

LAWS OF PITCAIRN, HENDERSON, DUCIE
AND OENO ISLANDS

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CHAPTER XI

LOCAL GOVERNMENT ORDINANCE

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An ordinance relating to the Local Government of Pitcairn,
Henderson, Ducie and Oeno Islands.

[8th November, 1964]

PART I—PRELIMINARY

1. This ordinance may be cited as the Local Government Ordinance.

2. In this ordinance unless the context otherwise requires—

 [“Administrator” means the person appointed by the Governor to hold the public office of Administrator;]

(Inserted by Ordinance No. 4 of 2014)

 “civic obligations” means work or services performed from time to time by inhabitants of the islands for the common benefit of the islanders;

(Inserted by Ordinance No. 5 of 2010)

 “Council” means the Island Council constituted under the provisions of this ordinance;

 “Councillor” means any person from time to time holding the office of Councillor under the provisions of this ordinance;

 [“election year” has the meaning set out in 11A;]

(Inserted by Ordinance No. 6 of 2009)

Ordinances Nos:

1 of 1964.
1 of 1967.
1 of 1982.
1 of 1983.
6 of 1983.
2 of 1985.
1 of 1986.
1 of 1987.
1 of 1990.
1 of 1992.
4 of 1997.
1 of 2004.
7 of 2004.
2 of 2008.
3 of 2008.
6 of 2009.
4 of 2010.
5 of 2010.
2 of 2011.
1 of 2013.
3 of 2013.
4 of 2014.
Short title.

Interpretation.

“Government Treasurer” means the person from time to time appointed by the Governor to hold the public office of Government Treasurer;

“islander” means any inhabitant, whether temporary or permanent, of the Islands or any of them;

“Island Officer” means and includes any person from time to time holding the office of Mayor, [Deputy Mayor] or Councillor under the provisions of this ordinance;

(Amended by Ordinance No. 2 of 2011)

“Island Secretary” means the person from time to time appointed by the Governor to hold the public office of Island Secretary;

“Mayor” means the person from time to time holding the office of Mayor under the provisions of this ordinance;

“official office” means and includes any public office and any office to which any person is elected or appointed under the provisions of this ordinance;

“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 this ordinance;

(Amended by Ordinance No. 4 of 2010)

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

“Recorder” means [a] person from time to time appointed by the Council, under the provisions of this ordinance, to receive and record votes at polls taken for the election of Island Officers;

(Amended by Ordinance No. 1 of 2013)

“the public notice board” means the notice board maintained on Pitcairn Island for the public notification of matters relating to the Islands.

PART II—ISLAND OFFICERS, ISLAND COUNCIL

3.—[(1) There shall be the following elected officials to be known as Island Officers—

- (a) the Mayor, who shall be:
 - (i) elected for a term of 3 years;
 - (ii) eligible, upon expiry of his or her term of office, to be elected Mayor for a second term of 3 years;
- (b) the Deputy Mayor, who shall be elected for a 2 year

term; and

- (c) [five] Councillors, who shall each be elected for a 2 year term.]

(Repealed and replaced by Ordinance No. 6 of 2009)

(Amended by Ordinance No. 2 of 2011)

(2) (Amended by Ordinance No. 1 of 2013)

(Repealed by Ordinance No. 3 of 2013)

(3) If any Island Officer dies, resigns, or by reason of his or her permanent absence from the Islands or any other permanent incapacity is unable to perform his or her duties the office of such Island Officer shall be deemed to become vacant.

(Amended by Ordinance No. 1 of 2013)

[(3A) Subject to subsection (3B), if any Island Officer is by reason of his or her absence from the Islands or by illness or any other incapacity unable to perform his or her duties for any period of seven months or more such Island Officer shall be deemed to be permanently absent from the Islands or permanently incapacitated as the case may be and the office of such Island Officer shall be deemed to become vacant at the expiration of such period of seven months.

(3B) Subsection (3A) does not apply if a person is absent from the island for more than seven months for medical reasons or on business approved by the Council.]

(Inserted by Ordinance No. 1 of 2013)

[(4) A person who has been elected to the office of Mayor in two consecutive Mayoral elections shall not be eligible to stand for election as Mayor at the next following Mayoral election, but shall be eligible to stand at the next or any subsequent Mayoral election after that.]

