

LAWS OF PITCAIRN, HENDERSON, DUCIE  
AND OENO ISLANDS

*Revised Edition 2001*

CHAPTER XXIX

**FISHERIES ZONE ORDINANCE**

---

Arrangement of sections

Section

1. Short title.
2. Interpretation.
3. Fisheries zone.
4. Access by foreign fishing boats to territorial seas.
5. Prohibition and licensing of fishing.
6. Fisheries officer.
7. Obstruction etc. of fisheries officer.
8. Non-liability of fisheries officers.
9. Forfeiture of boats, etc.
10. Security for release of foreign fishing boat.
11. Administrative penalties for minor offence.
12. Regulations.
13. Offences deemed committed in Pitcairn.
14. Interim measures.

Ordinances Nos:  
1 of 1980,  
4 of 1982.

An ordinance to establish a fisheries zone contiguous to the territorial seas of Pitcairn, Henderson, Ducie and Oeno Islands and to regulate fishing.

[21st July, 1980]

Short title.

**1.** This ordinance may be cited as the Fisheries Zone Ordinance.

Interpretation.

**2.** In this ordinance, unless the context otherwise requires—

“Court” means the Magistrate’s Court;

“fish” means all forms of aquatic animal life, whether piscine or not, and the young and eggs thereof;

“fisheries zone” means the fisheries zone established under section 3;

“fishery” means any one or more stocks of fish which can be treated as a unit for the purpose of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational and economic characteristics, and includes any fishing for any such stocks;

“fisheries resource” means any fishery, any stock of fish, any species of fish and any habitat of fish;

“fishing” means the catching, taking or harvesting of fish, and includes any other activity at sea in support of, or in preparation for, any such activity;

“fishing boat” means any boat, ship, vessel or other craft which is used for, equipped to be used for, or of a type normally used for, fishing, and includes any boat, ship, vessel, aircraft or other craft used for aiding or assisting any other boat, ship, vessel or other craft in any activity relating to fishing, including, but not limited to, preparation, processing, refrigeration, storage, supply or transportation;

“foreign fishing boat” means any fishing boat other than a Pitcairn boat;

“licensee” means the person to whom a licence is issued under the provisions of section 5;

“master”, in the case of any fishing boat, means the person for the time being having charge of that boat;

“mile” means the international nautical mile of one thousand eight hundred and fifty-two metres;

“Pitcairn boat” means any boat which is the public property of the Island Council, or which is operated on its behalf, or which is wholly owned by, or is

under exclusive charter to, any resident of Pitcairn Island;

“stock of fish” means a species, subspecies, geographical grouping or other category of fish capable of management as a unit; and

“territorial seas” means the territorial waters of Pitcairn, Henderson, Ducie and Oeno Islands.

3.—(1) There is established for Pitcairn, Henderson, Ducie and Oeno Islands a fisheries zone contiguous to the territorial seas of those islands.

Fisheries zone.

(2) Subject to the following provisions of this section, the fisheries zone comprises all areas of sea having as their outermost limits a line drawn seaward from the baselines from which the breadth of the territorial seas of those islands is measured, every point of which is at a distance of 200 miles from the nearest point of the appropriate baseline.

(3) The Governor may, by Proclamation, for the purpose, of implementing any international agreement or the award of any international body, or otherwise, declare that the outer limits of the fisheries zone extend to such other line, any point of which may be at a distance of less than 200 miles from the nearest point on the appropriate baseline, as may be specified in such Proclamation.

4.—(1) No foreign fishing boat may enter the territorial seas of any of the Islands except—

- (a) for a purpose recognised by International law; or
- (b) under the authority of a licence issued under the provisions of section 5.

Access by foreign fishing boats to territorial seas.

(2) Any foreign fishing boat which enters the territorial seas of any of the Islands for any purpose authorised under subsection (1) shall—

- (a) return outside the limits of those seas as soon as that purpose has been fulfilled;
- (b) not fish or attempt to fish while within those limits;
- (c) not load, unload or tranship any fish while within those limits without prior authorisation of the Governor;
- (d) have all of its fishing gear stowed in such manner as may be prescribed.

(3) In the event of the contravention of any of the foregoing provisions of this section in the case of any foreign fishing boat, the master, the owner and the charterer, if any, of the boat are each guilty of an offence and liable on conviction to a fine not exceeding one hundred thousand dollars each.

