



BRITISH INDIAN OCEAN TERRITORY

OFFICIAL GAZETTE

VOLUME LVI

2024

ISSUE VI

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THE BRITISH INDIAN OCEAN TERRITORY

OFFICIAL GAZETTE

VOL LVI: 2024

Issue No. VI

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December 2024

PART 1

NOTICES

A. The following Notices are published by order of the Commissioner:

None.

B. The following Notices are published by order of the Commissioner's Representative:

None.

PART 2

APPOINTMENTS

A. The Commissioner has made the following appointments:

1. ROBERT JOHN FAIRWEATHER to be Director of Administration with effect 26 July 2024, under section 7 of the British Indian Ocean Territory (Constitution) Order 2004.
2. MAJOR JUSTIN CHARLES WILLIS to be Acting Commissioner's Representative in place of MAJOR STEVEN CONGREVE with effect 15 August 2024, under section 7 of the British Indian Ocean Territory (Constitution) Order 2004.
3. MAJOR JUSTIN CHARLES WILLIS to be Acting Magistrate in place of MAJOR STEVEN CONGREVE with effect 15 August 2024, under section 27(1) of the Courts Ordinance 1983.
4. MAJOR JUSTIN CHARLES WILLIS to be a Fisheries Protection Officer in place of MAJOR STEVEN CONGREVE with effect 15 August 2024, under section 4(5) of the Fisheries (Conservation and Management) Ordinance 2007.
5. EMILY WALLIS to be Usher of the British Indian Ocean Territory Supreme Court with effect from 16 September 2024, under section 17 of the Courts Ordinance 1983.
6. ROBERT JOHN FAIRWEATHER to be Administrator and Director of Fisheries in place of EMILY JANE ALICE AGER with effect from 24 September 2024, under

Section 7 of the British Indian Ocean Territory (Constitution) Order 2004, and in accordance with Section 4(1) of the Fisheries (Conservation and Management) Ordinance 2007.

7. HELEN BIRCH to act in place of ROBERT JOHN FAIRWEATHER as Administrator with effect from 31 October 2024, during any period during which the latter person is himself unable for any reason to discharge the functions vested in him by virtue of that appointment, under Section 7 of the British Indian Ocean Territory (Constitution) Order 2004.
8. JOHN BRIAN OLLEY to act in place of ROBERT JOHN FAIRWEATHER as Administrator in place of HELEN BIRCH with effect from 02 December 2024, during any period during which the latter person is himself unable for any reason to discharge the functions vested in him by virtue of that appointment, under Section 7 of the British Indian Ocean Territory (Constitution) Order 2004.

B. The Deputy Commissioner has made the following appointments:

None.

C. The Commissioner's Representative has made the following appointments:

1. CORAL MCKENNA to be Clerk of the Court in place of JENNIFER JONES with effect from 03 August 2024, under section 35 of the Courts Ordinance 1983.
2. MR KEVIN CHAMBERS to be ROPO1 in place of MR MIKE MWALE with effect from 17 May 2024, under section 28 of the Interpretation and General Provisions Ordinance 1993 and pursuant to section 52(1) of the Courts Ordinance 1983.

PART 3

CORRECTIONS

There are no corrections.

PART 4

LEGAL SUPPLEMENT

- A. The following laws have been enacted:
1. Ordinance No. 5 of 2024: The Police and Security Services (Body-Worn Video) Ordinance 2024
 2. Ordinance No. 6 of 2024: The Penal Code (Amendment) Ordinance 2024
- B. The following Proclamations, Directions, Orders and other statutory instruments have been enacted:
1. S.I. No. 5 of 2024: The Prison Declaration Order 2024
 2. S.I. No. 6 of 2024: The Police and Security Services (Body-Worn Video) Ordinance 2024 (Code of Practice) Order 2024
 3. S.I. No. 7 of 2024: The Prohibited Imports and Exports Control Order 2024
- C. The following licences have been granted:
1. None.
- D. The following UK laws have been extended to the Territory:
1. S.I. No. 986 of 2024: The Syria (Sanctions) (Overseas Territories) (Amendment) Order 2024
 2. S.I. No. 987 of 2024: The Russia (Sanctions) (Overseas Territories) (Amendment) (No. 2) Order 2024

PART 5

OTHER LEGAL DOCUMENTS

There are no other legal documents.

LEGAL SUPPLEMENT



THE BRITISH INDIAN OCEAN TERRITORY

THE POLICE AND SECURITY SERVICES (BODY-WORN VIDEO) ORDINANCE 2024

Ordinance No. 5 of 2024

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THE BRITISH INDIAN OCEAN TERRITORY
THE POLICE AND SECURITY SERVICES
(BODY-WORN VIDEO) ORDINANCE 2024

Ordinance No. 5 of 2024

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Enacted by the Commissioner for the British Indian Ocean Territory

8 November 2024

[SIGNED ON THE ORIGINAL]

Nishi Dholakia
Commissioner (Acting)

THE POLICE AND SECURITY SERVICES (BODY WORN VIDEO) ORDINANCE 2024

Ordinance No. 5 of 2024

An Ordinance to provide for the use of body-worn video devices by police officers and members of an approved security agency, and for related purposes.

Citation and commencement.

1. This Ordinance may be cited as the Police and Security Services (Body-Worn Video) Ordinance 2024 and shall come into force forthwith.

Definitions.

2. In this Ordinance –

“approved security agency” means any agency, organisation or contractor that has been engaged directly or indirectly by the Administration of the Territory to provide security, supervisory or safety guarding services in the Territory;

“body-worn video” means a recording from a device overtly attached to the outside of clothing;

“Court” means any court of the Territory;

“recording” means any audio or visual recording, or both, made using a body-worn video device;

“Territory” means the British Indian Ocean Territory, and

“visual recording” means the recording of either still and moving images, or both.

