purporting to be the printer authorised to print ordinances and other official documents;
- “or”, “other” and “otherwise” shall be construed disjunctively and not as implying similarity, unless the word “similar” or some other word of like meaning is added;
- “ordinance” shall include any order, proclamation, rule, regulation, or by-law, duly made under the authority of an ordinance and in force; and the expression “the ordinance”, when used in any such order, proclamation, rule, regulation, or by-law means the ordinance under the authority of which such order, proclamation, rule, regulation, or by-law, as the case may be, has been made;
- “person” includes any company or association or body of persons, corporate or unincorporate;

“power” includes any privilege, authority and discretion;
“prescribed” means prescribed by the ordinance in which
the word occurs or by any rules made thereunder;

“property” includes—

- (a) money, goods, choses in action and land; and
- (b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a) of this definition;

“public” includes any class or section of the public;

“public office” means any office constituted under the provisions of [section 32 of the Constitution of Pitcairn]; but shall not include any office to which any person is elected or appointed under the provisions of the Local Government Ordinance;

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(Amended by Ordinance No. 4 of 2010)

“public officer” means and includes any person from time to time appointed to hold any public office;

“public place” includes every place to which the public are entitled or permitted to have access whether on payment or otherwise;

“publication” means—

- (a) all written and printed matter;
- (b) any record, tape, wire, perforated roll, cinematograph, film or other contrivance by means of which any words or ideas may be mechanically, electronically or electrically produced, reproduced, represented or conveyed;
- (c) anything whether of a similar nature to the foregoing or not, containing any visible representation, or by its form, shape or in any manner, capable of producing, reproducing, representing or conveying words or ideas; and
- (d) every copy and reproduction of any publication as defined in paragraphs (a), (b) and (c) of this definition;

“registered” used with reference to a document means registered under the provisions of the law for the time being applicable to the registration of such document;

“repeal” includes rescind, revoke, cancel or replace with or without amendment;

“rule” includes by-law and regulation;

“rules of court”, when used in relation to any court, means rules made by the authority having for the time being

power to make rules or orders regulating the practice and procedure of such court;

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State;

“sell” includes exchange and barter;

[“Senior Magistrate” means a person appointed as a magistrate of the Magistrate’s Court under the provisions of sub-sections (1) and (4) of the Judicature (Courts) Ordinance;]

(Inserted by Ordinance No. 5 of 2005)

“ship” includes every description of vessel in navigation not propelled by oars;

“sign”, with its grammatical variations and cognate expressions, with reference to a person who is unable to write his name, includes “mark”, with its grammatical variations and cognate expressions;

“statutory declaration” if made—

(a) in the Islands, means a declaration made under the Statutory Declarations Act, 1835 of the Parliament of the United Kingdom;

(b) in the United Kingdom or any British possession beyond the Islands, means a declaration made before a justice of the peace, notary public or other person having authority therein under any law for the time being in force to take or receive a declaration;

(c) in any other place, means a declaration made before a British Consul or vice-consul, or before any person having authority under any Act of Parliament for the time being in force to take or receive a declaration;

“subsidiary legislation” means any order in council, proclamation, rule, regulation, order, notice, by-law or other instrument made under any ordinance or other lawful authority and having legislative effect;

“Supreme Court” means the Supreme Court of Pitcairn, Henderson, Ducie and Oeno Islands;

“surname” includes a clan or family name;

“territorial waters” means any part of the open sea within three nautical miles of the coast of the Islands measured from low water mark, and includes any inland waters of the Islands;

“United Kingdom” means Great Britain and Northern Ireland;

“vessel” includes any ship or boat or any other description of vessel used in navigation;

- “will” includes any testamentary instrument;
 “writing” and expressions referring to writing include printing, photography, lithography, typewriting and any other modes of representing or reproducing words in visible form;
 “year” means a year reckoned according to the British calendar.

(2) Where any ordinance authorizes or requires any document to be served by post, whether or not the expression “serve” is used, then, unless a contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting, by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time of which the letter would be delivered in the ordinary course of the post.

(3) Words importing the masculine gender include females; words in the singular include the plural and words in the plural include the singular; words includes figures, symbols and punctuation.

(4) Reference to a child includes an adopted child.

3. Every ordinance shall be a public ordinance and shall be judicially noticed as such, unless the contrary is expressly provided by the ordinance.

Ordinances to be public ordinances.

4. All ordinances shall be divided into sections, if there be more enactments than one, which sections shall be deemed to be substantive enactments without any introductory words.

Ordinances to be divided into sections without any introductory words.

5. Where any ordinance is referred to, it shall be sufficient for all purposes to cite such ordinance either by the short title, if any, by which it is made citable, or by the year in which it was made and its number among the ordinances of that year, or, in the case of any revised edition of the ordinances issued under any ordinance providing for the issue of a revised edition, by its short title or its number; and the reference may in all cases be made according to the copies of ordinances printed in England or by the Official Printer.

Mode of citing.

