

FOI 0196-16 – Pitcairn Digest

1) 29 May 2014 – Email (Diptel) from FCO to All Posts

Request for action. Posts to provide information for the Government Equalities Office (GEO) on whether your host country recognises marriages of same sex couples formed in England and Wales as marriages; or if not, if it has plans to do so and whether there is opportunity to encourage this. We also provide an update on conducting marriages of same sex couples in our missions overseas. Posts are also reminded to respond to diptel 1400798 'Instructions for posts to lobby host governments on recognition of Civil Partnerships'. Re-issued with lower classification and attachment

1. The United Kingdom's Marriage (Same Sex Couples) Act 2013 (M(SSC)A) received Royal Assent last year and came into force in March this year. The first marriages of same sex couples in England and Wales were carried out on 29th March. The M(SSC)A provides for overseas same sex marriages to be recognised as marriages in England and Wales from 13 March 2014. Non-marital overseas relationships, such as civil unions, will continue to be recognised as civil partnerships in England and Wales under the Civil Partnership Act 2004. There is separate legislation in Scotland which has not yet been enacted. Northern Ireland will not offer marriage for same sex couples.

2. As the number of jurisdictions which allow same sex marriages increase, many foreign nationals will enjoy the benefits of their same sex marriage being given legal recognition in England and Wales. We would like UK nationals in a same sex marriage to enjoy reciprocal treatment in other countries, and we therefore wish to establish whether other jurisdictions recognise same sex marriages and would treat England and Wales same sex marriages as marriage or an equivalent. This information will help people who formed their same sex marriage in England and Wales to be clear about the legal status of their relationship and their rights and responsibilities when they travel or live abroad.

3. For those countries which do not offer same sex marriage, we are looking for an opinion on whether the host nation would be likely to recognise UK same sex marriages, and whether there is any opportunity for the UK government to encourage recognition.

4. We would be grateful if Action Posts could provide [Redacted] in the Government Equalities Office (contact details below [Redacted]) with the following information:

- Does your host country and/or its territories currently treat England and Wales marriages of same sex couples as equivalent to marriages or other legal unions registered in its own jurisdiction?

- If not, will your host country and its territories be likely to recognise them in the future, or be susceptible to encouragement? If so, what opportunities are there for UK government to encourage recognition?

5. Posts who have not yet responded to Dip Tel 1400798, issued on 31 January, 'Civil Partnership Act 2004: Instructions for posts to lobby host governments on recognition of Civil Partnerships' are also asked to confirm whether their host country recognises civil partnerships formed in the UK.



2) 3 June 2014 – Email from FCO to Overseas Territories

Hi all,

I have received a couple of queries about GEO’s recent Diptel and thought it would be helpful to advise that I am investigating this and will revert to you with confirmation of this and the deadline (which is not mentioned).

Nevertheless, I think it would be prudent for us to have a central record within OTD of the state of play of this issue across the OTs. LGBT and policies designed to advance their rights have long been considered sensitive in many of the OTs and consequently they appear not to have been promoted to the same extent as other human rights issues by ‘the centre’. However, there are signs that this may change and given the PM’s desire for HMG to have a robust LGBT strategy in light of recent events in Africa and this Diptel, among others, I think we could expect to see some focus on what OTs are doing and to what extent HMG is encouraging this in the future.

With this in mind, among other considerations, I have produced the attached table, which is based on the questions below as well as the issue of the non-discriminatory age of consent and the presence, if any, of any legislation within the OTs that prohibits discrimination on the grounds of sexual orientation.

I would be grateful if you could help me populate it. I have made a start to the best of my knowledge but please feel free to correct and amend. In the event DCMS wants to hear from the OTs, I can then – with your consent – use the information provided to answer their specific questions on behalf of OTD as a whole rather than you having to submit separate responses/duplicate what you have given me.

In the absence of a deadline from GEO, is it possible to aim for close this week?



3) 4 June 2014 – Email from FCO to Overseas Territories

Hi all,

GEO/DCMS has confirmed that they would welcome and indeed encourage responses from Governors’ Offices in relation to their Diptel below. They advised me that this work-strand is part of a wider Coalition commitment to promote recognition of UK civil partnerships and marriages abroad.

In terms of next steps, based on the feedback received from posts GEO will provide advice to their Ministers on what leverage can be usefully applied to encourage more countries/territories to recognise UK civil partnerships and same sex marriages. They also tentatively plan to make information available to LGBT travellers via key government websites.

You will be relieved to know, that GEO does not need responses until the end of this month. Therefore if you have not responded already (I think only TCI has!), I am happy to coordinate an OTD

response among remaining OTs using relevant information from the attached table, which I would still like you to complete for reasons mentioned below.

Grateful if you could kindly send me your returns by close on Monday 30 June.

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4) 20 June 2014 – Email from Pitcairn Government Official replying to FCO request for information

Territory	Civil Partnerships and Same Sex Marriage				Age of Consent		Legal protection
	<p>Has the OT legislated for <u>Civil Partnerships (CP)</u> (Y/N)? If yes:</p> <p>a) what legislation?</p> <p>b) what are the age requirements?</p> <p>c) Is the age requirements same as heterosexual marriages?</p>	<p>Has legislated for <u>same sex marriage (SSM)</u> (Y/N)? If yes:</p> <p>a) what legislation?</p> <p>b) what are the age requirements?</p> <p>c) Is the age requirements same as heterosexual marriages?</p>	<p>Does the OT legally recognise <u>CPs and/or SSM</u> (distinguish if necessary) that have been registered in England and Wales (Y/N?) If yes:</p> <p>a) what legislation is there?</p> <p>b) Is it the equivalent to marriages or other legal unions registered in its own jurisdiction?</p>	<p><u>Opinion request</u></p> <p>Do you think your OT is likely to recognise them [i.e. those registered in England and Wales] in the future, or be susceptible to encouragement?</p> <p>a) If <u>yes</u>, what opportunities are there for UK government to encourage recognition?</p> <p>If <u>no</u>, why? (your assessment)</p>	<p>Age of Consent</p> <p>What is the current age of consent for</p> <p>a) Heterosexual couples?</p> <p>b) Lesbian couples?</p> <p>c) Homosexual couples?</p>	<p><u>Opinion request</u></p> <p>Do you (Governors' Office) think your OT is likely to amend the discrepancy in the future, or be susceptible to encouragement?</p> <p>a) If <u>yes</u>, what opportunities are there for UK government to encourage change?</p> <p>If <u>no</u>, why? (your assessment)</p>	<p>Has the OT legislated to prohibit discrimination on the grounds of sexual orientation</p> <p>a) If <u>yes</u>, what legislation is there?</p> <p>If <u>no</u>, are there plans to and when?</p>
Pitcairn	No.	Not specifically. However, it is also not specifically prevented under the Marriage Ordinance, and therefore SSM is arguably already permitted under the current law. [^]	There is no local legislation that specifically provides for recognition of English SSMs or CPs. However, the language of 'spouse', 'husband' and 'wife', used throughout the laws of Pitcairn, probably include	I would not anticipate any resistance to more formal recognition of SSMs and CPs registered in England. The major barrier is the limited resources in terms	Age of consent is 16 years for all sexual activity, regardless of gender (Sexual Offences Act 2003 (UK) applies by virtue of s 42 of the Pitcairn Constitution)	N/A	Yes, Pitcairn Constitution, s 23, prohibits discrimination by any public authority or office, including on the grounds of sexual orientation. ^{^^^}