5.—(1) If he considers it necessary or desirable for the

Prohibition and licensing of fishing.

conservation and management of fisheries resources, the Governor may, by order, provide—

- (a) that, in any specified area within the limits of the territorial seas of any of the Islands or the fisheries zone, fishing by fishing boats, whether Pitcairn or foreign, is prohibited unless authorised by a licence issued under this section by a licensing authority designated by him in that order; and
- (b) that in any specified area outside those limits fishing by Pitcairn boats is prohibited unless authorised by such a licence.

(2) Such an order may apply to fishing generally in the area specified in the order or to fishing in all or any of the following cases—

- (a) for a specified description of fish;
- (b) during a specified season or other period;
- (c) for a specified quantity of fish;
- (d) by a specified method; or
- (e) in the case of an order made under paragraph (a) of subsection (1), by fishing boats registered in a specified country;

and whether the order is general or limited in scope it may provide for exceptions from the prohibition contained in it.

(3) If any fishing boat is used in contravention of any prohibition imposed by an order made under the provisions of this section the master, the owner and the charterer, if any, are each guilty of an offence and liable on conviction to a fine not exceeding one hundred thousand dollars each.

(4) A licence issued under the provisions of this section shall be issued to the owner or charterer in respect of a specific boat to be identified by name in the licence and may authorise fishing generally or may confer limited authority by reference to all or any of the following limitations, namely as to—

- (a) the area within which fishing is authorised;
- (b) the periods, times or particular voyages during which fishing is authorised;
- (c) the descriptions and quantities of fish which may be taken;
- (d) the method of fishing;
- (e) the type of fishing gear which may be used and the stowage of that gear when not in use;
- (f) the use, transfer, transhipment, landing and processing of fish taken;
- (g) the calling by the boat at Pitcairn Island;
- (h) statistical and other information required to be given relating to the operations of the boat including catch

and effort statistics and vessel position reports;

- (i) the conduct of fisheries research programmes;
- (j) the training of Pitcairn Islanders in the methods of fishing employed by the boat and the transfer to them of fisheries technology;
- (k) the production of the licence on demand by any fisheries officer;
- (l) the markings and other means of identification of the boat;
- (m) the installation and maintenance in working order on the boat of position fixing or other identification equipment: and
- (n) such other conditions as the Governor considers necessary or expedient for the regulation of fishing or the conservation and management of fisheries.

(5) If any fishing boat is used in contravention of any of the limitations or other conditions of a licence issued under the provisions of this section, the master and the licensee are each guilty of an offence and liable on conviction to a fine not exceeding twenty thousand dollars each

(6) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or any class of fishing boats, engaged in fishing in any area, or in fishing in any area for any description of fish, to such extent as appears to the Governor to be necessary or expedient for the regulation of fishing or for the purpose of conservation and management.

(7) The Governor may require any person, either on making application for a licence under the provisions of this section or at any time during the currency of any such licence, to deposit with him such sum of money as the Governor may specify, or such security in a like amount as may be approved by the Governor as a guarantee for the due performance of any obligation imposed by the provisions of this ordinance or of any licence issued thereunder; and if such person fails to make such deposit within thirty days or such further time as the Governor may permit, the application may be refused or the licence suspended or cancelled, as the case may be.

(8) A licence issued under the provisions of this section—

- (a) may be varied from time to time; and
- (b) may be revoked or suspended at any time;

if this appears to the Governor to be necessary or expedient for the regulation of fishing or for the purpose of conservation and management of fisheries.

(9) If a licence is varied, revoked, or suspended under the provisions of subsection (8) the Governor may, if he considers

it appropriate in all the circumstances of the case, refund the whole or any part of any charge made for the licence.

Provision concerning offences.

**5A.** For the purpose of determining whether an offence has been committed by any person against any provision of this ordinance, any fish found on board any vessel or in the possession of any person which do not comply with any restriction imposed by or pursuant to this ordinance shall be deemed in the absence of proof to the contrary (the onus whereof shall lie upon the person charged) to have been taken or acquired unlawfully in contravention of the provisions of this ordinance.

Fisheries officer.

**6.—(1)** The following persons shall be fisheries officers for the purpose of this ordinance, that is to say—

- (a) the Chairman of the Internal Committee;
- (b) the captain of any public boat;
- (c) any police officer;
- (d) any commissioned officer of Her Majesty's Armed Forces;
- (e) any person in command or charge of the nearest convenient port.

