

ORDINANCE 21 OF 2006

AN ORDINANCE TO AMEND THE VIOLENCE IN THE FAMILY ORDINANCE 2003

R. H. LACEY
ADMINISTRATOR

23rd November 2006.

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

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| 1. This Ordinance may be cited as the Violence in the Family (Amendment) Ordinance 2006. | Short title. |
| 2. In this Ordinance, the “principal Ordinance” means the Violence in the Family Ordinance 2003. | Interpretation
Ordinance 21/03. |
| 3. Section 2 of the principal Ordinance (Interpretation) is amended by—

(a) deleting the words “for the purposes of section 10” in the definition of “competent person”;

(b) by adding a new definition in its appropriate alphabetical place as follows –
““medical practitioner” means a practitioner entitled to practise medicine in accordance with section 3 or 4 of the Medical Practitioners Ordinance 1964;”;

(c) deleting the word “minor” in paragraph (e) of the definition of family member and replacing it with the word “person”. | Amendment
to section 2
of principal
Ordinance. |
| 4. Section 3(1) of the principal Ordinance (Meaning of act of violence and field of application) is amended by deleting the word “unlawful”. | Amendment
to section 3
of principal
Ordinance. |
| 5. Section 6 of the principal Ordinance (Appointment of family counsellors) is amended as follows—

(a) by adding a new subsection immediately after subsection (1) as follows— | Amendment
to section 6
of principal
Ordinance. |

“(1A) The Chief Officer shall appoint suitably qualified persons employed by SSAFA Forces Help or any other authorised service organisation designed to promote the welfare of relevant persons, to act as family counsellors in any case where the alleged offender and victim are relevant persons.”;

- (b) by substituting for subsection (2)(c) the following sentence —
“to arrange where necessary for the immediate medical examination of the complainant and where necessary, to be present during such examination.”;
- (c) by deleting the words “or by any other person” in subsection (2)(g);
- (d) by adding the sentence “or another member of the family” after the word ‘minor’ where it appears in the seventh line of subsection (6);
- (e) by adding a new subsection immediately after subsection (8) as follows—

“(9) For the purposes of this section, ‘relevant person’ means a person who—

- (a) is not a Republican citizen; and
- (b) is a member of any Force of the United Kingdom, or any member of a civilian component of such a Force or any dependent of any member of such a Force or civilian component as those terms are defined by paragraph 1(a)(i), (b) and (d) respectively of Section 1 of Annex C to the Treaty of Establishment.”.

Amendment
to section 9
of principal
Ordinance.

6. For section 9 of the principal Ordinance (Complainant’s statement to be taken by police officer of the same sex) there is substituted the following —

“Taking of
complainant’s
statement

9. Where a complaint of an offence under this Ordinance is made at a police station, the statement of the victim of that offence shall be taken by a police officer of the same sex as the victim unless the victim otherwise requests, or, where the victim is a minor, the family counsellor otherwise requests.”.

Amendment to
section 11 of
principal Ordinance.

7. Section 11 of the principal Ordinance (Rules for the taking of visually recorded evidence) is amended by deleting paragraph (e).

Amendment
to section 14
of principal
Ordinance.

8. For section 14 of the principal Ordinance (Direct complaint admissible as evidence) there is substituted the following—

“(1) Without prejudice to the provisions of section 10 of the Evidence Ordinance, a statement by any of the persons listed in subsection (2) below that a complaint was made to him by a victim of an act of violence within a reasonable time of the commission of the act of violence may be admitted in evidence.

(2) The persons referred to in subsection (1) are—

- (a) a competent person;
- (b) a psychologist, medical practitioner or psychiatrist who examined the victim;

- (c) a member of the Advisory Committee;
- (d) a member of the Association for the Prevention and Combating of Violence in the Family;
- (e) a teacher, or
- (f) a close family member.”.

