

LAWS OF PITCAIRN, HENDERSON, DUCIE
AND OENO ISLANDS

Revised Edition 2017

CHAPTER II

JUDICATURE (COURTS) ORDINANCE

PART I—PRELIMINARY

Section

1. Citation
2. Interpretation

PART II—SUPREME COURT

3. Number of judges of the Supreme Court
7. Officers of Supreme Court
8. Duties of the Registrar
9. Mode of trial
- 9A. Sittings of Supreme Court outside of the Islands

PART III—MAGISTRATE’S COURT

10. Establishment of Magistrate’s Court
11. Magistrates
- 11B. Retirement
12. Criminal Jurisdiction
13. Civil Jurisdiction
14. Appeal from Magistrate’s Court
15. Reconciliation

**PART IIIA—APPEALS TO THE PITCAIRN COURT OF
APPEAL IN CIVIL CASES**

- 15C. Pitcairn Court of Appeal may hear appeals from judgments and orders of the Supreme Court
- 15D. Appeals against decisions of Supreme Court on appeal

PART IV—GENERAL

- 15E. Place of sitting of Supreme Court and Magistrate’s Court
- 15F. Participation by live-link television
- 15G. Matters to be considered under s15F in all cases
- 15H. Matters to be considered under s15F in criminal cases
16. Documents and proceedings not to be held invalid except where there has been a substantial miscarriage of justice
17. Practice and procedure

- 17A. Court Registries
- 17B. Enlargement or abridgement of time
- 17C. Correction of accidental slip or omission
- 17D. Power to amend defects and errors
- 18. Protection of judicial officers
- 19. Attorney General and Public Prosecutor
- 20. Power to make rules

PART V—OFFICERS OF THE COURT AND COURT OFFICES

Officers of the Court

- 21. Appointment of Registrars and other officers
- 22. Oaths, affirmations, affidavits, and declarations
- 23. Powers of Registrars and Deputy Registrars
- 24. Officers of the Court subject to judicial orders

Court Registries

- 25. Court Registries
- 26. Filing and service of documents

JUDICATURE (COURTS) ORDINANCE

An ordinance to repeal and replace the Judicature Ordinance 1970; for the continuation of a Supreme Court of Judicature and the establishment of a Magistrate’s Court for the Islands

[1st February, 2000]

PART I—PRELIMINARY

No. 2 of 1999
No. 2 of 2000
No. 12 of 2000
No. 6 of 2001
No. 14 of 2002
No. 11 of 2003
No. 1 of 2005
No. 6 of 2006
No. 1 of 2008
No. 4 of 2010
No. 6 of 2010
No. 1 of 2011
No. 2 of 2016.

Citation.

1. This ordinance may be cited as the Judicature (Courts) Ordinance.

Interpretation.

2. In this ordinance, unless the context otherwise requires—

["Administrator" means the person appointed by the Governor to hold the public office of Administrator;

"Court of Appeal" means the Court of Appeal as constituted by section 49 of the Constitution of Pitcairn;

"Deputy Registrar" in relation to any court means a person appointed as Deputy Registrar of that court in accordance with section 21;]

(Inserted by Ordinance No. 2 of 2016)

“Magistrate’s Court” means the Court established under the provisions of section 10 of this ordinance;

“Supreme Court” means the Supreme Court of Pitcairn [as constituted by section 45 of the Constitution of Pitcairn];

(Amended by Ordinance No. 4 of 2010)

[“Pitcairn Public Service” and “officer of the Pitcairn Public Service” have the same meanings as in section 61 of the Constitution of Pitcairn;]

(Inserted by Ordinance No. 2 of 2016)

[“Proceeding” includes any application to a Pitcairn court or Registrar for the exercise of civil or criminal jurisdiction;]

(Inserted by Ordinance No. 6 of 2010)

“Public Prosecutor” means the person appointed by the Governor to be Public Prosecutor for the Islands;

[“Registrar” in relation to any court means a person appointed as Registrar of that court in accordance with section 21;]

(Repealed and replaced by Ordinance No. 2 of 2016)

[“Registry” in relation to any court means the registry of that court as appointed under section 25;]

(Inserted by Ordinance No. 2 of 2016)

[“Step in a proceeding” —

- (a) in relation to any criminal matter, includes —
 - (i) investigative steps involving a Pitcairn Court or a Pitcairn Magistrate or Registrar (for example the issuing of a search warrant)
 - (ii) the institution of a criminal proceeding by the signing of a formal charge;
 - (iii) any preliminary or interlocutory hearings (for example committal proceedings, remand hearings, callovers, inquiries into fitness to stand trial, or other procedural hearings);
 - (iv) the entering of any plea;
 - (v) the taking of evidence;
 - (vi) conducting or continuing a proceeding to determine guilt;
 - (vii) giving judgment in a proceeding;
 - (viii) sentencing or otherwise dealing with a person;
 - (ix) any appeal or review;
 - (x) any other associated matters; and

(b) in relation to any civil matter, includes any interlocutory or procedural step of any sort as well as any substantive hearing, and any appeal or related matter.]

