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## COURTS (CONSTITUTION AND JURISDICTION) ORDINANCE 2007

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*This is a consolidated version of this legislation i.e. it incorporates all amendments made since the legislation was enacted as set out in the table below. It has been produced by the SBAA as an aid to transparency and easier access to SBA law. However, it is not the official version of SBA legislation and, although every effort has been made to check the document, its accuracy cannot be guaranteed. The official version of legislation is published in the SBA Gazette.*

Legislation incorporated in this Consolidation	Ordinance	Date in Force
Courts (Constitution and Jurisdiction) Ordinance 2007	5/2007	09/03/2007
Interpretation Ordinance 2012 - This Ordinance repeals Section 2(2)	8/2012	01/06/2012
Courts (Constitution and Jurisdiction)(Amendment) Ordinance 2014 - <i>This Ordinance repeals Ordinance 10/11 which repealed Ordinance 27/07</i>	2/2014	12/01/2014
Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2016	6/2016	01/05/2016
Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2017	2/2017	17/03/2017
Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2018	2/2018	22/01/2018
Courts (Constitution and Jurisdiction) (Amendment) (No. 2) Ordinance 2018	3/2018	01/02/2018
Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2019	3/2019	28/02/2019
Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2020	7/2020	11/04/2020
Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2023	02/2023	06/03/2023
Courts (Constitution and Jurisdiction) (Amendment) (No.2) Ordinance 2023	08/2023	31/12/2023

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COURTS (CONSTITUTION AND JURISDICTION)  
ORDINANCE 2007

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An Ordinance to provide for the continuance of courts, for their constitution and jurisdiction, and for other purposes relating to the administration of justice

**Short title**

1. This Ordinance may be cited as the Courts (Constitution and Jurisdiction) Ordinance 2007.

**PART 1**

**Preliminary**

**Interpretation**

- 2.—(1) In this Ordinance, *unless the context indicates otherwise*, (a)

“Acting Judge” means a person appointed as an Acting Judge in accordance with section 9(1); (b)

“action” means a civil proceeding commenced in such manner as may be prescribed;

“Associate Judge” means a person appointed as an Associate Judge in accordance with section 8(1); (c)

“civil proceeding” means any proceeding other than a criminal proceeding;

“Court” means the Senior Judges’ Court or the Resident Judge’s Court as the case may be having jurisdiction and includes any member of that Court;

*closed material proceedings* means—

(a) *proceedings falling with the definition of “section 9ZF proceedings” in section 9ZL(1) of the Civil Procedure Ordinance*(d); and

(b) *any appeal to the Senior Judges Court in relation to such proceedings*; (e)

“criminal proceeding” means any proceeding instituted before a Court against a person to obtain punishment of him for an offence against any law or instrument;

“Judge”, except in the terms “Senior Judge”, “Presiding Judge” or “Acting Judge”, means a member of the Resident Judge’s Court;

“live link” has the meaning given in section 2A; (f)

“matrimonial cause” means an action for divorce, nullity of marriage, judicial separation, jactitation of marriage or any restitution of conjugal rights and includes any application for ancillary relief or under the Children Act 1989 (g) in connection with such action;

“Presiding Judge” means the Senior Judge appointed as the Presiding Judge of the Senior Judges’ Court under section 4;

“proceeding” means a judicial proceeding;

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(a) Text inserted by Ordinance 2/2014 – came into force on 12 January 2014

(b) Definition inserted by Ordinance 2/2014 – came into force on 12 January 2014

(c) Definition inserted by Ordinance 2/2014 – came into force on 12 January 2014

(d) Cap. 6 (as amended). Relevant amendments, including the insertion of sections 9ZF and 9ZL, were made by Ordinance 14/2022.

(e) Definition inserted by Ordinance 02/2023 – came into force on 03 March 2023

(f) Definition inserted by Ordinance 2/2014 – came into force on 12 January 2014

(g) 1989 c 41, United Kingdom

~~“Resident Judge” means the Judge appointed as the Resident Judge of the Resident Judge’s Court under section 5; (a)~~

*“Resident Judge” means the person appointed as the Resident Judge in accordance with section 7(1);*

~~“Senior Judge” means a member of the Senior Judges’ Court. (b)~~

*“Senior Judge”—*

*(c) means*

*(i) a person appointed as a Senior Judge in ~~accordance with section 6(1)~~ in accordance with section 6; (c) and*

*(ii) except in section 6 and section 11(1), an Acting Judge who is a member of the Senior Judges’ Court; and*

*(d) for the avoidance of doubt, includes the Presiding Judge.*

### **Meaning of live link (d)**

**2A.—***(1) In this Ordinance, “live link” means a live television link or other arrangement by which a person, when not in the courtroom or other place where proceedings are being held, is able to participate in the proceedings and is able—*

*(a) to see and hear the proceedings; and*

*(b) to be seen and heard by the persons referred to in subsection (2) (if those persons are present in the courtroom or other place where the proceedings are being held).*

*(2) The persons are—*

*(a) the Senior Judge or Judge hearing the proceedings;*

*(b) the parties to the proceedings;*

*(c) the legal representatives appearing in the proceedings;*

*(d) any interpreter, witness or other person assisting the parties or the Court during the proceedings.*

## **PART 2**

### **Courts, Judges and Officers**

#### **Courts of Justice**

**3.** There continue to be established Courts of Justice for the administration of civil and criminal law in the Areas as follows—

(a) the Senior Judges’ Court;

(b) the Resident Judge’s Court.

