

PITCAIRN, HENDERSON

DUCIE & OENO ISLANDS

No

of 2022

MARINE CONSERVATION REGULATIONS 2022

Made by the Governor, in consultation with the Island Council, under s 14 of the Pitcairn Islands Marine Protected Area Ordinance 2016

DATE MADE: 11 October 2022

SIGNED: *Iona Th*

(Governor)

(Mayor)



DATE PUBLISHED:

Arrangement of regulations

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MARINE CONSERVATION REGULATIONS 2022

Regulations to give full effect to the Pitcairn Islands Marine Protected Area Ordinance 2016, by setting out regulated activities and creating a permitting system

PART I - PRELIMINARIES

- Citation 1. These Regulations may be cited as the Marine Conservation Regulations 2022.
- Commencement 2. –(1) Regulations 1 – 4, 12 – 16, 22, 31, and 37 – 42 come into force the day after they are made.
- (2) Regulations 5 – 11, 17 – 21, 23 – 30, and 32 – 36 shall come into force on a date specified by Order of the Governor.
- Interpretation 3. –(1) In these Regulations:
- artisanal fishing** means fishing –
- (a) for the purpose of consumption or use by the person fishing, their family (including family living outside of Pitcairn), or any person staying in their home or any other property used by them to host homestay guests, and includes fishing for a reasonable amount for such a purpose; and
 - (b) for gifting to other lawful residents of Pitcairn for consumption or use by them or their homestay guests, and includes fishing for a reasonable amount for such a purpose; and
 - (c) undertaken personally by a lawful resident of Pitcairn for up to 1000kg of fish and up to 15 lobster per calendar year for sale or exchange on Pitcairn Island (including to visiting vessels in Pitcairn’s territorial seas), subject to any maximum allowable catch relating to any species or category of marine life set under the Fisheries Management Plan;
 - (d) does not otherwise include fishing for any form of sale or exchange or other gain (including making a gain for another person) whether monetary or otherwise;
- catch record** means a written record of all fish or other marine species caught during fishing activity, including the date, time, location, species and amount of such species, including any by-catch caught;
- Coastal Conservation Area** means an area described in section 11 of the Pitcairn Islands Marine Protected Area Ordinance 2016;
- commercial diving operation** means carrying on a business of providing diving facilities for other persons for reward, including permitting or facilitating another person to dive from land or a vessel;

Committee means the Marine Environment Committee established under regulation 38;

Convention on Conservation of Migratory Species or CMS means the United Nations Convention on the Conservation of Migratory Species of Wild Animals, also known as the Bonn Convention, signed on 6 November 1979 and entered into force on 1 November 1983, including the annexes to that convention, as amended from time to time;

diving means water-based activity involving the use of diving equipment, and includes scuba diving, surface-supply diving, submersible diving and remote operated vehicle diving;

diving operator means a person carrying on a commercial diving operation;

diving vessel means a vessel from which a commercial diving operation is carried out;

enforcement officer means an officer appointed in accordance with section 29 of the Ordinance;

ECNRD means the Environmental, Conservation and Natural Resources Division of the Government of Pitcairn Islands;

Fisheries Management Plan means a plan adopted in accordance with section 15 of the Ordinance;

fishing—

(a) means the catching, taking, or harvesting of fish or other marine life; and

(b) includes:

(i) any activity that may reasonably be expected to result in the catching, taking, or harvesting of fish or other marine life;

(ii) any operation in support of or in preparation for any activities described in this definition;

fishing permit means a permit granted in accordance with Part III of these Regulations;

fishing vessel means a vessel from which fishing is carried out;

grey water means any domestic wastewater produced, excluding sewage;

lawful resident of Pitcairn means any person who:

(a) has the right of abode on Pitcairn as defined in the Right of Abode Ordinance; or

- (b) is a permanent resident of Pitcairn or has been granted entry clearance for settlement under the Immigration Ordinance; or
- (c) intends to reside in Pitcairn for 3 months or more and has a valid entry clearance permitting such residency, or is exempt from the requirement to have entry clearance, under the Immigration Ordinance;

Marine Permit Officer means the person appointed under regulation 37;

marine scientific research—

- (a) means research (whether fundamental or applied) carried out for the purpose of increasing knowledge about the marine environment; and
- (b) includes any related scientific activity; but
- (c) excludes any research carried out in relation to a mining activity (unless that research relates to a mining activity undertaken outside the Pitcairn Islands Marine Protected Area);

maximum allowable catch means the maximum allowable catch of any species of marine life as set under the Fisheries Management Plan;