Use of body-worn video devices.

3. Police officers and members of any approved security agency may use body-worn video devices in the lawful execution of their duties, including for the purpose of the prevention and detection of crime.

Code of Practice.

4. (1) The Commissioner shall issue a code of practice in connection with the use of body-worn video.

(2) In section 5 and section 6(2), “code” means the code of practice issued under subsection (1).

Code of Practice – supplementary

5. (1) A failure on the part of a Police Officer or a member of an approved security agency to comply with any provision of the code shall not of itself render him liable to any criminal or civil proceedings.

(2) In all criminal and civil proceedings, the code shall be admissible in evidence; and if any provision of the code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

Admissibility in evidence.

6. (1) Any recording made by a Police Officer or member of an approved security agency shall be admissible as evidence in any Court, subject to any rule of law.

(2) A failure on the part of a Police Officer or a member of an approved security agency to comply with any provision of the code shall not of itself render a recording inadmissible.



THE BRITISH INDIAN OCEAN TERRITORY

**THE PENAL CODE (AMENDMENT)
ORDINANCE 2024**

Ordinance No. 6 of 2024

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THE BRITISH INDIAN OCEAN TERRITORY

THE PENAL CODE (AMENDMENT) ORDINANCE 2024

Ordinance No. 6 of 2024

ARRANGEMENT OF SECTIONS

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2.	Definition.	3
3.	Amendment of section 214 of the Principal Ordinance.	3

Enacted by the Commissioner for the British Indian Ocean Territory

5 December 2024

[SIGNED ON THE ORIGINAL]

Nishi Dholakia
Acting Commissioner

THE PENAL CODE (AMENDMENT) ORDINANCE 2024

Ordinance No. 6 of 2024

An Ordinance to amend the Penal Code 1981 by adding a further example of a reckless and negligent act in section 214.

Citation and commencement.

1. This Ordinance may be cited as the Penal Code (Amendment) Ordinance 2024 and shall come into force forthwith.

Definition.

2. The “Principal Ordinance” means the Penal Code 1981.

Amendment of section 214 of the Principal Ordinance.

3. Section 214 of the Principal Ordinance is amended by the addition of the following after subsection (h) –

“(i) does any act which causes, or omits to take proper precautions to prevent, damage to any part of a vessel carrying a person or persons on board,”



THE BRITISH INDIAN OCEAN TERRITORY

THE PRISON DECLARATION ORDER 2024

S.I. No. 5 of 2024

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THE BRITISH INDIAN OCEAN TERRITORY
THE PRISON DECLARATION ORDER 2024

S.I. No. 05 of 2024

In exercise of the powers conferred on him by section 2 of the Prisons Ordinance 1981 and all other powers enabling him in that behalf the Commissioner hereby makes the following Order –

1. The area known as IRC1, situated to the left-hand side of the entrance to the Short-Term Holding Facility, housed within Building Number 1568 on Diego Garcia, is hereby declared to be a prison.
2. This Order shall come into force forthwith.

2 November 2024

[SIGNED ON THE ORIGINAL]

Nishi Dholakia
Commissioner (Acting)



THE BRITISH INDIAN OCEAN TERRITORY

**THE POLICE AND SECURITY SERVICES
(BODY-WORN VIDEO) ORDINANCE 2024
(CODE OF PRACTICE) ORDER 2024**

S.I. No. 6 of 2024

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THE BRITISH INDIAN OCEAN TERRITORY

**THE POLICE AND SECURITY SERVICES
(BODY-WORN VIDEO) ORDINANCE 2024
(CODE OF PRACTICE) ORDER 2024**

S.I. No. 6 of 2024

1. In exercise of the powers conferred on the Commissioner by section 4(1) of the Police and Security Services (Body-Worn Video) Ordinance 2024, the Commissioner hereby issues this Code of Practice for the Use of Body-Worn Video, as set out in the Schedule.
2. This Order shall come into force forthwith.

8 November 2024

[SIGNED ON THE ORIGINAL]

Nishi Dholakia
Commissioner (Acting)

SCHEDULE

**POLICE AND SECURITY SERVICES
(BODY-WORN VIDEO) ORDINANCE 2024**

**CODE OF PRACTICE FOR THE USE OF
BODY-WORN VIDEO**

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1.0 Purpose

- 1.01 This Code provides the relevant legal framework under which Police Officers and Approved Security Agencies in the British Indian Ocean Territory should use body-worn video.
- 1.02 The procedures and requirements set out in this Code should be considered a minimum standard for using body-worn video and should be used as a basis for standard operating procedures or standing orders relating to its use.
- 1.03 All Police Officers and relevant employees of Approved Security Agencies shall familiarise themselves with the contents of this Code.

2.0 Definitions

“Approved Security Agency” means any agency, organisation or contractor that has been engaged by the Administration of the Territory to provide security, supervisory or safety guarding services in the Territory;

“ASA” means Approved Security Agency;

“BIOT” means the British Indian Ocean Territory;

“body-worn video” means a recording produced by a device overtly attached to the outside of clothing;

“BWV” means body-worn video;

“BWV device” means an electronic device capable of producing BWV;

“DPA” means the (UK) Data Protection Act 2018

“User” means a PO or employee of an ASA operating a BWV device;

“master copy” means a bit-for-bit copy of the original recording;

“PO” means Police Officer;

“private dwelling” includes a tent or boat used for accommodation;

“recording” means any audio or visual recording, or both, made using a BWV device;

“Subject” means the person who is, or is about to be, recorded using a BWV device;

“visual recording” means the recording of either still and moving images, or both, and

“working copy” means the version produced from the master copy for the investigation, briefings, circulation, and preparation of prosecution evidence and defence.

