



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1388 of 8th August 2005
LEGISLATION

ORDINANCE 17 OF 2005

AN ORDINANCE
TO PROVIDE FOR ADVICE AND ASSISTANCE
AT POLICE STATIONS AND FOR LEGAL AID
IN CRIMINAL PROCEEDINGS AND OTHER
PROCEEDINGS WHICH COULD RESULT IN THE
IMPRISONMENT OF THE ACCUSED

P. T. C. Pearson CBE
ADMINISTRATOR

8th August 2005.

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 Criminal Legal Services Ordinance 2005. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpretation.

“advice and assistance” means, except where the expression is used in the definition of representation, the services provided in accordance with section 6, payment for which is made from funds provided by the Administration;

“advocate” means a person entitled to practise as an advocate in the Areas in accordance with the provisions of the Advocates Ordinance 1962;

“Court” means the Senior Judge’s Court, the Judge’s Court and the Juvenile Court;

“determining officer” means the Registrar appointed under the Courts Ordinance, or where an application is renewed before the Court in accordance with the procedure prescribed by Rules of Court, that Court;

“legal aid” means the provision to any person of representation, payment for which is made from funds provided by the Administration;

Ordinance
13/62 as amended
by Ordinances 24/
63, 5/75, 12/86,
18/91 and 4/02.

Ordinance 3/60
as amended by
Ordinances 7/61,
19/62, 5/63, 3/65,
9/77, 12/84, 6/88,
16/03, 39/03,
13/04, 21/04,
31/04, 33/04 and
12/05.

“representation” means representation for the purposes of proceedings and includes the advice and assistance which is usually given by an advocate in the steps preliminary or incidental to any proceedings and advice and assistance as to any appeal;

“volunteer” means a person who, for the purpose of assisting with an investigation, attends voluntarily at a police station or at any other place where a constable is present or accompanies a constable to a police station or any such other place without having been arrested.

Legal aid.

3.—(1) Subject to such conditions as may be imposed by or under this Ordinance, legal aid may be granted to a person in relation to any proceedings brought against him which, whether or not they are described as criminal proceedings, could result in his being sentenced to any term of imprisonment or in relation to which he is brought before the Court for a determination as to whether or not he should be remanded in custody, including in police custody in accordance with section 24 of the Criminal Procedure Ordinance.

Cap. 155 (Laws of Cyprus) as amended by 4/60, 19/63, 1/66, 2/72, 2/73, 10/75, 4/78, 11/79, 22/87, 4/92, 8/96, 1/97, 27/99, 17/03, 43/03 and 34/04.

(2) An application for legal aid shall be made to the determining officer in accordance with Rules of Court made under section 11(1) below.

(3) Where an application for legal aid is granted the determining officer shall issue the applicant with a legal aid order.

(4) For the purposes of this section, a person shall be considered to have had proceedings brought against him from the time of his arrest.

Advocate appointed by the Court.

4. Without prejudice to section 64 of the Criminal Procedure Ordinance, where the Court is of the opinion that it is in the interests of justice that a person who is not legally represented and who has not applied for legal aid should be legally represented, it may appoint an advocate who is registered on the list prepared in accordance with section 9 to act for that person and any advocate so appointed shall be treated as if he were providing his services pursuant to a legal aid order.

Applications and legal aid orders.

5.—(1) An application for legal aid may be granted by the determining officer where it appears to him to be desirable to do so in the interests of justice.

(2) The factors to be taken into account in making a determination in accordance with subsection (1) shall include the following—

- (a) the applicant’s income, savings and financial obligations and his willingness to make full and frank disclosure of these;
- (b) the seriousness or complexity of the proceedings or other matter to which the application relates;
- (c) whether representation in relation to the matter to which the application relates is available to the applicant from any other source without payment;
- (d) any other matter appearing to him to be relevant to the application.

(3) Any payment made pursuant to a legal aid order shall be made by the determining officer directly to the person who provided the services for which the payment is made.

(4) Payments for services provided under a legal aid order may, at the request of the advocate named under the legal aid order, be paid periodically throughout the case at such intervals as the determining officer may determine.

(5) An advocate who is providing services under a legal aid order shall not receive any payment whatsoever from the person to whom the order has been granted for any services which have been or are to be paid for pursuant to the legal aid order.

(6) Where the determining officer has reasonable grounds to believe that the circumstances upon which a legal aid order was granted were not as the determining officer was given to believe them to be, or that those circumstances have so changed that it has ceased to be appropriate to continue providing legal aid to the person concerned, the legal aid order may be revoked, but without prejudice to the right of any person to be paid for services provided by him pursuant to the legal aid order at a time before the certificate was revoked.

6.—(1) An advocate may give advice and assistance to any person who—

- (a) is arrested and held in custody at a police station or other premises; or
- (b) is a volunteer.

Right of a suspect to free legal advice and assistance.

(2) Advice and assistance given under this section shall be available without reference to the applicant's financial resources.

(3) The costs payable to an advocate for services provided in accordance with this section shall be limited to such amount as is prescribed by Rules of Court made under section 11(2)(e) below.

7. The fact that an advocate is being paid for his services in accordance with this Ordinance shall not affect the normal relationship that subsists between a client and his advocate.

Legal aid does not affect the client and advocate relationship.

8. If for any reason a person fails to nominate an advocate who is willing and able to act for him under the terms of a legal aid order the determining officer or Court may appoint such other advocate from the list compiled in accordance with section 9 as he or it considers appropriate.

Selection of advocate.

9.—(1) The Cyprus Bar Association shall prepare a list containing the name of each advocate who is willing to provide his services pursuant to a legal aid order granted under this Ordinance.

List of advocates.

(2) The list prepared under this section shall include for each advocate the particular matters in relation to which he is willing to provide his services.

10.—(1) Any person who, for the purpose of obtaining legal aid or advice and assistance for himself or for any other person, knowingly makes any untrue statement or declaration, either orally or in writing, or for such a purpose withholds or conceals any material particular relating to an application by him or any other person for legal aid or advice and assistance, is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £450 or to both such penalties.

Offences and penalties.

(2) Where a person is convicted of an offence under subsection (1) above, the Court before which he is convicted may order him to

repay the whole or part of any amount paid by way of legal aid or advice and assistance by reason of the offence.

(3) Any amount ordered to be repaid in accordance with subsection (2) shall be treated as a fine within the meaning of the Criminal Procedure Ordinance and the repayment of that amount shall be enforced in accordance with such Ordinance.

Rules of Court
and regulations.

11.—(1) The Administrator may, with the advice and assistance of the Senior Judge, make such Rules of Court as he considers necessary or expedient for the more effective application of this Ordinance.

(2) Without prejudice to the generality of subsection (1) above, Rules of Court under this section may provide for—

- (a) the form and manner of making an application for legal aid or for advice and assistance;
- (b) the information and documents to be submitted in support of such an application;
- (c) the form of declaration required in support of such an application;
- (d) the form of an order granting legal aid;
- (e) the amounts payable for particular descriptions of legal services provided pursuant to such a certificate.

(3) Where the Administrator is of the opinion that in order for the provisions of this Ordinance to be made to apply more effectively it is necessary or expedient to make further supplementary provisions which are not appropriate for inclusion in Rules of Court, he may make such regulations under this section as he considers to be necessary or expedient.

(4) Rules of Court and regulations made under this section shall be published in the Gazette.

Repeal Ordinance
16/04.
Commencement.

12. The Legal Aid Ordinance 2004 is repealed.

13. This Ordinance shall come into force on a date to be appointed by the Administrator and published in the Gazette.

8th August 2005
(128/406)

P. D. Draycott
Chief Officer.