6. Where any ordinance, or part of an ordinance, or any subsidiary legislation, came or comes into operation on a particular day, it shall be deemed to have come or shall come into operation immediately on the expiration of the day next preceding such day.

Time when ordinance or subsidiary legislation comes into operation.

7. Judicial notice shall be taken of every proclamation, rule or order by the Governor made or purporting to be made in pursuance of an ordinance or any Act of the Parliament of the United Kingdom.

Judicial notice of proclamations, rules and orders.

Repealed Ordinances
not revived.

8. Where any ordinance repealing in whole or in part any former ordinance is itself repealed, such last repeal shall not revive the ordinance or provisions before repealed unless words be added reviving such ordinance or provisions.

Repeal and
substitution.

9. Where an ordinance repeals wholly or partially any former enactment and substitutes provisions for the enactment repealed, the repealed enactment shall remain in force until the substituted provisions come into operation.

Provisions with
respect to amended
ordinance and effect
of repealing.

10.—(1) Where in any ordinance a reference is made to another ordinance, such reference shall, except where the context otherwise requires, be deemed to include a reference to such last mentioned ordinance as the same may from time to time be amended.

(2) Where an ordinance repeals and re-enacts, with or without modification, any provision of a former ordinance, references in any other ordinance to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted.

(3) Where an ordinance repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing ordinance had not been made.

Construction of
amending ordinance
or rules with amended
ordinance or rules.

11.—(1) Where one ordinance amends another ordinance, the amending ordinance shall, so far as it is consistent with the tenor thereof, and unless the contrary intention appears, be construed as one with the amended ordinance.

(2) Where rules amend other rules the amending rules shall, so far as is consistent with the tenor thereof, and unless the contrary

intention appears, be construed as one with the amended rules.

12. Where an ordinance confers power on any authority to make subsidiary legislation the following provisions shall, unless the contrary intention appears, have effect with reference to the making of such subsidiary legislation—

General provisions with respect to power given to any authority to make subsidiary legislation.

- (a) subsidiary legislation may at any time be amended, varied, rescinded or revoked by the same authority and in the same manner by and in which it was made;
- (b) there may be annexed to the breach of any subsidiary legislation such penalty not exceeding two hundred dollars or such term of imprisonment not exceeding two months, or both, as the authority making the subsidiary legislation may think fit, subject to disallowance by Her Majesty;
- (c) no subsidiary legislation shall be inconsistent with the provisions of any ordinance;
- (d) subsidiary legislation shall be published in such manner as the Governor may from time to time direct and shall have the force of law upon such publication thereof or from the date named therein, subject to disallowance by Her Majesty;
- (e) where any ordinance confers power on any authority to make subsidiary legislation for any general purpose, and also for any special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose.

13. Where any ordinance confers power to make any subsidiary legislation, expressions used in the subsidiary legislation shall, unless the contrary intention appears, have the same respective meanings as in the ordinance conferring the power.

Construction of subsidiary legislation.

14. Where any ordinance or part of an ordinance is repealed, subsidiary legislation issued under or made in virtue thereof shall remain in force so far as it is not inconsistent with the repealing ordinance and, unless the contrary intention appears, until it has been revoked or repealed by subsidiary legislation, issued or made under the provisions of such repealing ordinance.

Effect of repeal of ordinance on subsidiary legislation made under it.

15. An act shall be deemed to be done under any ordinance or by virtue of the powers conferred by any ordinance or in pursuance or execution of the powers of or under the authority of any ordinance, if it is done under or by virtue of or in

Acts done under subsidiary legislation to be deemed done under ordinance by which subsidiary legislation authorized.

pursuance of subsidiary legislation made under any power contained in that ordinance.

Deviation from forms.

16. Save as is otherwise expressly provided, whenever any form is prescribed, an instrument or document which purports to be in such form, shall not be void by reason of any deviation therefrom which does not affect the substance of such instrument or document, or which is not calculated to mislead.

Appointment of officers by name or office.

17. Where by or under an ordinance the Governor or any public officer or body is empowered to appoint or name a person to have and exercise any powers or perform any duties, the Governor or such public officer or body may either appoint a person by name or direct the person for the time being holding any office designated by the Governor, or by such public officer or body, to have and exercise such powers and perform such duties; and thereupon, or from the date specified by the Governor or by such public officer or body, the person appointed by name or the person holding the office aforesaid shall have and may exercise such powers and perform such duties accordingly.

Power to appoint to include power to suspend or dismiss.

18. Where by or under any ordinance a power to make any appointment is conferred, then, unless the contrary intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of the power.

Power of Governor to provide for execution of duties of public officer during temporary absence or inability.

19. Where by or under any ordinance, any powers are conferred or any duties are imposed upon a public officer, the Governor may direct that if during any period owing to absence or inability to act from illness or any other cause such public officer shall be unable to exercise the powers or perform the duties of his or her office in any place under his or her jurisdiction or control, such powers shall be had and may be exercised and such duties shall be performed in such place by a person named by or by the public officer holding any office designated by the Governor; and thereupon such person or public officer, during any period as aforesaid, shall have and may exercise the powers and shall perform the duties aforesaid, subject to such conditions, exceptions and qualifications as the Governor may direct.