#### **Constitution of Senior Judges’ Court**

**4.—***(1) The Senior Judges’ Court consists of such Senior Judges as may from time to time be appointed.*

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(a) Definition repealed and replaced by Ordinance 2/2014 – came into force on 12 January 2014

(b) Definition repealed and replaced by Ordinance 2/2014 – came into force on 12 January 2014

(c) Text deleted and new text inserted by Ordinance 08/2023 – came into force on 31 December 2023

(d) Section 2A inserted by Ordinance 2/2014 – came into force on 12 January 2014

(2) The Administrator must by Letters Patent under the public seal of the Areas in accordance with such instructions as he may receive from Her Majesty through a Secretary of State appoint one of the Senior Judges to be the Presiding Judge.

(3) The disposition and distribution of the duties of the Senior Judges' Court is regulated by the Presiding Judge.

### **Constitution of Resident Judge's Court**

**5.**—(1) The Resident Judge's Court consists of such Judges as may from time to time be appointed.

(2) The Administrator must appoint one of the Judges to be the Resident Judge.

(3) The disposition and distribution of the duties of the Resident Judge's Court is regulated by the Resident Judge, subject to the overall control of the Presiding Judge.

### **Appointment of a Senior Judge**

**6.**—(1) A Senior Judge is appointed by an instrument in writing under the hand of the Administrator in accordance with such instructions as he may receive from Her Majesty through a Secretary of State.

*(1A) The Administrator may reappoint a Senior Judge to that office without the need for any instructions (as referred to in subsection (1)) provided that—*

*(a) the reappointment is for a consecutive term following an initial appointment or reappointment, and*

*(b) the Administrator has consulted the Presiding Judge (including where the person being reappointed as a Senior Judge is, for the time being, the Presiding Judge). (a)*

(2) *Subject to section 11(5) (b)* a Senior Judge holds that office during good behaviour for such period as may be specified in the instrument of appointment ~~(which may be renewed).~~ **(c)**

(3) A Senior Judge may sit as a member of the Resident Judge's Court to hear and determine any proceedings of that Court and, where he does so, his powers are limited to the powers of that Court.

(4) Where a Senior Judge has taken part in any proceedings before the Resident Judge's Court he must not take part in any subsequent proceedings before the Senior Judges' Court in respect of that particular proceeding.

### **Appointment of Resident Judge**

**7.**—(1) The Resident Judge is appointed by an instrument in writing under the hand of the Administrator.

(2) *Subject to section 11(5) (d) 11(6) (e)* the Resident Judge holds that office during good behaviour for such period as may be specified in the instrument of appointment ~~(which may be renewed).~~ **(f)**

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(a) Section (1A) inserted by Ordinance 08/2023 – came into force on 31 December 2023  
(b) Text inserted by Ordinance 08/2023 – came into force on 31 December 2023  
(c) Text deleted by Ordinance 2/2018 – came into force on 22 January 2018  
(d) Text inserted by Ordinance 2/2014 – came into force on 12 January 2014  
(e) Section amended by Ordinance 02/2023 – came into force on 06 March 2023  
(f) Text deleted by Ordinance 2/2018 – came into force on 22 January 2018

## Appointment of an Associate Judge

8.—(1) An Associate Judge is appointed by an instrument in writing under the hand of the Administrator.

*(1A) Before appointing a person as an Associate Judge, the Administrator must consult the Presiding Judge. (a)*

(2) ~~Subject to section 11(5), (b) 11(6)(e)~~ Subject to section 11(7) (d) an Associate Judge holds that office during good behaviour for such period as may be specified in the instrument of appointment ~~(which may be renewed). (e)~~

(3) An Associate Judge is a member of the Resident Judge's Court and may only exercise the jurisdiction that is conferred on him by his instrument of appointment.

## Appointment of an Acting Judge

9.—(1) An Acting Judge is appointed by an instrument in writing under the hand of the Administrator.

*(1A) Before appointing a person as an Acting Judge, the Administrator must consult the Presiding Judge. (f)*

(2) ~~Subject to section 11(5), (g) 11(6)(h)~~ Subject to section 11(5) or (6) (as applicable) (i) an Acting Judge holds that office during good behaviour for such period or in respect of such proceedings as may be specified in the instrument of appointment ~~(which may be renewed). (j)~~

(3) An Acting Judge may be a member of the Senior Judges' Court or the Resident Judge's Court as specified in his instrument of appointment and, while so appointed, has the power to exercise the same jurisdiction as a member of the Court to which he is appointed.

## First members of the Court

10. On commencement of this Ordinance—

- (a) The persons who immediately before the commencement are Acting Deputy Senior Judges become Senior Judges;
- (b) The person who immediately before the commencement is the Senior Judge becomes the Presiding Judge;
- (c) The person who immediately before the commencement is the Resident Judge remains the Resident Judge;
- (d) The persons who immediately before the commencement are Associate Judges remain in that office.

