

SCHEDULE 2

THE CONSTITUTION OF PITCAIRN

PART 6

THE ADMINISTRATION OF JUSTICE

COURT OF APPEAL

Constitution of Court of Appeal

49.—(1) There shall be a Court of Appeal for Pitcairn which shall be a superior court of record and shall be styled the Pitcairn Court of Appeal.

(2) The judges of the Court of Appeal shall be—

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

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

- (a) he or she 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 Ireland, or a court having jurisdiction in appeals from any such court; or
- (b) he or she is entitled to practise as an advocate in such a court and has been entitled for not less than seven years to practise as an advocate or solicitor in such a court.

(4) For the purposes of subsection (3), a person shall be regarded as an advocate or a solicitor if he or she 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—

- (a) he or she holds or acts in any office the holder of which is, by reason of his or her office, precluded from practising in a court; or
- (b) he or she does not hold a practising certificate or has not satisfied any other like condition of being permitted to practise.

(5) At any time when the office of President of the Court of Appeal 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 for that purpose by the Governor or, in the absence of such designation, by the Justice of Appeal who is the senior Justice of Appeal in terms of date of appointment.

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

Jurisdiction of Court of Appeal

50.—(1) The Court of Appeal shall have jurisdiction to hear and determine such appeals from the courts of Pitcairn as may be prescribed by this Constitution or any other law.

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

Status: This is the original version (as it was originally made).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

(3) The Court of Appeal may, in accordance with any directions issued from time to time by the President of the Court, sit in Pitcairn or elsewhere for the purpose of exercising any jurisdiction and powers conferred on it by or under this Constitution or by any rule made under section 51; but anything done elsewhere than in Pitcairn by virtue of this subsection shall have, and have only, the same validity and effect as if done in Pitcairn.

Practice and procedure on appeals

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

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

- (a) for regulating the sittings of the Court of Appeal, whether in divisions or otherwise, and the selection of judges for any purpose;
- (b) for regulating the right of practising before the Court of Appeal and the representation of persons concerned in any proceedings in the Court;
- (c) for prescribing cases in which, and conditions on which, an appellant in a criminal appeal to the Court of Appeal 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 of Appeal to be frivolous or vexatious or to be brought for the purposes of delay;
- (e) for prescribing the forms and fees in respect of proceedings in the Court of Appeal 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 of Appeal;
- (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 of Appeal from a decision of a single judge.

(3) Rules made under this section may fix the number of judges of the Court of Appeal who may sit for any purpose; but—

- (a) an uneven number shall sit, which, for the purposes of any final determination by the Court other than the summary dismissal of an appeal, shall not be fewer 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.