		<p>The Marriage Ordinance allows marriage from the age of 17 with parental or guardian consent (s 15 and 29(2)), or from the age of 18 without consent (s 15). This would apply to both heterosexual and homosexual couples if the Marriage Ordinance is seen to apply to both.</p>	<p>references to a spouse, husband or wife of a marriage under the law of any place in which that marriage took place (as is the case in the UK). Therefore these would include a spouse/husband/wife of a SSM registered in the UK.</p> <p>However, these references are unlikely to include reference to a CP, as the terminology of spouse, husband and wife does not apply.^^ As there is no equivalent to CP in Pitcairn, it is likely that CP relationships would instead be treated as equivalent to de facto partners rather than marriages in the absence of any specific recognition legislation.</p>	<p>of drafting any desired changes.</p>			
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5) 22 February 2015 – Letter from Ms Jo Swinson MP, Minister for Women and Equalities to the Governor of Pitcairn



Government
Equalities Office

Parliamentary Under Secretary of State
(Women and Equalities)
Government Equalities Office
4th Floor
100 Parliament Street
London SW1A 2BQ
www.gov.uk/geo

Jonathan Sinclair LVO
Governor of the Pitcairn Islands
Pitcairn Islands Office
P.O. Box 105 696
Auckland
New Zealand

22 February 2015

Dear Governor Sinclair,

RECOGNITION OF SAME SEX UNIONS

I am writing to ask for your help in confirming whether your country recognises same sex unions formed in the UK.

The Marriage (Same Sex Couples) Act 2013 (M(SSC)A) came into force last year and the first marriages of same sex couples took place in England and Wales on 29 March 2014. The M(SSC)A provides for overseas marriages of same sex couples to be recognised as marriages in England and Wales from 13 March 2014.

In Scotland the Marriage and Civil Partnership (Scotland) Act 2014 allowed marriages of same sex couples to take place from 31 December 2014. The Act allows overseas same sex marriages to be recognised in Scotland as marriages.

The UK's Civil Partnership Act 2004 (CPA) allows same sex couples to form a union which has the equivalent rights and responsibilities to marriage. Many legal relationships formed overseas, such as civil unions are recognised as civil partnerships in the UK under the CPA.



We would like UK nationals in a same sex union to enjoy reciprocal treatment in other countries, and we therefore wish to establish whether your country, and regions with devolved legislative responsibility, (i) recognise marriages of same sex couples formed in England and Wales or Scotland as marriages or an equivalent; (ii) recognise UK civil partnerships as a civil union or partnership. This information will help people who formed their same sex union in the UK to be clear about the legal status of their relationship and their rights and responsibilities abroad.

I would be really grateful if you could provide me with the following information:

- Are marriages of same sex couples formed in i) England and Wales; and ii) Scotland recognised in Pitcairn as marriages or as civil partnerships/unions or any other form of legal relationship?
- Are civil partnerships formed in the UK recognised in Pitcairn as civil partnerships/unions or as any other form of legal relationship?

Your help in this would be appreciated.



Jo Swinson MP
Minister for Women and Equalities

6) 25 February 2015 – Email from FCO to the Governor of Pitcairn

Dear Governor,

Further to my email below, I attach a letter from Ms Jo Swinson MP, Minister for Women and Equalities, at the Government Equalities Office in London. As you may know, GEO, which sits in the UK Department for Culture, Media and Sport is responsible for the Marriage (Same Sex Couples) Act 2013 and Ms Swinson is keen to encourage recognition of same sex unions that are formed in the UK. Please see my email from 4 June 2014 outlining their approach.

Ms Swinson has written to you following the submission of Pitcairn’s response (attached) in the hope that Pitcairn would do so. You will note that she refers to Pitcairn as a country – unfortunately a copy of the draft was not shared with my in advance. Otherwise, I would be grateful if you could kindly take this forward and aim to provide a response before Parliament is dissolved (30 March 2015).



7) 26 February 2015 – Email from Pitcairn Government Official to Governor

Jonathan,

Greetings!

This came up some time ago I think it would take a simple change in Pitcairn legislation for Pitcairn to not only recognise same sex marriages from the UK but also that same sex marriages could take place on Pitcairn and I foresee no problems with Council ([Redacted] might have a informal word?).

If there is no dissent, I could ask [Redacted] to draft.

Best



8) 16 March 2015 – Email from Pitcairn Government Official to Mayor of Pitcairn

Greetings!

I attach a draft Same Sex Marriage Ordinance which explicitly recognises Same Sex Marriages and UK Civil Partnerships. There is also attached to the draft Ordinance the ‘legal report’. This explains the changes.

By way of further background, basically we are consulting about an amendment to Pitcairn law to specifically recognise same-sex marriages and civil partnerships on Pitcairn. We are looking to Pitcairn (and the other the OTs are also being consulted) to ensure that, should the need arise, they legally recognise same sex unions (both marriages and civil unions) that have been entered into in the UK. [Redacted] has drafted an Ordinance making the relevant changes (primarily to the Marriage Ordinance, but also to the Interpretation and General Clauses Ordinance). It essentially includes civil partnerships in the interpretation of marriage (unless specifically excluded in a particular law).

