

PITCAIRN, HENDERSON

DUCIE & OENO ISLANDS

No 1 of 2023

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

**LOCAL GOVERNMENT (REMOTE PARTICIPATION IN COUNCIL
MEETINGS) AMENDMENT ORDINANCE**

DATE MADE: *9 March 2023*

DATE PUBLISHED:

An Ordinance to provide for remote participation in council meetings

PART I – PRELIMINARY

Citation and
commencement

1. –(1) This Ordinance may be cited as the Local Government (Remote Participation in Council Meetings) Amendment Ordinance 2023.

(2) This Ordinance shall come into operation on the day after it is published.

Principal
Ordinance

2. This Ordinance amends the Local Government Ordinance

PART II – AMENDMENTS TO LOCAL GOVERNMENT ORDINANCE

Island Council

3. –(1) This section amends section 6 of the Local Government Ordinance.

(2) The words “Subject to subsection (6A),” are inserted at the beginning of subsection (6).

(3) A new subsection (6A) is inserted as follows:

“(6A) The Council may, with approval of the Governor, transact business at a meeting with a minimum of four voting members (including members participating remotely) where:

- (a) It is not possible for five voting members, including those participating in person and any participating by remote participation in accordance with section 6A, to be present; and
- (b) There are exceptional circumstances that require the Council to make a decision on that business urgently.”

(3) A new subsection is inserted into section 6 as follows:

“(12) The Council may make Standing Orders that provide further rules for the conduct of council meetings, provided that such rules are consistent with the provisions of this Ordinance.”

Remote participation

4. –A new section 6A is inserted as follows:

Remote participation

6A. –(1) A member may attend a Council meeting by remote attendance if at the relevant time the conditions in subsection (2), and any further conditions specified in standing orders in accordance with subsection (3), are satisfied.

(2) The conditions are:

- (a) the member attending remotely is able to hear and, where practicable, see, and to be heard and, where practicable, be seen by, other members in attendance at the meeting; and
- (b) the member attending remotely is able to be heard and, where practicable, be seen by any other members of the public attending the meeting; and
- (c) no fewer than four members of Council attending the meeting are present on Pitcairn.

(3) Council may make standing orders about remote

attendance of members in Council meetings, which may include provisions regarding:

- (a) obtaining prior approval for remote attendance from Council or the Mayor;
- (b) methods of participation and voting by the member attending remotely;
- (c) methods of making documents available to or by the member attending remotely.

(4) A person who attends a Council meeting remotely in accordance with this section is “present” at that meeting for the purposes of section 6, and may vote at that meeting unless restricted from so doing by standing orders made in accordance with subsection (3).

(5) For the purposes of this section, “remote attendance” means attendance at the meeting by electronic means such as video or conference call, and “attending remotely” has a corresponding meaning.

**Local Government (Remote Participation in Council Meetings) Amendment Ordinance
2023**

Explanatory Note and Legal Report

This Ordinance amends the Local Government Ordinance to provide for remote attendance and participation in council meetings. It addresses a need for continuity in Council, and the reality that at times elected members are required to be away from Pitcairn for significant periods of time, for example to receive health care or on Council business, but are still capable of contributing to Council meetings during that time. The current Ordinance is silent on the possibility of remote participation in meetings. This Ordinance clarifies that Councillors can participate remotely in Council meetings in certain conditions, and allows further conditions to be set in standing orders.

The Ordinance inserts a new s 6A into the Local Government Ordinance, to provide explicitly for remote attendance – by electronic means such as video or conference call – at Council meetings. It provides that a member of Council can attend and vote at a meeting of Council by video or conference call, so long as that person can hear and (where practicable) see other members of Council, and can be heard and (where practicable) seen by other members of Council and any members of the public in attendance. Further conditions may be specified in standing orders. The ordinance does not affect the obligations of participants in the meeting regardless of whether they attend in person or remotely, so for example, a Mayor who attends remotely will still be responsible for presiding over the meeting in accordance with s 6(5).

The Ordinance also makes changes to the existing section 6 of the Local Government Ordinance. It inserts a new subsection (12) to specify that standing orders can be made to regulate meetings of Council. This gives legislative recognition to rules of meetings currently set by Council, including future rules governing remote participation.

It also provides for a reduced quorum in exceptional circumstances, in a new subsection (6A). Where it is not possible for the current quorum of five people to meet (including those in person and by remote participation in accordance with the new s 6A), and there are exceptional circumstances that require the Council to make an urgent decision on some Council business, the Governor can approve a quorum of four to conduct that business. A meeting with this quorum would still require a minimum of three votes to pass any resolution – the same number of votes as it would require with the ordinary quorum of five – but would not require the presence of a fifth member.

Consistency with the Constitution

This amendment ordinance supports the operation of an elected Island Council, as provided for in section 34 of the Constitution. Allowing remote participation means elected members can participate more readily when off-short for medical reasons, Council business, or other reasons, while the conditions that the member be able to be heard and seen by members of the public supports transparency of Council meetings.

In my view this amendment is consistent with the Constitution.

Simon Mount KC
Attorney General of Pitcairn