Ordinance means the Pitcairn Islands Marine Protected Area Ordinance 2016;

permit holder means any person holding a permit issued in accordance with these Regulations;

principles of the Coastal Conservation Areas means the principles of Coastal Conservation Areas described in section 12 of the Ordinance;

principles of the Marine Protected Area means the principles of the Pitcairn Islands Marine Protected Area described in section 5 of the Ordinance;

prohibited type of fishing means fishing by any of the methods set out in Schedule 2;

special permit means a marine scientific research permit or a special activity permit, granted in accordance with Parts VI and VII of these Regulations;

temporary diving prohibition means a prohibition on diving in a specified area imposed by the Committee under regulation 11;

temporary fishing ban means a temporary fishing ban set in a Fisheries Management Plan;

territorial sea means:

- (a) in relation to Pitcairn and Henderson Islands, any part of the sea within 12 nautical miles measured from the nearest point of the low-water line along the coast; and

- (b) in relation to Ducie and Oeno Islands, any part of the sea within 12 nautical miles measured from the nearest point of the seaward low-water line of the reef, together with the lagoons of those islands;

transit zone means the area described in regulation 4;

vessel means any description of vessel, hovercraft, submersible vessel, or other vessel of whatever size, and includes a seaplane while travelling on water;

40 Mile Reef is the seamount located approximately 75km South East from Pitcairn Island, also known as Adam's Seamount.

(2) Any terms not specifically defined in these Regulations but defined in the Ordinance have the meaning set out in the Ordinance.

PART II – TRANSIT ZONE

- Definition of transit zone
4. The transit zone is an area between Pitcairn Island and 40 Mile Reef, as marked in the diagram in Schedule 1. Its boundaries are:
- (a) on the North West, the edge of the territorial sea around Pitcairn Island;
 - (b) on the South East, 2 nautical miles from the summit of 40 Mile Reef; and
 - (c) on the North and South, the lines that are the outer tangents between the boundaries described in (a) and (b).

PART III – FISHING IN COASTAL CONSERVATION AREAS

- Fishing
5. –(1) A lawful resident of Pitcairn may undertake fishing in the territorial seas around Pitcairn Island, within 2 nautical miles of 40 Mile Reef, and in the transit zone, in accordance with a standard fishing permit or extended fishing permit issued under these Regulations.
- (2) A lawful resident of Pitcairn may, while lawfully staying on Henderson, Oeno or Ducie Island, undertake fishing in the territorial seas around those islands without a permit, provided that fishing is:
- (a) for consumption during the period of stay on the relevant island or for gifts to members of the community for consumption by them within 3 days of return from the relevant island; and
 - (b) by an attended line (whether or not with a rod); and
 - (c) conducted in accordance with the Fisheries Management Plan; and
 - (d) not for the purpose of commercial gain.
- (3) No other person may undertake fishing in any Coastal Conservation Area, unless that person holds and fishes in accordance with a non-resident fishing permit issued in accordance with these Regulations.

Standard fishing permits

6. –(1) A standard fishing permit authorises a lawful resident of Pitcairn to undertake fishing that:

(a) is artisanal fishing; and

(b) is conducted in accordance with any conditions specified in the permit; and

(c) is conducted in accordance with the Fisheries Management Plan, including any temporary fishing ban or maximum allowable catch set in the Fisheries Management Plan; and

(d) does not involve any prohibited type of fishing.

(2) A lawful resident of Pitcairn may apply to the Marine Permit Officer for a standard fishing permit in accordance with regulation 20.

(3) The Marine Permit Officer must grant a standard fishing permit to a lawful resident of Pitcairn, unless that person has at any time had a permit suspended or revoked under Part VIII of these Regulations, or has been convicted of an offence under the Ordinance or these Regulations.

(4) The Marine Permit Officer may grant a standard fishing permit to a lawful resident of Pitcairn who has had a permit suspended or revoked under Part VIII of these Regulations, or has been convicted of an offence under the Ordinance or these Regulations, if the Officer is satisfied that the person will comply with the conditions of the permit, and the provisions of the Ordinance and these Regulations.

Extended fishing permits

7. –(1) An extended fishing permit authorises a lawful resident of Pitcairn to undertake fishing that:

(a) is for a purpose or quantity other than artisanal fishing as specified in the permit; and

(b) if conducted from a vessel, is conducted from a vessel specified in the permit; and

(c) does not involve any prohibited type of fishing; and

(d) is conducted in accordance with the Fisheries Management Plan, including any temporary fishing ban or maximum allowable catch set under the Fisheries Management Plan, and any conditions specified in the permit.