Let me know any thoughts/questions. And if, possible when the Ordinance will come before Council.

Best Wishes



9) 16 March 2015 – Draft Ordinance sent from Pitcairn Government Official to Mayor of Pitcairn

PITCAIRN, HENDERSON

DUCIE & OENO ISLANDS

No

of 2015

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

SAME SEX MARRIAGE AND CIVIL PARTNERSHIPS ORDINANCE 2015

DATE MADE:

DATE PUBLISHED:

An Ordinance to explicitly provide for same sex marriages and for recognition of civil partnerships on Pitcairn

PART I – PRELIMINARY

Title and commencement

1. This Ordinance may be cited as the Same Sex Marriage and Civil Partnerships Ordinance 2015 and shall come into force on the day after it is published.

PART II – DEFINITION OF MARRIAGE

Definition of Marriage

7. Section 2 of the Interpretation and General Clauses Ordinance is amended by inserting, in appropriate alphabetical order, the following definitions –

“marriage” –

- (a) includes marriage of a same sex couple; and
- (b) includes a registered civil partnership that is entered into outside of Pitcairn in accordance with the laws of that place;

and "married" and “married person” have corresponding meanings;

“spouse” –

- (a) includes a person who is married to a person of the same sex; and
- (b) unless otherwise specified, includes a person who is a party to a registered civil partnership that is entered into outside of Pitcairn in accordance with the laws of that place;

and “husband” and “wife” have corresponding meanings;

PART III – AMENDMENTS TO MARRIAGE ORDINANCE

Marriage Ordinance

2. Sections 3 to 6 of this Ordinance amend the Marriage Ordinance.

Interpretation

3.–(1) This section amends section 1(2).

(2) The definition of “child of the marriage” is amended by –

- (a) deleting the words “the husband and wife” in the phrase “means a child of the husband and wife”, and inserting the words “both spouses together” in their place;
- (b) deleting the words “the husband and wife” in the phrase “whether or not a child of the husband or wife”, and inserting the

words “either spouse” in their place; and

(c) deleting the words “the husband and wife” in the phrase “the husband and wife ceased to live together”, and inserting the word “they” in their place.

(3) The definition of “spouse” is amended by deleting the words “means a person’s husband or wife, and where that person’s marriage”, and inserting the words “, in relation to a person whose marriage”.

(4) The following definition is inserted in appropriate alphabetical order –

““marriage” means the union of two people regardless of their sex, sexual orientation or gender identity;”

Marriage in a
Registrar’s office

4. Section 23 is amended by –

(a) deleting the word “thus” in the phrase “address the parties thus”, and inserting the phrase “in the following words or words to a similar effect” in its place;

(b) deleting the words “to him” in the phrase “production to him”; and

(c) inserting the words “or her” after the word “he” in the phrase “he shall proceed”.

Discharge of
separation order

5. Section 48 is amended by –

(a) deleting the words “husband and the wife”, and inserting the words “married couple” in their place; and

(b) deleting the words “husband and wife”, and inserting the words “a married couple” in their place.

Schedule

6. Form (E) in the First Schedule is repealed and replaced by the form in Schedule 1 of this Ordinance.

SCHEDULE

Form (E)

CERTIFICATE OF MARRIAGE			CERTIFICATE OF MARRIAGE		
Certificate number			Certificate number		
Date			Date		
Details of parties to the marriage			Details of parties to the marriage		
	Partner 1	Partner 2		Partner 1	Partner 2
First name(s)			First name(s)		
Surname			Surname		
Gender			Gender		
Age			Age		
Residence at time of Marriage			Residence at time of Marriage		
Father			Father		
First name			First name		
Surname			Surname		
Mother			Mother		
First name			First name		
Maiden name			Maiden name		
Details of witness			Details of witness		
	Witness 1	Witness 2		Witness 1	Witness 2
First name (s)			First name (s)		
Surname			Surname		
Married at by (<i>or before</i>) me _____ [name] _____ [signature] (<i>Minister or Registrar, as the case may be</i>).			Married at by (<i>or before</i>) me _____ [name] _____ [signature] (<i>Minister or Registrar, as the case may be</i>).		
This marriage was celebrated between us _____ [signatures] (Partner 1) (Partner 2)			This marriage was celebrated between us _____ [signatures] (Partner 1) (Partner 2)		
in the presence of us _____ [signatures] (Witness 1) (Witness 2)			in the presence of us _____ [signatures] (Witness 1) (Witness 2)		

Marriage (Amendment) Ordinance 2015

Legal Report

1. Introduction

- 1.1. The purpose of this Ordinance is to explicitly allow same sex marriages to be entered into on Pitcairn; and further to ensure that same-sex marriages and civil partnerships entered into elsewhere are fully recognised in Pitcairn law.

2. Part II – Definition of Marriage

- 2.1. Part II inserts an inclusive definition of “marriage” into the Interpretation and General Clauses Ordinance so that, unless otherwise provided, all references to marriage in Pitcairn laws are interpreted so as to include the marriage of same sex couples and registered civil partnerships entered into outside of Pitcairn, in accordance with the laws of that place.
- 2.2. It also inserts a definition of ‘spouse’ that includes parties to these unions.
- 2.3. The inclusion of same sex marriages in these definitions is simply to remove any doubt that these are recognised in the same way as other marriages. The inclusion of civil partnerships has the effect of giving UK Civil Partnerships, NZ Civil Unions, and equivalent civil partnerships entered into elsewhere, the same legal effect as marriage under the laws of Pitcairn.
- 2.4. This means that the Marriage Ordinance provisions regarding dissolution and separation – including obligations to children – apply to civil partnerships in the same way that they apply to marriages.
- 2.5. The specific references to ‘marriage’ and ‘spouse’ in Pitcairn laws other than the Marriage Ordinance are listed in the table in Annex 1 below, along with the effect that this amendment has on that reference (if any). Future references to these terms will also be inclusive, but can specify otherwise.
- 2.6. This inclusion of civil partnerships in the definition of marriage goes slightly beyond the position in UK (and NZ) law, in that in those jurisdictions there is still a distinction between marriages and civil partnerships and therefore the two types of unions have slightly different legal effects. However, in both those jurisdictions, the laws providing for civil partnerships have now been largely superseded by laws allowing same sex marriages, which allow same sex unions to have the same legal effect as other marriages. I see no reason to maintain a distinction between civil partnerships and marriage in Pitcairn.
- 2.7. There are no laws providing for civil partnerships to be entered into on Pitcairn itself: the primary aim of this part of the amendment is to ensure legal unions that have been entered into elsewhere are *recognised* on Pitcairn. This is achieved by recognising civil partnerships as equivalent to marriages. As can be seen in that table, the inclusion of civil partners in references to marriages will make only minor changes in any practical sense on Pitcairn.