(Inserted by Ordinance No. 6 of 2010)

PART II—SUPREME COURT

Number of judges of the Supreme Court

3.—(1) The judges of the Supreme Court shall be the Chief Justice and up to four other judges or acting judges.

(2) The Supreme Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of any judge thereof.

(Section 3 repealed and replaced by Ordinance No. 4 of 2010)

(Sections 4–6 repealed by Ordinance No. 4 of 2010)

(Sections 7–8 repealed by Ordinance No. 2 of 2016)

Mode of trial.

9.—(1) Trials before the Supreme Court in its civil or criminal jurisdiction shall be by a judge alone, provided that the Court may, if it thinks it expedient and practicable so to do, sit with assessors.

(2) Where the Supreme Court proceeds to hear any civil or criminal cause with assessors, the Court shall nominate and summon as assessors not less than two nor more than four indifferent persons subject to the jurisdiction of the Court and of good repute.

(3) When in any trial held with the aid of assessors the case on both sides is closed, the judge may sum up the evidence and shall then require each of the assessors to state his or her opinion orally and the judge shall record each such opinion and shall then give judgment but in so doing shall not be bound to conform to the opinion of the assessors.

(4) Nothing in subsection (3) shall be construed as prohibiting the assessors or any of them from retiring to consider their opinion if they so wish, or, during such retirement or at any time during the trial, from consultation with one another.

Sittings of Supreme Court outside of the Islands

[9A. The Supreme Court may sit outside of Pitcairn—

(a) when making an order under section 15E of this Ordinance; or

(b) in accordance with an order that has been made under section 15E of this Ordinance; or

(c) in any other circumstances prescribed by law.]

(Inserted by Ordinance No. 6 of 2010)

PART III—MAGISTRATE’S COURT

10.—(1) There shall be for the Islands a court subordinate to the Supreme Court to be styled “the Magistrate’s Court” which shall be presided over by a magistrate appointed under the provisions of section 11 of this ordinance.

Establishment of
Magistrate’s Court.

(2) (Repealed by Ordinance No. 2 of 2016)

11.—(1) Subject to this section, the Governor may appoint any fit and proper person to be a magistrate of the Magistrate’s Court.

Magistrates.

(2) A magistrate, to be known as the Island Magistrate, shall be appointed from among the permanent residents of the Islands, who shall not be required to be professionally qualified in law but who must have been resident in the Islands at the time of his or her appointment for not less than 5 years.

(3) The Island Magistrate may exercise the jurisdiction and shall have the powers set out in Part II of the Justice Ordinance.

cap. 3

(4) Magistrates of the Court, other than the Island Magistrate, shall be required to be qualified in law and to have practised in any Commonwealth country for not less than 5 years prior to the date of his or her appointment.

(5) Every magistrate shall be subject at all times to the authority and directions of the Chief Justice or other judge of the Supreme Court and shall hold [office on] such terms as the Governor may prescribe.

(Amended by Ordinance No. 1 of 2005)

[11A.] (Inserted by Ordinance No. 11 of 2003) (Repealed by Ordinance No. 4 of 2010)

[11B.] Every magistrate shall retire from office on attaining the age of [75 years; but the Governor may permit any such person to remain in office for such fixed period, not exceeding two years, as may be agreed between that person and the Governor].]

Retirement

(Inserted by Ordinance No. 11 of 2003)

(Amended by Ordinance No. 6 of 2005)

(Repealed and replaced by Ordinance No. 1 of 2011)

(Amended by Ordinance No. 2 of 2016)

12.—(1) Subject to this section and to Part II of the Justice Ordinance, the Magistrate’s Court shall have the like original jurisdiction in criminal matters as is vested by [the Constitution of Pitcairn] in the Supreme Court, save that it shall not have jurisdiction to entertain proceedings in respect of treason, piracy, murder, manslaughter, rape or arson.

