



CHIEF JUSTICE OF THE PITCAIRN ISLANDS

PRACTICE DIRECTION (Section 17 of the Judicature (Courts) Ordinance)

ADMISSIONS TO PITCAIRN BAR

Background

1. Admission as a barrister or solicitor to the Pitcairn Bar is governed by the Legal Practitioners Ordinance of 2001 (the Ordinance). Section 5(1) of the Ordinance confers on the Chief Justice an “absolute discretion [to] decide whether or not the application should be approved”. Section 6 empowers the Chief Justice, on good cause being shown, to revoke any certificate of admission granted to any person under section 5.
2. I assumed office as Chief Justice of the Pitcairn Islands on 20 January 2022. On 27 May 2022, the Registrar referred to me a specific application for admission to the Pitcairn Bar. In the course of considering that application, I reviewed a number of decisions made by my predecessor, Blackie CJ, on similar applications.
3. In dealing with the earlier applications, the then Chief Justice took into account the permanent population of less than 50 people on Pitcairn Islands and the existence of an established Bar, that had grown since the need for admission for the purpose of trials on historical sexual abuse charges that began around late 2003. Later admissions were made, usually for specific cases. In each of the decisions that he made, Blackie CJ recorded his view that there were sufficient members of the Bar who could “be called upon to meet most of the Pitcairn Islanders’ legal needs, including the giving of advice on such matters as divorce, wills and estates”.

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4. On 3 June 2022, I issued a Minute on the particular application before me. I indicated that I intended to consult on criteria to be applied. My aim was to formulate a transparent explanation of the criteria to be applied, with a view to establishing a consistent approach to the question of admission. In that Minute, I said:

[5] For the same reasons [given by Blackie CJ when dealing with earlier applications] I am loathe, on an *ad hoc* basis, to increase the size of the Pitcairn Bar beyond what is necessary to serve the needs of its community. My preference is to develop and publish guidelines for admission, so that those who seek that status are aware of the information they need to provide in order to make an application. The power to give a practice direction of that type is contained in section 17 of the Judicature (Courts) Ordinance.

[6] In the meantime, I defer [the] application pending promulgation of a practice direction of that type. The Registrar shall send a copy of this Minute to [the applicant] to advise him of that deferment. His application is not, at this stage, being dismissed.

[7] I take the view that any practice direction should follow consultation with the Attorney-General, and senior members of the Pitcairn Bar, so that they may express their views on the appropriate criteria to apply. I direct the Registrar to forward a copy of this Minute to selected members of the senior Bar, so that they may make whatever submissions they see fit on the topic. I will determine whether to issue guidance (jurisdiction is something on which counsel can comment) and, if so, the form of that guidance after I receive their views. The Registrar shall send this Minute to the Attorney-General, Mr Kieran Raftery QC, Mr Grant Illingworth QC, Mr Paul Dacre QC and Dr Tony Ellis. I would appreciate any comments by 31 July 2022, following which the Registrar shall refer them all to me for consideration.

5. I have now received the benefit of views from practitioners to whom my Minute was sent for consultation purposes. In particular, I received detailed and helpful comments from the Attorney-General, and an experienced member of the Pitcairn Bar, Dr Tony Ellis. In addition, I received a memorandum from the Public Defender, Mr Dacre KC. Having considered the memoranda, I have decided to issue this Practice Direction under section 17 of the Judicature (Courts) Ordinance.

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Directions

6. Any person applying, under section 4(1) of the Ordinance, for admission to the Pitcairn Bar shall provide the following to the Registrar:

- (a) A statement of the jurisdiction in which the practitioner currently holds a practising certificate. The definition of “practising certificate” in section 2 of the Ordinance limits qualifying countries to those in the Commonwealth. A copy of the relevant Practising Certificate shall be provided to the Registrar.
- (b) A statement indicating why admission to the Pitcairn Bar is sought. If applicable, this statement shall indicate whether admission is sought to appear in a specific case to be heard before a Court in the Pitcairn Islands and, if so, the nature of the case.
- (c) A statement of
 - (i) the extent of the applicant’s knowledge of custom and/or law of Pitcairn Islands; and
 - (ii) the extent of the applicant’s knowledge of English law and practice that may, subject to local consideration, apply in Pitcairn; and
 - (iii) the areas of law in which the applicant may be able to provide particular assistance to Pitcairn Islanders.

Applicants can obtain information about relevant laws from the Pitcairn Government website: <http://pitcairn.gov.pn/Laws/Index.php>

- (d) Evidence of his or her good character and fitness to practise law. In particular, a certificate should be provided from the issuer of the Practising Certificate in the relevant Commonwealth country confirming that there are no outstanding disciplinary charges against the applicant or, if any do exist, the nature of them.

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7. On receipt of that information, the Registrar will refer the application to the Chief Justice under section 5(1) of the Ordinance for decision. The discretion whether to grant or refuse the application will be exercised on a principled basis, having regard to the needs of the small population on the Pitcairn Islands for legal assistance. Although New Zealand counsel form the nucleus of the Pitcairn Bar, an application from a practitioner in another jurisdiction will be determined on its own merits. There will be no pre-disposition in favour of admission from the ranks of the New Zealand Bar.

8. Although the Attorney asked that I consider making a direction that extended to revocation of a certificate of admission under section 6, of the Ordinance, I consider that the reference to “good cause” in that provision is a sufficient basis to discern whether, in a particular case, revocation is or is not justified. For that reason, this Practice Direction does not deal with the section 6 issue.

Dated at Auckland this 30th day of September 2022



Paul Heath
Chief Justice