3. Part III – Amendments to Marriage Ordinance

- 3.1. Part III makes various amendments to the Marriage Ordinance to explicitly recognise that same sex marriages can be entered into under Pitcairn law.
- 3.2. This includes introducing a new definition of marriage that explicitly applies to any union regardless of gender and sexuality; and also altering language where it refers explicitly to a ‘husband and wife’ so that it can apply equally to same sex marriages.

4. Compliance with Constitution

- 4.1. This amendment accords with the Constitutional guarantee of the right of men and women of marriageable age to marry in s 15 of the Constitution. It allows this right to be meaningfully exercised by all people regardless of their sexual orientation, consistently with the prohibition of discrimination in s 23 of the Constitution.
- 4.2. There is no conflict with any other right or freedom, including the freedom of religion. The Marriage Ordinance allows marriages on Pitcairn to be celebrated either by a registered minister “according to the rites and usages of marriages observed in the religious denomination to which such minister belongs”; or by the Registrar. The change would therefore allow same sex marriages to be carried out by the Registrar and any Registered Minister that allows it, but would not force a minister from a religious denomination that does not allow same sex unions under its ‘observed rites and usages’ to administer one.

5. Conclusion

- 5.1. In my opinion this Ordinance may properly be made and is consistent with the Constitution of Pitcairn.

Attorney-General

ANNEX 1 - References to “marriage”, “married”, or “spouse” in Pitcairn laws, excluding the Marriage Ordinance

Instrument	Provision	Effect of amendment
Justice Ordinance	70Q – 73: can seek an order for maintenance and custody against a spouse that has deserted or wilfully neglected a spouse or their children; including a person who was a spouse but whose marriage is now dissolved. Can also seek an order for maintenance against a parent.	Right to claim spousal maintenance, and for adopted children, can now also be exercised against a civil partner. (see also Adoption of Infants Ordinance below). Child maintenance for biological children does not depend on marriage – see ss 72 and 73.
	5(1)(a)(iv): gives the Island Magistrate jurisdiction to make orders for spousal maintenance	Unaffected, except as far as maintenance provisions affected (see above)
	5(1)(a), proviso (iii): excludes jurisdiction of the Island Magistrate from determining validity or dissolution of marriage	Unaffected, except as far as dissolution of marriage provisions affected (see Marriage Ordinance below)
	9(2)(k): disqualifies the “spouse or partner” of the Island Magistrate from selection as an assessor when the Island Magistrate is presiding	No change – already broad enough to include a civil partner.
Prisons Regulations	22(8): Superintendent of prison required to inform prisoner’s “spouse or next of kin and also any person who the prisoner may reasonably have asked should be informed” if prisoner dies, or becomes ill or injured	No change – already broad enough to include civil partner in most circumstances.
	35(3): requires any cash that a prisoner has to be given to the spouse of the prisoner at the prisoner’s request	A prisoner’s civil partner may also receive a prisoner’s cash.
Legal Aid Ordinance	Schedule: requires an applicant for legal aid to give information about support of spouse as part of estimated cost of living	Cost of living estimation will include any support payments to civil partners.
Local Government Ordinance	11(c): the spouse of a person who is otherwise qualified to vote is also qualified to vote if they live together on Pitcairn and have done so for at least one year	The civil partner of a qualified person can also vote if they have lived together on Pitcairn for at least one year
Immigration Ordinance	2(1): definition of dependant includes spouse	Civil partner will also be included as a dependant for the purposes of immigration categories.
	12(1)(i): spouses “whether legally married or not” of persons lawfully residing on Pitcairn may apply for permanent settlement	No change – already broad enough to include civil partners.
Land Tenure Reform Ordinance	5(1): house land lease lasts for lifetime of applicant and	Lease over house land would also continue for the lifetime of a civil

	applicant's spouse.	partner if applicant died.
Registration of Business Names Ordinance	3(c): requires an individual carrying on business in his or her name to register if their name has changed, except in consequence of marriage.	Only affects persons who change their name in consequence of marriage – would also exempt a person who changed their name in consequence of a civil partnership.
Wills Ordinance	12: a will is revoked by marriage, except in certain circumstances.	A will is also revoked by entering into a civil partnership.
Adoption of Infants Ordinance	3(3): Only two spouses can jointly adopt a child.	Would allow two partners to a civil partnership to jointly adopt a child. References in sections 4(3) and 15 and in the Rules are corollary to that.
	4(3): requirements for consent for joint adoption by spouses	
	15(2): gives spouses who adopt a child the same relationship to that child as parents	
	15(3): prohibits a person who has adopted a person from marrying that person.	
Adoption of Infants Rules	5(3): requires a spouse to be made a respondent	
	10(1): where there is a joint application by two spouses for adoption, only one needs to attend	
	Forms 2–4: adoption orders et	
Births and Deaths Registration Ordinance	Schedule 1, Register of Births form: requires information of when and where parents married	Includes information about when and where parents of a child entered into a civil partnership if relevant
Sentencing Ordinance	3(1): definition of “immediate family” in relation to a victim specifically includes “a spouse or de facto partner (whether the partner and victim are of the same sex or of different sexes)”	No change – definition already broad enough to include civil partners
Child Safety and Protection Rules	2: definition of “family” in relation to attendance at a Family Meeting, specifically includes persons related by marriage and “anyone with a significant emotional attachment to the child”	No change – definition already broad enough to include people related by civil partnership
Coroners	2: definition of “immediate family” in relation to a dead person specifically includes a “spouse or de facto partner of the dead person”	No change – definition already broad enough to include civil partners

10) 30 March 2015 – Letter from Governor of Pitcairn to Ms Jo Swinson MP, Minister for Women and Equalities



OFFICE OF THE GOVERNOR OF PITCAIRN,
HENDERSON, DUCIE AND OENO ISLANDS

British High Commission
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New Zealand

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30 March 2015

Ms Jo Swinson MP
Parliamentary Under-Secretary of State for Women
and Equalities
Government Equalities Office
4th Floor, 100 Parliament Street
LONDON E2BQ

Dear Minister,

Recognition of same sex unions

Thank you for your letter of 22 February. We were looking at this subject about two years ago, but were keen not to get ahead of – and thus inadvertently out of line with - UK legislation. Now that the various M(SSC)Acts are in force, we have revisited this subject. We asked our Attorney General to look at a Pitcairn Ordinance (ie a law) which would bring Pitcairn into line with the various Acts.