## Qualification (k)

~~11.—(1) A person is not qualified to be appointed, a member of the Senior Judges' Court or to continue to hold office, as a Senior Judge (l) unless he holds a full-time judicial office in England and Wales.~~

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- (a) Section (1A) inserted by Ordinance 2/2014 – came into force on 12 January 2014
  - (b) Text inserted by Ordinance 2/2014 – came into force on 12 January 2014
  - (c) Section amended by Ordinance 02/2023 – came into force on 06 March 2023
  - (d) Section amended by Ordinance 08/2023 – came into force on 31 December 2023
  - (e) Text deleted by Ordinance 2/2018 – came into force on 22 January 2018
  - (f) Section (1A) inserted by Ordinance 2/2014 – came into force on 12 January 2014
  - (g) Text inserted by Ordinance 2/2014 – came into force on 12 January 2014
  - (h) Section amended by Ordinance 02/2023 – came into force on 06 March 2023
  - (i) Sections amended by Ordinance 08/2023 – came into force on 31 December 2023
  - (j) Text deleted by Ordinance 2/2018 – came into force on 22 January 2018
  - (k) Section 11 repealed and replaced by Ordinance 3/2019 – came into force on 28 February 2019
  - (l) Text deleted and new text inserted by Ordinance 2/2014 – came into force on 12 January 2014

~~(2) A person is not qualified to be appointed a member of the Resident Judge's Court as the Resident Judge (a) unless he is below the age of seventy and—~~

~~(a) at any time has held an appointment as Judge of a Court of Record in any part of Her Majesty's Dominions; or~~

~~(b) for not less than ten years, has been qualified to practise as a barrister at law, advocate or solicitor in the United Kingdom, or in an equivalent professional capacity, in a Court in a part of Her Majesty's Dominions or in the Republic of Ireland.~~

~~(2) A person (P) is qualified for appointment as the Resident Judge if P is—~~

~~(a) a salaried judicial office holder in England and Wales, the United Kingdom (b) and~~

~~(b) under the age of 70. (c)~~

~~(3) A person is not qualified to be appointed an Acting Judge unless he satisfies subsection (1) or (2) as relevant to the Court to which it is proposed he be appointed. (d)~~

~~(3) A person is not qualified to be appointed as an Associate Judge unless the person is below the age of 70 and has—~~

~~(a) for not less than 7 years, been qualified to practise as a barrister, solicitor or advocate in the United Kingdom; or~~

~~(b) for not less than 7 years, been qualified, in a professional capacity equivalent to that of a barrister, solicitor or advocate in the United Kingdom, to practise in any part of Her Majesty's Dominions, the Republic of Ireland or in the Republic of Cyprus.~~

~~(4) A person is not qualified to be appointed an Associate Judge unless he is below the age of seventy and for not less than seven years, has been qualified to practise as a barrister at law, advocate or solicitor in the United Kingdom, or in an equivalent professional capacity, in a Court in a part of Her Majesty's Dominions or in the Republic of Ireland.~~

~~(4) A person is not qualified to be appointed as an Acting Judge unless—~~

~~(a) where the instrument of appointment specifies that the person appointed will be a member of the Senior Judges' Court, the person holds full time judicial office in England and Wales; or~~

~~(b) where the instrument of appointment specifies that the person appointed will be a member of the Resident Judge's Court, the person satisfies subsection (2).~~

~~(5) Before appointing a person to be an Acting or Associate Judge the Administrator must consult the Presiding Judge.~~

~~(5) The period of appointment (including any renewal of appointment) (c) of a person as the Resident Judge, an Associate Judge or an Acting Judge who is a member of the Resident Judge's Court may not extend beyond the day on which the person attains the age of 70 years of age.~~

## **Qualifications**

**11.—**~~(1) A person (P) is qualified for appointment as a Senior Judge if P is a salaried judicial officer holder in England and Wales.~~

**11.—**~~(1) A person (P) is qualified for appointment as a Senior Judge if—~~

~~(a) P is a salaried judicial office holder in the United Kingdom, or~~

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(a) Text deleted and new text inserted by Ordinance 2/2014 – came into force on 12 January 2014  
(b) Text deleted and new text inserted by Ordinance 3/2018 – came into force on 01 February 2018  
(c) Subsection (2) repealed and replaced by Ordinance 2/2018 – came into force on 22 January 2018  
(d) Sections (3),(4) & (5) repealed and replaced by Ordinance 2/2014 – came into force on 12 January 2014  
(e) Text deleted by Ordinance 2/2018 – came into force on 22 January 2018



- (b) *P holds a judicial sitting in retirement office in the United Kingdom, and has previously held a salaried judicial office. (a)*
- (2) *A person (P) is qualified for appointment as a Resident Judge if P is—*
- (a) *a salaried judicial office holder in the United Kingdom, ~~and~~*
- ~~(b) *under the age of 70. (b)*~~
- (3) *A person (P) is qualified for appointment as an Associate Judge if P—*
- (a) *has been qualified for 7 years or more to practice as a barrister, solicitor or in another equivalent capacity in the United Kingdom, the Republic of Cyprus, the Republic of Ireland or in any other part of Her Majesty's Dominions, ~~and~~*
- ~~(b) *is under the age of 70. (c)*~~
- (4) *A person (P) is qualified for appointment as an Acting Judge if P—*
- (a) *for appointment as a member of the Resident Judge's Court, meets qualification requirements in subsection (2), or*
- (b) *for appointment as a member of the Senior Judge Court, meets qualification requirements in subsection (1).*
- (5) *A Senior Judge or an Acting Judge who is a member of the Senior Judges' Court must vacate office on ceasing to hold a ~~salaried judicial office in England and Wales~~ judicial office specified in subsection (1). (d)*
- ~~(6) *The Resident Judge, an Associate Judge or an Acting Judge who is a member of the Resident Judge's Court must vacate office on reaching the age of 70.*~~
- ~~(6) *The Resident Judge or an Acting Judge who is a member of the Resident Judge's Court must vacate office on ceasing to hold a salaried judicial office in the United Kingdom.*~~
- ~~(7) *An Associate Judge must vacate office on reaching the age of 75. (e)*~~

## Oaths

- 12.—**(1) A person who is appointed a member of the Senior Judges' Court or Resident Judge's Court must, before exercising any function of that office, take and subscribe before the Administrator the oath of allegiance and judicial oath in the form prescribed in Schedule 1.
- (2) Subsection (1) does not apply to a person to whom section 10 applies.
- (3) *Subsection (1) does not apply to a person when reappointed for a consecutive term. (f)*

## Resignation

**13.** A member of the Senior Judges' Court or the Resident Judge's Court may at any time resign that office by giving the Administrator notice in writing to that effect.

