

**PITCAIRN, HENDERSON, DUCIE
AND OENO ISLANDS**



No. 2 of 2006

M. F. S.

28 APRIL 2006

**Enacted by the Governor of the
Islands of Pitcairn, Henderson,
Ducie and Oeno**

**An ordinance to control immigration of persons into Pitcairn Island
to provide for their status, rights, obligations and disabilities
and for related or incidental matters**

PART I

Preliminary

Citation and
commencement

1. This ordinance may be cited as the Immigration Control Ordinance 2006 and shall come into operation on the day after it is made.

Interpretation

2. (1) In this ordinance, unless the context otherwise requires,

Commissioner means the person for the time being holding the office of Commissioner for Pitcairn

dependant, in relation to a person, means

- (a) the spouse of that person; and
- (b) a child, step-child, adopted child, grandchild, parent, step-parent, grandparent, brother, sister, half-brother or half-sister of the person if the dependant is wholly or substantially dependant upon that person;

former ordinance means the Landing and Residence Ordinance 1954, renamed the Immigration Ordinance in 2003, and, where necessary, includes the Immigration Regulations 2003;

immigration officer means the Chief Immigration Officer or an immigration officer appointed under section 3;

owner, in relation to a vessel, shall include a corporate body;

Pitcairn and the Island mean Pitcairn Island;

Pitcairn Islands and the Islands mean Pitcairn Island and the territorial waters of the whole Pitcairn Group of Islands;

work permit means a permit granted in accordance with Part IX.

(2) Any notice or other document sent by an immigration officer under this ordinance shall be deemed to have been received by the addressee in the ordinary course of post, delivery, facsimile or other form of communication, as the case may be, without proof thereof.

PART II

INITIAL ADMINISTRATION AND CONTROL

Appointment of immigration officers

3. (1) The Governor may by notice published in the Islands appoint public officers to be immigration officers under this ordinance provided that the Mayor shall be *ex officio* the Chief Immigration Officer.

(2) An immigration officer shall have the rights, powers, privileges and immunities of a police officer in the exercise of his or her duties under this ordinance.

Powers and duties of immigration officers

4. (1) Subject to the following provisions, an immigration officer shall initially determine whether any person who wishes to enter the Island shall be allowed to land.

(2) Every vessel arriving at Pitcairn Island shall cause its presence to be notified to the Chief Immigration Officer.

(3) The master shall, immediately upon its arrival, deliver to an immigration officer, if so requested by him or her, a correct manifest containing the names and destinations of all passengers on such vessel; a master who fails to comply with this subsection is guilty of an offence.

(4) An immigration officer may board any vessel and search any part thereof for the purpose of exercising any part of his or her duties under this ordinance.

(5) An immigration officer may question and search any person who arrives at Pitcairn Island for the purpose of establishing his or her nationality, identity and status:

Provided that every person shall be searched by an immigration officer of the same gender.

(6) A person arriving at Pitcairn Island wishing to obtain leave to enter shall produce to an immigration officer a valid passport with a photograph or other document establishing his or her identity, nationality and citizenship.

(7) A person arriving at Pitcairn Island must have a valid entry clearance issued by the Pitcairn Island Office or qualify as a short-term visitor under section 6.

(8) An immigration officer may refuse leave to enter if he or she is not satisfied that the applicant for an entry clearance did not make a false statement to obtain entry.

(9) Where the immigration officer is not satisfied that the requirements of this ordinance have been complied with, he or she may refuse such person seeking to enter Pitcairn Island permission to do so and shall direct the master of the ship on which he or she arrives to remove that person from Pitcairn on that ship. The Chief Immigration Officer shall notify the applicant that leave to enter has been refused and give the reasons for refusal. The Chief Immigration Officer shall also inform the applicant that there is no right of appeal against the decision. Failure by the master to comply with that direction shall be an offence.

(10) Without prejudice to the powers and duties provided for in the foregoing subsections, an immigration officer who reasonably suspects that the presence of any person on the Island is in contravention of any provision of this ordinance may detain such person for a period not exceeding forty-eight hours. Any person so detained shall be deemed to be in lawful custody.

Restriction on certain vessels carrying fare-paying passengers

5. (1) The Master, or any other responsible officer, of any vessel carrying more than four fare-paying passengers must apply to the Commissioner at least ten days in advance for permission to call at the Island. In default of permission having been obtained the passengers of the vessel will be ineligible to seek entry clearance on arrival.

