

LAWS OF PITCAIRN, HENDERSON, DUCIE
AND OENO ISLANDS

Revised Edition 2002

CHAPTER XXXVI

VICTIMS OF OFFENCES (NO. 2) ORDINANCE

An ordinance to make provision for ensuring the rights and protection of victims of crime

Ordinances
No. 10 of 2002
No. 16 of 2002

[14 November 2002]

Preliminary

1. This ordinance may be cited as the Victims of Offences Ordinance (No. 2)

Citation

2. In this ordinance, unless the context otherwise requires—

Interpretation

victim means a person who, through or by means of a criminal offence (whether or not any person is convicted of that offence), suffers physical or emotional harm or loss of or damage to property; and, where an offence results in death, the term includes the members of the immediate family of the deceased.

Declaration of Principles

3. Members of the Police, prosecutors, judicial officers, counsel, officials and other persons dealing with victims should treat them with courtesy, compassion and respect for their personal dignity and privacy.

Treatment of victims

4. Victims and, where needed, their families should have access to welfare, health, counselling, medical and legal assistance responsive to their needs, where it is available.

Access to services

5.—(1) Members of the Police, officers of the Court and health and social services personnel should, wherever practicable, inform victims at the earliest opportunity of the services and remedies available to them.

Early information for victims

(2) Victims should also be told of available protection against unlawful intimidation.

6. The prosecuting authority or officers of the Court, as the case may require, should, according to the circumstances

Information about proceedings

of the particular case, make available to a victim information about the progress of the investigation of the offence, the charges laid or the reasons for not laying charges, the role of the victim as a witness in the prosecution of the offence, the date and place of the hearing of the proceedings and the outcome of the proceedings, including any proceedings on appeal.

Return of property

7. Law enforcement agencies and the Courts should return the property of a person (other than the defendant) which is held for evidentiary purposes as promptly as possible so as to minimise inconvenience to that person.

Power to clear Court and forbid report of proceedings

8.—(1) Subject to the provisions of subsections (2) and (3) of this section and any other enactment, every sitting of any Court dealing with any proceedings in respect of an offence shall be open to the public.

(2) Where a Court is of the opinion that the interests of justice or of public morality or of the reputation of any victim of any alleged sexual offence or offence of extortion so require, it may make any one or more of the following orders—

- (a) an order forbidding publication of any report or account of the whole or any part of—
 - (i) the evidence adduced; or
 - (ii) the submissions made;
- (b) an order forbidding the publication of the name of any witness or witnesses or any name or particulars likely to lead to the identification of the witness or witnesses;
- (c) subject to subsection (3) of this section, an order excluding all or any persons other than the complainant, any member of the police, the defendant, any counsel engaged in the proceedings and any officer of the Court from the whole or any part of the proceedings.

(3) The power conferred by paragraph (c) of subsection (2) of this section shall not be exercised so as to exclude any accredited news media reporter.

(4) An order made under paragraph (a) or paragraph (b) of subsection (2) of this section—

- (a) may be made for a limited period or permanently; and
- (b) if it is made for a limited period, may be renewed for a further period or periods by the Court; and
- (c) if it is made permanently, may be reviewed by the Court at any time.

(5) The powers conferred by this section to make orders

of any kind described in subsection (2) of this section are in substitution for any such powers that a Court may have had under any inherent jurisdiction or any rule of law; and no Court shall have power to make any order of any such kind except in accordance with this section or any other enactment.

(6) Notwithstanding that an order is made under subsection (2)(c) of this section, the announcement of the verdict or decision of the Court (including a decision to commit the defendant for trial or sentence) and the passing of sentence shall in every case take place in public; but, if the Court is satisfied that exceptional circumstances so require, it may decline to state in public all or any of the facts, reasons or other considerations that it has taken into account in reaching its decision or verdict or in determining the sentence passed by it on any defendant.

[(7) Subject to subsection (8) of this section, every person who commits a breach of any order made under paragraph (a) or paragraph (b) of subsection (2) of this section commits an offence and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(8) Where a corporation commits a breach of any order made under paragraph (a) or paragraph (b) of subsection (2) of this section, every director of that corporation shall be deemed to be a person who has committed an offence as described in subsection (7) of this section punishable as aforesaid and the corporation shall be guilty of an offence punishable on conviction by a fine not exceeding \$100,000.