(2) For the purpose of enforcing the provisions of this ordinance a fisheries officer may exercise in relation to any fishing boat within the territorial seas or fisheries zone, and in relation to any Pitcairn fishing boat outside those limits, the following powers:

- (a) he or she may go on board that boat with or without other persons assigned to assist in his or her duties, and for that purpose may require the boat to stop and to do anything else which will facilitate the boarding of the boat;
- (b) he or she may require the attendance of the master and other persons on board and may make any examination or inquiry which appears to be necessary for the purpose of enforcing the provisions of this ordinance and, in particular:
  - (i) may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to be necessary to facilitate the examination; and
  - (ii) may require any person on board the boat to produce any documents relating to that boat or the persons on board which are in the custody or possession of that person and take copies of any such document.

Where it appears that a contravention of this ordinance has taken place, the fisheries officer may seize the boat together with its equipment, fishing gear, cargo and stores and may take the same and the crew to the port which appears to him or her to be the nearest convenient port and may detain the same and the crew until the completion of proceedings for the contravention.

7. Any person who—

- (a) wilfully obstructs any fisheries officer in the exercise of any powers under this ordinance; or
- (b) fails to comply with any lawful requirement imposed or to answer any lawful enquiry made by any fisheries officer under this ordinance; or
- (c) being on board any boat being pursued or about to be boarded by any fisheries officer throws overboard or destroys any fish, fishing gear or any other thing whatsoever;

Obstruction etc. of fisheries officer.

shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand dollars, and if the offence takes place on board or alongside a fishing boat, the master of that fishing boat shall be guilty of a like offence and liable to a like penalty.

8. No fisheries officer shall be personally liable in respect of any act done or omitted to be done by him or her in good faith in the execution or purported execution of any powers and duties under this ordinance.

Non-liability of fisheries officers.

9. On conviction of the master, owner or charterer, if any, of an offence under section 4 or 5, the Court may also order the forfeiture to the Crown of the fishing boat and any fish, fishing gear, apparatus, cargo and stores found therein or thereon.

Forfeiture of boats, etc.

10.—(1) Where any foreign fishing boat is detained under section 6, the master, owner or charterer of the boat may at any time before the determination of any proceedings or charge in respect of the offence for which the boat was detained apply to the Magistrate's Court for the release of the boat on the provision of security in accordance with this section.

Security for release of foreign fishing boat.

(2) On hearing the application, the Magistrate's Court shall order the release of the foreign fishing boat on the execution by any suitable person or persons approved by the Court for the purpose of a bond in favour of the Crown, in the prescribed form and conditioned in accordance with subsection (4), in an amount not less than the aggregate of the value of the boat

and the maximum fine to which the defendant will be liable if he or she is convicted of the offence.

(3) Notwithstanding subsection (2), the Court may, where it is satisfied that there are special circumstances to justify it in doing so, order that the bond shall be in a specified amount that is less than the amount required by that subsection.

(4) The condition of the bond shall be that if—

- (a) no proceedings are instituted against the master, owner or charterer of the detained boat within a period of six months from its seizure in respect of the offence for which the boat was detained; or
- (b) the defendant is found not guilty of the offence; or
- (c) the defendant on being convicted of the offence pays in full within 14 days after he or she is convicted the amount of the fine imposed by the Court and the foreign fishing boat is within that time surrendered to the Crown for forfeiture if so ordered by the Court;

then the bond shall be of no effect, but that otherwise the bond shall remain in full force and effect.

(5) The amount specified in the bond shall be recoverable in full as a debt due to the Crown jointly and severally by the person or persons by whom the bond is given, unless such person or persons prove the due performance of the condition on which the bond is defeasible.

(6) In this section, “foreign fishing boat” includes all equipment on board the boat.

Administrative penalties for minor offence.

**11.—(1)** Where the Governor has reasonable cause to believe that—

- (a) an offence against this ordinance or against any regulations made under section 12 has been committed by any person in respect of any foreign fishing boat;
- (b) the said offence is of a minor nature; and
- (c) having regard to the previous conduct of the boat and the person concerned in the territorial seas of any of the Islands or the fisheries zone, it would be appropriate to impose a penalty under this section,

he may cause a notice in writing in accordance with subsection (2) and otherwise in the prescribed form to be served on that person.