Official designation to include officer executing duties.

20.—(1) Where reference is made in any ordinance to any public officer by the term designating his office, such term shall include the officer for the time being executing the duties of such office or any portion of such duties.

(2) Any civil or criminal proceedings taken by or against

any person in virtue of his office shall not be discontinued or abated by his death, resignation, or absence or removal from office, but may be carried on by or against, as the case may be, the person appointed to perform the duties of the office.

21.— (1) When by any ordinance or subsidiary legislation the Governor is empowered to exercise any powers or perform any duties he may, unless by law expressly prohibited from so doing, depute any person by name or the person for the time being holding the office designated by him to exercise such powers or perform such duties on his behalf subject to such conditions, exceptions and qualifications as the Governor may prescribe, and thereupon or from the date specified by the Governor the person so deputed shall have and exercise such powers and perform such duties subject as aforesaid:

Power of Governor to delegate authority.

Provided that nothing herein contained shall authorize the Governor to depute any person to make rules under the power in that behalf conferred upon him by any ordinance or subsidiary legislation.

(2) Any delegation made from time to time under the provisions of the last preceding subsection—

- (a) may be varied or cancelled by the Governor at any time; and
- (b) shall not exclude the exercise of such powers or the performance of such duties by the Governor.

22. Where any law confers any power or imposes any duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

Powers to be exercised and duties to be performed from time to time.

23. Where any ordinance which is not to come into operation immediately on the passing thereof confers power to make rules, regulations, or by-laws, or to issue orders with respect to the application of the ordinance, or for the appointment of any officer, or for the establishment of any office thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the ordinance, the power may be exercised at any time after the passing of the ordinance, but the rules, regulations or by-laws so made or the orders so issued shall not take effect until the ordinance comes into operation.

Power to make regulations, etc., under ordinance not immediately in force.

24. In computing time for the purposes of any ordinance, unless the contrary intention appears—

Computation of time.

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be

exclusive of the day on which the event happens or the act or thing is done;

- (b) if the last day of the period is Saturday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day, not being an excluded day;
- (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;
- (d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

Time. **25.** Where any expression of time occurs in any ordinance, deed or other legal instrument, the time referred to shall, unless it is otherwise expressly provided, be held to signify the standard time adopted for the Islands.

Provision where no time prescribed. **26.** Where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

Measurement of distances. **27.** In the measurement of any distance for the purposes of any ordinance, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

Imperial Acts and other applied laws to be read with necessary modifications. **28.** Where by any Order of the Queen in Council or ordinance, any Act of the Parliament of the United Kingdom or the law of any other country is extended or applied to the Islands such Act or law shall be read with such formal alterations as to names, localities, courts, officers, persons, moneys, penalties or otherwise as may be necessary to make the same applicable to the circumstances.

Provisions as to offences under two or more laws. **29.** Where an act or omission constitutes an offence under two or more ordinances, or both under an ordinance and under any other law which applies to the Islands the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those ordinances or under such other law, but shall not be liable to be punished twice for the same offence.

Power of majority of more than two persons. **30.** Save as is otherwise expressly provided by any

ordinance, where any act or thing is required to be done by more than two persons, a majority of them may do it.

31. In any ordinance, references to the Sovereign reigning at the time of the passing of the ordinance or to the Crown shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being.

References to Crown.

32.—(1) Where under the provisions of any ordinance any animal or any thing is adjudged by any court or other authority to be forfeited, it shall, unless the contrary is otherwise provided or unless it is expressed by law to be forfeited to any person, be forfeited to the Crown, and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid as the Governor may direct.

Disposal of forfeits.

33. A provision which constitutes an offence shall, unless the contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence against such provision, punishable as if the offence itself had been committed.

Attempt to commit an offence to be deemed an offence.

34. Where in any ordinance a penalty is prescribed for an offence against that ordinance such provision shall indicate that, unless the contrary intention appears, the offence shall be punishable by a penalty not exceeding the penalty prescribed.

Penalties prescribed to be maximum penalties.

35. Where in any ordinance a penalty is set out at the foot of any section the same shall indicate that any contravention of the section whether by act or omission shall be an offence against that ordinance and shall, unless the contrary intention appears, be punishable upon conviction by a penalty not exceeding the penalty so set out.

Statement of penalty at foot of section to indicate maximum penalty provided for contravention of section.

36. No ordinance shall in any manner whatsoever affect the rights of the Crown unless it is therein expressly provided, or unless it appears by necessary implication that the Crown is bound thereby.

Saving of rights of Crown in ordinances.

Section 21

DELEGATION BY THE GOVERNOR

Ordinance	Section	Subject	To whom delegated
cap. 20, Marriage ordinance	10	Power to grant licence to marry	Governor's Representative

