

## ORDINANCE 18 OF 2005

### AN ORDINANCE TO PROVIDE FOR CIVIL LEGAL AID

**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 Civil Legal Aid Ordinance 2005. Short title.
2. In this Ordinance, unless the context otherwise requires – Interpretation.
  - “advocate” means a person entitled to practise as an advocate in the Areas in accordance with the provisions of the Advocates Ordinance 1962; Ordinance 13/62 as amended by Ordinances 24/63, 5/75, 12/86, 18/91 and 4/02.
  - “Court” means the Senior Judge’s Court, the Judge’s Court and the Juvenile Court and includes the Compensation Assessment Tribunal and the Industrial Disputes Tribunal;
  - “civil legal aid” has the meaning given in section 3(1);
  - “determining officer” means the Registrar appointed under the Courts Ordinance, or where any application is renewed before the Court in accordance with the procedure prescribed by Rules of Court, that Court; 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 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.
- 3.—(1) For the purposes of this Ordinance “civil legal aid” means the provision to any person of legal advice, assistance or representation, payment for which is made from funds provided by the Administration, and for which legal aid is not available under the Criminal Legal Services Ordinance 2005. Civil legal aid.  
Ordinance 17/05.

(2) Subject to such conditions as may be imposed by or under this Ordinance, civil legal aid may be granted to any person in relation

to any proceedings in which the determining officer is satisfied that a refusal of legal aid would carry a substantial risk of leading to a breach of—

- Ordinance 9/04. (a) his Convention rights under the Human Rights Ordinance 2004; or
- Ordinance 35/04. (b) a breach of his property right as defined by the Protection of Property Ordinance 2004; or
- Ordinance 8/05. (c) a breach of his right to education as defined by the Right to Education Ordinance 2005.

(3) An application for civil legal aid shall be made to the determining officer of the Court in which the matter relevant to the application has been or may be commenced and shall be made accordance with Rules of Court made under section 12(1) below.

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

Advocate  
appointed by the  
Court.

4. 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 civil legal aid should be legally represented, it may appoint an advocate who is registered on the list prepared in accordance with section 10 to act for that person and any advocate so appointed shall be treated as if he were providing his services pursuant to a civil legal aid order.

Applications for  
civil legal aid and  
payments under it.

5.—(1) In considering an application for civil legal aid under section 3 above, the determining officer shall have regard to each of the following matters—

- (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) the prospects of the Court finding in the applicant's favour;
- (d) where the claim is for damages, the likely award of damages the plaintiff might expect to receive in the event he is successful;
- (e) where the claim is not for damages, the likely benefit the plaintiff might expect to receive from the remedy sought;
- (f) whether the case has a significant wider public interest;
- (g) whether advice, assistance and representation in relation to the matter to which the application relates is available to the applicant from any other source without payment;
- (h) any other matter appearing to him to be relevant to the application.

(2) In considering the factors contained in subsection (1), regard shall in particular be had to whether the overall likely costs of bringing or defending the case appear to be justified having regard to the factors referred to in subsection (1)(b) to (f).

(3) Any payment made pursuant to a civil 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 to him throughout the case at such intervals as the determining officer may determine.

(5) Subject to section 7, an advocate who is providing services under a civil 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 civil legal aid order.

6.—(1) The determining officer may grant civil legal aid limited to a particular stage of the proceedings concerned and where he does so, any further application made in respect of the same proceedings shall, in addition to the matters specified in section 5, show why it is now appropriate for the legal aid order to cover further stages in the proceedings.

Extent of and  
review of civil  
legal aid orders.

(2) Where the determining officer has reasonable grounds to believe that the circumstances upon which a civil 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 civil legal aid to the person concerned, the civil 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 civil legal aid order at a time before the order was revoked.

(3) The Court may, at any time when the matter in relation to which the civil legal aid order was granted is before it for consideration, consider whether the original basis on which the order was granted remains valid and, if it is satisfied that circumstances have so changed that it has ceased to be appropriate to continue providing civil legal aid to the person concerned, the civil 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 civil legal aid order at a time before the order was revoked.

7.—(1) Unless the Court otherwise orders, where representation has been provided to a person as a result of a civil legal aid order and that person receives any sum of money or property from another party to the proceedings in relation to which the civil legal aid order was granted, whether by agreement with that party or under an award by the Court, and whether in respect of debt, damages, costs, expenses or any other reason related to the proceedings, the determining officer—

Recovery of legal  
aid costs.

- (a) shall not authorise any or any further payment to be made under the civil legal aid order to the extent of the sum of money or the value of the property due to him; and
- (b) where payments have previously been made in accordance with section 5(4) above, the person concerned shall, subject to subsections (2) and (3) below, repay any such amount to the extent of the sum of money or the value of the property due to him.

(2) Subsection (1) shall not apply where the person who has been granted the civil legal aid order satisfies the determining officer that he has taken all reasonable steps to recover the sum of money or property payable as a result of the court proceedings but that payment or recovery of the property has not been forthcoming.

(3) Where only part-payment is received of any sum of money or property due to the person concerned the Court shall consider the extent to which subsection (1) shall apply.

(4) The determining officer may enforce payment of any costs due under subsection (1)(b) in any manner which would be available to any person seeking to enforce an order of the court.

**8.** The fact that an advocate is being paid for his services pursuant to a civil legal aid order shall not affect the normal relationship that subsists between a client and his advocate.

**9.** 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 civil legal aid order the determining officer or Court may appoint an advocate from the list compiled in accordance with section 10 as he or it considers appropriate.

**10.—(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 civil legal aid order granted under this Ordinance.

(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.

**11.—(1)** Any person who, for the purpose of obtaining civil legal aid 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 civil legal aid, 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.

(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 civil legal aid 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.

Civil legal aid does not affect the client and advocate relationship.

Selection of advocate.

List of advocates.

Offences and penalties.

Cap. 155 (Laws of Cyprus) as amended by Ordinances 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.

Rules of Court and regulations.

**12.—(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 civil legal aid;
- (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 civil legal aid;
- (e) the amounts payable for particular descriptions of legal services provided pursuant to such an order.

(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.

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

*8th August 2005*  
(128/415)

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P. D. Draycott  
Chief Officer.