(2) Subject to subsection (3), an application under subsection (1) may be refused if the Governor, in his absolute discretion and without stating the reasons, considers that the arrival of the vessel in question may be hazardous on maritime grounds or for any other security risk or that the required landing fees may not be paid or for any other reason the application should not be granted in the public interest.

(3) The Chief Immigration Officer may in his or her discretion exempt any particular vessel carrying more than four fare-paying passengers from the application of this section if this is deemed to be in the public interest.

PART III

CATEGORIES OF ENTRY CLEARANCE

Short-term visitors

Grant of short-term entry clearance

6. (1) The Chief Immigration Officer or any immigration officer or police officer authorised to act on his or her behalf shall be entitled to grant leave to enter to any person arriving and undertaking to depart on the same vessel after a visit not exceeding 14 days.

(2) The immigration officer may refuse the application on any of the following grounds

- (a) that he or she is not satisfied that the applicant intends to leave within 14 days on the same vessel;
- (b) that he or she considers the applicant to be likely to pose a security or health risk;
- (c) that the applicant has not arranged adequate accommodation or is likely to become a charge on public funds, including any medical expenses;
- (d) that the applicant is unable to pay the required landing fee;
- (e) that the applicant is prohibited from landing by order of the Governor or by another authority binding upon the officer;

- (f) that the applicant does not hold a valid passport or other travel document;
- (g) that the applicant has arrived on a charter vessel carrying more than four fare-paying passengers for which no prior application has been made nor an exemption granted by the Chief Immigration Officer.

(3) If the applicant meets the criteria in subsection (2), the officer shall endorse his or her passport with a stamp signifying that the applicant has leave to enter for a maximum period of fourteen days.

Long-term visitors

Long-term
visitors

7. (1) This section applies to persons who do not qualify as short-term visitors under section 5 but intend to remain on the Island for less than six months.

(2) Applicants for long-term visit entry clearance must apply on the specified form in advance of arrival to the Commissioner for Pitcairn at the offices of the Pitcairn Island Office in Auckland, New Zealand.

(3) The consideration and disposal of such applications shall be in accordance with the procedure prescribed in this ordinance.

Business visitors

Business
visitors

8. (1) This section applies to professional, business and commercial persons of all varieties who wish to enter Pitcairn by reason of their calling or occupation, whether or not their visit is intended to generate any profit, income, reward or assets whatever.

(2) Every person to whom subsection (1) applies, including news crews, makers of documentary films, researchers, and charter operators, must obtain a business visit entry clearance by application on the specified form to the Commissioner for Pitcairn upon the disclosure of such information and the payment of such fees as may be prescribed.

(3) The validity of a business entry clearance will expire on the expiration of the stated purpose of the holder's visit or any extension thereof which may in the discretion of the Chief Immigration Officer be permitted under section 10, prior to the expiry of the term of the existing permission. The holder must depart from the Island thereafter as soon as possible. Failure to do so will be an offence.

Refusal of long-term or business entry clearance

Refusal of long-term or business clearances

9. An application for a long-term or business entry clearance will be refused in all cases in which the Council or the Commissioner, acting on behalf of the Governor, is not satisfied that

- the applicant has truthfully stated his or her circumstances and intentions in wishing to travel to the Islands;
- ii the applicant will leave the Islands at the end of the specified stay or will apply for an extension as required;
- iii the applicant has sufficient funds for support of the applicant and any dependants and has arranged adequate accommodation;
- the applicant will not seek work on Pitcairn unless prior authorisation has been granted by the Commissioner in consultation with the Island Council;
- v it is in the public interest to grant entry to the applicant
- vi in the case of an applicant intending to benefit professionally or commercially, he or she will respect the culture and heritage of Pitcairn;
- vii the person is not otherwise prohibited from entering by order of the Governor or otherwise by reason of any restriction of national or international law;
- viii the applicant holds a valid passport or travel document.
- ix the applicant will not pose a security or health risk.

PART IV

EXTENSIONS FOR SHORT- AND LONG-TERM VISITORS

Short-term clearances may be extended

10. (1) When any visitor has been granted leave to enter in accordance with the provisions of section 6, he or she may apply, after having landed under that authority but no later than the prescribed duration of that visit, to the Chief Immigration Officer for an extension of the visit by a period of not more than five months.

(2) After ascertaining the grounds upon which an application is made under subsection (1), the Chief Immigration Officer shall refer the application to the Island Council who shall submit the same to the Commissioner, together with its recommendation, for decision.

(3) If the application is granted the visitor will thereafter be deemed to be a long-term visitor.