## Medical retirement

- 14.—**(1) This section applies where the Administrator is satisfied by means of a medical certificate that an Associate Judge or Acting Judge appointed to the Resident Judge's Court—
- (a) is disabled by permanent infirmity from the performance of the duties of his office, and

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- (a) Subsection (1) repealed and replaced by Ordinance 08/2023 – came into force on 31 December 2023
- (b) Paragraph (b) repealed by Ordinance 08/2023 – came into force on 31 December 2023
- (c) Paragraph (b) repealed by Ordinance 08/2023 – came into force on 31 December 2023
- (d) Text deleted and new text inserted by Ordinance 08/2023 – came into force on 31 December 2023
- (e) Subsection (6) repealed and replaced, and subsection (7) inserted by Ordinance 08/2023 – came into force on 31 December 2023
- (f) Section (3) inserted by Ordinance 08/2023 – came into force on 31 December 2023

(b) is for the time being incapacitated from resigning his office.

(2) The Administrator may by instrument in writing under his hand declare the person's office to have been vacated.

(3) A declaration by instrument under subsection (2) has the same effect for all purposes as if the person had, on the date of the instrument, resigned his office.

#### **Composition of Senior Judges' Court (a)**

~~15. (1) The Senior Judges' Court is to be taken to be duly constituted during and notwithstanding any vacancy in the office of any member of that Court.~~

~~(2) Subject to section 26(3), a Senior Judges' Court is duly constituted for the purpose of exercising any of its jurisdiction if it consists of an uneven number of Senior Judges.~~

~~(3) Save where the Presiding Judge otherwise directs or where section 26 applies, subsection (2) is fulfilled where a Senior Judge sits alone.~~

~~(4) Where more than one Senior Judge sits the judgment of the Senior Judges' Court is by majority.~~

~~(5) The Senior Judges' Court is to be taken to be duly constituted where—~~

~~(a) part of a proceeding (not including proceedings to which section 26(3) applies) before a Senior Judges' Court has been heard by an uneven number of Senior Judges not less than three; and~~

~~(b) one or more members of the Senior Judges' Court is unable to continue.~~

~~(6) Where any case has been heard by the Senior Judges' Court consisting of an even number of Senior Judges and the members of that Court are equally divided, the case must be reheard and determined by an uneven number of Senior Judges not less than three.~~

~~(7) Where more than one member of the Senior Judges' Court is sitting the Presiding Judge or, in his absence, the Senior Judge who is senior by date of appointment is the presiding Judge for the purpose of those proceedings.~~

#### **Senior Judges' Court**

*15.—(1) This section is subject to section 26 (appellate jurisdiction of Senior Judges' Court).*

*(2) Subject to subsection (4), a Senior Judges' Court is duly constituted for the purpose of exercising any of its jurisdiction if it consists of one Senior Judge or, where more than one Senior Judge sits, an uneven number of Senior Judges.*

*(3) Where more than one Senior Judge sits, the judgement of the Senior Judges' Court is by majority.*

*(4) The Senior Judges' Court is deemed to be duly constituted where—*

*(a) part of proceedings before the Senior Judges' Court has been heard by an uneven number of not less than three Senior Judges; and*

*(b) one or more of those Senior Judges is unable to continue to hear the proceedings.*

*(5) Subject to subsection (6), where any proceedings in the Senior Judges' Court have been heard by an even number of Senior Judges and the members of that Court are equally divided on any decision before it, the proceedings must be reheard and determined by an uneven number of not less than three Senior Judges.*

*(6) Where the Presiding Judge is satisfied that it would be just and fair to do so, any closed material proceedings to which subsection (5) applies may be reheard by one Senior Judge.*

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(a) Section 15 repealed and replaced by Ordinance 02/2023 – came into force on 06 March 2023

(7) *In proceedings, other than closed material proceedings, where more than one member of the Senior Judges' Court is sitting, the Senior Judge with overall responsibility for the conduct of the proceedings is—*

(a) *the Presiding Judge; or*

(b) *where the Presiding Judge is not sitting, the Senior Judge who, by date of appointment as a Senior Judge, is the most senior.*

(8) *In closed material proceedings, where more than one member of the Senior Judges' Court is sitting, the Senior Judge with overall responsibility for the conduct of the proceedings is the Senior Judge nominated by the Presiding Judge.*

### **Composition of Resident Judge's Court**

~~16. (1) The Resident Judge's Court is to be taken to be duly constituted during and notwithstanding any vacancy in the office of any member of that Court. (a)~~

*16.—(1) This section is subject to section 16A.*

(2) The Resident Judge's Court normally consists of one Judge sitting alone who, subject to subsection (4), has the power to exercise the full jurisdiction of that Court.

(3) The Presiding Judge may direct that a specified case or category of cases is to be ~~heard~~<sup>**tried**</sup> by three Judges and, where he does so, must appoint one of those Judges ~~to act as presiding Judge for the purpose of those proceedings as the Judge with the overall responsibility for the conduct of the proceedings.~~ <sup>**(b)**</sup> ~~(c)~~

(4) An Associate Judge has power to exercise such jurisdiction as may be conferred on him by his instrument of appointment.

