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STATUTORY INSTRUMENTS

2000 No. 1341

PITCAIRN ISLANDS

The Pitcairn Court of Appeal Order 2000

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| <i>Made</i> | - - - - | <i>17th May 2000</i> |
| <i>Laid before Parliament</i> | | <i>25th May 2000</i> |
| <i>Coming into force</i> | - - | <i>15th June 2000</i> |

At the Court at Buckingham Palace, the 17th day of May 2000

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the British Settlements Acts 1887(1) and 1945(2) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

- 1.—(1) This Order may be cited as the Pitcairn Court of Appeal Order 2000.
- (2) This Order shall come into force on 15th June 2000.

Interpretation

- 2.—(1) In this Order, unless the contrary intention appears:—
 - “the Court” means the Court constituted by this Order;
 - “the Governor” means the Governor of the Islands;
 - “the Islands” means the Pitcairn, Henderson, Ducie & Oeno Islands;
 - “the President” means the President of the Court.

(2) In this Order, unless the contrary intention appears, a reference to the holder of an office by the term designating his office includes, to the extent of his authority, a person who is for the time being authorised to perform the functions of that office.

(1) 1887 c. 54.
(2) 1945 c. 7

Constitution of Court

3.—(1) There shall be a Court of Appeal for the Islands which shall be styled the Pitcairn Court of Appeal.

(2) The judges of the Court shall be:

- (a) a President and two or more Justices of Appeal; and
- (b) the Chief Justice of the Supreme Court of the Islands, who shall be a member of the Court *ex officio*.

(3) (a) The President and the Justices of Appeal shall be appointed by the Governor in accordance with instructions given by Her Majesty through a Secretary of State and shall hold office during Her Majesty's pleasure on such terms and conditions as the Governor may, in accordance with such instructions, prescribe.

(b) A person shall not be qualified for appointment as the President or a Justice of Appeal unless—

(i) he is, or has been, a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland, or a court having jurisdiction in appeals from any such court; or

(ii) he is entitled to practice as an advocate in such a court and has been entitled for not less than five years to practice as an advocate or solicitor in such a court.

(c) For the purposes of this paragraph, a person shall be regarded as an advocate or a solicitor if he has been called, enrolled or otherwise admitted as such (and has not subsequently been disbarred or removed from the roll of advocates or solicitors) notwithstanding that—

(i) he holds or acts in any office the holder of which is, by reason of his office, precluded from practising in a court; or

(ii) he does not hold a practising certificate or has not satisfied any other like condition of being permitted to practise.

(4) At any time when the office of the President is vacant or the person holding that office is for any reason unable to perform the functions of that office, those functions shall be performed by such one of the Justices of Appeal or such other person qualified for appointment as a Justice of Appeal as may from time to time be designated in that behalf by the Governor.

(5) The Court shall have and use a seal bearing the style of the Court and a device approved by the President.

(6) Every person appointed to be a judge of the Court shall, before entering upon the functions of his office, take the oaths or affirmations set out in the Schedule to this Order.

Jurisdiction of the Court

4.—(1) The Court shall have jurisdiction to hear and determine such appeals from the courts of the Islands as may be prescribed by any law in force in the Islands.

(2) In connection with any appeal from a court of the Islands the Court shall, subject to the provisions of this Order and any law in force in the Islands, have all the powers and jurisdiction that are possessed by that court under any law in force in the Islands; and decisions of the Court in respect of any appeal from the court of the Islands shall, subject as aforesaid, be enforced in the Islands in the same way as decisions of that court.

(3) The Court may, in accordance with any directions issued from time to time by the President, sit in the Islands or elsewhere for the purpose of exercising any jurisdiction and powers conferred upon it by or under this article or by any rule made under article 5 of this Order; but anything done

elsewhere than in the Islands by virtue of this paragraph shall have, and have only, the same validity and effect as if done in the Islands.

Practice and procedure on appeals

5.—(1) Subject to the provisions of this Order, the President may make rules for regulating the practice and procedure of the Court with respect to appeals from the courts of the Islands and, in connection with such appeals, for regulating the practice and procedure in any court of the Islands from which such appeals are brought.

(2) Without prejudice to the generality of paragraph (1) of this article, rules of court may be made for the following purposes:—

- (a) for regulating the sittings of the Court, whether in divisions or otherwise, and the selection of judges for any purpose;
- (b) for regulating the right of practising before the Court and the representation of persons concerned in any proceedings in the Court;
- (c) for prescribing cases in which, and conditions upon which, an appellant in a criminal appeal to the Court shall be entitled to be present at the hearing of the appeal;
- (d) for providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or to be brought for the purposes of delay;
- (e) for prescribing forms and fees in respect of proceedings in the Court and regulating the costs of and incidental to any such proceedings;
- (f) for prescribing and regulating the powers and duties of registrars and officers of the Court;
- (g) for prescribing the time within which any requirement of the rules is to be complied with;
- (h) for providing for a reference to the Court from a decision of a single judge.

(3) Rules made under this article may fix the number of judges of the Court who may sit for any purpose:

Provided that:—

- (a) an uneven number of judges shall sit, which, for the purposes of any final determination by the Court other than the summary dismissal of an appeal, shall not be less than three; and
- (b) any determination by the Court on any matter (whether final or otherwise) shall, where more than one judge sits, be according to the opinion of a majority of the judges who sit for the purpose of determining that matter.

A. K. Galloway
Clerk of the Privy Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 3(6)

Forms of oaths and affirmations

1. *Oath of allegiance*

I
do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. *Affirmation of allegiance*

I
do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

3. *Judicial oath*

I
do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of *(here insert the description of the office)* and I will do right to all manner of people according to the law without fear or favour, affection or ill-will. So help me God.

4. *Judicial affirmation*

I
do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of *(here insert the description of the office)* and I will do right to all manner of people according to the law without fear or favour, affection or ill-will. So help me God.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the hearing and determination of appeals from the Courts of Pitcairn.