(2) A lawful resident of Pitcairn may apply to the Marine Permit Officer for an extended fishing permit in accordance with regulation 20.

(3) The Marine Permit Officer may grant an extended fishing permit to a lawful resident of Pitcairn if they are satisfied that the permit is consistent with the principles of the Coastal Conservation Areas.

(4) An extended fishing permit may be subject to conditions imposed in accordance with regulation 25, including conditions as to:

- (a) the type or types of fishing to which the permit applies;
- (b) the marine species which may be targeted under the permit;
- (c) the specific vessel, or the size or type of vessel, that may be used as a fishing vessel under the permit;
- (d) a requirement to maintain a log and catch record and report on fishing activity;
- (e) the location or locations where fishing may be undertaken, or where a fishing vessel may be anchored, or both.

Non-resident
fishing permits

8. –(1) A non-resident fishing permit authorises a person to undertake only the fishing activities specified in the permit, in accordance with the Fisheries Management Plan and any conditions specified in that permit.

(2) Any person who is not a lawful resident of Pitcairn may apply to the Marine Permit Officer for a non-resident fishing permit in accordance with regulation 20.

(3) The standard conditions of a non-resident fishing permit are:

- (a) the fishing must be for the purpose of consumption by the person while on Pitcairn Island;
- (b) at all times while carrying out any activity under the permit, the permit holder must be accompanied by a lawful Pitcairn resident who holds a fishing permit.

(4) In addition to any of the standard conditions, a non-resident fishing permit may be subject to any other conditions imposed in accordance with regulation 25, including conditions as to the time, location, method and quantity of fishing authorised by the permit.

(5) The Marine Permit Officer may issue a non-resident fishing permit only–

- (a) if they are satisfied that the permit is consistent with the principles of the Coastal Conservation Areas; and
- (b) if they are satisfied that the permit includes the standard conditions; and/or
- (c) where the permit omits or varies one or more of the standard conditions, they are satisfied that such omission or variation is justified by exceptional circumstances.

(6) A lawful resident of Pitcairn may make an application for a non-resident fishing permit on behalf of a named non-resident.

PART IV – REGULATED ACTIVITIES

Diving

- Diving 9. –(1) No person may undertake a commercial diving operation in the Marine Protected Area except in accordance with a diving permit.
- (2) Any individual may, without a permit, undertake diving that:
- (a) is for recreational purposes; and
 - (b) is not a commercial diving operation; and
 - (c) is in any part of the Marine Protected Area, except in an area that is subject to a temporary diving prohibition imposed under regulation 11.
- Diving permits 10. –(1) A diving permit authorises a diving operator to carry on a commercial diving operation:
- (a) in all or any specified part of the Marine Protected Area, except any area that is subject to a temporary diving prohibition imposed under regulation 11; and
 - (b) carried out in accordance with any conditions specified in the permit.
- (2) Any diving operator may apply to the Marine Permit Officer for a diving permit in accordance with regulation 20.
- (3) The Marine Permit Officer may grant a diving permit if they are satisfied that:
- (a) the applicant has demonstrated sufficient understanding of the applicable regulations; and
 - (b) the applicant is capable of carrying out the commercial diving operation in accordance with the permit and these Regulations; and
 - (c) granting the permit would not bring the total number of permits issued in the given year above the maximum specified by notice under regulation 11; and
 - (d) the permit is consistent with the principles of the Marine Protected Area and, if applicable, the principles of the Coastal Conservation Areas.
- (4) A diving permit may be subject to conditions imposed in accordance with regulation 25, including conditions:
- (a) specifying the location or locations where diving may be undertaken, or where a diving vessel may be anchored, or both;
 - (b) specifying the particular vessel, or the size or type of vessel, that may be used as a diving vessel under the permit;

- (c) limiting the number of persons who may be on a diving vessel at any one time, or the total number of persons who may undertake diving during the period of the permit;
- (d) imposing a requirement that the dive operator take all reasonable steps to ensure that all participants in the operation are aware of and will comply with the Ordinance and these Regulations;
- (e) imposing a requirement that the dive operator record and report to ECNRD on details of all activity undertaken under the authority of the permit.

Restrictions on diving activities

11. –(1) The Committee may by notice:

- (a) place a temporary diving prohibition on any specified area for a period of up to 12 months;
- (b) limit the total number of permits that may be in effect at any one time, either generally or in relation to any specific location.

