

PITCAIRN, HENDERSON

DUCIE & OENO ISLANDS

No 1 of 2016

**SENTENCING (HOME DETENTION) AMENDMENT REGULATIONS 2016**

Made by the Governor in exercise of the powers conferred by section 122(a) of the Sentencing Ordinance (cap. 35)

Date: 24 February 2016

Regulations to prescribe forms consistent with changes to the revised home detention provisions

Principal  
Regulations

1. These regulations amend the Sentencing (Prescribed Forms) Regulations 2004 (the **Regulations**).

Form 1 amended

2. Form 1 of the Schedule of the Regulations is amended by deleting the passage from the subheading "Home detention" to the words "\*Delete one".

New Form 6

3. The Form in Schedule 1 below is inserted after Form 5 in the Schedule of the Regulations.



JONATHAN SINCLAIR  
GOVERNOR

## SCHEDULE

### FORM 6 - Order for sentence of home detention

*Section 76A and 76W, Sentencing Ordinance*

Case No:

To [full name] of [address], [occupation]

At a sitting of the [court and place] this [date] you were sentenced to home detention for a period of [specify period] for [offence] to be served at the home detention residence at [address].

\*This sentence is cumulative on [specify cumulative sentences]. \*Delete if inapplicable

\*The start date of the sentence is the date of this order, or the expiry of any sentence this order is cumulative upon (if applicable).

OR if deferred:

\*The start date of your sentence was deferred under section 76R of the Sentencing Ordinance. The start date of your sentence is [deferred start date]. \*Delete one

\*You must go to and remain at the residence where the sentence is to be served immediately upon receiving this order, unless a Supervision Officer has authorised you to be absent for a particular reason.

OR if deferred:

\*You must go to and remain at the residence where the sentence is to be served on [deferred start date], unless a Supervision Officer has authorised you to be absent for a particular reason. \*Delete one

#### Conditions

The standard conditions of home detention are set out in section 76C of the Sentencing Ordinance (a list of which is attached to this form).

\*In addition to the standard conditions for home detention, the Court imposed the following special conditions under section 76D of the Sentencing Ordinance: [specify special conditions]. \*Delete if inapplicable.

\*Post-detention conditions apply or have been imposed by the Court under section 76L of the Sentencing Ordinance (a list of which is attached to this form) and will apply to your home detention sentence for a period of [duration] from the detention end date.

\*Delete if inapplicable.

\*In addition to the standard post-detention conditions the Court imposed the following special post-detention conditions under section 76L: [*specify special post-detention conditions*].

*\*Delete if inapplicable.*

**Consequences of non-compliance**

Failure to comply with the terms of this sentence, without reasonable excuse, may result in you being charged under section 76N of the Sentencing Ordinance with an offence punishable by a maximum of 1 year's imprisonment or a fine not exceeding \$2,000.

Any person who refuses or fails, without reasonable excuse, to allow a Supervision Officer to enter the home detention residence at a time when you are required to be at the residence, may be charged under section 76O(1) of the Sentencing Ordinance with an offence punishable by a maximum of 3 months' imprisonment or a fine not exceeding \$5,000.

Any person who refuses or fails, without reasonable excuse, to allow an authorised person to enter the home detention residence at any time for the purpose of servicing or inspecting the electronic monitoring equipment, may be charged under 76O(2) of the Sentencing Ordinance with an offence punishable by a maximum of 3 months' imprisonment or a fine not exceeding \$5,000.

Failure to comply with the post-detention conditions, without reasonable excuse, may result in your being charged with an offence under section 76P of the Sentencing Ordinance.

**Variation or cancellation of sentence**

You, or your Supervision Officer, may apply under section 76F of the Sentencing Ordinance for variation or cancellation of this sentence if you are unable to comply with its terms, or if one of the other grounds for variation or cancellation in that section applies.

**Variation or discharge of post-detention conditions**

You, or your Supervision Officer, may apply under section 76M of the Sentencing Ordinance for variation or discharge of your post-detention conditions.

Dated at the [*specify*] Court at [*place*] on [*date*].

.....

Registrar

### **Standard conditions of sentence of home detention**

Under section 76C of the Sentencing Ordinance, the following conditions apply to every sentence of home detention:

- (a) the offender is under the supervision of the Supervision Officer and must co-operate with the Supervision Officer and comply with any lawful direction given by that Supervision Officer;
- (b) the offender must not leave the home detention residence at any time except in the circumstances set out in section 76C(3) or (4) of the Sentencing Ordinance (see below);
- (c) the offender must keep in his or her possession this order and, if requested to do so by a member of the police or the Supervision Officer, must produce the order for inspection;
- (d) the offender must, when required by the Supervision Officer, submit to the electronic monitoring of compliance with his or her detention conditions;
- (e) the offender must not engage, or continue to engage, in any employment or occupation in which the Supervision Officer has directed the offender not to engage or continue to engage;
- (f) the offender must not associate with any specified person, or with persons of any specified class, with whom the Supervision Officer has, in writing, directed the offender not to associate;
- (g) the offender must take part in a rehabilitative and reintegrative needs assessment if and when directed to do so by the Supervision Officer.

Section 76C(3) of the Sentencing Ordinance provides that the offender must not leave the home detention residence at any time except in the following circumstances:

- (a) to seek urgent medical or dental treatment; or
- (b) to avoid or minimise a serious risk of death or injury to the offender or any other person; or
- (c) with the approval of the Supervision Officer—
  - (i) to comply with any special condition; or
  - (ii) to seek or engage in employment; or
  - (iii) to attend training or other rehabilitative or reintegrative activities or programmes; or
  - (iv) to attend a restorative justice conference or other process relating to the offender's offending; or
  - (v) to carry out any undertaking arising from any restorative justice process; or
  - (vi) for any other purpose specifically approved by the Supervision Officer.

Section 76C(4) of the Sentencing Ordinance provides that the Supervision Officer may approve an alternative residence pending determination of an application to vary the home detention residence under section 76F.

### **Standard post-detention conditions of sentence of home detention**

Section 76 of the Sentencing Ordinance provides that conditions of the sort described in s 11(1) of the Parole Ordinance apply to every offender subject to post-detention conditions. Those conditions are:

- (a) the offender must report in person to the Supervision Officer as soon as practicable and not later than 72 hours after the detention end date;
- (b) the offender must report in person to the Supervision Officer as and when required to do so by the Supervision Officer and must notify the Supervision Officer of his or her residential address and the nature and place of his or her employment when asked to do so;
- (c) the offender must not move to a new residential address without the prior written consent of the Supervision Officer;
- (d) the offender must not reside at any address at which the Supervision Officer has directed the offender not to reside;
- (e) the offender must not engage, or continue to engage, in any employment or occupation in which the Supervision Officer has directed the offender not to engage or continue to engage;
- (f) the offender must not associate with any specified person, or with persons of any specified class, with whom the Supervision Officer has, in writing, directed the offender not to associate;
- (g) the offender must take part in a rehabilitative and reintegrative needs assessment if and when directed to do so by the Supervision Officer.