Extension of
long-term visits

11. Any long-term entry clearance granted under the provisions of section 7 may be extended during, but not after, the term of the visit specified, by application to the Island Council who shall refer the same to the Commissioner, together with its recommendation, for decision. The holder of such entry clearance must depart from the Island on the expiry of his or her permitted visit if he or she has not obtained or applied for an extension. Failure to depart will be an offence.

PART V

ENTRY CLEARANCE FOR SETTLEMENT

Permanent
settlement

12. (1) This section applies to persons wishing to enter Pitcairn for permanent settlement indefinitely within the following categories

- i spouses (whether legally married or not) and dependant children of a person lawfully residing on Pitcairn or admitted for settlement;
- ii persons wishing to join other members of their families, namely, the children or parents or siblings of the applicant who are permanent residents of Pitcairn Island or have been granted entry for settlement;
- iii persons (including their dependant children) not having the family ties referred to in paragraphs (i) and (ii) but who wish to move to Pitcairn to live and who have relevant skills which would contribute to the welfare of the Pitcairn community.

(2) Persons within the categories described in subsection (1) must apply for settlement entry clearance on the prescribed form to the Commissioner who will refer the application to the Island Council. The Council will consider the matter and convey its recommendation to the Governor stating the reasons.

(3) Criteria for granting a settlement entry clearance will be -

- (a) proof of the family relationship relied upon under paragraphs (i) or (ii);
- (b) arrangement in advance of adequate accommodation for applicant(s) including dependants and the means to construct a separate dwelling after two years;
- (c) not to be a charge on public funds (including dependants) for any reason including medical condition;

- (d) in the case of category (iii), particulars of ability to support applicants and families and details of their potential contribution to the community, to the satisfaction of the Island Council and the Governor;**
- (e) the intention of the applicant to remain permanently on the Island for the indefinite future without retaining a domicile in any other country;**
- (f) the conclusion of the Governor in his absolute discretion that the granting of settlement entry clearance is likely to be in the public interest.**

(4) In the event that the Governor approves the granting of a settlement entry clearance the applicant will be issued with an entry clearance permit by the Commissioner. This must be presented on arrival at the Island to an immigration officer by the applicant(s) within twelve months of issue. Failure to do so will render it null and void. Subject to the provisions of Section 4(8), the applicant will be granted leave to enter by the immigration officer which shall be reviewed after two years by the Island Council whose recommendation with detailed reasons shall be sent to the Governor for final decision. The recommendation may be that

- i. permanent residence be granted;**
- ii permanent residence be refused;**
- iii the decision should be deferred for a further twelve months for the final decision of the Governor for reasons stated.**

(5) If permanent residence is granted, the Governor will convey this in writing and the immigration officer will endorse the applicant's passport accordingly with a stamp signifying the grant of status of permanent resident.

(6) If permanent residence is refused by the Governor the applicant will be informed of the reasons in writing and required to leave the Island;

(7) If the Governor directs in accordance with the recommendation of the Council that the decision be deferred for 12 months, the Governor's decision after that period shall be final and shall not be called into question in any proceedings in any court whatever.

PART VI

PERMANENT RESIDENCE SPECIAL PROVISION

Status of certain persons born away from Pitcairn.

13. Any person born away from Pitcairn to a parent having at that time the status of permanent residence, who returns to the island with that parent whilst under the age of 5 years, shall be entitled to be granted permanent residence.

PART VII

LOSS OF STATUS OF PERMANENT RESIDENCE

Loss of permanent resident status
By absence
From Pitcairn

14. After the commencement of this ordinance, any person to whom the status of permanent residence has been granted who is absent from Pitcairn for more than an aggregate of 48 months during any continuous period of 5 years shall lose that status by operation of law.

PART VIII

EXEMPTION FROM CONTROL

Exemptions from application of this ordinance

- 15 (1) This ordinance does not apply to the following
- (a) British Overseas Territories Citizens with the right of abode in Pitcairn;
 - (b) any person who immediately before the commencement of this ordinance held the status of permanent resident granted by the Governor under the provisions of section 4(2A) of the former law;
 - (c) any person having obtained the status of permanent resident in accordance with the provisions of section 12 or section 13;
 - (d) public officers;
 - (e) any person visiting the Islands at the request or with the consent of the Governor for the purpose of providing specialist services or undertaking scientific or other research;
 - (f) any class of persons exempted by the Governor.

cap.11

(2) For the avoidance of doubt, nothing in subsection (1) is intended to affect the provisions of the Local Government Ordinance as to qualification for voting or candidature for office.