EXPLANATORY MEMORANDUM TO THE

PITCAIRN COURT OF APPEAL (AMENDMENT) ORDER 2004

2004 No. 2669

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

2. Description

2.1 This instrument enhances the security of tenure of the judges of the Court of Appeal of the Pitcairn Islands. It also clarifies who is to act as President of the Court in certain circumstances.

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

3.1 None.

4. Legislative Background

4.1 This instrument amends the Pitcairn Court of Appeal Order 2000 (S.I. 2000/1341), which established a Court of Appeal for the Pitcairn Islands and provided for its jurisdiction and the practice and procedure for appeals to it from the courts of the Islands. Its main purpose is to give the judges of the Court greater security of tenure by protecting them from removal before a fixed retirement age except in defined circumstances and according to a prescribed procedure involving an independent tribunal and reference to the Judicial Committee of the Privy Council; and by preserving their remuneration, allowances and other terms and conditions while they are in office. The instrument also provides that the senior Justice of Appeal is to act as President in the absence of the substantive President if the Governor has not designated an acting President under article 3(4) of the 2000 Order.

5. Extent

5.1 This instrument applies to Pitcairn, Henderson, Ducie and Oeno Islands.

6. European Convention on Human Rights

Not applicable.

7. Policy background

7.1 It was considered appropriate, in consultation with the Governor and his legal advisers, to give the judges of the Pitcairn Court of Appeal the same security of tenure as is enjoyed by the judges of the Pitcairn Supreme Court under local legislation of the territory, and as is enjoyed by the judges of superior courts of other British overseas territories. The 2000 Order was out of date in this regard, providing as it did for the judges of the Court of Appeal to hold office during Her Majesty's pleasure on such terms and conditions as the Governor may prescribe. The opportunity was also taken to clarify the provision of the 2000 Order regarding the acting President of the Court.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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