The attached draft Ordinance was sent to the Pitcairn Island Council on 16 March (constitutionally and for good governance we are obliged to consult the Pitcairn Island Council and community on new or amended Ordinances). The draft Ordinance was discussed at the Council meeting on 18 March. Copies of it were distributed to Councillors, who will notify the community and collate comments ahead of agreeing the draft. I hope the Ordinance as drafted will be approved on 1 April. This will be returned to the Deputy Governor and then submitted to me to enact the Ordinance.

I will let you know as soon as I have enacted the law.

Yours ever,

Jonathan Sinclair

Jonathan Sinclair LVO
Governor

11) 17 April 2015 – Email from Pitcairn Government Official to Governor’s Personal Assistant

Greetings!

This is ready to be enacted by the Governor. Please prepare six copies for the original signature by Jonathan (as usual the seal goes under “of 2015” and Jonathan signs underneath the seal).

Do not worry about dates or numbers – we do that here. Please return the signed originals back to me and we will let you know when it is published on Pitcairn (that is put on the noticeboard) and thus in law.

Best



12) 20 April 2015 – Email from Governor to Pitcairn Government Official

Thank vm [Redacted]. I am ready and happy to sign. But before I do, please could you kindly just check that UK election purdah does not mean I should wait. I think it’s OK (and I recall some emails on this) but just to be sure

Thanks

Jonathan



13) 20 April 2015 – Email from Pitcairn Government Official to Governor

Jonathan – we do have the authority.

We checked a little while ago or do you want this one checked separately?

Tks



14) 20 April 2015 – Email from Governor to Pitcairn Government Official

Thanks [Redacted]. Yes, please can you check separately with OTD. [Redacted] cleared us on the fact that we CAN (ie are able) to pass Ordinances during purdah. But I’d like confirmation from London that it’s politically acceptable to pass THIS particular Ordinance during purdah.

Thanks

Jonathan



15) 20 April 2015 – Email from FCO Assistant Legal Adviser to FCO Pitcairn Desk Officer

Have you been consulted on this issue before now?

Purdah guidance is not specifically a legal matter, but I'm happy to give my views.

As you know, purdah will be over after election day, so if it were thought more appropriate to wait until after purdah to make this ordinance, that would not be a long wait.

Although the policy of recognition of same sex civil partnerships is a well-established UK government policy, already provided for in UK legislation, I tend to think that the better course would be to wait, as the purdah guidance does say that legislation (both primary and secondary) should only exceptionally be made during the purdah period.

Do you have any thoughts, or have you or colleagues looked into this?

If not, I'll go back to [Redacted].

Thanks,

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16) 20 April 2015 – Email from FCO Pitcairn Desk Officer to FCO OTD Strategy and Coordination Desk Officer

Would you like to comment ahead of me replying to [Redacted]? I am happy to go with her recommendation to wait until after the election...

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17) 9 June 2015 – Email from Governor to Pitcairn Government Official

Going through and deleting emails. I know Jo Swinson lost, but did we ever actually reply finally on what we had done re the new Ordinance? May be not to her, but to a new Minister? Pls can you let me know if we need to do anything. Or whether we have done all we need to

Thks

J

.....

18) 15 June 2015 – Email from Pitcairn Government Official to Governor

Jonathan o.r,

Greetings!

A good point. I think we left it at your letter of 30 March (attached in the e-mail above). We enacted the law on 13 May.

Perhaps I should alert [Redacted] from GEO rather than us filling up the Minister's box?

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19) 18 June 2015 – Email from Governor to Pitcairn Government Official

Good plan - tho do ask him/OTD if they wld like a letter to a Minister

J

.....
20) 18 June 2015 – Email from Pitcairn Government Official to LGB&T Team, Government Equalities Office

Please see the short e-mail chain in green below. I hope it is self-explanatory. Pitcairn has enacted a law re marriages of same sex couples.

If you need more please do contact me.

.....
21) 20 June 2015 – Email from LGB&T Team, Government Equalities Office to Pitcairn Government Official

That is very good news.

Can you please write to Caroline Dinéage, our new Minister, alerting her to the new legislation. And can you please confirm whether the new legislation will recognise marriages of same sex couples formed in England, Wales and Scotland, and Civil Partnerships formed in the UK.

Her address is:

Caroline Dinéage MP

Parliamentary Under-Secretary of State for Women, Equalities and Family Justice

Government Equalities Office

100 Parliament Street

London SW1A 2BQ

A PDF of the letter would be fine.

Thanks,

.....
22) 22 June 2015 – Email from Pitcairn Government Official to Governor

Jonathan,

We are asked to write to the new Minister. The Word document is a short draft to be out on the gubernatorial headed note paper and sent as a PDF via [Redacted].



23) 22 June 2015 – Email from Governor to Pitcairn Government Official

Many thanks. I have tweaked the letter a bit so it reads:

“Your predecessor wrote to me on 22 February encouraging progress in terms of the Pitcairn Islands recognising same sex unions in the UK. I replied on 30 March (attached) trailing action that was underway.

I am pleased to inform you that I enacted the Ordinance (law) on 13 May. You can find the law at www.pitcairn.gov.pn under “Government and the laws”. The new legislation recognises marriages of same sex couples formed in England, Wales and Scotland, and Civil Partnerships formed in the UK. It also....”

Are we also able to say something in it about how the Ordinance also brings together existing legislation/enables gay marriage on island too?