3.0. **Key principles for the overt use of body-worn video**

- 3.01 Principle 1: The use of BWV by POs and employees of ASAs is lawful.
- 3.02 Principle 2: Data from recordings should be processed and managed in line with the general principles of the DPA. Data retention, review and disposal should be in line with relevant (UK) legislation and current guidance.
- 3.03 Principle 3: The use of BWV devices will be overt.
- 3.04 Principle 4: The operational use of BWV must be proportionate, legitimate and necessary. Continuous, non-specific recording is not permitted.
- 3.05 Principle 5: Use of BWV will be incident specific. POs and employees of ASAs shall use common sense and sound judgement when using BWV, in support of the principles of best evidence.
- 3.06 Principle 6: BWV recordings do not replace conventional forms of evidence gathering (for POs, such as written statements and Police and Criminal Evidence Ordinance 2019 interviews), it supports them. POs will continue to follow current practices for achieving best evidence.

4.0 **Principle 1**

“The use of BWV by POs and employees of ASAs is lawful.”

Legal requirements

- 4.01 The Police and Security Services (Body-Worn Video) Ordinance 2024 provides POs and ASAs with the authority to use BWV in the lawful execution of their duties, for the purpose of the prevention and detection of crime.
- 4.02 POs and employees of ASAs shall give due regard to the provisions contained within the DPA.
- 4.03 There are various ways to inform Subjects that they are being recorded, including verbally at the time they are being recorded or, if this is not practicable because of an ongoing incident, as soon as possible afterwards¹. However, as a general rule, where a PO or an employee of an ASA is in uniform and is clearly carrying or wearing a suitably identified BWV device (clearly labelled as an audio and visual recording device) this condition is considered to have been satisfied.
- 4.04 To assist in complying with principle ¹, BWV devices should be clearly labelled to alert a third party to the potential use of video and specifically audio recording equipment. POs and employees of ASAs should also consider if the Subject could be reasonably expected to understand that a BWV is in use in the circumstances.

¹ If Subjects do not understand English, reasonable efforts should be made to inform them in a language they understand.

4.05 To ensure compliance with principle 1, POs and ASAs wishing to use a BWV device should:

- Clearly label BWV devices or otherwise identify them to inform Subjects that they record audio and video footage.
- Limit recordings generally to situations where the User would previously have made a written record of the encounter.
- Announce, where possible/practicable, to the Subject(s) of an encounter that video and audio recording is taking place using a BWV device.
- Begin recordings at the start of any incident and continue uninterrupted until the incident is concluded.
- Not make recordings of general patrolling duties unless this is part of a specific operation.
- Securely hold all recordings in accordance with internal standard operating procedures. Access to recordings must be controlled and only persons having the operational need to view specific incidents may view them.
- Retain and dispose of all material recorded by a BWV device in accordance with internal standard operating procedures.
- Prior to disposal, take all reasonable steps to ensure that the images are not required as evidence in any case or complaint under investigation.
- Make a record of the destruction of any non-evidential recording.

4.06 Where personal data is being shared, data controllers must ensure that this complies with their legal obligations.

4.07 POs shall consider section 64A of the Police and Criminal Evidence Ordinance 2019 (Photographing of suspects), together with the contents of Codes C and D to that Ordinance and ensure that the use of a BWV device does not circumvent those provisions.

5.0 **Principle 2**

“Data from recordings should be processed and managed in line with the general principles of the (UK) Data Protection Act 2018 Data retention, review and disposal should be in line with relevant (UK) legislation and current guidance.”

Information management

5.01 Digital material generated by BWV devices must be stored appropriately and retained, reviewed and deleted.

Producing exhibits

- 5.02 To allow the recorded evidence to be presented in court, POs and ASAs must preserve the master copy as an exhibit.

Providing copies for the defence

- 5.03 In general terms BWV recordings should be disclosed to the defence in criminal cases in the same manner as other case exhibits. A suitable summary of the evidence will suffice as initial details of the prosecution case. It should only be necessary to provide copies to the defence in the case of actual or anticipated not guilty pleas.

Storage

- 5.04 All recordings must be stored and retained in a secure manner.
- 5.05 Recordings should be stored so that they are retrievable and accessible for replay and viewing, and kept in an environment that will not be detrimental to the quality or capacity for future viewing.
- 5.06 Recordings should be appropriately labelled and include information regarding review or disposal dates.
- 5.07 In criminal cases working copies that the officer in the case (OIC) no longer requires for investigation purposes may be stored with the relevant file or in the detained property store until the accused is acquitted or convicted, or the Principal Legal Adviser (“PLA”) decides not to proceed with the case. When the OIC or PLA no longer requires a working copy, it should be securely disposed of. The master copy should remain in the detained property store in case copies are required in the future.

Retention and deletion

- 5.08 If POs or ASAs wish to retain recordings from a BWV device the purpose for which the recordings were taken and their continuing retention has to be justified and proportionate.
- 5.09 Once it becomes clear that the purpose for which the recordings were taken is no longer valid or no longer exists, the possibility that the recordings could be of some legitimate use in the future is generally insufficient to justify continuing retention.
- 5.10 If POs retain photographs of a person, it must be justified and the justification must be compelling.
- 5.11 The decision to retain recordings will be a matter of judgement in every case as some material may be relevant to the ongoing monitoring of a situation, but other material may need to be deleted immediately.
- 5.12 Under normal circumstances, POs should not use BWV as an intelligence-gathering tool and should delete any BWV recording that has no evidential value. Extremely strong justification is likely to be needed to retain such footage, especially where it only shows lawful conduct.