Criminal jurisdiction.
cap. 3

(Amended by Ordinance No. 4 of 2010)

(2) In respect of any offence of which a person has been convicted before it, the Magistrate's Court shall have the power to pass such sentence on that person or make such other order in respect of him or her as may be provided in that behalf by any law for the time being in force in the Islands, save that, subject to subsection (3)—

(a) any term of imprisonment to which it sentences him or her; or

(b) where the defendant is convicted, in the same proceedings, of two or more offences and is sentenced to two or more terms of imprisonment which are to run consecutively, the aggregate of such terms,

may not exceed 7 years and any fine or other pecuniary penalty which it imposes in respect of any one offence may not exceed \$20,000.

(3) The Governor may, by order which shall be published, vary the list of offences set out in subsection (1) in respect of which the Magistrate's Court may not entertain proceedings and may likewise vary the limits set out in subsection (2) on the penalties which the Magistrate's Court may impose:

Provided that an order made under this subsection shall not affect—

(a) the jurisdiction of the Magistrate's Court in any case in which the accused person was charged and remanded for trial before the publication of the order or such later date as the order may specify for that purpose;

(b) the punishment for an offence committed before such publication or such date as aforesaid.

(4) Where under any law in that behalf for the time being in force in the Islands, the Magistrate's Court commits a person to prison for default in the payment of any sum adjudged to be paid by a conviction, the period for which he or she may be so committed may not exceed 7 years (or the period for the time being substituted for 7 years under subsection (3) in respect of that conviction) or, if the sum (or the aggregate of the sums) due at the time of committal is less than the maximum fine which the Magistrate's Court could then impose under subsection (2), may not exceed that proportion of 7 years (or the period substituted as aforesaid) which that sum (or aggregate) bears to that maximum fine.

13.—(1) Subject to Part II of the Justice Ordinance and to subsections (2) and (3) and to any law for the time being in force in the Islands which vests jurisdiction in respect of any particular matter exclusively in the Supreme Court, the

Magistrate's Court shall have the like original jurisdiction in civil matters as is vested by [the Constitution of Pitcairn] in the Supreme Court other than the jurisdiction vested in the Supreme Court as a Court of Admiralty or a Prize Court.

(Amended by Ordinance No. 4 of 2010)

(2) Subject to subsection (4), the Magistrate's Court shall not have jurisdiction to entertain proceedings where the matter in dispute amounts to or is of the value of more than \$10,000 or which involve, directly or indirectly, some claim or question regarding property, or some civil right, amounting to or of the value of more than \$10,000:

Provided that the jurisdiction of the Magistrate's Court shall not be ousted by this subsection if the relief claimed by the plaintiff consists only of liquidated damages not exceeding \$10,000.

(3) Subject to subsection (4), where, in proceedings commenced in the Magistrate's Court founded in contract or tort, the plaintiff claims liquidated damages exceeding \$6,000 (with or without other relief), the defendant may, within such time as may be prescribed by rules of court, apply to the Magistrate for a certificate that some question of fact or law of general or public importance is likely to arise in the proceedings and for the proceedings to be transferred to the Supreme Court; and if—

- (a) the Magistrate gives that certificate; and
- (b) the defendant gives security approved by the Magistrate for the liquidated damages claimed and for the costs of the proceedings in the Supreme Court,

the Magistrate or (if the Magistrate declines to do so) the Chief Justice of the Supreme Court may order the proceedings to be transferred to the Supreme Court.

(4) The Governor may, by order which shall be published, vary from time to time the sums specified in subsections (2) and (3) by reference to which limits are set on, respectively, the jurisdiction of the Magistrate's Court to entertain proceedings and the right of a defendant to apply for proceedings to be transferred to the Supreme Court:

Provided that an order under this subsection shall not affect any proceedings instituted in the Magistrate's Court before the publication of the order or such later date as the order may specify for that purpose.

14. Subject to any rules of Court made under the provisions of section 20 of this ordinance, an appeal shall lie to the Supreme Court in respect of any judgment, sentence or order of the Magistrate's Court.

Appeal from
Magistrate's Court.

Reconciliation.

15.—(1) In criminal cases, the Magistrate’s Court may promote reconciliation and encourage and facilitate the settlement in an amicable way of proceedings for common assault, or for any offence of a personal or private nature not aggravated in degree, on terms of payment of compensation or other terms approved by such Court, and may thereupon order the proceedings to be stayed or terminated.