(2) A notice under this regulation must be published on the public notice board and on the Pitcairn government website.

(3) The Committee must endeavour to notify all existing holders of diving permits of any temporary diving prohibition imposed.

(4) Permit holders must keep themselves informed on any temporary diving prohibition imposed by checking the public notice board and/or the Pitcairn government website as often as practicable.

Anchoring

Anchoring

12. A person may anchor a vessel in any place in the Marine Protected Area unless directed otherwise by the Mayor, Deputy Mayor, Immigration Officer, Marine Permit Officer or other enforcement officer or the Administrator.

Discharge from vessels

Discharge from vessels to be regulated activity

13. –(1) The discharge of any polluting substance from a vessel in the Marine Protected Area is a regulated activity for the purposes of section 10(d) of the Ordinance and these Regulations.

(2) For the purposes of these Regulations, polluting substances include:

- (a) ballast water;
- (b) grey water;
- (c) sewage;
- (d) bilge water;

(e) food waste.

No discharge of
polluting substance
in CCAs

14. –(1) No person may discharge a polluting substance from a vessel in any Coastal Conservation Area.

(2) For the avoidance of doubt, a person who commits an offence under the Ordinance by virtue of breaching this regulation commits a discharge offence, and section 25 of the Ordinance applies accordingly.

PART V – PROTECTION OF MARINE LIFE

Protected marine
life: prohibited
activities

15. –(1) It is a prohibited activity for the purposes of section 8(f) of the Ordinance for a person to kill, take, hunt, capture, or harass:

(a) any of the protected migratory species listed in Annex I and II of the Convention on Conservation of Migratory Species, as those annexes are amended from time to time, that occur in the Marine Protected Area;

(b) any other wild seabird, including its eggs;

unless authorised in writing by the Committee in accordance with regulation 16.

Authorisation for
marine life activity

16. –(1) Authorisation of the Committee under this Part may:

(a) apply to a specific individual or generally;

(b) be limited as to the times, locations, species and number of members of a species to which it applies;

(c) be subject to any conditions the Committee thinks appropriate.

(2) The Committee may only authorise an activity under this Part if it is satisfied that:

(a) the activity is necessary for one or more of the approved purposes or required by exceptional circumstances; and

(b) the authorisation allows only such interference to the relevant marine life as is required to achieve the approved purpose or by the exceptional circumstances; and

(c) the authorisation is otherwise consistent with the principles of the Marine Protected Area and, if applicable, the principles of the Coastal Conservation Areas.

(3) The approved purposes are:

(a) to enhance the propagation or survival of the species concerned;

(b) to accommodate traditional or customary practices of the lawful residents of Pitcairn.

(4) In considering whether to grant authorisation in relation to a protected migratory species, the Committee shall take into account Pitcairn's obligations under the Convention on Migratory Species.

PART VI – SPECIAL ACTIVITIES IN MARINE PROTECTED AREA

Marine scientific research

17. –(1) A marine scientific research permit authorises a person named in that permit to undertake research activities specified in the permit, and may:

(a) include activities that are otherwise prohibited under the Ordinance or these Regulations;

(b) be limited as to times, locations, and duration of activities to which the permit applies;

(c) include a requirement that results of the research and data collected be made available to the Pitcairn community;

(d) be subject to any other conditions imposed in accordance with regulation 25.

(2) Any person may apply to the Governor for a marine scientific research permit in accordance with regulation 21.

(3) The Governor may only issue a marine scientific research permit if he or she is satisfied of the requirements in regulation 19 and following consultation with the Island Council.

Special activity permits

18. –(1) A special activity permit may be granted for the purposes of facilitating:

(a) sustainable development of the Pitcairn community;

(b) improved protection or management of the Marine Protected Area.

(2) A special activity permit authorises a person named in that permit to undertake activities specified in the permit, and may:

(a) include activities that are otherwise prohibited under the Ordinance or these Regulations;

(b) be limited as to times, locations, and duration of activities in which the permit applies;

(c) be subject to any other conditions imposed in accordance with regulation 25.

(3) Any person may apply to the Governor for a special activity permit in accordance with regulation 21.

(4) The Governor may only issue a special activity permit for one or more of the approved purposes, and only if he or she is satisfied of the requirements in regulation 19.

(5) For the avoidance of doubt, no activity carried out under a special activity permit is prohibited under section 8 or section 10 of the Ordinance, insofar as they are conducted in accordance with the permit.