6.0 **Principle 3**

“The use of BWV devices will be overt.”

Operational use

- 6.01 BWV devices may be used to gather digital video evidence across a wide range of operational security and policing situations.

Stop and search

- 6.02 Any stop and search process must comply with the Police and Criminal Evidence Ordinance and related codes of practice. When using BWV to record such encounters, POs should remember that a recording does not replace the need for a written record of the search, to be completed by the User and given to the person stopped or searched at the time or within the specified time period.
- 6.03 If a stop and search does not result in any evidence of criminal conduct, POs must adhere to a process for ensuring that non-evidential material is destroyed promptly.

Scene review and searching premises

- 6.04 When used during scene review and searching premises BWV recordings should be treated as an evidential recording and, where possible, the PO should provide a running commentary of factual information to accompany the recording to provide context during the review.

Use in private dwellings

- 6.05 Under normal circumstances, POs and employees of ASAs should not use BWV devices in private dwellings. However, if a PO is present at an incident in a private dwelling and is there for a genuine policing purpose, they are entitled to make a BWV recording in the same way as they would record any other incident.
- 6.06 If an occupant of the premises objects to the recording taking place but an incident is taking place or allegations of a criminal nature are being made, POs should continue recording but explain their reasons for doing so.
- 6.07 If, during the course of the recording, it becomes clear that the incident is not a police matter (eg, not an allegation of a suspected or potential offence) and as such would not have been the subject of an entry in a PO's pocket notebook, the PO should cease recording. The PO should also make a verbal announcement that the recording is being stopped, prior to stopping the video. If it is deemed appropriate, the PO may wish to announce that if any incident begins while they are still present recording will resume immediately.

Witness first accounts

- 6.08 BWV may be used by POs to capture the first account of victims and/or witnesses at an incident. However, it should not always be used to capture the first account in cases that do not require an immediate response. POs should seek the permission of a victim

prior to recording serious crime victims and witnesses, or involving children or vulnerable adults, who may be eligible for special measures.

6.09 The first account is principally about determining any action that is immediately necessary. POs should only ask such questions as necessary to:

- establish if an offence has been committed
- establish where it occurred and who was responsible
- assess the current risk to the victim(s) and witness(es)
- identify and prioritise areas of the investigation.

Public requests to record

6.10 Users may encounter members of the public who specifically request that any encounter or interaction is recorded, even if the User does not feel that there is any evidential reason to do so. Unless there are clear reasons to do otherwise, the User should record such an encounter, but should remind the person requesting the recording that, unless there is an evidential reason to retain the footage, it will be automatically deleted in line with existing local guidelines.

7.0 Principles 4 and 5

“The operational use of BWV must be proportionate, legitimate and necessary. Continuous, non-specific recording is not permitted.”

“Use of BWV will be incident specific. POs and employees of ASAs shall use common sense and sound judgement when using BWV, in support of the principles of best evidence.”

Operational considerations

Recording an incident – basic principles and techniques

7.01 The decision to record or not to record an incident rests with the User.

7.02 Under normal circumstances, all Users present at an evidential encounter, regardless of the fact that other Users may be present, should record the incident. Users should always take into account the circumstances and the people involved, for example, vulnerable persons.

7.03 Users may not indiscriminately record entire duties or patrols. Recordings must be incident specific (whether or not the recording is ultimately required for use as evidence).

7.04 All recordings can be used in evidence, even if it appears to the User at the time of the incident that this is unlikely. All recordings should be treated as evidential until it is confirmed otherwise. If it becomes obvious that the recording will not be evidential,

unless there are other extenuating circumstances, Users should stop recording immediately.

- 7.05 Users should capture as much evidence as possible (including the context of the encounter) and should always try to record as much of an incident as possible. Users should begin recording at the start of an incident or at the earliest opportunity thereafter, for example:
- as soon as Users are deployed to an incident
 - as soon as they become aware that any other encounter is likely to occur in front of them.
- 7.06 Users should restrict recording to the areas and persons necessary in order to obtain evidence relevant to the incident. Users should always attempt to minimise collateral intrusion on those not involved.

The recording process

Starting a recording

- 7.07 At the start of any recording, the User should, where practicable, make a verbal announcement to indicate that the BWV device has been activated. This announcement should be captured on the recording and, if possible, should include:
- the date, time and location
 - the nature of the incident to which the User is deployed
 - confirmation to those present that the incident is now being recorded using both video and audio.
- 7.08 If the recording has started prior to the User's arrival at the scene of an incident, they should, as soon as is practicable, announce to those present that recording is taking place and that their actions and sounds are being recorded. Announcements should be made using straightforward language that can be easily understood, such as:
- 'I am audio and video-recording you'
 - 'I am audio and video-recording this incident'
 - 'Everything you say and do is being recorded'.

Making a commentary while filming

- 7.09 Some evidential information may take place out of view or hearing of the camera or microphone. It may prove helpful for the User to provide a running commentary detailing evidence not present in the video to assist the viewer.

Concluding a recording

- 7.10 Unless specific circumstances dictate otherwise, recording must continue uninterrupted from the moment it starts until the conclusion of the incident.
- 7.11 The User should continue to record for a short period after the incident to clearly demonstrate to any subsequent viewer that the incident has concluded and that the User has resumed other duties or activities.
- 7.12 Where practicable, Users should make an announcement that the recording is about to finish. Prior to concluding recording, the User should make a verbal announcement to indicate the reason for ending the recording. This should state:
- the date, time and location
 - the reason for concluding the recording.