(2) In civil cases, the Magistrate’s Court and the officers thereof shall, as far as there is proper opportunity, promote reconciliation among persons subject to its jurisdiction and encourage and facilitate settlement in an amicable way and without recourse to litigation of matters in difference between them.

(Sections 15A and 15B were repealed by Ordinance No. 6 of 2010)

PART IIIA — APPEALS TO THE PITCAIRN COURT OF APPEAL IN CIVIL CASES

Pitcairn Court of Appeal may hear appeals from judgments and orders of the Supreme Court

15C. The Pitcairn Court of Appeal shall have jurisdiction and power to hear and determine appeals from any final judgment, decree, or order of the Supreme Court subject to the provisions of this ordinance, the Justice Ordinance, [the Constitution of Pitcairn] and to such rules and directions for regulating the terms and conditions on which such appeals shall be brought as may from time to time be promulgated by the President in accordance with [section 51] of [the Constitution of Pitcairn].

(Amended by Ordinance No. 4 of 2010)

Appeals against decisions of Supreme Court on appeal

15D—(1) The decision of the Supreme Court on appeal from an inferior court is final, unless a party, on application, obtains leave to appeal against that decision to the Pitcairn Court of Appeal.

(2) An application under subsection (1) for leave to appeal to the Pitcairn Court of Appeal must be made to the Pitcairn Court of Appeal.

(3) In this section the term “inferior court” means the Magistrate’s Court and the Lands Court.

(PART IIIA: Inserted by Ordinance No. 1 of 2008)

PART IV — GENERAL

Place of sitting of Supreme Court and Magistrate’s Court

[15E.—(1) A judge of the Supreme Court or a magistrate may make an order that any proceeding, or any step in any proceeding, be held—

- (a) in the Islands, or
- (b) in the United Kingdom; or

- (c) in New Zealand.
- (2) An order under this section may be made—
 - (a) on the application of any party or intended party to the proceeding, or
 - (b) of the Court’s own motion;and may be made either before or after the commencement of a proceeding.
- (3) In determining whether to make an order under this section, the Court must take into account:
 - (a) the nature of the proposed step or hearing; and
 - (b) the interests of justice; and
 - (c) the interest in the efficient disposal of Court business.

15F.—(1) A judge of the Supreme Court or magistrate may, in respect of a proceeding over which that judge or magistrate has jurisdiction, order that any person involved in the proceeding or any step in the proceeding may participate in that proceeding by way of live-link television where—

Participation by live-link television

- (a) the Court is sitting within the Islands and the person concerned is outside the Islands, or
 - (b) the Court is sitting outside the Islands and the person concerned is in the Islands or is in any other place; and he or she is satisfied that it is in the interests of justice to make such an order.
- (2) For the purposes of subsection (1), the Court shall be deemed to be sitting in the place from which the judge or magistrate is to preside over the proceeding or step in the proceeding.
- (3) The persons who may participate by way of live-link television under subsection (1) may include, but are not limited to—
- (a) a party to the proceedings, including a defendant or accused;
 - (b) counsel for any party to the proceedings;
 - (c) a witness;
 - (d) any officer of the Court;
 - (e) any person whose name is on the list of assessors created in accordance with section 9 of the Justice Ordinance;
 - (f) any assessor selected under section 29 of the Justice Ordinance;
 - (g) any other person requested or authorised by the presiding judge or magistrate to be present or to participate.
- (4) An order under subsection (1) in relation to a witness

may—

- (a) specify the person or persons who may be present with the witness while the witness gives evidence by way of live television link; and
- (b) specify that the evidence be given in the presence of a particular named person who is able and willing to answer under oath or affirmation any questions a magistrate or judge of the Court may put as to the circumstances in which the evidence is given and which may affect the giving of evidence.

(5) In this Ordinance, “live-link television” means a television link or other arrangement whereby a person who is not in the courtroom is able to see and hear a person there and is also able to be seen and heard by the judge or judges and the other persons participating in the proceeding.

(6) Reference in subsection (5) to a person being able to see and hear, and to be seen and heard by, another person are to be read as not applying to the extent that any such person is unable to see or hear by reason of impairment of eyesight or hearing.

(7) A person who participates in proceedings by way of live-link television by virtue of this section is to be deemed to be present at the proceedings.

(8) A statement made on oath by a witness and given in evidence by way of live-link television shall be treated for the purposes of the Perjury Act 1911 (UK) as having been made in the proceedings in which it is given as evidence.

