STATUTORY INSTRUMENTS

2004 No. 2669

PITCAIRN ISLANDS

The Pitcairn Court of Appeal (Amendment) Order 2004

Made - - - -	*13th October 2004*
Laid before Parliament	*25th October 2004*
Coming into force - -	*26th October 2004*

At the Court at Buckingham Palace, the 13th day of October 2004

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(**a**) and 1945(**b**) 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, construction and commencement

1.—(1) This Order may be cited as the Pitcairn Court of Appeal (Amendment) Order 2004, and shall be construed as one with the Pitcairn Court of Appeal Order 2000(**c**) (in this Order referred to as "the principal Order").

(2) This Order shall come into force on 26th October 2004.

Amendment of article 3 of principal Order

2. Article 3 of the principal Order is amended —

(a) in paragraph (3)(a), by deleting the words "during Her Majesty's pleasure"; and

(b) in paragraph (4), by inserting after the word "Governor" the words ", or in the absence of such designation by the Justice of Appeal who is the senior in terms of date of appointment".

Insertion of new articles in principal Order

3. The following new articles are inserted after article 3 of the principal Order —

"**Tenure of office of judges**

(**a**) 1887 c.54.
(**b**) 1945 c.7.
(**c**) S.I. 2000/1341.

3A.—(1) Subject to the following provisions of this article, the President and any Justice of Appeal (in this article and article 3B referred to as "a judge") shall hold office until he attains the age of 75 years; but the Governor may permit a judge who has attained the age of 75 years to remain in office for such fixed period, not exceeding two years, as may have been agreed between the judge and the Governor.

(2) A judge may at any time resign from office by writing under his hand addressed to the Governor.

(3) Nothing done by a judge shall be invalid by reason only that the judge has attained the age at which he is required by or under this article to retire from office.

(4) The office of a judge shall not be abolished during the continuance in office of the judge without his consent.

(5) A judge may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be removed except in accordance with the conditions of paragraph (6).

(6) A judge may be removed from office by the Governor by instrument under his hand and seal if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of paragraph (7), been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act 1833(**a**), or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or misbehaviour.

(7) If the Governor considers that the question of removing a judge from office for inability as aforesaid or misbehaviour ought to be investigated, then –

(a) the Governor shall appoint a tribunal which shall consist of a convenor and not fewer than two other members, selected by the Governor from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in one or more Commonwealth countries or a court having jurisdiction in appeals from any such court;

(b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and

(c) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(8) The provisions of the Commissions of Inquiry Ordinance(**b**) shall apply *mutatis mutandis* in relation to a tribunal appointed under paragraph (7) and the expenses of any such inquiry shall be deemed to be expenses of the Court.

(9) If the question of removing a judge from office has been referred to a tribunal under paragraph (7), the Governor may suspend the judge from performing the functions of that office, and any such suspension may at any time be revoked by the Governor and shall in any case cease to have effect –

(a) if the tribunal recommends to the Governor that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or

(b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(**a**) 1833 c.41.
(**b**) Laws of Pitcairn, Henderson, Ducie and Oeno Islands, Revised Edition 2001, Chapter VIII.

Remuneration of judges

3B. There shall be paid to every judge such remuneration as may be agreed between the Governor and the judge immediately before his appointment; but the remuneration and allowances and the other terms and conditions of a judge shall not be altered to the disadvantage of the judge during his continuance in office.".

A. K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Pitcairn Court of Appeal Order 2000, principally to enhance the security of tenure of the judges of the Court of Appeal of the Pitcairn Islands.

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