

LAWS OF PITCAIRN, HENDERSON, DUCIE
AND OENO ISLANDS

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CHAPTER XLII

**ENDANGERED SPECIES PROTECTION
ORDINANCE**

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ENDANGERED SPECIES PROTECTION ORDINANCE

An ordinance to provide for the protection of endangered, endemic and indigenous species of animals and plants and to regulate the trade in endangered species

[26 May 2004]

Short title

1. This ordinance may be cited as the Endangered Species Protection Ordinance.

Interpretation

2. In this ordinance, unless the contrary intention appears—

authorised person means a person empowered in writing by the Management Authority or the Governor to perform any specified function under this ordinance;

CITES means the Convention on International Trade in Endangered Species of Wild Fauna and Flora that was concluded in Washington on 3 March 1973; and references to any particular provision of CITES are references to that provision as it appears in the version of CITES, as is in force at the relevant time, that is published in the Treaty Series issued by Her Majesty's Stationery Office in the United Kingdom;

export means to take, or cause to be taken, out of the Islands;

import means to bring, or cause to be brought, into the Islands, including for the purpose of export;

introduction from the sea means transportation into the territory of specimens of any species which were taken in the marine environment not under the jurisdiction of the territory

Management Authority means the Management Authority for the Islands for the purpose of CITES, as provided for in section 4;

protected goods means any specimen of a species that is for the time being included in Appendix I, Appendix II or Appendix III to CITES;

re-export means export of any specimen that has previously been imported;

Scientific Authority means the Scientific Authority for the Islands for the purpose of CITES, as provided for in section 5;

species means any species, subspecies or geographically separate population thereof;

specimen means

(i) any animal or plant, whether alive or dead;

- (ii) in the case of an animal: for species included in Appendices I and II, any readily recognisable part or derivative thereof; and for species included in Appendix III, any readily recognisable part or derivative thereof specified in Appendix III in relation to the species; and
- (iii) in the case of a plant: for species included in Appendix I, any readily recognisable part or derivative thereof; and for species included in Appendices II and III, any readily recognisable part or derivative thereof specified in Appendices II and III in relation to the species;

the Islands means the Islands of Pitcairn, Henderson, Ducie and Oeno or any of them;
trade means export, re-export, import and introduction from the sea.

3.—(1) Save in accordance with a licence issued by the Management Authority under this ordinance, the exportation or the importation of any protected goods is prohibited. Any such licence may be revoked or modified by the Authority at any time.

Restrictions on
exportation or
importation of
protected goods

(2) A licence issued under this ordinance shall be in accordance with the provisions of Article VI of CITES and in the case of exportation of any protected goods may be used only within six months of the date upon which it was issued.

(3) The reference in subsection (1) to a licence issued under this ordinance is a reference to such a licence issued prior to the exportation or importation to which it relates:

Provided that the Management Authority may in any exceptional case to which subsection (4) applies and when satisfied that proper regard is being had to the relevant recommendations in that behalf issued by the competent authority under CITES, issue a licence in respect of an exportation or an importation that has already taken place.

(4) This subsection applies to any case where the failure to license prior to exportation or importation is not attributable to the exporter or the importer and the export and import of the specimens concerned are otherwise in compliance with CITES and the relevant legislation of the countries of export and import.

(5) Where any protected goods are being exported or imported or have been imported, a Police Officer or other authorised person may require any person having possession or control of those goods to furnish proof that its exportation

or importation is or was not unlawful under this section; and if such proof is not furnished to the satisfaction of the Management Authority, the goods shall be forfeited to the Crown and shall be disposed of in such manner as the Governor may direct.

(6) Any person who contravenes subsection (1) commits an offence and shall be liable—

- (a) on summary conviction in the Magistrate's Court, to a fine not exceeding \$1000 or imprisonment for a term not exceeding 18 months; or
- (b) on conviction on information by the Supreme Court, to a fine not exceeding \$1,000,000 or imprisonment for a term not exceeding 5 years.

(7) Where any person is convicted of an offence under subsection (6) the goods in respect of which the offence was committed shall, without further order, be forfeited to the Crown and shall be disposed of in such manner as the Governor may direct.

(8) Any person who, for the purpose of obtaining, whether for himself or herself, or for another, the issue of a licence under subsection (1) above—

- (a) makes any statement which he or she knows to be false in a material particular; or
- (b) furnishes a document or information which he or she knows to be false in a material particular; or
- (c) recklessly makes a statement or furnishes a document or information which is false in a material particular,

commits an offence and shall be liable, on summary conviction, to a fine not exceeding \$2000 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

Management
Authority

4.—(1) The Management Authority for the Islands for the purpose of CITES shall be such person or persons as the Governor shall from time to time appoint in that behalf.

(2) Before exercising any of its powers under section 3 involving a scientific question, the Management Authority shall obtain the advice of the Scientific Authority:

Provided that the exercise of any such power involving a scientific question, shall not be invalidated by reason only of a failure to comply with this subsection.

Scientific Authority

5.—(1) The Scientific Authority for the Islands for the purpose of CITES shall be such person or persons as the Governor shall from time to time appoint in that behalf.

(2) The function of the Scientific Authority is to advise the

Management Authority or, as appropriate, the Governor—

- (a) on the exercise of the Management Authority's powers under section 3 which involve a scientific question;
- (b) on any matter relating to the administration of this ordinance on which its advice is sought or on which it wishes to tender advice; and
- (c) generally, on matters relating to endangered species on which its advice is sought or on which it wishes to tender advice.

