



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 847 of 18th May, 1989.
LEGISLATION

ORDINANCE 6 OF 1989.

AN ORDINANCE

TO AMEND THE DEBTORS RELIEF (TEMPORARY
PROVISIONS) ORDINANCE, 1984.

J.P.W. FRIEBERGER

15th May, 1989.

ADMINISTRATOR

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

1. This Ordinance may be cited as the Debtors Relief (Temporary Provisions) (Amendment) Ordinance, 1989 and shall be read as one with the Debtors Relief (Temporary Provisions) Ordinance, 1984 as amended from time to time (hereinafter referred to as “the principal Ordinance”).

Short title.

Ordinances
3/84 and 15/85.

2. Section 2 of the principal Ordinance is hereby amended by inserting a comma immediately after the word “property” in the seventh line of the definition of “forced sale” appearing therein and by adding immediately thereafter the following :—

Section 2 of
the principal
Ordinance
amended.

“Cap. 6 (Laws
of Cyprus)
Ordinances
18/66, 9/70
and 3/83.

the registration of judgements according to the provisions of Section 53 of the Civil Procedure Ordinance.”.

3. The principal Ordinance is hereby amended by inserting immediately after Section 4 thereof the following new Section, to be numbered 4A :—

New Section 4A
added to the
principal
Ordinance.

“Criminal Offence
in relation to
collection
of debts.

4A.—(1) No creditor shall collect from any stricken debtor, against his will, any debt owed by such debtor to such creditor, whether by transfer, novation, lumping up, setting off or any other means.

(2) Any creditor who collects a debt contrary to subsection (1) of this Section shall commit an offence and shall be liable on conviction to imprisonment not exceeding six months or to a fine not exceeding three times the sum of money collected or to both such imprisonment and fine.

(3) Any money collected in contravention of this Section shall be deemed to have been unlawfully remitted and shall be refunded to the debtor.”.

Section 5 of the principal Ordinance amended.

4. The principal Ordinance is hereby amended by deleting Section 5 thereof and substituting therefor the following new Section :—

“Prohibition of alienation.

5.—(1) It shall be prohibited to sell, donate or in any way transfer or pledge any property which under the provisions of this Ordinance, constituted the subject-matter for either the suspension of a forced sale or the suspension of the issue of a receiving or winding up order :

Provided that, the registration of a judgement under the provisions of Section 53 of the Civil Procedure Ordinance, where such registration has been previously effected, shall not for the purposes of this subsection, be deemed to be a “forced sale”.

(2) Any debtor who acts in contravention of the provisions of subsection (1) of this Section shall commit an offence and shall be liable on conviction, to imprisonment not exceeding three years or to a fine not exceeding three thousand pounds or to both such imprisonment and fine.”.

New Section 5A added to the principal Ordinance.

5. The principal Ordinance is hereby amended by adding immediately after Section 5 thereof, the following new Section to be numbered 5A :—

“Special provisions in relation to creating new mortgages and discharging old mortgages.

5A.—(1) For the purposes of this Section :—

‘old mortgage’ means any mortgage created at an earlier date on a property, intended to secure the payment of a debt, the collection of which has been stayed under the provisions of this Ordinance ;

‘new mortgage’ means any mortgage which is created and registered in respect of a property which is already subject to one or more old mortgages, after the coming into operation of this Ordinance and in accordance with the provisions of this Section ;

‘a debt secured by way of an old mortgage’ includes the interest payable and due until the 15th August, 1974.