Selective capture

- 7.13 The BWV User should record entire encounters from beginning to end without interrupting the recording. There will, however, be occasions when the User may wish to consider interrupting the recording of an incident. In such circumstances the User may decide to start and stop recording at any point during an encounter. This practice is referred to as selective capture.

For example, it may be necessary to stop recording an incident in cases of a sensitive nature or if the incident has concluded prior to the arrival of the BWV User. In all cases the User should exercise their professional judgement in deciding whether or not to record all or part of an incident.

- 7.14 If the User chooses to interrupt or cease recording at an ongoing incident, they should record their decision and rationale (if practicable in the circumstances) by making a suitable verbal statement on the BWV recording and also in a pocket notebook or other log.
- 7.15 Selective capture can also be used to describe the process of temporarily stopping and restarting recording in order to bookmark (see bookmarking) the recorded material.
- 7.16 Selective capture shall never involve deleting images. There are no circumstances in which the User can justify unauthorised deletion of any images that have already been recorded.

Bookmarking

- 7.17 Bookmarking is a method for separating encounters recorded with a BWV device to clearly define specific instances or relevant parts of the recording, which then facilitates retrieval or disclosure of the relevant evidence.
- 7.18 While recording an incident, BWV Users may encounter and record video or audio evidence from any mixture of victims, offenders or witnesses. During such instances,

POs may record statements made by victims or witnesses that should not be shown to the defendant (or their representative). For example, a witness may be recorded giving their name and address.

In such circumstances and only if it is practicable for the PO to do so accurately and properly, they may stop and start the recording. Whenever a recording is interrupted in this way, the PO should make a verbal announcement when the recording is stopped and again when it is restarted, clearly explaining the reason for the interruption.

- 7.19 A bookmarked recording covers the entire incident but contains gaps where recording has not taken place and so is likely to consist of more than one data file. When later saving and preparing their master copy of the recorded incident, Users should take care to include all the bookmarked sections of the incident as one complete master recording.

Relying on BWV recordings as evidence and partial recordings

- 7.20 BWV recordings should be used to corroborate, rather than replace, traditional written statements and Users should not rely on BWV for providing their evidence.
- 7.21 Although a BWV recording may provide compelling evidence, it will not necessarily prove all aspects of a case and Users must always be prepared to provide written evidence of anything pertinent to the case and not wholly represented by the recording.
- 7.22 Some incidents may be only partially recorded. This may be as a result of the incident not being fully visible to the User or owing to some technical or physical failings in the BWV device. Similarly, problems with the equipment or prominent background noises may affect the clarity of the audio recording.

In such instances it is likely that the BWV recording will be incomplete and it may be necessary for the User to give evidence of anything missing from or not discernible in the recording.

It may not be obvious to the User that such issues have occurred and Users should review recorded material as soon as practicable, to check for completeness of the recording.

- 7.23 Should there be a break during the recording of an incident, the User must retain and produce any material that is created and then supplement this, as necessary, with a written statement detailing any other necessary evidence.
- 7.24 If the User becomes aware of a break in recording and it can be rectified quickly they should do so, explaining by verbal statement what happened when the recording recommences.

If, however, it is not possible to continue recording, the User should make a contemporaneous note covering the incident.

- 7.25 If an incident is only partially recorded because of equipment failure, the User should produce the recorded evidence as usual and, if necessary, provide a statement covering the entire incident. This should include the reason, if known, for the equipment failure.

Objections to recording

- 7.26 In principle, Users are not required to obtain the expressed consent of the person or persons being filmed.
- 7.27 If the subject of an encounter requests that the BWV device be switched off, the User should advise the Subject that:
- any non-evidential material will not be retained
 - this material is restricted and cannot be disclosed to third parties without the Subject's express authority, unless prescribed by law

It is then for the User to consider on a case-by-case basis whether or not to switch the BWV device off. There should always be a tendency to record (within the confines of the law) unless circumstances dictate otherwise.

- 7.28 If the User deems it necessary to turn off their BWV device but events subsequently develop that require further investigation or proceedings, they should:
- resume recording to capture any potential evidence
 - make the appropriate verbal announcements
 - record the circumstances in their pocket notebook or contemporaneous note (in the same way as they would for a partial recording).

8.0 **Principle 6**

“BWV recordings do not replace conventional forms of evidence gathering (for POs, such as written statements and Police and Criminal Evidence Ordinance 2019 interviews), it supports them. POs will continue to follow current practices for achieving best evidence.”

Limitations

Technology and systems

- 8.01 BWV recordings provide a reasonably complete record of what its User sees and hears at an incident. There are, however, limitations to the technology and Users must be aware that:
- some aspects of an incident that are vital to the evidence for the offence may occur out of camera view
 - sound recordings may not be complete or other sounds at the scene may block significant statements by those present
 - technical failures or operator errors may hinder the production of the recorded evidence.

- 8.02 Users must, therefore, remain mindful of standard evidence gathering procedures at scenes, including the use of other video and digital evidence gathering devices, and must not rely solely on BWV evidence.

Use

- 8.03 BWV is an overt recording medium that can be used across a wide range of policing and security operations. Its use should always be incident specific and justifiable. Users should use common sense and sound judgement when making a decision to start recording.