And connected [Redacted] just took a call from an AP journalist on exactly this subject. Please could you call him back to give him the factual situation/point him in the direction of the law? [Redacted] – please can you pass on the details? Thanks. [Redacted], happy to talk through the line if needs be this afternoon. ([Redacted] not in today)

Best

Jonathan



24) 22 June 2015 – Email from Pitcairn Government Official to Governor

Jonathan – this Ordinance has the effect of changing the five other Ordinances related to same sex marriage. I have added something below in green.

Best

“Your predecessor wrote to me on 22 February encouraging progress in terms of the Pitcairn Islands recognising same sex unions in the UK. I replied on 30 March (attached) trailing action that was underway.

I am pleased to inform you that I enacted the Ordinance (law) on 13 May. You can find the law at www.pitcairn.gov.pn under "Government and the laws". The new legislation recognises marriages of same sex couples formed in England, Wales and Scotland, and Civil Partnerships formed in the UK. And more explicitly it allows same sex marriages to be entered into on Pitcairn.

It covers other Ordinances (Justice, Land, Will etc.) relating to spouse, husband, wife etc. on Pitcairn. It also inserts an inclusive definition of "marriage" into the Interpretation and General Clauses Ordinance so that, unless otherwise provided, all references to marriage in Pitcairn laws are interpreted so as to include the marriage of same sex couples and registered civil partnerships entered into outside of Pitcairn.

You should be aware that there are no laws providing for civil partnerships to be entered into on Pitcairn itself: the primary aim of this Ordinance is to ensure legal unions that have been entered into elsewhere are *recognised* on Pitcairn. This is achieved by recognising civil partnerships as equivalent to marriages.

I hope that your office will have noted the recent article in the Guardian (and other news outlets) detailing the positive coverage that this Ordinance Pitcairn has been receiving recently.

..."

25) 22 June 2015 – Email from Governor to Pitcairn Government Official

Thank [Redacted] – and sorry for another question: does it also legalise gay marriage on island (assuming it wasn't possible before)? Or was it already possible?

J

26) 22 June 2015 – Email from Government Equalities Office to FCO OTD Strategy and Coordination Desk Officer

For info.

We're planning to send a Ministerial response congratulating the Islanders. Is there anyone I need to copy in?

Thanks,

27) 23 June 2015 – Email from Pitcairn Government Official to Governor

Jonathan,

A clean draft below which I hope covers everything, but because of the current interest, happy to take further questions.

Best

“Your predecessor wrote to me on 22 February encouraging progress in terms of the Pitcairn Islands recognising same sex unions in the UK. I replied on 30 March (attached) trailing action that was underway.

I am pleased to inform you that I enacted the Ordinance (law) on 13 May. You can find the law at www.pitcairn.gov.pn under “Government and the laws”. The new legislation recognises marriages of same sex couples formed in England, Wales and Scotland, and Civil Partnerships formed in the UK. And more explicitly it allows same sex marriages to be entered into on Pitcairn.

It covers other Ordinances (Justice, Land, Will etc.) relating to spouse, husband, wife etc. on Pitcairn. It also inserts an inclusive definition of “marriage” into the Interpretation and General Clauses Ordinance so that, unless otherwise provided, all references to marriage in Pitcairn laws are interpreted so as to include the marriage of same sex couples and registered civil partnerships entered into outside of Pitcairn.

You should be aware that there are no laws providing for civil partnerships to be entered into on Pitcairn itself: the primary aim of this Ordinance is to ensure legal unions that have been entered into elsewhere are recognised on Pitcairn. This is achieved by recognising civil partnerships as equivalent to marriages. I will be looking at, if necessary, civil partnerships, but as same sex marriages can now be entered into on Pitcairn a further amendment would appear to be redundant.

I hope that your office will have noted the recent article in the Guardian (and other news outlets) detailing the positive coverage that this Pitcairn Ordinance has been receiving recently.

Best Wishes

Jonathan Sinclair

Governor”

.....
28) 23 June 2015 – Email from Governor to Governor’s Personal Assistant

Thanks vm [Redacted]

[Redacted] – please can you finalise the second attachments on Gov paper for signature

Thks

J

Caroline Dinenage MP

Parliamentary Under-Secretary of State for Women, Equalities and Family Justice

Government Equalities Office

100 Parliament Street

London SW1A 2BQ

Pitcairn Islands: Recognition of same sex unions formed in the UK

Your predecessor wrote to me on 22 February encouraging progress in terms of the Pitcairn Islands recognising same sex unions in the UK. I replied on 30 March (attached) trailing action that was underway.

I am pleased to inform you that I enacted the Same Sex Marriage and Civil Partnerships Ordinance (law) on 13 May. You can find the law at www.pitcairn.gov.pn under "Government and the laws". The new legislation recognises marriages of same sex couples formed in England, Wales and Scotland, and Civil Partnerships formed in the UK.

The Ordinance explicitly allows same sex marriages to be entered into on Pitcairn. It does not provide for civil partnerships to be entered into on Pitcairn itself: the primary aim of this Ordinance is to ensure legal unions that have been entered into elsewhere are recognised on Pitcairn. This is achieved by recognising civil partnerships as equivalent to marriages. We will keep the issue of enabling civil partnerships being entered into on Pitcairn under review.

This Ordinance also amends other Ordinances (Justice, Land, Will etc) that relate to a spouse, husband, wife on Pitcairn Islands. It also inserts an inclusive definition of "marriage" into the Interpretation and General Clauses Ordinance so that, unless otherwise provided, all references to marriage in Pitcairn laws are interpreted so as to include the marriage of same sex couples and registered civil partnerships entered into outside of Pitcairn.

I am copying this letter to the Minister for the Overseas Territories.

.....
**29) 23 June 2015 – Email from Pitcairn Government Official to Pitcairn Government Official, FCO
Pitcairn Desk Officer and Government Equalities Office**

All,

Greetings!!

Could you please quickly check my answers (especially 3 and 5) to [Redacted].

[Redacted] – you might want to familiarise yourself with the Marriage Ordinance to take questions from Pitcairners – if I read Section 23 correctly the services of the Administrator/Registrar might be required.

Thanks

NB We might also be thinking about an influx of people (from Australia?) wishing to take advantage of the uniqueness of a same-sex marriage on Pitcairn!

So that we may report the recent legalisation of same-sex marriage in the Pitcairn Group of Islands accurately, may I take a few minutes of your time by asking you to answer six brief questions?