(2) The following conditions shall apply to the creation and registration of new mortgages :—

- (a) One or more new mortgages may be created and registered on the same immovable property ;
- (b) New mortgages created and registered shall rank according to the date and time of their having been declared and registered in accordance with the provisions contained in the Immovable Property (Transfer and Mortgage) Ordinance, 1966 and shall in such order precede old mortgages ;
- (c) On the declaration and registration of a new mortgage, the old mortgages shall retain their existing rank in relation to each other but shall rank below such new mortgage ;
- (d) The total sum representing debts, secured by way of new or old mortgages, shall not exceed fifty per centum of the purchase value of such immovable property, on the date of the creation and registration of each new mortgage ;
- (e) For the purpose of this Section, 'purchase value' means the sum of money which the said immovable property would yield if it were to be sold in the free market by a vendor acting of his own free will to a buyer also acting of his own free will ;
- (f) On an application by the mortgaged debtor, the Chief Officer may issue, free of charge, a certificate confirming the purchase value, as at the time of the application, of the immovable property in question ;
- (g) Where the sale of such immovable property is effected by a new mortgagee in accordance with the provisions stipulated in Section 37 of the Immovable Property (Transfer and Mortgage) Ordinance, 1966, a sum analogous to the debts secured by way of any old mortgages shall be deposited with the Establishment Officer in a blocked account, to the credit of and for the security of the old mortgagee :

Provided that subject to the provisions of the Immovable Property (Restriction of Sales) Ordinance, the sale by auction of such immovable property, at a price lower than the total sum of the debts secured by way of both new and old mortgages including the due interest payable, shall be prohibited.

(h) The sum deposited with the Establishment Officer must yield interest calculated on the basis of the rate of interest fixed by the Central Bank of Cyprus for deposits attracting maximum rates of interest. The interest so derived shall be due and payable to the debtor.

(3) For the discharge of an old mortgage the following shall be in effect:—

- (a) Notwithstanding the provisions of the Immovable Property (Transfer and Mortgage) Ordinance, 1966 or any other Ordinance at any time in force, where a sum equal to the debt secured by way of the old mortgage is deposited with the Establishment Officer in a blocked account to the credit and for the security of the mortgagee, the old mortgage shall be discharged and the Chief Officer shall cause the relevant note to be deleted, as provided for in Section 35 of the Immovable Property (Transfer and Mortgage) Ordinance, 1966 ;
- (b) Paragraph (h) of subsection (2) shall apply to the sum deposited under the provisions of paragraph (a) of this subsection.
- (c) If the debtor claims that on the date the sum is deposited, the actual sum owed is smaller than the debt which is secured by way of the mortgage and the mortgagee accepts such allegation, the sum so claimed, shall be deposited with the Establishment Officer. Where however the debtor and the mortgagee do not agree the actual sum owed, the full amount secured by the mortgage shall remain deposited with the Establishment Officer pending a decision by the Court following an application made by the debtor.
- (d) Where any immovable property which sustains an old mortgage may become the object for issuing separate registration titles, the debtor may, on application to the Chief Officer, request that the old mortgage be confined to and registered in so far as it affects only part of the immovable property and be discharged in so far as it affects the remaining part of such property :

Ordinances
16/66, 14/70
and 8/78.

Provided that the purchase value of the mortgaged portion at the time of the application shall be equal to or exceed the debt secured by way of the old mortgage ;

- (e) The Chief Officer shall, on receipt of the application, notify accordingly the mortgagee and shall invite him to declare in writing, within a reasonable fixed period of time, his consent to the proposed partial discharge of the old morgage ;
- (f) Where the mortgagee consents to the arrangement described in paragraph (e) of this subsection, the Chief Officer shall act in accordance with the provisions contained in Section 34 of the Immovable Property (Transfer and Mortgage) Ordinance, 1966, or may at his discretion refer the application to the Court for a decision ;
- (g) Notwithstanding the provisions set out in Section 5 of this Ordinance, when the provisions of this subsection are satisfied, all the old mortgages created in respect of any immovable property or part thereof shall be discharged and the sale, donation or in any way transfer of such property or part thereof, shall be without restriction.

Ordinances
16/66, 14/70
and 8/78.

15th May, 1989.

(118/4)

A.J.H. ADAMS,
Chief Officer.