(5) A direction under subsection (3) does not preclude a Judge from acting alone in order to deal with the following preliminary matters—

- (a) in criminal proceedings, from taking pleas, ordering remands in custody or on bail, or subject to any directions of the Presiding Judge, granting legal aid and allocating and appointing Defence Counsel; or
- (b) in civil proceedings, from exercising such interlocutory or preliminary functions as the Presiding Judge may direct or may appear to the Judge to be essential in an emergency if it is not practical to obtain the directions of the Presiding Judge.

### ***Closed material proceedings before the Resident Judge's Court* (d)**

*16A.—(1) This section applies to any closed material proceedings before the Resident Judge's Court where more than one Judge sits to hear the proceedings.*

*(2) The Resident Judge's Court is deemed to be duly constituted where—*

*(a) part of any closed material proceedings before the Resident Judge's Court has been heard by more than one Judge; and*

*(b) one or more of those Judges is unable to continue to hear the proceedings.*

*(3) Where more than one Judge sits, the judgment of the Resident Judge's Court is by majority.*

*(4) Where the closed material proceedings have been heard by an even number of Judges who are equally divided on any decision before them, the matter must be reheard by—*

*(a) an uneven number of not less than three Judges; or*

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(a) Subsection (1) repealed and replaced by Ordinance 02/2023 – came into force on 06 March 2023

(b) Substituted by Ordinance 02/2023 – came into force on 06 March 2023

(c) Text substituted by Ordinance 02/2023 – came into force on 06 March 2023

(d) Section 16A inserted by Ordinance 02/2023 – came into force on 06 March 2023

*(b) where the Presiding Judge is satisfied that it would be just and fair to do so, by one Judge.*

*(5) The Judge with overall responsibility for the conduct of the proceedings is to be nominated by the Presiding Judge.*

### **Appointment of Senior Registrar**

**17.**—(1) The Administrator must appoint a person to be the Senior Registrar of both the Senior Judges' Court and Resident Judge's Court.

(2) The person who immediately before the commencement of this Ordinance is the Senior Registrar continues to hold that office on commencement.

### **Appointment of Registrar**

**18.**—(1) The Administrator may appoint a person to be the Registrar of both the Senior Judges' Court and Resident Judge's Court.

(2) The Registrar performs such duties of the Senior Registrar as he is required to perform by the Presiding Judge or Resident Judge as the case may be.

(3) The person who immediately before the commencement of this Ordinance is the Registrar continues to hold that office on commencement.

### **Duties of Senior Registrar**

**19.** Unless otherwise provided, the duties of the Senior Registrar in respect of each Court include the—

- (a) issue of summonses, warrants, precepts and writs of execution;
- (b) keeping of a register of all orders and judgments made;
- (c) keeping of a record of proceedings;
- (d) accounting for all fees and fines payable or paid;
- (e) accounting for all other monies paid into or out of each Court;
- (f) submission of the accounts kept in accordance with this section for auditing by the Fiscal Officer as and when required;
- (g) forwarding of any monies received in accordance with directions from the Fiscal Officer.

### **Taxing Master**

**20.**—(1) Unless otherwise provided, the Senior Registrar is the Taxing Master for each Court.

(2) A Court may direct in any case that taxation of costs is to take place before the Court.

(3) Unless a Court makes a direction under subsection (2) the Senior Registrar must tax all bills of costs and must do so in accordance with the scale of fees for the time being in force.

(4) Where the Senior Registrar has taxed a bill of costs the Court before which the relevant proceedings were determined must, on application, review the taxation.

### **Sheriff**

**21.**—(1) The Senior Registrar is the Sheriff of each Court and discharges his duties in that capacity under the direction of the Presiding Judge or Resident Judge as the case may be.

(2) The Sheriff must by himself or his officers receive and execute any writ or process of the Court and make a return in respect of the same.

(3) The Sheriff is not liable to be sued for any act or omission of any bailiff or other person he instructs to execute a writ or process where that act or omission has occurred through disobedience

or neglect of the orders or instructions given by the Sheriff or where it may have been done or omitted without his authority.

### **Deputy Sheriff**

**22.**—(1) The Registrar is the Deputy Sheriff of each Court and discharges his duties in that capacity under the direction of the Sheriff.

(2) The Deputy Sheriff enjoys the same immunities as the Sheriff does under section 21(3).

### **Neglect of duty**

**23.**—(1) Where an officer of the Court is employed to execute an order and wilfully or by neglect loses the opportunity of executing it then, on complaint of the person aggrieved and proof of the facts alleged, the Court may order the officer to pay the damage or part of the damage sustained by the person complaining.

(2) An order made under subsection (1) is enforced as an order directing payment of money.

### **Misconduct of officer**

**24.**—(1) This section applies where an officer of the Court is charged with –

- (a) extortion under pretence of the process or authority of the Court, or
- (b) not paying over any money levied, or
- (c) any other misconduct.

(2) The Court may inquire into the charge in a summary manner and for that purpose require the attendance of any relevant person as a witness before it.

(3) Where the Court finds the charge proven it may—

- (a) order the repayment of the money extorted or the payment over of any money levied,
- (b) order the payment of such damages and costs as it thinks fit, and
- (c) impose on the officer a fine of £250 in respect of each charge.

(4) The powers of the Court under this section are without prejudice to any other liability or punishment which the officer would, apart from this section, be liable.