- 8.04 The use of a BWV device is not appropriate in some situations. The following list is for guidance only and is not exhaustive:

- A BWV device must not, under any circumstances, be used for recording intimate searches or in any other circumstances where persons are in a state of undress.
- Users must respect legal privilege and must not record material that is, or is likely to be, subject to such protections.
- When recording in areas where individuals would have a strong expectation of privacy (for example, in a private residence or during an incident in a public arena such as where someone has been involved in an accident in the street), clear justification would be required for using a BWV device. Users must not record beyond that which is justifiable, lawful, proportionate and necessary for the evidential requirements of a case.
- BWV should not be used by POs for formal investigative interviews (eg, the ABE interview for evidence-in-chief purposes, or a significant witness interview for the purpose of preparing a statement), nor may BWV be used for interviewing suspects as it would contravene PACEO Code C. It is also currently unsuitable for recording interviews with vulnerable or intimidated witnesses and victims.
- Users should exercise care in using a BWV device where it may cause serious offence, for example, during religious worship or cultural events and practices.

Transcription

- 8.05 A transcription should only be required under the direction of a court in a specific case. For example, if the sound is of a poor quality, or if the speech contains a high degree of slang or is in a foreign language, the services of a translator should be obtained.
- 8.06 Even when the material has been transcribed, the video contains visual information such as actions and gestures that put the language into context. The video exhibit should, therefore, still be shown in conjunction with the written text.

Enhancement

- 8.07 If the quality of the original recording (video or audio) requires enhancement, POs and ASAs should use the working copy to do this. After the process, POs and ASAs must securely retain a copy as a post-enhancement master version of the incident.

ANNEX

Asset management

A.0 Introduction

- A.01 The BIOT Police and ASAs shall ensure that the equipment and the data gathered have appropriate security processes.

Management and maintenance

- A.02 In many cases BWV devices are provided with an integrated system for automatically downloading and deleting video files, management of removable media and battery charging. Where such integrated solutions are not provided, the BIOT Police and ASAs should ensure that suitable and robust manual processes are in place to ensure the integrity of data and that the equipment is available for use by Users, with the battery fully charged to prevent equipment failure.
- A.03 In addition, the BIOT Police and ASAs should provide advice and equipment to help ensure that the equipment is kept clean and serviceable and, in particular, that the camera lens is cleaned regularly.
- A.04 BWV recordings include information on the time and date the recording was made. This is an important element in maintaining the integrity of evidence, and Users should consider how best to ensure that the device's date and time reference is always synchronised.

Training for BWV Users

- A.05 Users should receive training in the relevant technical aspects of the specific equipment being used. This includes, for example, assembly (where necessary), day-to-day use, how to keep devices and data secure, how to download data to force systems and how to delete old records from the device.
- A.06 The BIOT Police and ASAs should implement a policy which restricts the issue of BWV equipment to suitably trained Users only.

Equipment issue

- A.07 The BIOT Police and ASAs should adopt a suitable process to secure and record the day-to-day allocation of BWV equipment to Users, either on a pool or personal issue basis.

A.08 Some equipment may feature inbuilt electronic systems that record to whom the device is allocated and assist in automating the transfer of data to dedicated systems. Where this is not available, the BIOT Police and ASAs should introduce suitably robust processes to manually record equipment issued for operational use.



BRITISH INDIAN OCEAN TERRITORY

THE PROHIBITED IMPORTS AND EXPORTS CONTROL ORDER 2024

S.I. No. 7 of 2024

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BRITISH INDIAN OCEAN TERRITORY

**THE PROHIBITED IMPORTS AND EXPORTS CONTROL
ORDER 2024**

S.I. No. 7 of 2024

The Commissioner, in exercise of the powers conferred on him by section 5 of the Imports and Exports Control Ordinance 2009 and all other powers enabling him in that behalf, hereby makes the following Order –

Citation and commencement.

1. This Order may be cited as the Prohibited Imports and Exports Control Order 2024 and shall come into force forthwith.

Interpretation.

2. (1) In this Order the following words shall have the meanings assigned to them –

“**child**” means a person under the age of 18;

“**drugs**” means “**controlled drugs**”, as defined by section 3 of the Misuse of Drugs Ordinance 1992;

“**Electric Transportation Device**” means a two-wheeled electric vehicle with handlebars and includes e-scooters and Segways;

“**Electrically Assisted Pedal Cycle**” means a bicycle fitted with pedals that can be used to drive it forward, helped by an electric motor;

“**electronic communications equipment**” has the meaning as defined in section 3 of the Communications Ordinance 2018;

“**film**” includes any form of video-recording;

“**firearm**” and “**ammunition**” have the meanings as defined in section 2 of the Firearms Ordinance 1970;

“**goods**” includes anything capable of being imported into the Territory;

“**prohibited**” and “**prohibited import**” shall be interpreted in accordance with sections 5 and 7 of the Imports and Exports Control Ordinance 2009;

“**proper officer**” means the Police Officer who is, for the time being, designated as being in charge of record keeping and control of restricted goods;

“**Pseudo-photograph**” means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph;

“**relevant date**” means the date on which this Order comes into force;

“**restricted goods**” means any goods listed in Column A of Schedule 3;

“**Segway**” means a two-wheeled, one-person, self-balancing electric vehicle with handlebars manufactured by Segway Inc., or having the visual appearance of such a vehicle;

“**Territory**” means the British Indian Ocean Territory;

“**Unlawful entrant**” means a person who has entered the Territory otherwise than in accordance with section 5 of the BIOT (Immigration) Order 2004;

“**Unmanned Aerial Vehicle (UAV)**” means an aircraft or aircraft system that is flown from a remote location without a pilot located in the aircraft itself, and includes a Small Unmanned Aircraft (SUA), a Remotely Piloted Aircraft System (RPAS), an Unmanned Aircraft System (UAS) and a Drone, and

“**wireless telegraphy**” has the meaning as defined in section 3 of the Communications Ordinance 2018.