(2) A notice under subsection (1) shall specify—

- (a) the date and nature of the offence;
- (b) a summary of the facts on which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the

- person of the allegation against him or her); and
- (c) any other matters (not being previous convictions) that the Governor considers relevant to the imposition of a penalty,

and shall be endorsed with a statement setting out the provisions of this section.

(3) Any person on whom a notice under subsection (1) is served may within 28 days after the notice is served on him or her, by notice in writing in the prescribed form served on the Governor require that proceedings in respect of the alleged offence shall be dealt with before the Court, in which case the following provisions shall apply

- (a) no further proceedings shall be taken under this section by the Governor;
- (b) nothing in this section shall be construed to prevent the subsequent laying of any information or charge in respect of the alleged offence or the conviction of the person of the offence by the Court, or the imposition of any penalty or forfeiture under this ordinance upon such conviction.

(4) Any person on whom a notice under subsection (1) is served, who does not require that proceedings in respect of the alleged offence shall be dealt with before the Court, may by notice in writing served on the Governor—

- (a) admit the offence; and
- (b) in any case make submissions to the Governor as to the matters he or she wishes the Governor to take into account in imposing any penalty under this section.

(5) Where a person on whom a notice under subsection (1) is served does not within 28 days after notice is served on such person—

- (a) require that proceedings in respect of the alleged offence shall be dealt with before the Court; or
- (b) admit the offence,

that person shall on the expiration of that period be deemed to have admitted the offence.

(6) Where under this section a person admits or is deemed to have admitted an offence, the Governor may, after taking into account any submissions made by that person under subsection (4), impose a monetary penalty on that person in respect of the offence not exceeding one-third of the maximum monetary penalty to which the person would be liable if he or she were convicted of the offence by the Court.

(7) Where the Governor imposes a penalty on a person under this section in respect of an offence, the Governor shall cause

a notice in writing in the prescribed form of the particulars of the penalty to be served on the person.

(8) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on him in accordance with subsection (7).

(9) Without prejudice to the requirements of subsection (8), a penalty imposed under this section shall be recoverable by the Crown from the person on whom it has been imposed in the same manner as a fine is recoverable on summary conviction for any offence.

(10) Notwithstanding the provisions of sections 4, 6, 10 and 12, or of any other enactment, where any offence has been admitted or is deemed to have been admitted under this section, no information or charge may be laid in respect of the offence against any person by whom it is admitted or is deemed to have been admitted.

(11) Nothing in this section shall apply—

- (a) in respect of any offence or alleged offence under subsection (3) of section 4 or subsection (3) of section 5, or;
- (b) in respect of any offence or alleged offence in respect of which any information or charge has already been laid in any Court.

Regulations.

**12.**—(1) The Governor may make Regulations for all or any of the following purposes—

- (a) prescribing the procedure and forms for application for and granting and renewal of licences under the provisions of this ordinance;
- (b) prescribing the terms and duration of licences;
- (c) prescribing the forms of licences that may be issued;
- (d) prescribing the classes of licences that may be issued which may include different classes of licences, whether by reference to size of boat, size of catch, method of fishing, species of catch or otherwise;
- (e) prescribing the fees payable for licences, which may include different fees for different classes of licences;
- (f) providing for the production of licences for inspection when required by a fisheries officer or other specified authorities;
- (g) prescribing conditions under which foreign fishing boats may fish in the territorial seas and the fisheries zone;
- (h) prescribing measures for the conservation and management of fisheries resources within the

territorial seas and the fisheries zone;

- (i) prescribing measures for ensuring that foreign fishing boats comply with the limitations and conditions of their licences;
- (j) prescribing the manner in which and times when fishing gear is to be stowed;
- (k) prescribing the form of bonds for the purpose of section 10; and
- (l) providing for such other matters as appear to him to be necessary for giving full effect to the provisions of this ordinance.

(2) Any person who contravenes or fails to comply with the provisions of any regulations made under subsection (1) shall be guilty of an offence and, where no other penalty is prescribed, shall be liable on conviction to a fine not exceeding three thousand dollars.

**13.** Any offence against the provisions of this ordinance which is committed within the fisheries zone shall be deemed to have been committed in Pitcairn Island.

Offences deemed committed in Pitcairn.

**14.** Pending the making of any order or regulation under the foregoing provisions of this ordinance, the Governor may, by order, prescribe interim measures for the management of fisheries resources within or beyond the territorial seas of the islands and for the limitation of foreign fishing.

Interim measures.