(9) A proceeding that is being conducted by way of live-link television by virtue of this section may be adjourned from time to time with such conditions concerning bail as the judge or magistrate thinks fit.

(10) Nothing in this section affects the operation of Part VIIA of the Justice Ordinance.

Matters to be considered under s15F in all cases

15G. A judge or magistrate, in determining whether to make an order under s15F for the appearance of a person by way of live-link television, must consider the potential impact of the use of live-link television on the effective maintenance of the rights of all parties to the proceeding, including—

- (a) the ability to assess the credibility of witnesses and the reliability of evidence presented to the court; and
- (b) the level of contact with other participants.

Matters to be considered under s15F in criminal cases

15H. A judge or magistrate, in determining whether to make an order under s15F for the appearance of a person by way of live-link television in a criminal proceeding, must consider the potential impact of the use of live-link television

on the effective maintenance of the right of the defendant to a fair trial, and in particular—

- (a) the ability of the defendant—
 - (i) to comprehend the proceedings; and
 - (ii) to participate effectively in the conduct of his or her defence; and
 - (iii) to consult and instruct counsel privately; and
 - (iv) to access relevant evidence; and
 - (v) to examine the witnesses for the prosecution; and
- (b) the level of contact the defendant has with other participants.]

(Section 15E, 15F, 15G and 15H inserted by Ordinance No. 6 of 2010)

16.—(1) No information, charge, summons, conviction, sentence, order, bond, warrant or other document and no process or proceeding shall be quashed, set aside or held invalid by any Court or quasi-judicial authority by reason only of any defect, irregularity, omission or want of form unless the Court or authority is satisfied that there has been a substantial miscarriage of justice;

Documents and proceedings not to be held invalid except where there has been a substantial miscarriage of justice

(Repealed and replaced by Ordinance No. 4 of 2010)

17.—(1) Subject to this section, the practice and procedure of the Supreme Court, whether in civil or criminal matters, shall be as prescribed by rules of Court made under section 20 and subject to such rules or if there are no such rules governing the question, as the Chief Justice or other Judge of the Supreme Court may from time to time direct.

Practice and procedure.

(2) Directions given by the Chief Justice or other Judge of the Supreme Court under subsection (1) may be general or may be with respect to any particular step in particular proceedings; and any party to any proceedings before the Supreme Court (including the Crown or the accused person in any criminal proceedings) and any person seeking to institute such proceedings may at any time apply to the Chief Justice or other Judge of the Supreme court for particular directions.

(3) In formulating any directions which he or she may give under subsection (2) and generally in the conduct of proceedings before the Supreme Court and of the business of that Court, the Chief Justice or other Judge shall be guided, so far as the circumstances of the Islands permit and so far as is appropriate to the circumstances of any particular proceedings in question, by the practice and procedure, in comparable circumstances, of the High Court of Justice in England or of the Crown Court in England or (where the Supreme Court

is exercising an appellate or supervisory jurisdiction and if the case so requires) of the Court of Appeal in England; and in pursuing any proceedings in the Supreme Court any party thereto shall likewise (but subject always to any applicable rule of court and to any direction given under this section) be so guided.

(4) For the purposes of their application in accordance with subsection (3), the practice and procedure of the High Court of Justice in England, of the Crown Court in England and of the Court of Appeal in England shall be interpreted with such modifications, adaptations, qualifications and exceptions as local circumstances render necessary.

[17A.]

(Inserted by Ordinance No. 14 of 2002)

(Repealed by Ordinance No. 2 of 2016)

Enlargement or
abridgement of time

[17B.—(1) Any Court may, in its discretion, enlarge or abridge the time appointed by this ordinance or any other ordinance or any rules made thereunder, for doing any act or taking any proceedings or step in any proceeding, on such terms (if any) as the Court thinks just.

(2) Any Court may order an enlargement of time although the application for the enlargement of time is not made until after the expiration of the time appointed.

Correction of
accidental slip or
omission

17C.—(1) If any judgment or order contains a clerical mistake or an error arising from any accidental slip or omission, whether the mistake, error, slip or omission was made by an officer of the Court or not, or if any judgment or order is so drawn up as not to express what was actually decided and intended, the judgment or order may be corrected by the Court.

(2) The correction may be made by the Court of its own motion or on an interlocutory application made for that purpose.