Special permits:
requirements

19.-(1) Before granting any special permit under this Part, the Governor must be satisfied that:

- (a) the research or activity is for a purpose that is of benefit to Pitcairn; and
- (b) any prohibited or regulated activity to be undertaken as part of the research or special activity is necessary to achieve the purpose of that research or special activity; and
- (c) the research or activity will be carried out in a manner that minimises harm to the marine environment; and
- (d) any negative impact to the marine environment is proportionate to the potential benefit to be gained from the research or activity; and
- (e) granting the permit is otherwise consistent with the principles of the Marine Protected Area and, if applicable, the principles of the Coastal Conservation Areas.

(2) In deciding whether the purpose of research or an activity is of benefit to Pitcairn, the Governor must consider:

- (a) the potential benefit of the research or activity to the marine environment; and
- (b) the potential benefit of the research or activity to the Pitcairn community; and
- (c) in relation to any research involving a protected migratory species, Pitcairn's obligations under the Convention on Migratory Species.

PART VII – PERMITS

Applications

Applications for
fishing permits and
diving permits

20.-(1) A person aged 15 years or over may make an application to the Marine Permit Officer for a fishing permit or a diving permit to be granted, renewed, or varied.

(2) An application must be made in a form prescribed by the Committee, or include all information required by that form.

(3) The Marine Permit Officer may require an applicant to provide any further information reasonably necessary for the purpose of deciding the application.

(4) Applications must be accompanied by any applicable fee prescribed in accordance with regulation 31.

Applications for special permits

21. –(1) A person aged 15 years or over may make an application to the Governor for a special permit to be granted, renewed, or varied.

(2) An application must:

(a) be made in the form prescribed by the Committee, or include all information required by that form; and

(b) describe each proposed activity in sufficient detail to enable an informed assessment of the proposed nature, extent, timing, location, and effects of activity, including any benefit or harm deriving from the activity; and

(c) state who will undertake the activity; and

(d) describe the purposes of the activity; and

(e) in relation to any prohibited or regulated activity included as part of the proposed research or special activity, state why the prohibited or regulated activity is necessary to achieve the purposes of the research or special activity; and

(f) describe how harm to the marine environment will be minimised.

(3) The Governor may require an applicant to provide any further information reasonably necessary for the purpose of deciding the application.

(4) Applications must be accompanied by any applicable fee prescribed in accordance with regulation 31.

Forms and addresses for applications

22. –(1) The Committee may prescribe:

(a) forms for different types of permit applications;

(b) the address or addresses to which applications may be sent, including electronically.

(2) Details of prescribed forms and addresses must be published on the public notice board and the Pitcairn government website.

Decisions

Decisions of the Governor on special permits

23. –(1) In considering any application made under regulation 21, the Governor must seek the advice of the Committee.

(2) The Governor may, in writing, delegate his or her power to grant any special permit to the Committee or to any member of the Pitcairn Public Service.

Duration

24. –(1) Any permit issued under these Regulations must be issued for a specified duration of up to but no more than the maximum duration specified in this regulation.

(2) The maximum duration is:

- (a) in the case of a standard fishing permit, five years;
- (b) in the case of a non-resident fishing permit, three months;
- (c) in the case of any other permit, 12 months.

Conditions

25. –(1) On granting an application to issue, renew or vary a permit, the Marine Permit Officer or Governor may attach any conditions to the permit that he or she considers fit to promote the principles of the Marine Protected Area and, if applicable, the principles of the Coastal Conservation Areas to which the permit relates.

(2) Without limiting the generality of sub regulation (1), conditions imposed on any permit may include requirements to regularly report to the ECNRD or any other specified person or body on any activity undertaken under the authority of the permit.

Grounds for refusal

26. –(1) The Marine Permit Officer or Governor must refuse any application for a permit if the application, or the permit to which the application relates, does not meet a requirement of the relevant permit type as set out in these Regulations.

(2) The Marine Permit Officer or Governor may refuse any application for a permit if:

(a) the applicant has not paid the prescribed fee, and the fee has not been waived in accordance with regulation 31;

(b) the applicant, or any person authorised to take any action under the permit, has, at any time:

(i) been convicted of any offence under the Ordinance;

(ii) received an infringement notice for any offence under the Ordinance;

(iii) breached the conditions of the permit under consideration or any other permit;

(iv) had any other permit suspended or revoked;

(v) been convicted of similar offending or had any permit or licence suspended or revoked, under any other regulatory regime in another jurisdiction.

