



**SUPPLEMENT No. 2**  
**TO**  
**THE SOVEREIGN BASE AREAS GAZETTE**  
**No. 1458 of 18th May 2007**  
**LEGISLATION**

**ORDINANCE 10 OF 2007**

**CIVIL PROCEDURE (AMENDMENT) ORDINANCE 2007**

An Ordinance to amend the Civil Procedure Ordinance and to provide for the repeal of certain parts of the Courts Ordinance 1960

**R. H. LACEY**  
**ADMINISTRATOR**

*4th May 2007.*

**BE** it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

**1. Short title**

This Ordinance may be cited as the Civil Procedure (Amendment) Ordinance 2007.

**2. Interpretation**

In this Ordinance –

“the principal Ordinance” means the Civil Procedure Ordinance(a).

**3. Principal Ordinance amended by inserting new sections 2A- 2D**

Part II of the principal Ordinance is amended by inserting the following new sections immediately before section 3 –

**“2A. Final determination of matter**

A Court shall, in every cause or matter, grant either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties to the cause or matter may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter so that, as far as possible, all matters in dispute between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of those matters avoided.

**2B. Power of Court to make declaratory judgments**

A Court has power to make binding declarations of right whether any consequential relief is or could be claimed or not.

## **2C. Notes of Evidence**

- (1) In all civil proceedings the Court shall take down in writing the notes of evidence, or if the Court so directs, such evidence may be recorded by means of shorthand notes, by mechanical means or otherwise.
- (2) The whole or part of the evidence may, if the Court thinks fit, be taken down in the form of questions and answers.
- (3) No person shall be entitled as of right to an inspection or a copy of the Judge's notes, the transcript of shorthand notes or of a recording made by mechanical means or otherwise, save as may be provided for by any Rules of Court.

## **2D. Minutes of proceedings**

- (1) In all civil proceedings before the Court, minutes of the proceedings shall be drawn up and signed by the Senior Judge or Judge before whom the proceedings are taken.
- (2) The minutes drawn up in accordance with subsection (1) together with the notes of evidence taken at the hearing of the action shall be preserved as records of the Court.
- (3) The minutes and notes of evidence, or a copy certified as a true copy of the same by the Senior Court Registrar shall, without further proof, be admitted as evidence of such proceedings and of the statements made by any witnesses.”.

## **4. Principal Ordinance amended by inserting new sections 9A – 9E**

Part II of the principal Ordinance is amended by inserting the following new sections immediately after section 9 –

### **“9A. Injunctions and receivers**

- (1) Subject to Rules of Court, a Court may, by Order, grant an injunction (interlocutory, perpetual or mandatory) or appoint a receiver in all cases in which it appears to the Court just or convenient so to do, notwithstanding that no compensation or other relief is claimed or granted in addition.
- (2) An interlocutory injunction shall not be granted unless the Court is satisfied that –
  - (a) there is a serious question to be tried at the hearing;
  - (b) there is a probability that the plaintiff is entitled to relief; and
  - (c) unless an interlocutory injunction is granted it may be difficult or impossible to do justice at a later stage.
- (3) Subsection (4) applies where –
  - (a) it appears to a Court that an interlocutory order made under subsection (1) was applied for on insufficient ground; or
  - (b) the plaintiff's action fails or judgment is given against the plaintiff by default or otherwise and it appears to the Court that there was no probable ground for his bringing the action.
- (4) Where the Court is satisfied of a matter set out in subsection (3) it may, on application by the defendant, order the plaintiff to pay to the defendant such amount as appears to the Court to be a reasonable compensation to the defendant for the expense and injury occasioned by him by the execution of the order.
- (5) Where the defendant has received compensation in accordance with subsection (4) then this shall operate as a bar to an action for damages in respect of anything done pursuant to the order; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks just.

### **9B. Reference for report**

- (1) Subject to Rules of Court, a Court may refer to an official or special referee for inquiry or report any question arising in any civil proceedings.

- (2) The report of an official or special referee may be adopted wholly or partially by the Court and, to the extent to which it is so adopted, shall be entered as a judgment of the Court.
- (3) An order made under subsection (1) may be made on such terms as to costs or otherwise as the Court thinks fit.

**9C. Reference for trial**

- (1) This section applies in any civil proceedings where –
  - (a) all the parties interested who are not under a disability consent; or
  - (b) the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the Court conveniently be made before or conducted by the Court through its other ordinary officers; or
  - (c) the question in dispute consists wholly or in part of matters of account.
- (2) The Court may at any time order the whole cause or matter, or any question or issue of fact arising in the cause or matter, to be tried before a special referee or arbitrator agreed on by the parties, or before an official referee or officer of the Court.
- (3) Where a special referee or arbitrator is guilty of misconduct in the proceedings, the Court may remove him and the Court further may set aside any award made in any such proceedings or procured improperly in any other way.

