

**EXPLANATORY MEMORANDUM TO
THE PITCAIRN CONSTITUTION ORDER 2010**

2010 No. 244

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

This Order establishes a new Constitution for the British overseas territory of Pitcairn, Henderson, Ducie and Oeno Islands, and makes a consequential amendment to the Pitcairn (Appeals to Privy Council) Order 2000 (S.I. 2000/1816, amended by S.I. 2009/224).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Context**

The Order is made under the British Settlements Acts 1887 and 1945, section 1 of the Judicial Committee Act 1844 and all other powers enabling Her Majesty. It revokes the current constitutional instrument for the territory, the Pitcairn Order 1970 (S.I. 1970/1434, amended by S.I. 2000/1340 and 2002/2638), the Pitcairn Court of Appeal Order 2000 (S.I. 2000/1341, amended by S.I. 2004/2669), and the Royal Instructions to the Governor of Pitcairn dated 30th September 1970. The Order also amends the Pitcairn (Appeals to Privy Council) Order 2000 (S.I. 2000/1816, amended by S.I. 2009/224), which was made under section 1 of the Judicial Committee Act 1844.

5. **Territorial Extent and Application**

This instrument applies to Pitcairn, Henderson, Ducie and Oeno Islands and, as regards appeals to the Privy Council, to the United Kingdom.

6. **European Convention on Human Rights**

Although this instrument is laid before Parliament, there is no provision for further parliamentary proceedings and no statement is therefore required.

7. **Policy background**

- *What is being done and why*

7.1 The Order provides a more modern Constitution for Pitcairn, Henderson, Ducie and Oeno Islands than the current constitutional arrangements dating from 1970. The new Constitution establishes partnership values as the basis of the relationship between the United Kingdom and the territory, and enforceable

fundamental rights and freedoms of the individual closely based, but exceeding, those in the European Convention on Human Rights. It confers executive and legislative power on the Governor, who will be appointed by Her Majesty. The Governor must normally consult the Island Council of Pitcairn in making laws, and the Island Council will have such functions in relation to the government of the territory as are prescribed by Pitcairn legislation. Judicial authority is conferred on a Supreme Court, a Court of Appeal, and such subordinate courts as may be established by territory legislation. Final appeal remains to the Privy Council. The Constitution also makes provision for the Pitcairn Public Service, the independent audit of the public accounts of Pitcairn and the appointment of an Ombudsman.

Consolidation

7.2 No question of consolidation arises.

8. Consultation outcome

The Governor, the Island Council and the general public of Pitcairn were fully consulted and support the new Constitution established by this instrument.

9. Guidance

No guidance is required.

10. Impact

10.1 No impact on business, charities or voluntary bodies in the United Kingdom.

10.2 No impact on the United Kingdom public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The operation of the new Constitution will be constantly monitored and reviewed.

13. Contact

Susan Dickson at the Foreign and Commonwealth Office, Tel: 020 7008 3317 or email: susan.dickson@fco.gov.uk can answer any queries regarding the instrument.