

ORDINANCE 26 OF 2006

AN ORDINANCE TO MAKE PROVISION FOR CERTAIN LEGISLATION MADE BY THE REPUBLIC OF CYPRUS IN RELATION TO LAND SURVEYING TO APPLY IN THE SOVEREIGN BASE AREAS

R. H. LACEY
ADMINISTRATOR

18th December 2006.

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 Land Surveying Ordinance 2006. Short title.

2.—(1) In this Ordinance, unless the context otherwise requires – Interpretation.

“land surveying law” means any Law of the Republic which is listed in the Schedule and includes –

- (a) any amendment made to such a Law (whenever enacted);
- (b) any public instrument made under such a Law (whenever enacted);
- (c) any amendment made to such a public instrument (whenever enacted);

“officer of the Areas” means any person authorised by the Chief Officer under section 5 to exercise any powers or perform any duties in accordance with this Ordinance;

“officer of the Republic” means –

- (a) any person who, whether or not he is a member of the public service of the Republic;
- (b) any body of persons which, whether or not it is an official body and whether or not it is incorporated,

has any powers conferred, or any duties imposed upon him or it, by or under any land surveying law.

(2) Any reference in this Ordinance to a provision of the Areas and a provision of the Republic corresponding one to the other shall be construed as a reference to provisions of the Areas and of the Republic respectively whose effects are similar or substantially similar.

General
Application.

3.—(1) Subject to the other provisions of this Ordinance, all such rights, powers, liabilities, obligations and restrictions from time to time created or arising in the Republic by or under any land surveying law and all such remedies and procedures from time to time provided for by or under such a law shall, subject to necessary modification and so far as possible, be recognised and available in law in the Areas and allowed and followed accordingly.

(2) A land surveying law shall only take effect in the Areas in accordance with subsection (1) after the expiry of 60 days from the date on which that law or any provision of that law came into force in the Republic.

(3) Subsection (1) shall not apply to any power or duty contained in a land surveying law which permits or requires any person or body to make a public instrument of any kind.

(4) A land surveying law which is given effect to in the Areas by virtue of subsection (1) shall be treated as if it is subordinate legislation made under this Ordinance.

Modifications and
adaptations.

4.—(1) The application of any land surveying law in the Areas shall, unless the context otherwise requires, be subject to the following –

- (a) where a land surveying law is repealed or revoked but is not replaced by the Republic it shall cease to have effect in the Areas;
- (b) where a land surveying law is repealed and replaced by the Republic with another land surveying law, the land surveying law included in the Schedule shall continue to have effect in the Areas;
- (c) where a provision of a land surveying law contains a reference to any other Republican legislation, then –
 - (i) if there is a provision of the Areas (including any provision which has effect in accordance with section 3) corresponding to that other Republican provision, the reference shall be construed as a reference to the corresponding provision of the Areas;
 - (ii) in any other case, the provision of the land surveying law containing that reference shall not have effect in the Areas;
- (d) any reference to the Republic in a land surveying law shall be construed as a reference to the Areas;
- (e) any reference to a Court in a land surveying law shall be construed as a reference to the Judge's Court or the Senior Judge's Court as appropriate;
- (f) any provision contained in a land surveying law which –
 - (i) permits or requires the establishment of any body (whether incorporated or not) for the purpose of exercising any duties imposed or powers conferred on it by that law; or

- (ii) permits or requires the establishment of any body (whether incorporated or not) for the purpose of providing assistance to any officer of the Republic in connection with any such duties or powers conferred or imposed on him by that law; and
- (iii) in either case creates any liability or duty in relation to the establishment, functioning or termination of such a body,

shall not have effect in the Areas.

(2) The Administrator may by order to be published in the Gazette provide for the application of any land surveying law in the Areas to be subject to such additional exceptions, adaptations or modifications, from such date as may be specified in the order, as he may consider expedient in the circumstances.

(3) Without prejudice to the generality of subsection (2), the Administrator may by order provide for any land surveying law to cease to have effect in the Areas from such date as may be specified in the order.

5.—(1) Any power conferred or duty imposed on an officer of the Republic under any land surveying law shall, subject to subsection (3), be deemed to be conferred or, as the case may be, imposed on the Chief Officer.

Powers and
Duties.

(2) Any power conferred or duty imposed on the Chief Officer by virtue of subsection (1) may, subject to any restrictions or conditions imposed by the Administrator under this section or under any order made under section 4, be lawfully exercised, or as the case may require, may lawfully be performed in the Areas or elsewhere by such officer of the Republic as is authorised to exercise a similar power or required to perform a similar duty in the Republic by or under any land surveying law.