Power to amend
defects and errors

17D.—(1) A Court may, either before, at, or after the hearing of any proceedings, amend any defects and errors in the pleadings or procedure in the proceedings, whether or not there is anything in writing to amend, and whether or not the defect or error is that of the party (if any) applying to amend.

(2) The Court may, at any stage of any proceedings, make, either of its own motion or on the application of any party to the proceedings, such amendments to any pleading or the procedure in the proceedings as are necessary for determining the real controversy between the parties.

(3) All amendments made under sub-sections (1) and (2) shall be made with or without costs and on such terms as the Court thinks fit.]

(Inserted by Ordinance No. 6 of 2005)

18. No Judge, Magistrate, [Registrar, Deputy Registrar,] or other person acting judicially shall be liable to be sued in any Court for any act done or ordered to be done by him or her in the discharge of judicial duty, whether or not within the limits of such jurisdiction, provided that he or she at the time, in good faith, believed himself or herself to have jurisdiction to do or order the act complained of and no officer of any Court or other person bound to execute the lawful warrants or orders of any such Judge, Magistrate, [Registrar, Deputy Registrar,] or other person acting judicially shall be liable to be sued in any Court for the execution of any warrant or order which he or she would be bound to execute if within the jurisdiction of the person issuing the same.

Protection of judicial officers.

(Amended by Ordinance No. 2 of 2016)

19.—(1) The functions and powers conferred upon the Attorney General of England in respect of civil or criminal causes or matters arising in England may be exercised by the [Attorney General] in respect of civil or criminal causes or matters occurring or arising in the Islands.

Attorney General and Public Prosecutor.

(2) The Public Prosecutor shall have and may exercise the functions and powers of the Director of Public Prosecutions in England.

(3) The [Attorney General], the Public Prosecutor and the Deputy Public Prosecutor shall have *ex officio* the right of audience in all Courts of the Islands and shall have the same protection and immunity from suit in respect of the performance of their duties as is conferred upon judicial officers by section 18 of this ordinance.

(Amended by Ordinance No. 4 of 2010)

20. The Governor may on the advice of the Chief Justice make rules of court for the purpose of carrying the provisions of this ordinance into effect and in particular for all or any of the following matters—

Power to make rules.

- (a) for regulating the sittings of the Supreme Court and the Magistrate's Court and the despatch of business therein;
- (b) for regulating the pleading, practice and procedure in the Supreme Court and the Magistrate's Court;
- (c) for regulating the hours of opening and closing of the [registries] of the Supreme Court and the Magistrate's Court;

(Amended by Ordinance No. 2 of 2016)

- (d) for regulating the forms to be used in the Supreme Court and the Magistrate's Court and for all matters connected therewith;
- (e) for regulating the receipt of money paid into the Supreme Court or the Magistrate's Court or received or recovered under or by virtue of any process of execution or distress;
- (f) for regulating the payment out of the Supreme Court or the Magistrate's Court of all moneys to the persons entitled thereto;
- (g) for prescribing the books and forms of account to be kept and used in the Supreme Court or the Magistrate's Court;
- (h) for prescribing fees, costs and amounts for service and execution of process which may be demanded and received by officers of the Supreme Court or the Magistrate's Court in accordance with the practice and procedure of those Courts;
- (i) for prescribing the manner of acceptance, retention and disposal of fees and costs;
- (j) for providing for the taxation of the fees and costs of legal practitioners;
- (k) for regulating the professional practice, conduct and discipline of legal practitioners;
- (l) generally for regulating any matters relating to the practice and procedure of the Supreme Court or the Magistrate's Court or to the duties of the officers thereof or the conduct of proceedings therein.

**[PART V – OFFICERS OF THE COURT
AND COURT OFFICES**

Officers of the court

Appointment of
Registrars and other
officers

21.—(1) Registrars, Deputy Registrars and other officers of the court may be appointed by the Governor, after consultation with the Chief Justice, for the conduct of business of any court.

(2) In the exercise of powers under subsection (1), the Governor may appoint a person –

- (a) by name; or
- (b) by reference to any office, in which case the person for the time being holding that office shall be appointed to the relevant office under subsection (1).

(3) Registrars and Deputy Registrars are judicial officers,

and every appointment to such an office shall be according to section 55 of the Constitution of Pitcairn.

(4) Every Registrar and Deputy Registrar appointed under subsection (1) shall make an oath or affirmation of allegiance and the judicial oath or affirmation in the form set out in the Schedule to the Constitution of Pitcairn, and such oaths or affirmations shall be administered by the Chief Justice or other judge or magistrate.