(c) granting the application would undermine any of the principles of the Marine Protected Area or, if applicable, the principles of the Coastal Conservation Areas, or the purposes of the Ordinance or these Regulations.

Notification of decision	<p>27. –(1) The Marine Permit Officer or Governor must notify the applicant in writing of the outcome of the application, including:</p> <ul style="list-style-type: none"> (a) if the decision is to grant the application, any conditions applied to the relevant permit; and (b) if the decision is to refuse the application, the reasons for refusing the application. <p style="text-align: center;"><i>Permits: general</i></p>
Issue of permits	<p>28. –(1) When a permit is granted, renewed, or varied, the Marine Permit Officer must issue a permit to the applicant.</p> <p>(2) The permit must specify:</p> <ul style="list-style-type: none"> (a) the activity or activities to which the permit relates; (b) the name of the person or persons authorised to undertake activities under the permit; (c) the date and duration of the permit; (d) any conditions applying to the permit. <p>(3) The Marine Permit Officer must keep a record of all permits issued in accordance with these Regulations.</p>
Requirement to carry permits	<p>29. Any person undertaking an activity under the authority of a permit must:</p> <ul style="list-style-type: none"> (a) carry the permit with him or her when undertaking that activity; and (b) make the permit available for inspection on request by an enforcement officer.
Replacement of permits	<p>30. –(1) Any permit holder may apply to the Marine Permit Officer for a replacement copy of their permit in the event the permit is lost or damaged.</p> <p>(2) The Marine Permit Officer shall, upon payment of any prescribed fee, issue a replacement copy of a permit to an applicant under this regulation.</p>
Fees	<p>31. –(1) The Committee may by notice set fees required for any application made under these Regulations.</p> <p>(2) The Committee may set different fees for different categories of applicant, including different fees for lawful residents of Pitcairn and for other applicants.</p> <p>(3) A notice under this regulation must be published on the public notice board and on the Pitcairn government website and must include:</p> <ul style="list-style-type: none"> (a) the type of application to which it relates; (b) the category of applicant to whom it applies;

(c) the date from which it applies;

(d) the relevant fee.

(4) The Committee may waive a fee where it is satisfied that it is in the public interest to do so, or that exceptional circumstances exist to justify a waiver.

(5) Fees payable under these regulations shall be paid into the general revenue of the Islands.

Application of
permits to persons
under the age of 15

32. A young person under the age of 15 may undertake a permit activity without a permit only if—

(a) the young person is supervised by a person who holds a permit; and

(b) the young person is carrying out the activity in accordance with the conditions of that permit.

PART VIII – COMPLIANCE

Breach of
conditions

33. –(1) Where the Marine Permit Officer or other enforcement officer believes on reasonable grounds that a person has acted outside the authority of, or in breach of the conditions of, a permit, such officer may:

(a) issue a warning to the person; or

(b) refer the matter to the Committee for determination.

(2) The Committee may, on referral from the Marine Permit Officer, another enforcement officer, or on its own motion, investigate whether a permit has been or is being breached.

(3) If the Committee determines, on the balance of probabilities, that a permit has been or is being breached, the Committee may take any of, or any combination of, the following actions:

(a) issue a written warning to the permit holder or other person responsible for the breach or both;

(b) require a person to undertake any relevant training;

(c) impose any additional conditions on the permit;

(d) suspend or revoke the permit in accordance with regulation 34.

(4) It is not a defence to an alleged breach to claim that the permit holder never received notice of the conditions, or other restrictions applying to the permit including any maximum allowable catch or temporary fishing ban.

(5) In making a determination that a permit has been or is being breached, it is not necessary for the Committee to determine whether the person intended to breach the conditions.

Suspension or revocation of permit

34. –(1) The Committee may suspend a permit during an investigation under regulation 33(2), for the period of the investigation.

(2) The Committee may suspend or revoke a permit following an investigation, if it is satisfied that:

- (a) a permit condition has been breached; or
- (b) any material particular in the permit application is false; or
- (c) the permit holder is or has become ineligible to hold the permit; or
- (d) the permit holder or any person authorised to undertake any activity under the permit is convicted of any offence under the Ordinance or these Regulations.

PART IX – REVIEW OF DECISIONS

Review of decision of the Marine Permit Officer

35. –(1) An applicant may apply to the Committee to review a decision of the Marine Permit Officer to:

- (a) refuse an application; or
- (b) apply a particular condition or conditions to a permit.

(2) The Committee must take into account:

- (a) the original application; and
- (b) the reasons given by the Marine Permit Officer for the decision; and
- (c) any additional information provided by the applicant in the application for review.