(Inserted by Ordinance No. 6 of 2009)

[3A.– (1) If any Island Officer is charged with, or is facing charges for, an offence carrying a term of imprisonment of three months or more, he or she shall be suspended from office until:

- (a) all such charges have reached final resolution and no charge has resulted in conviction; or

- (b) the Island Officer is convicted of any such charge.

(2) If any Island Officer is subject to a recall application under s 57 of the Parole Ordinance, he or she shall be suspended from office until:

- (a) the recall order is refused under s 63(4) of that Ordinance; or

- (b) a final recall order is made under s 63(1) of that Ordinance.

(3) For the purposes of subsection (1), “final resolution” in relation to each charge means—

Suspension from
office

- (a) the withdrawal of the charge;
- (b) an acquittal;
- (c) a stay of prosecution;
- (d) a dismissal for want of prosecution; or
- (e) a conviction.

(4) An Island Officer who is suspended from office under subsection (1) or (2) is deemed to be temporarily unable to perform his or her duties, but shall be entitled to receive full payment as Island Officer for the duration of the suspension.

(5) Following suspension under subsection (1) or (2)–

- (a) if paragraph (1)(a) or (2)(a) applies, the Island Officer shall resume his or her duties as Island Officer;
- (b) if paragraph (1)(b) or (2)(b) applies, the Island Officer's seat shall be deemed vacant unless the Governor gives a direction under subsection (6).

(6) Notwithstanding paragraph (5)(b), the Governor may, after consultation with Council, direct that an Island Officer to whom paragraph (1)(b) applies may resume his or her duties as Island Officer.

(7) For the avoidance of doubt, an appeal filed in relation to any relevant charge does not affect the operation of this section.]

(Inserted by Ordinance No. 3 of 2013)

4.—(1) Between the first and fifteenth days of [November inclusive in every election year] the inhabitants of Pitcairn Island shall elect, in the manner provided therefor in Part III of this ordinance, the Mayor who shall take office on the first day of January in the year following the year of his or her election and remain in office until the 31st day of December in the third year following the year of his or her election.

Election of Mayor and provisions relating to casual vacancies.

(Amended by Ordinance No. 1 of 2013)

(2) If any vacancy occurs in the office of Mayor by reason of the death, resignation, permanent absence from the Islands or any permanent incapacity of the Mayor to perform his or her duties the [Deputy Mayor] shall succeed to the office of Mayor and shall be deemed to have been elected to such office for the unexpired balance of the term of office of the person to whom he or she succeeds in such office.

(Amended by Ordinance No. 6 of 2009)

[(3) If the Mayor shall by reason of illness, absence from the Islands or otherwise become temporarily incapable of performing his or her duties, the Deputy Mayor shall act in the office of Mayor until such time as the Mayor resumes his or her duties or the office of the Mayor becomes vacant, and while so acting the Deputy Mayor shall have all of the powers

and exercise all of the duties of the Mayor as though he or she had been elected to such office under the provisions of this ordinance.]

(Repealed and replaced by Ordinance No. 6 of 2009)

[(4) If the office of any Island Officer becomes vacant and at the time that the vacancy occurs the unexpired period of that Officer's term is 120 days or greater there shall be a by-election for that office and the person or persons elected shall hold office for the remainder of the term that would have been served by the person whose office became vacant.

(Amended by Ordinance No. 1 of 2013)

(5) The by-election shall be conducted in accordance with the provisions of Part III of this Ordinance with the following amendments:

- (a) The Island Secretary shall prepare and publicly notify the list required by s12(1) within 5 days of the vacancy occurring;
- (b) Any objections of the type possible under s12(2) must be made within 3 days of public notification;
- (c) The Council shall at a meeting held not later than 10 days after the vacancy has occurred set and publicly notify an election day on which the by-election shall be held, which shall be a day not earlier than 15 nor later than 20 days after the vacancy occurred.

(6) The office of Deputy Mayor shall be deemed to become vacant when the Deputy Mayor succeeds to the office of Mayor under subsection (2) but not when, in terms of subsection (3), the Deputy Mayor acts in the office of Mayor while the Mayor is temporarily incapable.

(7) If the office of any Island Officer (other than the Mayor) becomes vacant and at the time that the vacancy occurs the unexpired period of that Officer's term is less than 120 days the Council shall at a meeting held not later than 10 days after the vacancy has occurred appoint a person to be a member of the Council for the balance of the term provided that the person so appointed is a person who would be eligible to stand for election to the Council.]

