

SCHEDULE 2

THE CONSTITUTION OF PITCAIRN

PART 10

MISCELLANEOUS

Interpretation

- 61.** In this Constitution, unless it is otherwise provided or required by the context—
- “breach”, in relation to any provision of this Constitution, includes a failure to comply with that provision, and cognate expressions shall be construed accordingly;
 - “court” means any subordinate court, the Supreme Court or the Court of Appeal, and includes Her Majesty in Council;
 - “Court of Appeal” means the Pitcairn Court of Appeal established by section 49;
 - “functions” includes powers and duties;
 - “Island Council” means the Island Council of Pitcairn established by section 34;
 - “judge” means the Chief Justice or another judge of the Supreme Court, the President of the Court of Appeal, a Justice of Appeal, or an acting judge of the Supreme Court;
 - “judicial officer” means a magistrate, an island magistrate, a judge of a subordinate court or any other person who is authorised to exercise the powers of such a judge, a registrar of the Supreme Court or a registrar of the Court of Appeal;
 - “law” means law in force in Pitcairn, and “lawful” and “lawfully” shall be construed accordingly;
 - “minor” means a person who has not attained the age of eighteen years or such other age as may be prescribed for the purposes of this Constitution by any other law;
 - “officer of the Pitcairn Public Service” means the holder of any office in the Pitcairn Public Service and any other employee of the Public Service (except a casual worker), and includes a person appointed to act as an officer of the Pitcairn Public Service;
 - “Ordinance” means a law made by the Governor in respect of Pitcairn;
 - “period of public emergency” means any period during which—
 - (a) there is, in or affecting Pitcairn, a war or other public emergency threatening the life of the nation; and
 - (b) a proclamation of a state of emergency is in force under a law;
 - “Pitcairn” means Pitcairn, Henderson, Ducie and Oeno Islands;
 - “Pitcairn Public Service” means the service of the Crown in a civil capacity in respect of the government of Pitcairn, and includes service as a member of any police force, prison service or fire service of Pitcairn; but does not include service as a judge or judicial officer or service as a member of the Island Council, any committee of the Council or, unless otherwise provided by a law, of any other public authority;
 - “subordinate court” means a court of Pitcairn subordinate to the Supreme Court that has been established by law;
 - “Supreme Court” means the Pitcairn Supreme Court established by section 45.

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References to the holder of an office to include a person acting in the office

62. In this Constitution, unless it is otherwise provided or required by the context, a reference to the holder of an office by the term designating his or her office shall be construed as including a reference to any person acting in that office or, to the extent of his or her authority, otherwise performing the functions of that office.

Power to amend and revoke instruments, etc

63.—(1) Any power conferred by this Constitution to make any subsidiary instrument or to give any instructions or directions shall be construed as including a power exercisable in like manner to amend or revoke any such instrument, instructions or directions.

(2) In subsection (1), “subsidiary instrument” means any proclamation, regulation, order, rule or other like instrument having the force of law.

Appointments

64.—(1) Where any person has vacated any office established by this Constitution, he or she may, if qualified, again be appointed or elected or otherwise selected to hold that office in accordance with this Constitution.

(2) Where a power is conferred by this Constitution on any person to make any appointment to any office, a person may be appointed to that office even though some other person may be holding that office, when that other person is on leave of absence pending relinquishment of that office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred on the holder of that office, the person last appointed to that office shall be deemed to be the sole holder of the office.

(3) In this Constitution, unless it is otherwise provided or required by the context, any reference to power to make appointments to an office shall be construed as including reference to power to make appointments on promotion and transfer to that office and power to appoint a person to act in that office during any period when it is vacant or the holder of it is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform the functions of that office.

(4) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to act in an office if the holder of it is unable to perform the functions of that office, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called into question in any court on the grounds that the holder of the office is not unable to perform the functions of the office.

Removal from office

65. References in this Constitution to the power to remove an officer of the Pitcairn Public Service from his or her office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the Public Service and to any power or right to terminate a contract on which a person is employed in the Public Service and to determine whether any such contract shall or shall not be renewed.

Resignations

66.—(1) Any person who is appointed to any office established by or under this Constitution may resign from that office by writing under his or her hand addressed to the person or authority by whom he or she was appointed.

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(2) The resignation of any person from any office established by or under this Constitution takes effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any other person authorised by that person or authority to receive it.