**9D. Powers and remuneration of referees and arbitrators**

- (1) Where a cause or matter or any question or issue of fact arising in the cause or matter has been referred to an official or special referee or to an arbitrator, that person shall be deemed an officer of the Court and, subject to Rules of Court, shall have such authority and conduct the reference in such manner as the Court may direct.
- (2) The report or award of an official or special referee or of an arbitrator shall be filed in Court and the Court, on the application of the parties or of its own motion, may direct that the report or award is set aside or entered as a judgment of the Court.
- (3) The remuneration to be paid to an official or special referee or arbitrator shall be determined by the Court.

**9E. Statement of case**

A referee or arbitrator may at any stage of the proceedings under a reference and shall, if so directed by the Court, state in the form of a special case for the opinion of the Court, any question of law arising in the course of the reference.”.

**5. Principal Ordinance amended by inserting new Part IIA**

The principal Ordinance is amended by inserting the following new Part immediately after Part II –

**“PART IIA  
WITNESSES AND EVIDENCE**

**9F. Power to summon witness**

In any civil proceedings before a Court and at any stage of such proceedings the Court may, either of its own motion or on the application of any party, summon a person to attend to give evidence or to produce any document in his possession, and may examine such person as a witness or expert and require him to produce any document in his possession or control, subject to all just exceptions.

#### **9G. Failure of witness to attend**

- (1) This section applies where a person summoned, having reasonable notice of the time and place at which he is required to attend, fails to attend the Court and does not excuse his failure to the satisfaction of the Court.
- (2) The Court may –
  - (a) issue a warrant to secure the attendance before the Court of the witness; and
  - (b) order the witness to pay all costs which may have been occasioned in compelling his attendance or by reason of his refusal to obey the summons.
- (3) A person to whom this section applies is, in addition to any costs payable in accordance with subsection (2), liable to imprisonment not exceeding 2 months or to a fine not exceeding £150 or to both penalties.

#### **9H. Witness to be sworn or make declaration**

- (1) In any civil proceedings, a person called upon to give evidence in a Court shall, before being examined, be required to take such oath as is customarily administered to persons of his creed or faith on testifying before a Court of Justice.
- (2) An oath may be administered by the Judge, Registrar or by any person required by the Judge to administer the oath.
- (3) If a witness objects to taking an oath or is objected to as incompetent to take it, or if the Court is of the opinion that the taking of it will have no binding effect on his conscience, the witness shall be required to make the following promise and declaration –

“I solemnly promise and declare that the evidence given by me to the Court shall be the truth, the whole truth, and nothing but the truth.”
- (4) The Court may, if it thinks just and expedient (for reasons to be recorded in the minutes of the proceedings) take without oath or promise and declaration, the evidence of any person who, by reason of immature age ought not in the opinion of the Court to be admitted to give evidence on oath.

#### **9J. Witness refusing to be examined**

- (1) This section applies where a witness on being required to give evidence –
  - (a) refuses, without reasonable excuse, to take an oath or to make a promise and declaration;
  - (b) refuses, without reasonable excuse, to answer any question lawfully put to him;
  - (c) refuses, without reasonable excuse, to produce any document in his possession.
- (2) The witness, in addition to any other liability he may face –
  - (a) may be ordered to pay all costs which may have been occasioned by reason of his refusal; and
  - (b) shall be liable to be committed to prison under warrant of the Court and to remain there for a period not exceeding 1 month unless in the mean time he consents to the action required; and
  - (c) shall be liable to a fine not exceeding £100.

#### **9K. Court may call on persons present in Court to give evidence**

Any person present in the Court, whether a party or not to the proceeding, may be compelled by the Court to give evidence and produce any document in his possession or in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document and may be liable

for any costs and to be punished for any refusal to obey the order of the Court as if he had been so summoned.

**9L. Summoning prisoner as witness**

- (1) The Court may issue a warrant for bringing up any person confined as a prisoner, whether under any sentence or order of commitment for trial or under any civil process or otherwise, to be examined as a witness in any civil proceeding pending before the Court.
- (2) The Court shall not issue a warrant in accordance with subsection (1) unless it has probable grounds for believing that the evidence of the prisoner is likely to prove material.
- (3) The gaoler or person in whose custody the prisoner is shall forthwith obey the warrant by bringing the prisoner to Court in his custody or by delivering him to an officer of the Court as the warrant may order.
- (4) Where, in accordance with the terms of a warrant the prisoner is to be delivered to an officer of the Court, the gaoler is not liable for any subsequent escape of the prisoner.

**9M. Witness to attend though expenses not paid**

It is not lawful in any civil proceedings for a person to refuse to attend as a witness or to refuse to give evidence when required to do so by the Court, on the ground that his expenses have not been paid or provided for.

**9N. Inspection of property**

- (1) In any civil proceedings the Court may, on the application of either party or of its own motion, make an order for the inspection of any movable or immovable property which appears to be material to the proper determination of the question in dispute and to give such direction regarding that inspection as the Court may think fit.
- (2) An inspection ordered in accordance with subsection (1) may be carried out by the Court, the parties or any witness as the Court may direct.”.

