



19/05/23
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Enacted by the Governor of the Islands
of Pitcairn, Henderson, Ducie and Oeno

SUMMARY OFFENCES (PENALTIES) AMENDMENT ORDINANCE

DATE MADE: 19/5/2023

DATE PUBLISHED: 31/5/2023

An Ordinance to increase maximum penalties under the Summary Offences Ordinance
and the corresponding limit on the jurisdiction of the Island Magistrate

PART I – PRELIMINARY

Citation and
commencement

1. –(1) This Ordinance may be cited as the Summary Offences (Penalties)
Amendment Ordinance 2022.

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

PART II – AMENDMENTS TO SUMMARY OFFENCES ORDINANCE

Penalties amended

2. –(1) This section amends the Summary Offences Ordinance.

(2) Except as provided in section 4 below, in all sections of the Summary
Offences Ordinance, replace the maximum penalty amounts specified in the

first column of the table below with the corresponding amounts specified in the second column:

Original penalty	New penalty
Twenty five dollars	\$500
Fifty dollars	\$1000
One hundred dollars	\$2000
One hundred and fifty dollars	\$3000
Two hundred dollars	\$4000
Two hundred and fifty dollars	\$5000

Section 4 amended
(Disorderly
conduct) 3. In section 4, delete the words “or both such fine and imprisonment”.

Section 5 amended
(Indecent
behaviour) 4. In section 5:
(a) replace the words “one hundred dollars” with “\$5000”; and
(b) replace the words “forty days” with “100 days”.

PART III – AMENDMENTS TO JUSTICE ORDINANCE

Section 5 amended
(Jurisdiction of
Island Magistrate) 5. – (1) This section amends section 5 of the Justice Ordinance.
(2) In subsection (1)(b)(i), replace the words “four hundred” with
“\$5000”.

Summary Offences (Penalties) Amendment Ordinance 2023

Explanatory Note and Legal Report

This Ordinance increases the maximum fines applicable to summary offences under the Summary Offences Ordinance.

The maximum fines for the majority of offences under the Summary Offences Ordinance have been unchanged since at least 1985. Aside from one offence which has recently been amended to include a penalty of up to \$20,000,¹ the maximum fines for offences under the Ordinance range from \$25 to \$250. These amounts no longer provide an effective deterrent, and do not allow room for escalation for repeat offending. Further, it is recognised that on Pitcairn, there may be a greater reliance on fines to provide an effective deterrent for lower-level offending, rather than imprisonment.

Section 2 of the draft Ordinance increases maximum fines proportionally so that the previous range of \$25 to \$250 is increased to \$500 to \$5000. These are maximum amounts: the actual fine in each case would be determined by the judge or magistrate and would typically be much lower than the maximum. When ordering such a fine, a judge or magistrate may direct the payment to be made in instalments, or allow time for payment of all or some of the fine.² For those offences that are also punishable by imprisonment, the maximum terms remain unchanged. Under the Sentencing Ordinance, where appropriate, these offences may be subject to a sentence of community work instead of imprisonment.³

Section 3 of the draft Ordinance corrects a grammatical error in the drafting of that section.

Section 4 increases the maximum penalties for the offence of indecent behaviour from \$100 to \$5000, and from 40 days' imprisonment to 100 days' imprisonment. This is to recognise the particular public interest in deterring and penalising indecent behaviour on Pitcairn in appropriate cases. It brings the maximum penalty for this offence into line with the penalty for the offence for possession of indecent and obscene material.

Section 5 of the draft Ordinance amends the Justice Ordinance so that the Island Magistrate can impose a fine of up to \$5000. This is so that summary offences can continue to be heard, where appropriate, before the Island Magistrate, with the new increased penalty levels. Sentencing decisions of the Island Magistrate can be appealed to the Supreme Court under s 14 of the Judicature (Courts) Ordinance.

Consistency with the Constitution

In my opinion, this draft Ordinance is consistent with the Constitution.

Simon Mount QC
Attorney General of Pitcairn
24 April 2023

¹ Section 19 was amended in 2018 to expand the scope of and increase the penalty for the offence relating to protected artefacts.

² Justice Ordinance, section 38.

³ Sentencing Ordinance, s 53.