(3) Any body which, in the Republic, is created as a result of a provision of the kind referred to in section 4(1)(e) shall be recognised in the Areas as having the same rights and duties as if such body had been established under the provisions of this Ordinance and shall have the same powers as those conferred upon such body in the Republic for the purpose of carrying out its objects as specified in that law in the Republic.

(4) Without prejudice to subsection (2) above, the Chief Officer may authorise any officer of the Areas to perform any duty or exercise any power contained in a land surveying law subject to such restrictions or conditions as he may specify.

(5) For the purposes of this Ordinance, the exercise of any power or the performance of any duty includes the doing of any act or thing which is permitted or required to be done in relation to the exercise of that power or the performance of that duty.

(6) Nothing in this Ordinance shall have the effect of –

- (a) entitling an officer of the Republic to exercise any power or requiring him to perform any duty in or in relation to the Areas otherwise than –
 - (i) pursuant to subsections (2) or (3), and
 - (ii) in accordance with the land surveying law under which he purports to act;

- (b) abridging or in any other way affecting any powers or duties of the Chief Officer or duly authorised officer of the Areas, under a land surveying law, which powers may be exercised notwithstanding that an officer of the Republic may be entitled pursuant to subsection (2) or (3) to exercise similar power.

(7) Any exercise or performance of powers or duties by the Chief Officer or duly authorised officer of the Areas under a land surveying law, shall deprive the relevant officer of the Republic of the right to exercise or perform this power or duty for as long as the Chief Officer or duly authorised officer of the Areas, exercises or performs it.

(8) The authority given to an officer of the Republic under subsection (2) or (3) to exercise any power or to perform any duty shall in all cases be subject to the condition that the power may not be exercised or the duty performed if to do so it would be necessary for the officer of the Republic to enter –

- (a) any land occupied by the Crown in any capacity; or
- (b) any land to which access is controlled or restricted by the Crown in any capacity; or
- (c) any premises situated within any land such as is referred to in paragraph (b) above,

unless he has the written authority of the Administrator to enter the land or premises concerned.

Effect of acts of officers of the Republic.

6. Any power exercised or any duty performed by an officer of the Republic acting pursuant to section 5(2) or (3), and any act or thing whatsoever done or suffered in connection with the exercise of such a power or the performance of such a duty shall be of the same force and effect in all respects and for all purposes as if such power had been exercised, or such duty had been performed or such act or thing had been done by the Chief Officer acting pursuant to section 5(1).

Protection of officers of the Republic.

7. Any enactment of the Areas giving protection to officers of the Areas against civil or criminal liability in respect of acts done in the course of their duties, or in any way applying to such acts, shall apply to officers of the Republic acting pursuant to section 5(2) or (3), and to any acts of such officers while so acting, as if such officers were officers of the Areas and as if such acts were the acts of officers of the Areas.

Legal Proceedings.

8.—(1) A court of the Areas may take judicial notice of any land surveying law and any other Republican document of any description granted or otherwise made under a land surveying law.

(2) For the purposes of this section, the production of a copy of any part of a Republican enactment –

- (a) contained in any printed collection of enactments purporting to be printed and published by an authority of the Republic; or
- (b) contained in any issue of the Official Gazette of the Republic; or
- (c) purporting to be printed by the Government Printer of the Republic, by whatever name called,

shall be conclusive evidence in Court and for all purposes whatsoever of the due and lawful making of such enactment.

(3) For the purposes of this section, a version of any part of any land surveying law in the English language—

- (a) purporting to be produced by any authority of the Republic;
- (b) certified as being accurate by any officer of the Administration considered by the Court to have been at the time of such certification a competent and adequate translator into the English language from the language in which the land surveying law was published in the Republic;
- (c) given or produced in the course of oral evidence of any person whom the Court considers to be a competent translator for the purpose;
- (d) stated orally in court or produced in writing by a Registrar or official court interpreter,

may in any of those cases be held by the Court to be conclusive evidence for all purposes whatsoever that such version is the accurate English version of the land surveying law or part of the land surveying law in question.

(4) For the purposes of this section, the production of –

- (a) a relevant document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for the relevant land surveying law under which the relevant document was made; or
- (b) an English translation of a relevant document, the accuracy of which is certified in writing by a translator of recognised competence,

may be held by the Court to be conclusive evidence for all purposes of the contents of such document.

9.—(1) Nothing contained in any land surveying law shall apply to a person employed by or in the service of the Crown while acting in discharge of his duties. Exemption.

(2) For the purposes of this section, “Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration in the Areas.

10. This Ordinance shall come into force on the day it is published in the Gazette. Commencement.

SCHEDULE

(section 2)

1. Land Surveying Law 2005, No. 67(I)/05.

18th December 2006
(SBA/AG/2/LD/426)

P. D. Draycott
Chief Officer.