(5) Every Registrar and Deputy Registrar shall retire from office on attaining the age of 75 years; but the Governor may permit any such person to remain in office for such fixed period, not exceeding five years, as may be agreed between that person and the Governor.

(6) The same person may be appointed under this section to multiple offices in relation to one or more courts.

(7) A person who is an officer of the Pitcairn Public Service may be appointed as a Registrar, Deputy Registrar or other officer of the court, but in the exercise of any powers and functions conferred by this Part, any such person shall not be subject to the direction or control of the Governor, the Island Council, or any officer of the Pitcairn Public Service.

(8) Any Judge or Magistrate may, subject to any directions of the Governor, appoint any person temporarily to perform, with or without remuneration, in relation to any particular causes or matters, the duties of the Registrar or of any other officer of the court in which that judge is sitting.

(9) A Judge or Magistrate may act as the Registrar of the court in which that Judge or Magistrate is sitting if there is no other person appointed to be the Registrar or if the Registrar is for any reason unable to perform his or her functions.

22. The following persons shall have power to administer oaths and take affidavits, declarations and affirmations:

Oaths, affirmations,
affidavits, and
declarations

- (a) any Judge or Magistrate;
- (b) any Registrar or Deputy Registrar;
- (c) any officer of the court designated in that behalf by a Judge or Magistrate;
- (d) the Governor, Deputy Governor, or Administrator;
- (e) any other officer of the Pitcairn Public Service designated in that behalf by the Governor.

23.—(1) A Registrar has the duties and powers —

- (a) conferred by this Ordinance, any other enactment, or any rules made under section 20 of this Ordinance;
- (b) in relation to the Registrar of the Court of Appeal, conferred by any rules made under section 51 of the Constitution:

Powers of Registrars
and Deputy Registrars

(c) necessary or desirable to ensure the efficient and effective administration of the business of the court to which that Registrar is appointed.

(2) A Deputy Registrar has and may perform and exercise the same duties and powers as a Registrar of the same court.

(3) Subsection (2) is subject to any provision to the contrary in any rules made under section 20 or any other enactment.

(4) Without affecting the generality of subsection (1)(c) of this section, the Registrar of the Supreme Court shall discharge such duties as are respectively performed by the Master, Registrar, Taxing Master or Keeper of the Records of Her Majesty's High Court of Justice in England and shall be Registrar of the Supreme Court in its Admiralty jurisdiction.

Officers of the Court
subject to judicial
orders

24.—(1) Registrars, Deputy Registrars and other officers of the court shall be subject to such orders as they shall from time to time receive from any Judge or Magistrate of the court to which they are appointed.

(2) Registrars and Deputy Registrars are not subject to direction by the Governor or any member of the Pitcairn Public Service in the exercise of any judicial function.

Court Registries

Court Registries

25.—(1) For every court there shall be an office for the transaction of business relating to proceedings in the court, to be known as the registry, which shall be in the charge of the Registrar of that court.

(2) The registry of each court shall be situated at such place as the Governor, acting in accordance with the advice of the Chief Justice, directs.

(3) The place appointed to be a registry under subsection (2) may be either inside or outside of Pitcairn.

(4) The same place may be appointed as the registry for two or more courts.

(5) The Governor may, on the advice of the Chief Justice, make rules regarding the operation of any registry appointed under this section, including rules specifying the hours that the registry shall be open to receive documents for filing.

Filing and service of
documents

26.—(1) Any document relating to the business of any court may be filed at the registry by personal delivery, post, facsimile, email or other accepted form of electronic transmission.

(2) Notwithstanding the appointment of a registry of any court in another place, the Registrar of any court may, when that court is sitting at any place whether inside or outside of Pitcairn, receive any letter or accept for filing any notice,

document or thing that relates to the matter before the court at that place.

(3) Any warrant, order, direction, minute, or other such document issued by the court may be served on relevant parties by personal delivery, post, facsimile, email or other accepted form of electronic transmission.

(4) This section is subject to any rules prescribing procedure for filing and service of documents made under sections 20 and 25(5) of this Ordinance, or section 51 of the Constitution.]