- 1) Must one or both partners be British subjects to contract a marriage? **No**

- 2) Is there a residency requirement and, if so, what is the minimum length of residence? **Yes: X DAYS. Please see the Pitcairn Marriage Ordinance Section 8 (a) for more detail. The Ordinance can be found at www.pitcairn.gov.pn under Government and the laws.**

- 3) We understand that marriages on Pitcairn are usually solemnised in the Seventh-Day Adventist church. Would a civil ceremony be available for couples wishing a non-religious ceremony? **Yes Section 23 of the Marriage Ordinance allows this.**

- 4) On the facsimile of the printed form of the Same Sex Marriage and Civil Partnerships Ordinance, 2015 the date of publication is added by hand. We cannot make out whether the date is 13 or 17 or some other double-digit date in May 2015. **13 May 2015.**

- 5) You are quoted on the Internet as saying that 'British authorities' had suggested legalisation to the Island Council. If you are at liberty to divulge this information, can you be more specific? Would it be the Foreign and Commonwealth Office? **It is usual practice for many UK laws to be applied to the Overseas Territories by the respective OT governments. The UK Parliament passed a Gay Marriage Act in xxxxx. Since then the UK Government has made clear [comment: if it has] its support for gay marriage. At the same time, the UK Government has voiced its encouragement for gay marriages and civil partnerships entered into in the UK to be respected in other countries. This support and encouragement is not the domain of any one department.**

- 6) Different sources give different numbers of current residents of Pitcairn ('48' and '56' recur). Since we realise that movement to and from the island makes a precise number impossible to calculate for any span of time, we have thought of writing 'between forty and sixty'. Do you think that is a realistic approximation? **I would suggest using "approximately 45 current residents".**

Kind regards,

.....

30) 23 June 2015 – Email from Governor to Pitcairn Government Official

Thanks [Redacted] for all your work on this. Two tweaks:

- a) Can we spell out at Q2 how many days? Assuming it's a straightforward answer, let's give it to him with the reference of the Law allowing him to get more information if he wants it
- b) Q5. I don't think we want to be too specific! I've suggested an amended version. Others may want to adapt.

J

.....
31) 23 June 2015 – Email from LGB&T Team to Implementation Manager – Equal Marriage Legislation, Government Equalities Office

This is a list of questions sent to the Pitcairn authorities about SSM. Q5 asks about the 'British authorities' which prompted their change.

I'm not totally happy with the response. Jo Swinson was interviewed in the press about her push for mutual recognition, so I think they can be up front and say:

5) You are quoted on the Internet as saying that 'British authorities' had suggested legislation to the Island Council. If you are at liberty to divulge this information, can you be more specific? Would it be the Foreign and Commonwealth Office?

It is usual practice for many UK laws to be applied to the Overseas Territories by the respective OT governments. [[Redacted]: I think Pitcairn is unusual in adopting SSM]

The UK Parliament passed the Marriage (Same Sex Couples) Act in 2013. Since then the UK Government has made clear its support for marriage of same sex couples. At the same time, the UK Government has voiced its encouragement for gay marriages and civil partnerships entered into in the UK to be respected in other countries and had conducted an exercise to determine which countries recognise their marriages of same sex couples and civil partnerships formed in the UK. This support and encouragement is not the domain of any one department. [[Redacted]: But it is G&E and FCO who do encourage LGBT rights]

Following this exercise, Pitcairn reviewed its policies and considered there was no bar to recognising the right of same sex couples to enter into marriage.

.....
32) 23 June 2015 – Email from Implementation Officer, Government Equalities Office to Pitcairn Government Official

Just a couple of suggestions from me.

The UK Parliament passed the Marriage (Same Sex Couples) Act in 2013. ~~Since then the UK Government has made clear its support for marriage of same sex couples. At the same time, and~~

since then the UK Government has voiced its encouragement for gay-marriages of same sex couples and civil partnerships entered into in the UK to be respected in other countries. ~~and~~ During ~~had conducted an exercise conducted by the UK Government to determine which countries recognise their-marriages of same sex couples and civil partnerships formed in the UK.~~ This support and encouragement is not the domain of any one department. ~~[[Redacted]: But it is GCo and FCO who do encourage LGBT rights]~~

~~Following this exercise, Pitcairn reviewed its policies and considered~~ clarified that there was no bar to recognising the right of same sex couples marrying there to enter into marriage.

.....

33) 23 June 2015 - Email from FCO OTD Strategy and Coordination Desk Officer to Government Equalities Office

My apologies, I was attending a meeting (incidentally at GEO). Copying Pitcairn Desk Officer [Redacted], who will, in turn, copy you in the latest lines that colleagues in the Governor's Office (NZL) and colleagues are in the process of pulling together.

In a nutshell, I understand that the decision by Pitcairn was something that was already in the train and preceded Jo Swinson MP's letter.

.....

34) 23 June 2015 - Email from Pitcairn Government Official to Assistant Attorney-General, FCO Pitcairn Desk Officer and Government Equalities Office

All,

Good morning!

Ok I think we have covered everything.

I have used [Redacted] latest wording (though I have changed "policies" to laws to be strictly accurate) for Q5.

I have deleted intermediate e-mails so that we can easily read [Redacted] e-mail. Let me know of any more changes?

Tks

So that we may report the recent legalisation of same-sex marriage in the Pitcairn Group of Islands accurately, may I take a few minutes of your time by asking you to answer six brief questions?

- 1) Must one or both partners be British subjects to contract a marriage? No

2) Is there a residency requirement and, if so, what is the minimum length of residence? **Yes: 15 DAYS.** Please see the Pitcairn Marriage Ordinance Section 8 (a) for more detail. The Ordinance can be found at www.pitcairn.gov.pn under Government and the laws.