(2) References to a photograph include –

(a) the negative as well as the positive version; and

(b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph;

(c) a tracing or other image, whether made by electronic or other means (of whatever nature) –

(i) which is not itself a photograph or pseudo-photograph, but

(ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both), and

(d) data stored on a computer disc or by other electronic means which is capable of conversion into an image within sub-paragraph 2(c),

and sub-paragraph (3) applies in relation to such an image as it applies in relation to a pseudo-photograph.

(3) Where an image shows a person, the image is to be treated as an image of a child if –

(a) the impression conveyed by the image is that the person shown is a child, or

(b) the predominant impression conveyed is that the person shown is a child despite the fact that some of the physical characteristics shown are not those of a child.

(4) Any reference in this Order to a seashell, coral, nest or egg includes a reference to a part thereof.

Prohibited goods – import.

3. (1) All items listed in Schedule 1 are prohibited goods.

(2) All items listed in Schedule 2 are prohibited goods when imported into the Territory by an Unlawful entrant.

(3) Subject to paragraphs 7 and 8 –

(a) no person may import into the Territory any prohibited goods in contravention of sub-paragraph (1), and

(b) no Unlawful entrant may import into the Territory any prohibited goods in contravention of sub-paragraph (1) or (2).

(4) Any item imported into the Territory contrary to sub-paragraph (3) shall be a prohibited import.

Restricted goods – import.

4. (1) All items listed in Column A of Schedule 3 are restricted goods.

(2) No person may import into the Territory any restricted goods unless –

(a) that importation is done in accordance with paragraph 5, or

(b) a Customs and Immigration Officer has permitted that importation in accordance with paragraph 7.

(3) Any item imported into the Territory contrary to sub-paragraph (2) shall be a prohibited import.

Requirements where restricted goods are imported.

5. (1) Where a person (“**the importer**”) wishes to import restricted goods into the Territory, the importer must, when those goods arrive in the Territory, present those goods to a Customs and Immigration Officer for inspection.

(2) If a Customs and Immigration Officer is satisfied that the corresponding conditions set out in Column B of Schedule 3 are fulfilled in connection with the restricted goods listed in Column A of that Schedule, the Customs and Immigration Officer may allow the importer to take possession of those restricted goods.

(3) Where the Customs and Immigration Officer allows an importer to take possession of restricted goods pursuant to sub-paragraph (2), he or she shall provide the proper officer with –

- (a) the name, address and occupation of the importer, and
- (b) the details of the restricted goods.

(4) The importer must not –

- (a) upgrade, modify or alter the specifications of the restricted goods, or cause such an upgrade, modification or alteration to be made,
- (c) transfer or otherwise dispose of the restricted goods

without the written permission of the proper officer or a Customs and Immigration Officer.

(5) If the importer fails to comply with any of the applicable conditions in this paragraph, those restricted goods shall be deemed to be a prohibited import.

Further requirements in connection with restricted goods.

6. (1) Where a person (the “**new owner**”) takes possession or ownership of restricted goods, otherwise than by importing those restricted goods pursuant to paragraph 5, that person must, as soon as reasonably practicable and in any event within 48 hours, provide the proper officer with –

- (a) his or her name, address and occupation, and
- (b) the details of the restricted goods.

(2) The new owner must not –

- (a) upgrade, modify or alter the specifications of the restricted goods, or cause such an upgrade, modification or alteration to be made,
- (c) transfer or otherwise dispose of the restricted goods

without the written permission of the proper officer or a Customs and Immigration Officer.

(3) If the new owner fails to comply with any of the applicable conditions in this paragraph, those restricted goods shall be deemed to be a prohibited import.

A Customs and Immigration Officer may permit import of any restricted or prohibited goods.

7. (1) A Customs and Immigration Officer may expressly permit the import of any goods included in –

- (a) Schedule 1,
- (b) Schedule 2, or
- (c) Schedule 3 (where the criteria set out in Column B have not been met)

where he or she is satisfied by the person wishing to import the goods that in the particular circumstances its import is reasonable.

(2) Where the importation of goods is permitted in accordance with sub-paragraph (1), a Customs and Immigration Officer may impose conditions on the possession and use of those goods.

(3) A Customs and Immigration Officer may, at any time, amend or vary any conditions imposed pursuant to sub-paragraph (2).

(4) Goods imported into the Territory pursuant to sub-paragraph (1) are not be treated as being prohibited imports unless there is a failure to comply with any conditions imposed pursuant to sub-paragraphs (2) or (3).

Commissioner may permit import of prohibited goods.

8. (1) The Commissioner may permit the import into the Territory of any goods listed in Schedule 1.

(2) The Commissioner may impose conditions on the possession and use of any goods which are imported pursuant to sub-paragraph (1).

(3) The Commissioner may, at any time, amend or vary any conditions imposed pursuant to sub-paragraph (2).

(4) Goods imported into the Territory pursuant to sub-paragraph (1) are not be treated as being prohibited imports unless there is a failure to comply with any conditions imposed pursuant to sub-paragraphs (2) or (3).

Prohibited goods - export.

9. The exportation out of the Territory of any goods listed in Schedule 4 is prohibited, except with the prior written permission of the Commissioner's Representative.

Transitional arrangements – pre-imported restricted goods.

10. (1) This paragraph applies where any person, on the relevant date, is in possession of pre-imported restricted goods.

(2) A person in possession of pre-imported restricted goods must present those goods to a Customs and Immigration Officer within 48 hours from the relevant date, or as soon as reasonably practicable after that time.