9. Section 17(1) of the principal Ordinance is amended by adding the words “or medical practitioner” after the word psychologist wherever it appears in that subsection.

Section 17 of the principal Ordinance amended.

10. Section 22 of the principal Ordinance (Interim exclusion order of suspect or removal order of victim to a place of safety pending the trial) is amended by—

Amendment to section 22 of principal Ordinance.

- (a) substituting for subsection (2) the following—

“(2) An application for such an interim order shall be supported by an affidavit of the victim or, in the case of a minor, of any person who has direct knowledge of the facts, or by any other evidence which shows there is a prima facie risk of any act of violence occurring or being repeated.”;

- (b) adding a new subsection to follow immediately after subsection (5) as follows –

“(6) An interim order excluding a person from the family residence shall not be made where that residence was provided or arranged for the benefit of that person in the course of his employment or service with any Force of the United Kingdom or any civilian component unless the authority providing or arranging that accommodation consents to the making of such order.”.

11. Section 23 of the principal Ordinance (Exclusion orders) is amended by adding a new subsection immediately after subsection (7) as follows—

Amendment to section 23 of principal Ordinance.

“(8) An exclusion order excluding a person from the family residence shall not be made where that residence was provided or arranged for the benefit of that person in the course of his employment or service with any Force of the United Kingdom or any civilian component unless the authority providing or arranging that accommodation consents to the making of such order.”.

12. Section 29 of the principal Ordinance (Prohibition on giving, receiving or publishing copies of evidence to or by third persons) is amended as follows—

Amendment to section 29 of principal Ordinance.

- (a) For subsection (1) there is substituted the following –

“(1) Notwithstanding the provisions of any other Ordinance but subject to subsection (2A) below, the furnishing, receiving or publishing of any evidence of a victim or witness of an act of violence, to or by any person not connected with the investigation, prosecution or trial of the said act is prohibited.”.

- (b) A new subsection to be numbered (2A) is inserted immediately after subsection (1) as follows –

“(2A) Any—

- (a) person who gives a visually recorded statement in accordance with section 10; or
- (b) any accused who faces an offence in relation to which visually recorded evidence taken in accordance with section 10 is to be adduced at his trial,

may by written application to the prosecutor, request a copy of the transcribed audio part of the recording of that statement and may, after making a written application to the prosecutor for that purpose, view the contents of the visual recording.”.

New section 29A added.

13. The principal Ordinance is amended by inserting immediately after section 29 the following new section to be numbered section 29A—

“Offence of failing to report act of violence

29A. Any person with knowledge of any act of violence committed against a minor or person suffering from a serious mental disorder who fails to make a complaint to a police station regarding such act commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding 2 years or to a fine not exceeding £1000 or to both such penalties.”.

Section 30 of the principal Ordinance amended.

14. For section 30 of the principal Ordinance (Ordinance not to apply to members of UK Forces, civilian components or their dependents) there is substituted the following—

“Exemption for members of UK Forces, civilian components and their dependents from sections 7 and 8

30. Sections 7 and 8 shall not affect or apply to any act, conduct or omission of or by any member of any Force of the United Kingdom, or any member of a civilian component of such a Force or any dependent of any member of such a Force or civilian component as those terms are defined by paragraph 1(a)(i), (b) and (d) respectively of section 1 of Annex C to the Treaty of Establishment.”.

Section 31 of the principal Ordinance amended.

15. Section 31 of the principal Ordinance (Regulations) is amended as follows—

- (a) in subsection (1), the words “or Rules of Court” shall be added after the word “Regulations”;
- (b) a new subsection is added immediately after subsection (2) as follows –

“(3) Any Rules of Court made in accordance with subsection (1) shall be made with the advice and assistance of the Senior Judge.”.

Commencement.

16. This Ordinance shall come into force on the day of its publication in the Gazette.

23rd November 2006
(SBA/AG/2/CR/267)

P. D. Draycott
Chief Officer.