## **PART 3**

### **Jurisdiction and Law**

#### **Original jurisdiction of Senior Judges' Court**

**25.**—(1) The Senior Judges' Court has exclusive original jurisdiction—

- (a) as provided by section 3 Courts (Judicial Review) Ordinance 2004(a);
- (b) as a Court of Admiralty under any Act of the United Kingdom applicable to Admiralty jurisdiction in the Areas;
- (c) to exercise such jurisdiction and powers in matrimonial causes as are exercisable in England by the Family Division of the High Court;
- (d) as provided by rule 9 Human Rights Rules 2005 (b);
- (e) to hear and determine any other proceeding as provided by any Ordinance.

(2) The Senior Judges' Court does not have jurisdiction to hear and determine any matrimonial

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(a) Ordinance 10/2014

(b) Public Instrument 25/2005

cause where—

- (a) either party is a member of the Greek Orthodox Church and the marriage has been celebrated in accordance with the rites of the Greek Orthodox Church;
- (b) either party is of the Moslem faith and the marriage has been contracted in accordance with the Moslem Sacred Law before 28<sup>th</sup> May 1951 or has, after that date, been solemnised in accordance with the Turkish Family (Marriage and Divorce) Ordinance (a) or any Law of the Republic replacing the same;
- (c) it is a proceeding which as a result of any Ordinance is within the jurisdiction of a Turkish Family Court;
- (d) it is a proceeding which as a result of any Ordinance is cognisable by an ecclesiastical tribunal of the religious community to which the parties belong.

(3) The jurisdiction conferred on the Senior Judges' Court by this section does not abrogate any—

- (a) jurisdiction which an ecclesiastical tribunal of the Greek Orthodox Church possesses in respect of matrimonial causes to which a member of the Greek Orthodox Church is a member, or
- (b) any principle contained in an Ordinance whereby matters of marriage and family status are governed by the law of the religious community to which the party belongs.

### **Appellate jurisdiction of Senior Judges' Court**

**26.**—(1) Subject to any other Ordinance, the Senior Judges' Court has jurisdiction to hear and determine an appeal from the Resident Judge's Court in both criminal and civil proceedings.

(2) Where the Senior Judges' Court has exercised its original jurisdiction then an appeal from such a determination lies to a differently constituted Senior Judges' Court comprising not less than 3 members.

(3) A Senior Judges' Court is duly constituted for the purpose of hearing an appeal in Habeas Corpus proceedings provided it consists of at least two Senior Judges.

### **~~Exercising powers from outside the Areas~~ (b)**

~~**27A.** Use of live link for witness evidence.~~

~~**27B.** Meaning of "live link".~~

### **Senior Judges may exercise functions from outside the Areas (c)**

**27.**—(1) A Senior Judge (including a Senior Judge sitting as a member of the Resident Judge's Court in accordance with section 6(3)) may, in accordance with this section, exercise any functions of a Senior Judge from outside the Areas.

(2) In particular, a Senior Judge may, from outside the Areas,—

- (a) subject to subsections (4) to (6), hear any proceedings by live link;
- (b) make a decision following a hearing (whether or not the hearing was heard by live link);
- (c) make a decision that may be made without a hearing;
- (d) issue case management directions.

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- (a) Cap 330, 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 (5/1968)
  - (b) Section 27 repealed and replaced by Ordinance 10/2011 – came into force on 22 August 2011
  - (c) Section 27, 24A & 27B (Ordinance 10/2011) repealed and replaced by Ordinance 2/2014 – came into force on 12 January 2014

(3) Anything done outside the Areas under this section may, at the direction of a Senior Judge or a Judge be promulgated in writing, by live link or by being read verbatim in open court.

(4) A Senior Judge may not hear proceedings from outside the Areas by live link if a Senior Judge (other than one disqualified from hearing the proceedings by virtue of section 6(4) or section 26(2)) is available in the Areas and is competent to hear the proceedings.

(5) A Senior Judge may not hear proceedings from outside the Areas by live link unless—

(a) the Presiding Judge considers that it is in the interests of the efficient or effective administration of justice for the proceedings to be heard by live link; and

(b) either—

(i) the Presiding Judge considers that the matter is so urgent that the hearing of the proceedings should not be delayed until the arrival of a Senior Judge in the Areas; or

(ii) all the parties to the proceedings agree to the proceedings being heard by live link.

(6) Where the Presiding Judge is not available for the purposes of subsection (5), a Senior Judge (including the Senior Judge who is to hear the proceedings) may exercise the functions of the Presiding Judge under subsection (5)(a) and (b)(i) but only if the Senior Judge considers that the matter is so urgent that it should not be delayed until the Presiding Judge is available.

~~(7) Subsection (5) does not apply to the hearing of an appeal under section 157ZA or section 157ZB of the Criminal Procedure Ordinance (a). (b)~~

(7) Subsection (5) does not apply to proceedings under any of the following provisions of the Criminal Procedure Ordinance 2016(c)—

(a) section 31 (arrested person's appeal against remand in police custody);

(b) section 32 (prosecution appeal against release of arrested person);

(c) section 140 (appeal against acquittal: Senior Judge may issue arrest warrant, etc);

(d) section 141 (Senior Judge may grant or refuse permission to appeal);

(e) section 151 (statement of case by Judge for opinion of Senior Judges' Court);

(f) section 152 (grant of bail);

(g) section 154 (application for bail by defendant who appeals to Senior Judges' Court).

## Practice directions

**28.**—(1) The Presiding Judge may issue practice directions relating to any business of the Senior Judges' Court and the Resident Judge's Court.

(2) A practice direction issued in accordance with this section must be published in the Gazette and numbered as a public instrument. (d)

## Criminal jurisdiction of Resident Judge's Court

**29.**—(1) Except where otherwise provided, the Resident Judge's Court has exclusive original jurisdiction to try all offences committed within the Areas.