(Inserted by Ordinance No. 6 of 2009)

5.—(1) Between the first and fifteenth days of [November] inclusive in every [election] year the inhabitants of Pitcairn Island shall elect, in the manner provided in Part III of this ordinance, the Island Officers other than the Mayor.

(Amended by Ordinance No. 6 of 2009)

(Amended by Ordinance No. 1 of 2013)

(2) The Island Officers elected under the provisions of this section shall take office on the first day of January in the year

Election of other
Island Officers and
provisions relating to
casual vacancies.

following the year of their election and remain in office [for two years ending on the 31st day of December.]

(Amended by Ordinance No. 1 of 2013)

(3) (Repealed by Ordinance No. 1 of 2013)

(4) If any Island Officer, other than the Mayor, shall by reason of illness, absence from the Islands or otherwise become temporarily incapable of performing his or her duties or is appointed to act in the office of Mayor under the provisions of subsection (3) of section 4 of this ordinance, the Council shall appoint [a person in accordance with subsection (4A)] to act in the office of such Island Officer until such time as such Island Officer resumes his or her duties or such office becomes vacant and while so acting the person so appointed shall have all of the powers and exercise all of the duties of such Island Officer as though elected to such office under the provisions of this ordinance.

(Amended by Ordinance No. 1 of 2013)

[(4A) The person to be appointed under subsection (4) shall be the highest polling unsuccessful candidate at the previous election for Councillors who agrees to their appointment, provided that—

- (a) where two or more persons are eligible to be appointed under this subsection then the candidate to be appointed shall be determined by the toss of a coin; and;
- (b) where for any reason no person is eligible to be appointed under this subsection, the Council shall appoint such suitable person as it sees fit.]

(Inserted by Ordinance No. 1 of 2013)

6.—[(1) There shall be an Island Council which shall consist of: Island Council.

- (a) the following voting members, namely —
 - (i) the Island Officers, who shall be elected members;
- (b) the following non-voting, *ex officio*, members, namely-
 - (i) the Governor;
 - (ii) the Deputy Governor;
 - (iii) the [Administrator.]

(Amended by Ordinance No. 2 of 2011)

(Amended by Ordinance No. 4 of 2014)

(2) (Repealed by Ordinance No. 2 of 2011)

(3) The Island Officers shall hold various portfolios, which shall be assigned by the Council.]

(Repealed and replaced by Ordinance No. 6 of 2009)

(4) The Council shall meet for ordinary meetings once in

every month and for special meetings at such other times as it may be summoned by the Mayor, who shall fix the time of ordinary and special meetings.

(5) The Mayor shall preside at every meeting of the Council. He or she shall have an original vote and, in the case of an equal number of votes on any question before the Council, a second or casting vote.

(6) No business shall be transacted at any meeting of the Council unless at least five voting members [] are present.

(Amended by Ordinance No. 2 of 2011)

(7) Every question before the Council shall be decided by the majority of the votes of the voting members present.

(8) The Council shall have power to adjourn its sittings from time to time.

(9) No act or proceeding of the Council shall be questioned on account of any vacancy in its membership.

(10) All Council meetings shall be open to the public in so far as the seating accommodation permits:

Provided that members of the public may be excluded from any Council meeting whilst such meeting is adjourned into Committee.

(11) The Island Secretary shall be Clerk to the Council and shall record the minutes of all meetings of the Council.

Powers and duties of Council.

7.—(1) Subject to the orders and directions of the Governor [or Administrator], it shall be the duty of the Council to provide for the enforcement of the provisions of this and all other ordinances for the time being in force in the Islands and of any regulations made thereunder and it may make, amend or revoke regulations for the good administration of the Islands, the maintenance of peace, order and public safety and the social and economic betterment of the islanders.

(Amended by Ordinance No. 4 of 2014)

(2) Without derogating from the generality of the provisions of the last preceding subsection the Council may make, amend or revoke regulations relating to—

- (a) public health and keeping the Islands clean;
- (b) town and country planning;
- (c) the use and control of public property;
- (d) [civic obligations];

(Amended by Ordinance No. 5 of 2010)

- (e) plant and animal quarantine;
- (f) the care and control of animals and wild life;
- (g) the care of children and aged persons;
- (h) the conservation of land, soil and food supplies;
- (i) fishing and fishing rights;

- (j) the prison;
- (k) the registration, use, care and demarcation of land;
- (l) **(Repealed by Ordinance No. 4 of 2014)**
- (m) trading by and between islanders and visits to ships; and
- (n) the appointment, powers and duties of such officers, boards and committees as the Council considers necessary for the efficient discharge of any of its duties or the implementation of any regulations made under the provisions of this or any other ordinance.