(Part V inserted by Ordinance No. 2 of 2016)

**PITCAIRN, HENDERSON, DUCIE & OENO
ISLANDS**

**NOTICE OF APPOINTMENT
OF COURT REGISTRY**

IN EXERCISE of the powers conferred by section 25(2) of the Judicature (Courts) Ordinance and in accordance with the advice of the Chief Justice, I hereby direct that

the offices of BELL GULLY located at Level 21, Vero Centre, 48 Shortland Street, Auckland, New Zealand

shall be the Registry of the Magistrate's Court, the Supreme Court and the Court of Appeal of Pitcairn, Henderson, Ducie and Oeno Islands.

This direction shall have effect from the 1st day of November 2016 whereupon any prior notices of appointments of registries for Pitcairn Courts shall be revoked.

Dated the 31st day of October 2016

**Jonathan Sinclair
Governor**

**PITCAIRN, HENDERSON, DUCIE & OENO
ISLANDS**

JUDICATURE (COURT REGISTRY) RULES 2016

Made by the Governor upon the advice of the Chief Justice,
in exercise of the powers conferred by sections 20 and
25(5) of the Judicature (Courts) Ordinance.

[31 October 2016]

RULES

PART I – PRELIMINARY

Citation and
commencement

1. These rules may be cited as the Judicature (Court Registry) Rules 2016 and shall come into operation on the day after they are published.

Interpretation

2. In these rules:

“business day” in relation to a court registry, means any day that is not a court holiday;

“business hours”, in relation to a court registry, means the hours that the registry is required to be open under rule 3(3);

“court” means –

- (a) the Magistrate’s Court established under section 10 of the Judicature (Courts) Ordinance;
- (b) the Supreme Court constituted by section 45 of the Constitution of Pitcairn; or
- (c) the Court of Appeal constituted by section 49 of the Constitution of Pitcairn.

“court holiday” means the days listed in rule 3(2);

“public holiday” in a given place means a day that is recognised as a public holiday or bank holiday under the laws in force in that place;

“Registrar” and “Deputy Registrar” in relation to any court means the person appointed as Registrar or Deputy Registrar of that court in accordance with section 21 of the Judicature (Courts) Ordinance;

“registry” in relation to any court means the registry of that court appointed under s 25 of the Judicature (Courts) Ordinance;

PART II – COURT REGISTRY BUSINESS HOURS

Business hours of
court registries

3.–(1) The registry of each court will be open on every day of the year except for court holidays.

(2) The following are court holidays:

- (a) Saturdays and Sundays;
- (b) 25 December (Christmas Day);

- (c) 26 December (Boxing Day);
- (d) 1 January (New Year's Day);
- (e) 2 January;
- (f) Good Friday;
- (g) Easter Monday; and
- (h) any other day which is a public holiday in the place where a court registry is located.

(3) The registry of each court will be open from 10 am to 4 pm on every business day.

(4) In this rule, a reference to a specific time of day is a reference to the standard time adopted in the location in which the registry is located.

PART III – FILING OF DOCUMENTS

4. A document may be filed with a court by – Methods of filing

- (a) handing it to the Registrar, Deputy Registrar, or a person authorised by the Registrar to receive it;
- (b) personal delivery or post to the registry;
- (c) sending it by facsimile to a number provided by the Registrar; or
- (d) sending it by electronic means to an address provided by the Registrar.

5. A document is filed – Date of filing

- (a) in the case of a document filed under rule 4(a), on the day it is handed over;
- (b) in the case of a document filed by personal delivery to the registry, –
 - (i) on the day on which it is delivered, if it is delivered within the business hours of that registry;
 - (ii) otherwise, on the next business day after it is delivered;
- (c) in the case of a document sent by post, on the business day on which it is received at the registry;
- (d) in the case of a document sent by facsimile or electronic means, –
 - (i) on the day on which it is sent, if that day is a business day and if it is sent by no later than 2.30pm that day,
 - (ii) otherwise, on the next business day after it was sent; and
- (e) in any case, on the day on which the Registrar or Deputy Registrar responds to it, if that is earlier.

6.–(1) This rule applies to the calculation of any period of time for filing a document in a court. Computation of time

(2) Where a period of time is expressed as a number of days—

- (a) the period shall be computed as clear days;
- (b) section 24(d) of the Interpretation and General Clauses Ordinance applies.

(3) A period of time expressed as a month or number of months means a calendar month or number of months.

(4) If the last day of the period is a court holiday, the period shall include the next business day.

(5) In this rule ‘clear days’ means that in computing the number of days, the following days are not included –

- (a) the day on which the period begins; and
- (b) if the end of the period is defined by reference to an event, the day on which that event occurs.