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(a) Cap. 155, Laws of Cyprus, 1959 ed. Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (S.I. 1960/1639 (U.K.)). Schedule 2 to the Interpretation Ordinance 2012 provides for the interpretation of such legislation. Sections 157ZA (appeals against withholding of bail) and 157ZB (appeals against granting of bail) were inserted by the Criminal Procedure (Amendment) Ordinance 2013 (Ordinance 2/13).

(b) Subsection (7) repealed and replaced by Ordinance 9/2016 – came into force on 01 May 2016

(c) Ordinance 9/2016

(d) Text inserted by Ordinance 2/2014 – came into force on 12 January 2014

(2) The Court may, in addition to or in substitution for any punishment, order a person convicted before it to make compensation not exceeding £3000 to any person who suffers injury as a result of the commission of that offence.

*(2A) Where the court makes a compensation order under subsection (2), in any civil proceedings for damages in respect of the injury for which the award was made which are brought by the person in favour of whom such order is made, the damages are to be assessed without regard to the order but the claimant may only recover the amount equal to the aggregate of the following—*

*(a) any amount by which the damages exceed the compensation; and*

*(b) a sum equal to any portion of the compensation which he fails to recover. (a)*

(3) The Court has a duty to ensure that—

(a) a person is not detained within the Areas except in accordance with the law, and

(b) the administration of justice is not unduly delayed.

(4) The Court must make enquiry as to all persons detained in the Areas for the purpose of meeting its duty under subsection (3) and may, for this purpose, make such order as it deems fit for the release of any person from custody with or without bail.

### **Civil jurisdiction of Resident Judge's Court**

**30.**—(1) Except where otherwise provided, the Resident Judge's Court has exclusive original jurisdiction to hear and determine an action where—

(a) the cause of action has arisen wholly or partly within the Areas,

(b) the defendant, at the time the action was commenced, resides or carries on a business within the Areas, or

(c) the cause of action relates to immovable property within the Areas.

(2) Where the action is founded on contract then a cause of action is deemed to have arisen within the Areas if the contract was made within the Areas or, where the contract was made outside the Areas, the breach occurs within it.

### **Proceedings ordinarily reserved to Senior Judges' Court**

**31.** A member of the Resident Judge's Court may, notwithstanding anything to the contrary contained in any other Ordinance, exercise any of the following powers in respect of a proceeding over which the Senior Judges' Court has jurisdiction—

(a) to give judgment or a ruling in any proceeding in which—

(i) either party fails to appear at the time fixed for the hearing before the Court, or

(ii) either party fails to deliver any pleading or take any step within the time appointed by any Rules of Court; or

(b) to make any order in an action other than disposing of the action on its merits.

### **Civil Appeals from Resident Judge's Court**

**32.** Every decision of the Resident Judge's Court exercising civil jurisdiction is subject to appeal to the Senior Judges' Court.

### **Laws to be applied**

**33.**—(1) Each Court in the exercise of its civil and criminal jurisdiction must apply—

(a) the Ordinances of the Areas,

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(a) Section (2A) inserted by Ordinance 6/2014 – came into force on 01 May 2016



- (b) the Statutes of the Imperial Parliament and Orders of Her Majesty in Council, applicable either to Her Majesty's Overseas Territories generally or to the Areas, except where the same has validly been modified by, or other provision has been validly made by, an Ordinance of the Areas,
  - (c) the common law of England and the doctrines of equity except where and to the extent that other provision has been made by an Ordinance of the Areas.
- (2) The Senior Judges' Court, in exercising the jurisdiction conferred on it by section 25(1)(c) must apply the law relating to matrimonial causes for the time being administered by the Family Division of the High Court of Justice in England.

## **PART 4**

### **Powers of the Court**

#### **Vexatious litigants**

**34.**—(1) This section applies where, on an application being made by the Attorney General and Legal Adviser, the Senior Judges' Court is satisfied that a person has habitually, persistently and without any reasonable ground instituted vexatious proceedings in either Court, whether against the same or different persons.

(2) Where the Senior Judges' Court is satisfied of the matters in subsection (1) it may order that the litigant named in the order—

- (a) must not institute any legal proceedings in either Court without the leave of the Court; and
- (b) any legal proceedings instituted by him in either Court before the making of the order must not be continued without the leave of the Court.

(3) The Senior Judges' Court must not make an order under subsection (2) without first hearing from the relevant person or giving that person the opportunity of being heard.

(4) Where an order has been made under this section a Court must not grant leave under subsection (2) unless it is satisfied that—

- (a) the proceedings are not an abuse of the process of the Court, and
- (b) there is a prima facie ground for the proceedings.

(5) If the person against whom an order is sought under this section cannot afford the services of an advocate the Senior Judges' Court must assign an advocate to him.

(6) A copy of an order made under this section must be published in the Gazette.

#### **Disposal of fees and other monies**

**35.** A fee, forfeiture or money penalty levied under this Ordinance is payable to the public account unless otherwise specified in the order which levied the payment of the money.

#### **Effect of judgment**

**36.**—(1) A judgment of either Court is, unless otherwise specified in the judgment, binding on all parties to the action immediately on being made.

(2) The binding nature of a judgment is not affected by—

- (a) the absence of any party to the proceeding;
- (b) the judgment being made in default of pleading;
- (c) an appeal against the judgment.

(3) Where an appeal against a judgment has been lodged, the Court which issued the judgment or the Court before which the appeal is to be heard, may direct that execution of the judgment is to be suspended for such time and on such terms as the Court sees fit.