**6. Part III of principal Ordinance amended by inserting new sections 9P and 9Q**

Part III of the principal Ordinance is amended by inserting the following new sections immediately before section 10 –

**“9P. Execution of instruments by order of Court**

- (1) This section applies where a person neglects or refuses to comply with a judgment or order directing him to execute a transfer, contract or other document, or to indorse any negotiable instrument.
- (2) The Court may, on such terms and conditions as it considers just, order that the transfer, contract or other document shall be executed, or that the negotiable instrument shall be indorsed by such person as the Court may nominate for that purpose.
- (3) Where the Court has made an order under subsection (2), the execution or indorsement shall operate and be for all purposes available as if it had been executed or indorsed by the person originally directed to execute or indorse it.

**9Q. Enforcing obedience to orders**

Every Court has power to enforce obedience to any order issued by it directing any act to be done or prohibiting the doing of any act, by fine or imprisonment or sequestration of goods and such powers shall be exercised subject to Rules of Court.”.

## 7. Part X of Principal Ordinance amended by inserting new sections

Part X of the principal Ordinance is amended by –

- (a) inserting the following new sections immediately before section 92 –

### “91A. Costs

- (1) The costs of, and incidental to all civil proceedings before any Court shall, unless otherwise provided by an Ordinance or Public Instrument, be in the discretion of the Court and the Court shall have full power to determine by whom and to what extent such costs are to be paid.
- (2) Any costs payable in accordance with this section may include interest as the Court in the exercise of its discretion may consider just.

### 91B. Compelling payment of fees and other money penalties

A Court may issue the same process as may be issued to compel payment of a judgment debt for the purpose of compelling payment of any –

- (a) costs, charges and expenses of a witness in any civil proceedings;
  - (b) other charges and expenses; and
  - (c) fees, forfeitures or money penalties.”; and
- (b) inserting the following new section immediately after section 96 –

### “96A. Rules of Court

The Administrator may, with the advice and assistance of the Presiding Judge, make Rules of Court to be published in the Gazette for the better carrying of this Ordinance into effect, and in particular for all or any of the following matters –

- (a) for regulating the pleading, practice and procedure of the Courts;
- (b) for prescribing the forms to be used in connection with any matter or cause to be heard by a Court;
- (c) for prescribing the fees to be taken in respect of any civil matter or civil proceeding in any Court or by an officer of a Court.”.

## 8. Repeal

- (1) The following provisions of the Courts Ordinance 1960**(b)** are repealed –
  - (a) sections 28 – 38 inclusive;
  - (b) section 43;
  - (c) Part IV;
  - (d) sections 58 and 59;
  - (e) section 63.
- (2) The Courts (Amendment) Ordinance 1988**(c)** is repealed.

## 9. Commencement

This Ordinance comes into force on the day it is published in the Gazette.

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### Notes

- (a) Cap 6, Statute Laws of Cyprus revised edition 1959 as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).
- (b) Ordinance 3/60.
- (c) Ordinance 6/88.

## EXPLANATORY NOTE

(This note does not form part of the Ordinance)

### Introduction

1. These explanatory notes relate to the Civil Procedure (Amendment) Ordinance 2007. They have been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. They do not form part of the Ordinance.

2. The notes need to be read together with the Ordinance. They are not, and are not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

### The Ordinance

3. The Ordinance repeals a number of sections of the Courts Ordinance 1960 and re-enacts those sections, largely in the same form, in the Civil Procedure Ordinance. The intention is to make it easier for a reader to understand the civil procedure provisions in the Sovereign Base Areas by housing the main provisions together, in the existing Civil Procedure Ordinance. Some of the re-enacted sections, such as section 9P, have been re-worded to make it easier to understand but, with the exception of section 2C, the substance of each section has not been changed.

4. The new section 2C permits the Court to record evidence by mechanical means as an alternative to writing the notes of evidence or recording them in shorthand.

5. In the new provisions added between 9H – 9Q, the letters ‘I’ and ‘O’ have not been used as a result of the potential for confusion. The sequence therefore becomes 9H, 9J, 9K, 9L, 9M, 9N, 9P, 9Q.

6. As a result of the sections repealed by this Ordinance and by the Courts (Constitution and Jurisdiction) Ordinance 2007, the only sections under the Courts Ordinance that remain in force are section 2 (interpretation) and sections 40 – 42 (which deal with contempt of court).

7. This Ordinance comes into force on the day of its publication in the Gazette and will therefore apply to any proceedings currently before the Court.

8. A table showing the equivalent sections appears below.

**TABLE OF EQUIVALENCES**

COURTS ORDINANCE 1960	CIVIL PROCEDURE ORDINANCE
28	2A
29	9A
30	9P
31	9B
32	9C
33	9D
34	9E
35	(incorporated into 9B)
36	2B
37	9Q
38	91A
43	91B
46	9F
47	9G
48	9H
49	9J
50	9K
51	9L
52	9M
53	9N
58	2C
59	2D
63(b) and (d)	96A

(SBA/AG/2/CR/205)