(3) All regulations made under the provisions of this ordinance shall be signed by the Mayor and by the Island Secretary and publicly notified by affixing copies thereof to the public notice board and shall come into force on the day of such notification.

(4) Copies of all regulations made under the provisions of this ordinance shall be sent forthwith to the Governor [and Administrator, either of whom] may by order, to be publicly notified by affixing a copy of the same to the public notice board, alter, vary or revoke any such regulations.

(Amended by Ordinance No. 4 of 2014)

(5) Any regulations made under the provisions of this ordinance may provide for the charging of fees in respect of anything to be done thereunder and the imposition of penalties for offences against any of such regulations which penalties shall not exceed a fine of one hundred dollars or imprisonment for any term not exceeding forty days for each such offence.

8.—(1) The Council shall be a body corporate and by the name of the Island Council shall have perpetual succession and a common seal.

Incorporation of the Council.

(2) The Council shall have power to hold land in accordance with the provisions of the Lands Court Ordinance, to enter into contracts which are necessary or incidental to the exercise of its powers under this or any other ordinance or which are for the benefit of the inhabitants of the islands and to sue and be sued, in contract or in tort or otherwise, in relation to any of the powers or duties conferred or imposed upon it by or under the provisions of this or any other ordinance:

cap. 15

Provided that the Governor may if he thinks fit vary or rescind any act or decision of the Council resulting in any financial expenditure or obligation.

(3) Service of any document on the Island Secretary shall be deemed to be service on the Council.

9. (Repealed by Ordinance No. 6 of 2009)

10.—(1) The Mayor, in addition to his or her duties as President of the Council, shall be the chief executive officer

Chief Executive Officer, Island Secretary, and Government Treasurer.

of the Islands, and shall discharge such duties as may from time to time be assigned to him or her by the Governor [or Administrator].

(Amended by Ordinance No. 4 of 2014)

(2) The Island Secretary shall, in addition to any other duties required to be performed by him under the provisions of this or any other ordinance

- (a) prepare monthly copies of the minutes of all meetings of the Council for transmission through the Mayor [and the Administrator] to the Governor.
- (b) undertake all official correspondence of the Council [and the Mayor] and ensure that copies of all such correspondence are kept and properly filed in the archives of the Islands; and
- (c) perform such other duties as the Governor[, the Administrator,] or the Mayor may from time to time direct.

(Amended by Ordinance No. 4 of 2014)

(3) The Government Treasurer shall keep the accounts of the Islands and perform such other duties as the Governor[, the Administrator,] or the Mayor may from time to time direct.

(Amended by Ordinance No. 4 of 2014)

(4) For the purposes of subsections (2) and (3) of this section directions given by the Mayor [or the Administrator] to the Island Secretary or to the Government Treasurer for the performance of any duties shall, to be valid, be not inconsistent with the provisions of this ordinance or the provisions or requirements of any other law.

(Amended by Ordinance No. 4 of 2014)

PART III—ELECTION OF ISLAND OFFICERS

Interpretation

[10A. For the purposes of this Part

- (a) the calculation of any qualifying period of continuous residence on Pitcairn Island shall exclude any absences from the Island for any cause of up to [seven months in a twelve month period];

(Amended by Ordinance No. 1 of 2013)

- (b) a person who was born away from Pitcairn Island to parents who were at the time normally resident on the Island and who returned with those parents or either of them during infancy and thereafter lived on the Island indefinitely shall be deemed to have been born there.
- (c) **(Repealed by Ordinance No. 4 of 2014)**

(Inserted by Ordinance No. 1 of 2004)
(Amended by Ordinance No. 7 of 2004)

11. The following persons being of or over the age of eighteen years shall be qualified to vote—

Qualification of voters.

- (a) [every person who has the right of abode on Pitcairn, who at the time of the elections is normally resident on the Island and has been so resident for a continuous period of not less than one year, and who intends to remain on the Island indefinitely];

(Repealed and replaced by Ordinance No. 1 of 2013)

- (b) every person who at the time of the elections is