## PART 5

### Miscellaneous

#### Place of sittings (a)

~~37. Subject to the exercise of powers by a Senior Judge in accordance with section 27, (b) a Court may sit at any place in the Areas as deemed expedient by that Court.~~

*37.—(1) Without prejudice to the powers of a Senior Judge under section 27, a Court may sit at any place in the Areas.*

*(2) In respect of closed material proceedings, a Court may also sit at any place in England or Wales.*

#### Public sittings

**38.** The sittings of each Court must ordinarily be public but a Court may, for reasons which it enters in the minutes of the proceedings, hear any proceeding in the presence only of the parties with their advocates or representatives and the officers of the Court.

#### Use of live link for witness evidence (c)

*38A.—(1) A Court may, in the interests of the efficient or effective administration of justice, permit a witness to give evidence by live link (from within or outside the Areas).*

*(2) A statement made by a witness and given in evidence through a live link by virtue of this section shall be treated, for the purposes of sections 110 and 113 of the Criminal Code(d), as having been made in the proceeding in which it is given as evidence, whether it is made from within or outside the Areas. (e)*

#### Special live link for the protection of public health (f)

*38B.—(1) This section applies where a court considers special measures are necessary for preventing or protecting against the incidence or spread of a dangerous infectious disease as defined in section 2 of the Quarantine Ordinance(g).*

*(2) A person may, if a court so directs, participate in any proceedings by special live link for the purpose provided in subsection (1).*

*(3) A person participating by special live link in accordance with a direction under subsection (2) is to be treated as present in court.*

*(4) Where this section applies, any reference to live link in this Ordinance also includes special live link.*

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(a) Section 37 repealed and replaced by Ordinance 02/2023 – came into force on 06 March 2023

(b) Text inserted by Ordinance 2/2014 – came into force on 12 January 2014

(c) Section 38A inserted by Ordinance 2/2014 – came into force on 12 January 2014

(d) Cap. 154, Statute Laws of Cyprus revised edition of 1959. Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (S.I. 1960/1369 (U.K.)). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.

(e) Existing section renumbered (1) and subsection (2) inserted by Ordinance 2/2017 – came into force on 17 March 2017

(f) Section 38B inserted by Ordinance 07/2020 – came into force on 11 April 2020

(g) Cap. 260, 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 Interpretation Ordinance 2012 (8/2012).

(5) *In this section “special live link” means—*

- (a) *a live link; or*
- (b) *any other arrangement by which a person, when not in the courtroom or other place where proceedings are being held, is able to—*
  - (i) *participate in the proceeding; and*
  - (ii) *hear the proceedings and be heard by all persons referred to in section 2A(2).*

### **Books of record**

**39.** Each Court must keep a book in which is recorded the orders, sentences and such other proceedings of the Court as may be required by Rules of Court or, in default of such Rules, as may be directed by the Presiding Judge or Resident Judge.

### **Seals**

**40.**—(1) Each Court must use as required a seal in the form approved by the Administrator and may have as many duplicates of the seal as it requires.

(2) Each Court must direct in whose custody each duplicate of the seal is to be kept.

(3) The Administrator may direct that a single seal is to be used in both Courts and, where he does so direct, it must be in the form “Her Majesty’s Court of the Sovereign Base Areas of Akrotiri and Dhekelia” or any other form of wording to like effect.

(4) A writ, order or other instrument issued by a Court must be sealed with the seal of the Court which has issued it.

### **Rules**

**41.** The Administrator may 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 sittings of the Courts;
- (b) for regulating the pleading, practice and procedure of either of the Courts and for prescribing the forms to be used;
- (c) for regulating any matter relating to the duties of the officers of the Courts;
- (d) for prescribing the costs of any proceeding to be allowed to a party or to be allowed to the advocates and others lawfully representing a party;
- (e) for prescribing the fees to be taken in respect of any proceeding before a Court or officer of the Court.

### **Repeal**

**42.** The Ordinances listed in Schedule 2 are repealed to the extent specified in that Schedule.

## **SCHEDULE 1**

(Section 12)

### **Oaths**

#### **OATH OF ALLEGIANCE**

I.....do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law, so help me God.

## JUDICIAL OATH

I.....do swear that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second in the office of.....and will do right to all manner of people after the law of the Sovereign Base Areas without fear or favour, affection or ill will, so help me God.

## SCHEDULE 2

(Section 42)

### Repeals

<b>1.</b> The following provisions of the Courts Ordinance 1960— (a) Part I and Part II. (b) In Part III, section 39, 44 and 45. (c) In Part VI, section 56, 57, 60, 61 and 62. (d) The Schedule.	Ordinance 3/1960
<b>2.</b> Courts (Amendment) Ordinance 1961	Ordinance 7/61
<b>3.</b> Courts (Amendment) Ordinance 1962	Ordinance 19/62
<b>4.</b> Courts (Amendment) Ordinance 1963	Ordinance 5/63
<b>5.</b> Courts (Amendment) Ordinance 1965	Ordinance 3/65
<b>6.</b> Courts (Amendment) Ordinance 1977	Ordinance 9/77
<b>7.</b> Courts (Amendment) Ordinance 1984	Ordinance 12/84
<b>8.</b> Section 2 Courts (Amendment) Ordinance 1988	Ordinance 6/88
<b>9.</b> Courts (Amendment) Ordinance 2003	Ordinance 16/03
<b>10.</b> Courts and Criminal Procedure Ordinance 2003	Ordinance 39/03
<b>11.</b> Courts (Amendment) (No. 2) Ordinance 2004	Ordinance 31/04
<b>12.</b> Courts (Amendment) Ordinance 2005	Ordinance 12/05