(3) The Committee may also seek additional information from the applicant, the Marine Permit Officer, or any other person, but if it proposes to take into account any new information that may be prejudicial to the applicant, it must give the applicant a reasonable opportunity to comment on it.

(4) The Committee may confirm the decision of the Marine Permit Officer, or substitute its own decision.

Review of decision of the Committee

36. –(1) Any person affected by a decision of the Committee may apply to the Governor to review that decision.

(2) The Governor may confirm or revoke the decision of the Committee, direct the Committee to reconsider, or substitute his or her own decision.

(3) The Governor may take into account any information provided by the applicant and the Committee, and may seek any additional information or advice from the applicant, Committee, or any other person.

(4) If the Governor proposes to take into account any new information that may be prejudicial to the applicant, he or she must give the applicant a reasonable opportunity to comment on it.

PART X – OFFICERS AND COMMITTEE

Marine Permit
Officer

37. –(1) The Governor, after consultation with the Council, shall by warrant appoint a Marine Permit Officer, who shall be an officer of the Pitcairn Public Service and shall, subject to sub-regulation (2), have the functions and powers specified in these Regulations.

(2) In a warrant of appointment made under this regulation, the Governor may direct that the Marine Permit Officer act in consultation with another officer or officers of the Pitcairn Public Service when considering any application made under regulation 20.

(3) The Marine Permit Officer shall be deemed to be an enforcement officer under section 29 of the Ordinance, and shall have such powers of enforcement under Part VII of the Ordinance as are specified in his or her warrant of appointment.

(4) The Governor may appoint a person as the Marine Permit Officer by name or by reference to holding any other specified office in the Pitcairn Public Service, but the Governor, Administrator, and Deputy Governor may not be appointed to the office.

(5) In any case where the Marine Permit Officer is, by reason of absence, conflict of interest, or otherwise, unable to exercise his or her powers or duties under these Regulations, the Committee may exercise the powers of the Marine Permit Officer.

Marine
Environment
Committee

38. –(1) The Marine Environment Committee shall be comprised of:

(a) the Administrator, who shall be Chair of the committee; and

(b) at least 2 regular members appointed by notice of the Governor after consultation with Council, provided that such members are lawful residents of Pitcairn.

(2) The Governor shall, after consultation with Council, appoint at least 2 reserve members in the same manner as members appointed under paragraph (1)(b), to be available to attend meetings when any regular member is unable to attend by reason of absence, conflict of interest or otherwise.

(3) A notice of the Governor under this regulation shall be published on the public notice board, and may specify members by name or by reference to a specified office or role in the Pitcairn Public Service.

(4) The Committee shall have the functions and powers specified in these Regulations.

(5) The Committee shall meet as necessary, in person or where necessary by audio or video link, and shall make decision by simple majority.

(6) If the Administrator is, by reason of absence, conflict of interest, or otherwise, unable to attend a meeting, the Deputy Governor shall be deemed to be acting Chair of the Committee.

(7) If any other member or members of the Committee are unable to attend a meeting, by reason of absence, conflict of interest, or otherwise, and if no reserve member or members are available to attend in their place, the Committee shall have the power to make decisions in the absence of that member or members.

Marine Permit
Officer to report to
Committee

39. –(1) The Marine Permit Officer shall report to the Committee at least every six months, or more frequently if requested by the Committee.

(2) The report shall include information on:

(a) the number and type of permits issued and renewed under these Regulations; and

(b) enforcement actions taken in relation to permits, including any warnings issued by the Marine Permit Officer under regulation 33; and

(c) any concerns he or she has regarding general compliance with permits; and

(d) any other matter requested by the Committee.

Committee to
oversee activity in
Marine Protected
Area

40. –(1) The Committee shall be responsible for general oversight of permit activity and other regulated activity in the Marine Protected Area, including monitoring whether such activity is consistent with the principles of the Marine Protected Area and Coastal Conservation Areas.

(2) The Committee may from time to time make recommendations to the Governor, Island Council, or Marine Permit Officer regarding permit activity and other regulated activity in the Marine Protected Area and Coastal Conservation Areas, including recommendations:

(a) to include specific conditions as standard conditions to particular permit types;

(b) to amend these Regulations, including to add new regulated or prohibited activities, or to specify additional activities that may only be carried out in accordance with a permit.

PART XI – CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS

Amendments to
Local Government
Regulations

41. –(1) This regulation amends Part IV-C (Wildlife) of the Local Government Regulations.