3) We understand that marriages on Pitcairn are usually solemnised in the Seventh-Day Adventist church. Would a civil ceremony be available for couples wishing a non-religious ceremony? **Yes Section 23 of the Marriage Ordinance allows this.**

4) On the facsimile of the printed form of the Same Sex Marriage and Civil Partnerships Ordinance, 2015 the date of publication is added by hand. We cannot make out whether the date is 13 or 17 or some other double-digit date in May 2015. **13 May 2015.**

5) You are quoted on the Internet as saying that 'British authorities' had suggested legalisation to the Island Council. If you are at liberty to divulge this information, can you be more specific? Would it be the Foreign and Commonwealth Office? **The UK Parliament passed the Marriage (Same Sex Couples) Act in 2013 and since then the UK Government has voiced its encouragement for marriages of same sex couples and civil partnerships entered into in the UK to be respected in other countries. During an exercise conducted by the UK Government to determine which countries recognise marriages of same sex couples and civil partnerships formed in the UK, Pitcairn reviewed and changed its laws and clarified that there was no bar to same sex couples marrying there.**

6) Different sources give different numbers of current residents of Pitcairn ('48' and '56' recur). Since we realise that movement to and from the island makes a precise number impossible to calculate for any span of time, we have thought of writing 'between forty and sixty'. Do you think that is a realistic approximation? **I would suggest using "approximately 45 current residents".**

.....

35) 25 June 2015 – Email from Pitcairn Government Official to Humciv

Apologies for the slight delay, but please see my answers in green.

Best Wishes

So that we may report the recent legalisation of same-sex marriage in the Pitcairn Group of Islands accurately, may I take a few minutes of your time by asking you to answer six brief questions?

1) Must one or both partners be British subjects to contract a marriage? **No**

2) Is there a residency requirement and, if so, what is the minimum length of residence? **Yes: 15 DAYS.** Please see the Pitcairn Marriage Ordinance Section 8 (a) for more detail. The Ordinance can be found at www.pitcairn.gov.pn under Government and the laws.

3) We understand that marriages on Pitcairn are usually solemnised in the Seventh-Day Adventist church. Would a civil ceremony be available for couples wishing a non-religious ceremony? **Yes Section 23 of the Marriage Ordinance allows this.**

4) On the facsimile of the printed form of the Same Sex Marriage and Civil Partnerships Ordinance, 2015 the date of publication is added by hand. We cannot make out whether the date is 13 or 17 or some other double-digit date in May 2015. [13 May 2015](#).

5) You are quoted on the Internet as saying that 'British authorities' had suggested legalisation to the Island Council. If you are at liberty to divulge this information, can you be more specific? Would it be the Foreign and Commonwealth Office? [The UK Parliament passed the Marriage \(Same Sex Couples\) Act in 2013 and since then the UK Government has voiced its encouragement for marriages of same sex couples and civil partnerships entered into in the UK to be respected in other countries. During an exercise conducted by the UK Government to determine which countries recognise marriages of same sex couples and civil partnerships formed in the UK, Pitcairn reviewed and changed its laws and clarified that there was no bar to same sex couples marrying there.](#)

6) Different sources give different numbers of current residents of Pitcairn ('48' and '56' recur). Since we realise that movement to and from the island makes a precise number impossible to calculate for any span of time, we have thought of writing 'between forty and sixty'. Do you think that is a realistic approximation? [I would suggest using "approximately 45 current residents"](#).



36) 2 July 2015 – Letter from Mr Andrew Jones MP to FCO Minister

HOUSE OF COMMONS

LONDON SW1A 0AA

James Duddridge MP
Parliamentary Under Secretary of State for Foreign and Commonwealth Affairs
Foreign & Commonwealth Office
King Charles Street
London
SW1A 2AH

2 July 2015

I have been contacted by my constituent named above regarding the decision by the Pitcairn Islands, a British Overseas Territory, to approve same-sex marriage. Please find enclosed a copy of the email I received from

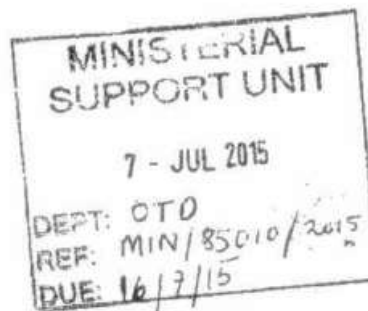
I would be grateful if you could provide me with a response to questions.

Thank you for your assistance with this matter - it is much appreciated.

Yours,

Andrew

Andrew Jones MP



Constituency office: 57 East Parade, Harrogate, HG1 5LQ
01423 529614
andrew.jones.mp@parliament.uk

Sent: 24 June 2015 16:36
To: JONES, Andrew
Subject: Pitcairn Island
Categories: Blue Category

Dear Mr Jones,
You may have seen in the 'Telegraph' for yesterday, Tuesday 23/06 a feature (page 13) suggesting that Pitcairn Island had received some hint (if that's the word) or other from 'British authorities' that the island ought to make legal provision for persons of the same sex to 'marry' each other.

I appreciate of course that one cannot believe everything one reads in the newspapers. If true however, this strikes me as a very strange proceeding. Without sight of the documents, one does not know whether the suggestions were accompanied by threats or inducements.

Could you assist me with an approach to the Colonial Office (or whatever is the appropriate department) for information as to how many colonies or territories (specifying names) have been approached in this manner? A specimen form of document incorporating the suggestion/ request /demand could be enlightening. I suppose the Freedom of Information Act would be relevant.

I look forward to hearing from you.

In the meantime I remain,
Yours truly,



37) 8 July 2015 – Letter from FCO Minister to Mr Andrew Jones MP

July 2015

Mr Andrew Jones MP
House of Commons
London
SW1A 0AA

Thank you for your letter of 2 July regarding same-sex marriage in the Overseas Territories (OTs).

The UK Parliament passed the Marriage (Same Sex Couples) Act in 2013 and since then the UK Government has voiced its encouragement for marriages of same-sex couples and civil partnerships entered into in the UK to be respected in other countries. The European Court of Human Rights makes it clear however that same-sex marriage is a matter for individual states to decide for themselves. During an exercise conducted by the UK Government to determine which countries recognise marriages of same-sex couples and civil partnerships formed in the UK, Pitcairn chose to review and change its laws to clarify that there is no bar to same-sex couples marrying there.

I would like to take the opportunity to reiterate that the UK Government's relationship with its Territories is a modern one based on partnership and shared values. We share a common agenda to promote respect for human rights and tackle discrimination. At the Joint Ministerial Council in December 2012 the UK Government and Territory leaders agreed to work to remove all forms of discrimination and they continue to do so.

James Duddridge MP
Minister for Africa, the Overseas Territories and Caribbean