(9) The offences prescribed by subsections (7) and (8) shall be justiciable in the Supreme Court notwithstanding that the acts constituting those offences or any of those acts may have taken place outside the territorial limits of the Court's jurisdiction.

(10) For the avoidance of doubt it is hereby declared that nothing in this section shall be taken to detract from the power of the Supreme Court to punish any person for criminal contempt in accordance with the common law or under the provisions of the Contempt of Court Act 1981 of the Parliament of the United Kingdom.]

(Replaced by Ordinance No. 16 of 2002)

9.—(1) No person shall publish, in any report or account relating to any proceedings commenced in any Court in respect of an offence of a sexual nature, the name of any person upon or with whom the offence has been or is alleged to have been committed or any name or particulars likely to lead to the identification of that person unless—

Prohibition against
publication of names
in certain sexual cases

- (a) that person is of or over the age of 16 years; and
- (b) the Court, by order, permits such publication.

(2) No person shall publish, in any report or account relating to proceedings in respect of any offence of incest or sexual intercourse with a girl under 21 years of age in the offender's care or protection, the name of the person accused or convicted of the offence or any name or particulars likely to lead to the person's identification.

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who publishes any name or particular in contravention of subsection (1) or subsection (2) of this section.

Court may prohibit
publication of names

10.—(1) Except as otherwise expressly provided in any enactment, a Court may make an order prohibiting the publication, in any report or account relating to any proceedings in respect of an offence, of the name, address or occupation of the person accused or convicted of the offence or of any other person connected with the proceedings or any particulars likely to lead to any such person's identification.

(2) Any such order may be made to have effect only for a limited period, whether fixed in the order or to terminate in accordance with the order; or if it is not so made, it shall have effect permanently.

(3) If any such order is expressed to have effect until the determination of an intended appeal and no notice of appeal or of application for leave to appeal is filed or given within the time limited or allowed by or under the relevant enactment, the order shall cease to have effect on the expiry of that time; but if such a notice is given within that time, the order shall cease to have effect on the determination of the appeal or on the occurrence or non-occurrence of any event as a result of which the proceedings or prospective proceedings are brought to an end.

(4) The making under this section of an order having effect only for a limited period shall not prevent any Court from making under this section any further order having effect either for a limited period or permanently.

(5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who commits a breach of any order made under this section or evades or attempts to evade any such order.

Views of victims

11. When considering an application for bail in respect of a charge of sexual violation or other serious assault or injury any views of the victim must be taken into account.

(Inserted by Order of Commissioner dated 28.04.03)

12.—(1) The victim of an offence of sexual violation or other serious assault or injury should be given the opportunity to request notification of any of the following—

Notification of offender's parole hearing, release or escape in certain cases

- (a) the offender's impending release from penal custody or release to or from home detention;
- (b) the offender's escape from penal custody or home detention;
- (c) the time and date of the offender's hearing or hearing for release to home detention.

(2) Where the victim makes such a request, then, provided that the victim has supplied a current address and telephone number to a member of the police or the Registrar of the Court concerned, the victim should be—

- (a) promptly notified of the offender's impending release or escape from penal custody or home detention; and
- (b) given reasonable prior notice of the time and date of the offender's parole hearing or hearing for release to home detention.

13.—(1) This section applies to the victim of an alleged offence, or of an offence, of sexual violation or other serious assault or injury, if the defendant is lawfully held in custody in prison or detained in a hospital or similar institution.

Notification of compulsorily detained person's escape or discharge

(2) Such a victim should be given the opportunity to request notification of—

- (a) any escape by the defendant;
- (b) any impending discharge of the defendant;
- (c) any grant of leave to the defendant from custody in prison or detention in hospital or other institution.

(3) Such a victim should be promptly notified of the matters described in subsection (2), if he or she has—

- (a) requested notification;
- (b) supplied a current address and telephone number to a member of the police or the Registrar of the Court concerned.

14. The Victims of Offences Ordinance 2002 is hereby repealed.

Repeal