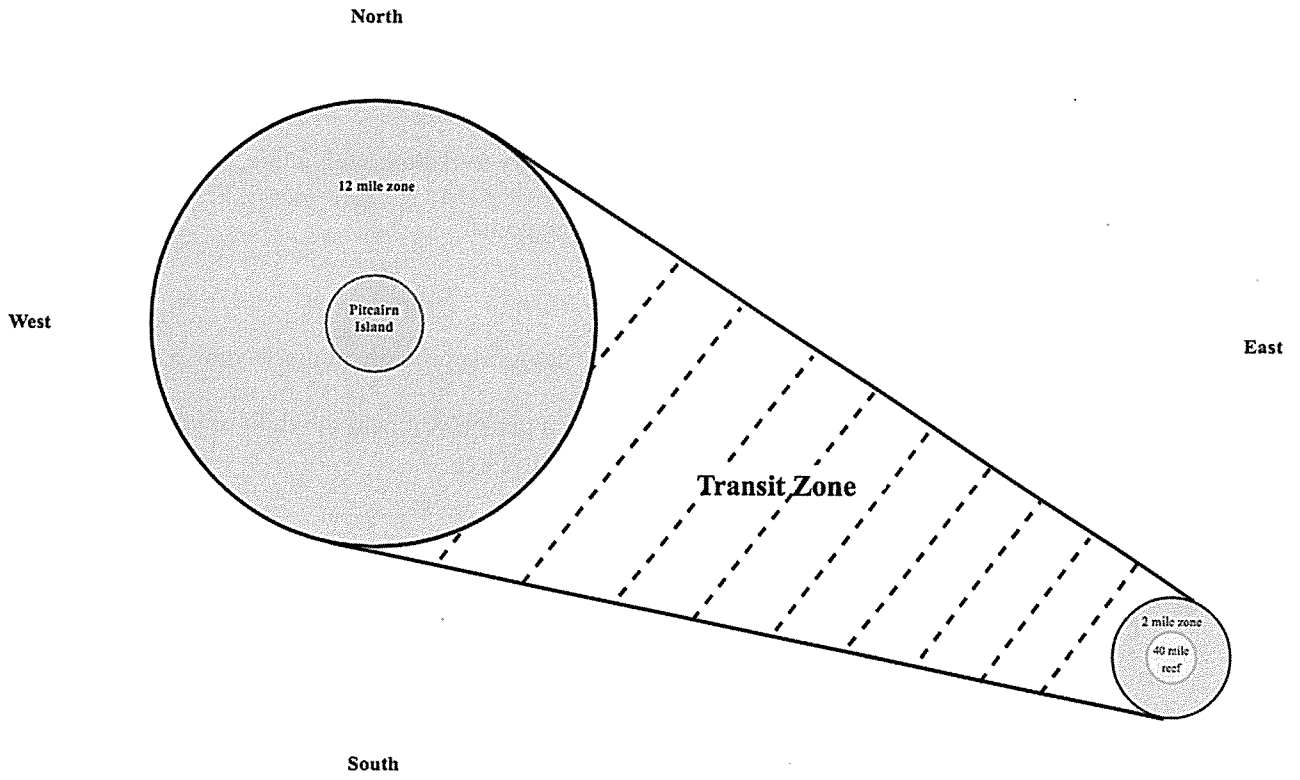
(2) Regulations 1 to 7 are repealed and replaced with the following:

“1. No person shall kill, take, hunt, capture, or harass any wild bird or take any eggs of any wild bird except with the express permission of the Council, on the advice of the Environment, Conservation and Natural Resources Division. Any breach of this regulation carries a penalty of \$50.”

Standard fishing
permits to be issued

42. The Marine Permit Officer shall, within one month of the entry into force of Regulations 5 – 8, issue a standard fishing permit to every person over the age of 15 who at the date of the coming into force of these regulations is a lawful resident of Pitcairn and normally resides in Pitcairn, without requiring an application or the payment of any fee.

SCHEDULE 1 – TRANSIT ZONE



SCHEDULE 2 – PROHIBITED TYPES OF FISHING

The following types of fishing are prohibited under these Regulations, irrespective of any fishing permit issued:

Fishing using a set shark line;

Fishing using nets, except:

- (a) landing nets used as an auxiliary to fishing with a line;
- (b) netting for white fish in rock pools;

Longline fishing;

Fishing for marine aquarium fish, unless specifically authorised by a fishing permit;

Spear fishing for lobster, except by a person who had the right of abode on Pitcairn on the date these regulations came into force.