6.—(1) Notwithstanding the powers conferred upon the Management Authority by section 3, the Governor may by order—

Power to make orders
to protect certain
species

- (a) prohibit the importation or exportation of any article or substance the importation or exportation of which is liable to endanger the welfare or continued existence in the Islands of any plant or animal; or
- (b) prohibit the taking, damaging or killing of any specific plant or animal; or
- (c) prohibit the use of an article or substance the use of which is liable to damage the welfare or continued existence in the Islands of any plant or animal; or
- (d) prohibit the growing or cultivation of any plant if the growing or cultivation of the plant is liable to damage the welfare or continued existence in the Islands of any plant or animal; or
- (e) prohibit the keeping of any animal if the keeping of the animal is liable to damage the welfare or continued existence in the Islands of any plant or animal.

(2) The Governor may by Order require the owner or occupier of any land to remove within the period specified in the Order any plant or species of plant growing on the land if the growth of that plant or species of plant is liable to damage the welfare or continued existence in the Islands of any plant or animal.

(3) The Governor may by Order declare any area of land to be an endemic management zone where habitat protection measures specified in the Order are in force.

(4) An Order made under this section may be to any degree general or specific but shall in any event include any goods that are protected goods.

(5) Any person failing to comply with an order made under subsection (1) of this section commits an offence and is liable

- (a) on summary conviction in the Magistrate's Court, to a fine not exceeding \$1000 or imprisonment for

a term not exceeding 18 months; or

- (b) on conviction on information by the Supreme Court, to a fine not exceeding \$1,000,000 or imprisonment for a term not exceeding 5 years.

(6) Any person failing to comply with an order made under subsection (2) of this section commits an offence and is liable, on summary conviction, to a fine not exceeding \$1000.

(7) Any person failing to comply with a habitat protection measure specified in an Order made under subsection (3) of this section commits an offence and is liable, on summary conviction, to a fine not exceeding \$1000.

Limitation on Orders made under section 6

7. An Order cannot be made under section 6 except to protect and encourage the continued existence of any species of plant or animal endemic or indigenous to the Islands

Offences by company, etc.

8.—(1) If an offence under this ordinance is committed by a company, firm, or other association of individuals whether incorporated or not, each—

- (a) director and officer of the company; or
- (b) partner and officer of the firm; or
- (c) member and person concerned in the management of the affairs of the association,

as the case may be, is severally liable to be prosecuted and punished for the offence as a principal offender, unless the act or omission constituting the offence took place without his or her knowledge, consent or connivance.

(2) A person may be prosecuted by virtue of subsection (1) whether or not the company, firm or other association of individuals is prosecuted.

Stop and search powers

9.—(1) The powers conferred by this section are without prejudice to the powers conferred, in any particular case, by any other law as to criminal procedure or evidence in force in the Islands.

(2) For the purposes of this ordinance, any Police Officer or other authorised person may—

- (a) stop, board and search any ship, aircraft or vehicle if he or she has reason to suspect that there is therein anything liable to seizure; and
- (b) stop and search any person and search the property of any person if he or she has reason to suspect that that person has in his or her possession anything liable to seizure; and
- (c) enter and search any premises, being premises in which he or she has reason to suspect that an imported living specimen is being held, for the purpose of ascertaining whether any condition to

which the relevant importation licence is subject and which relates to the housing or care of that specimen is being complied with:

Provided that no person shall be searched in pursuance of the powers conferred by paragraph (b) otherwise than by a person of the same gender.

(3) Where it appears to a Magistrate upon the oath of any person, that there is reasonable cause to believe that there is in any place or premises, anything liable to seizure, he or she may, by warrant directed to a Police Officer or any other authorised person, empower him or her to enter, by force if necessary, and search the place or premises named in the warrant and to seize anything therein which is liable to seizure.

(4) For the purposes of this section, any protected goods imported in contravention of this ordinance are liable to seizure.

10. This ordinance binds the Crown but nothing in this ordinance renders the Crown liable to prosecution for an offence under this ordinance.

Application to Crown

11. Part III of the Local Government Regulations entitled “PLANT AND ANIMAL QUARANTINE” is hereby revoked.

Revocation

12. The Governor shall have power, after consultation with the Management Authority, to make any rules for the efficient administration and implementation of this ordinance.

Rules

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

**NOTICE OF APPOINTMENT OF SCIENTIFIC
AUTHORITY**

In exercise of the powers conferred by section 2 of the
Endangered Species Protection Ordinance 2004

I hereby appoint the person holding office for the time being
as Director of Bio-Security to be the Scientific Authority for
the Islands for the purpose of the Convention on International
Trade in Endangered Species of Wild Flora and Fauna
concluded in Washington on 3 March 1973.

Dated the 28th day of May 2004

Richard T. Fell
Governor

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

**NOTICE OF APPOINTMENT OF MANAGEMENT
AUTHORITY**

In exercise of the powers conferred by section 2 of the
Endangered Species Protection Ordinance 2004

I hereby appoint the person holding office for the time being as
Deputy-Governor of the islands as management Authority for
the Islands for the purpose of the Convention on International
Trade in Endangered Species of Wild Flora and Fauna
concluded in Washington on 3 March 1973.

Dated the 28th day of May 2004

Richard T. Fell
Governor