(3) When pre-imported restricted goods are provided to a Customs and Immigration Officer in accordance with sub-paragraph (2), paragraph 5 shall apply as if the pre-imported restricted goods had just arrived in the Territory.

(4) If a person in possession of pre-imported restricted goods fails to present them to a Customs and Immigration Officer in accordance with sub-paragraph (2), those pre-imported restricted goods shall be deemed to be a prohibited import.

(5) For the purposes of this paragraph, “**pre-imported restricted goods**” means goods –

(a) which have been imported into the Territory before the relevant date, and

(b) to which paragraph 4 would apply if those goods were to be imported into the Territory on or after the relevant date.

Transitional arrangements – proceedings

11. Despite paragraph 12 and without prejudice to section 21(1) of the Interpretation and General Provisions Ordinance 1993 –

(a) proceedings may be instituted after the relevant date for an offence alleged to have been committed before that date under any provision repealed by paragraph 12 and any such proceedings shall be dealt with for all purposes as if this Order had not been made and the repealed provision had remained in force, and

(b) any proceedings that were instituted before the relevant date by virtue of any provision repealed by paragraph 12 may be continued thereafter and shall likewise be dealt with for all purposes as if this Order had not been made and the repealed provision remained in force.

Repeal.

12. The Prohibited Imports and Exports Order 2022 is hereby repealed.

SCHEDULE 1

PROHIBITED GOODS - IMPORT

1.	Any ballast, rock or other fill material which contains debris, roots, wood, scrap material, refuse, plant or animal material not originating in the Territory.
2.	Any goods or material of any description containing or consisting of any species of living plant, animal or insect not indigenous to the Territory.
3.	Fixed blade knives.
4.	Folding or lock blade knives with blades more than 3 inches long.
5.	Spear-guns.
6.	Catapults.
7.	Firearms or ammunition.
8.	Firecrackers.
9.	Offensive weapons (including, but not limited to, axes, hatchets, cutlasses or clubs).
10.	Drugs (including, but not limited to, Marijuana).
11.	Equipment used for, or to facilitate, weighing, processing, or partaking of drugs.
12.	Clothing which bears any drug emblem.
13.	Things or material, whether written or printed or in the form of pictures, drawings or designs, or in the form of compact discs or any other means of recording, or in the form of any other means of visual or non-visual communication, which advocate or advertise or otherwise promote the use of drugs or which contain, or are contained in, or are accompanied by, such things or material.
14.	Obscene writings, printed matter, drawings, film, photograph or pictures, or any other obscene material or objects.
15.	Any indecent photograph, film or pseudo-photograph or film of a child.
16.	Tobacco in any form save where the import is – (a) of not more than 200 cigarettes or 100 cigarillos or 50 cigars or 250g of tobacco for the personal use of the importer and is contained in the baggage accompanying a person arriving in the Territory; or (b) part of goods consigned to the United States authorities or to a United States contractor for the use of or for sale to members of the United Kingdom Forces, military members of the United States Forces, or to other members of the United States Forces, or to those contractor personnel and their dependents who are not engaged in any business or occupation in the Territory.
17.	Any type of Unmanned Aerial Vehicle (UAV).
18.	Any type of electric vehicle comprised of a board or platform on wheels, without handlebars, for riding on while standing (including, but not limited to, hoverboards, e-unicycles and electric skateboards).

SCHEDULE 2

PROHIBITED GOODS – IMPORT BY UNLAWFUL ENTRANTS

1.	Any personal communications device or portable electronic communications equipment, including but not limited to a mobile telephone handset, satellite phone, electronic tablet, laptop computer or pager.
2.	Any device capable of taking or recording visual images in the form of photographs, film, or video signals.
3.	Any electronic communications equipment.
4.	Any wireless telegraphy equipment.

SCHEDULE 3

RESTRICTED GOODS - IMPORT

Column A	Column B
Electrically Assisted Pedal Cycles	<p>The vehicle shall:</p> <ul style="list-style-type: none">(a) be fitted with pedals by means of which it is capable of being propelled; and(b) be fitted with no motor other than an electric motor which—<ul style="list-style-type: none">(i) has a continuous rated output which, when installed in the vehicle with the nominal voltage supplied, does not exceed 0.25 kilowatts, and(ii) cannot propel the vehicle when it is travelling at more than 25 miles per hour.
Electric Transportation Devices	<p>The vehicle shall:</p> <ul style="list-style-type: none">(a) be fitted with a handlebar by which the vehicle may be controlled; and(b) be fitted with no motor other than an electric motor which—<ul style="list-style-type: none">(i) has a continuous rated output which, when installed in the vehicle with the nominal voltage supplied, does not exceed 0.45 kilowatts, and(ii) cannot propel the vehicle when it is travelling at more than 12.5 miles per hour.

SCHEDULE 4

PROHIBITED GOODS - EXPORT

1.	Wild animals, whether alive or dead.
2.	Seashells.
3.	Coral, whether alive or dead.
4.	Wild birds' nests.
5.	Birds' eggs.
6.	Turtles' eggs.
7.	Flora specified under the Wild Life Protection Regulations 2003.

6 December 2024

[SIGNED ON THE ORIGINAL]

Nishi Dholakia
Acting Commissioner

UK LAWS EXTENDED TO THE BRITISH INDIAN OCEAN TERRITORY

1. S.I. No. 986 of 2024: [The Syria \(Sanctions\) \(Overseas Territories\) \(Amendment\) Order 2024](#)
2. S.I. No. 987 of 2024: [The Russia \(Sanctions\) \(Overseas Territories\) \(Amendment\) \(No. 2\) Order 2024](#)