



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1623 of 2nd August 2011
LEGISLATION

CONTENTS:

The following LEGISLATION is published in this Supplement which forms part of this Gazette : –

	Ordinance No.
Advocates Ordinance 2011	11

ADVOCATES ORDINANCE 2011

Arrangement of Sections

Section

Part 1

Preliminary

1. Short title and commencement
2. Interpretation

Part 2

Admission and registration

3. Persons entitled or eligible to practise as advocates
4. Restrictions on certain persons entitled or eligible to practise
5. Registration and evidence of eligibility to practise

Part 3

Practise

6. Penalties for unlawfully practising as an advocate

Part 4

Discipline

7. Application of this Part
8. Advocates deemed to be officers of the court
9. Disciplinary committee and disciplinary appeal committee
10. Disciplinary proceedings
11. Appeals from the disciplinary committee
12. Subsequent review of disciplinary decisions
13. Powers and duties of the disciplinary committee and disciplinary appeal committee
14. Person ceasing to be eligible or entitled

Part 5

General

15. Attorney General and Legal Advisor to be Head of the Bar
16. Powers exercisable outside the Areas
17. Power to make rules
18. Repeal

ADVOCATES ORDINANCE 2011

An Ordinance to regulate the privileges and discipline of advocates practising in the Areas

G. E. STACEY
ADMINISTRATOR

26th July 2011.

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

Part 1

Preliminary

1. Short title and commencement

This Ordinance may be cited as the Advocates Ordinance 2011 and comes into force on 17 October 2011.

2. Interpretation

In this Ordinance—

“advocate” means a person entitled to practise as an advocate in courts of the Areas in accordance with this Ordinance;

“Bar Council” means the Bar Council of the Republic as defined in the corresponding Republican Law, unless the context indicates a reference to the Bar Council of England and Wales;

“corresponding Republican Law” means the Advocates Law(a) of the Republic as amended or substituted from time to time;

“the Crown” means Her Majesty in right of Her Administration of the Areas;

“dependant” means a person defined as such by section 1 of Part I of Annex B to the Treaty of Establishment;

“disciplinary appeal committee” means the disciplinary appeal committee referred to in section 9(1);

“disciplinary committee” means the disciplinary committee referred to in section 9(1);

- “Law Officer of the Areas” means the Attorney General and Legal Adviser or any other officer of the Crown declared by the Administrator to be a Law Officer of the Areas;
- “Law Officer of the Republic” means the Attorney General or the Deputy Attorney General of the Republic;
- “Member State advocate” means a person who is registered in the Republican Register of Advocates of Member States who Provide Services and who complies with the conditions attached to such registration;
- “pupil” means a person registered as a pupil and qualified to appear in a court of the Republic under the corresponding Republican Law;
- “qualified person” means a person qualified to practise as a barrister at law, advocate or solicitor, admitted to practise in the United Kingdom;
- “Register” means the Register of Advocates of the Sovereign Base Areas referred to in section 5;
- “Republican advocate” means an advocate as defined in the corresponding Republican Law who is for the time being entitled to practise in the courts of the Republic;
- “Register of Advocates of Member States” means the register entitled the “Republican Register of Advocates of Member States who Provide Services” established and maintained under the corresponding Republican Law;
- “United Kingdom personnel” means those persons defined as such by Section 1 of Part I of Annex B to the Treaty of Establishment;
- “United Nations advocate” means a person who—
- (a) is either—
 - (i) employed by the United Nations Organisation;
 - (ii) is a member of a military force serving under the command of the Military Commander of the United Nations Force in Cyprus; or
 - (iii) is a member of a contingent of the United Nations Force in Cyprus; and
 - (b) is professionally qualified to appear as an advocate or to hold judicial office under the law or accepted practice of any country.

Part 2

Admission and registration

3. Persons entitled or eligible to practise as advocates

- (1) A person must not practise as an advocate unless—
 - (a) that person is—
 - (i) entitled to practise under subsection (2); or
 - (ii) eligible to practise under subsection (3); and
 - (b) if required, that person is registered under section 5.
- (2) The following persons are entitled to practise as advocates—
 - (a) a Law Officer of the Areas;
 - (b) a Law Officer of the Republic;
 - (c) a qualified person who is a member of Her Majesty’s Forces;
 - (d) a United Nations advocate;
 - (e) an officer of the Administration acting with the written authority of the Attorney General and Legal Advisor in proceedings to which the Crown, the Administrator, or any officer of the Administration in that capacity as such is a party.
- (3) The following persons are eligible to practise as advocates—
 - (a) a Republican advocate;
 - (b) a Member State advocate;
 - (c) a qualified person;
 - (d) a pupil.

4. Restrictions on certain persons entitled or eligible to practise

- (1) A qualified person who is a member of Her Majesty's Forces is entitled to practise only if that qualified person is—
 - (a) appearing on behalf of United Kingdom personnel or a dependant; and
 - (b) does not receive a fee for so acting.
- (2) A United Nations advocate is entitled to practise only if that advocate is appearing, with the authority of the Military Commander of the United Nations Force in Cyprus, on behalf of a person who is or, at any time relevant to the specific proceedings, was—
 - (a) a member of a military force serving under the command of the Military Commander of the United Nations Force in Cyprus; or
 - (b) a member of a contingent of the United Nations Force in Cyprus.
- (3) A pupil may appear before a court only in the circumstances specified in subsection (4) and is subject to the limitations specified in subsection (5).
- (4) A pupil may appear for or on behalf of the Republican advocate in whose office that pupil is reading or on behalf of the Attorney General of the Republic, as the case may be—
 - (a) in the Resident Judge's Court in any civil proceedings for the purposes of—
 - (i) making an ex parte application;
 - (ii) making an application of mention; or
 - (iii) obtaining a judgment by default;
 - (b) in the Resident Judge's Court in any criminal proceedings for the purposes of—
 - (i) entering a plea of not guilty;
 - (ii) entering a plea of guilty and pleading on that case; or
 - (iii) seeking an adjournment.
- (5) The limitations specified in this subsection are that a pupil may not—
 - (a) declare a settlement in a civil case;
 - (b) enter a plea of guilty and plead on such a case if the offence is punishable with a fine of more than €854.
- (6) A client on behalf of whom a pupil is appearing may not be charged an additional fee for such appearance.

5. Registration and evidence of eligibility to practise

- (1) Subject to subsection (2), a person who is entitled to practise as an advocate under section 3 may not practise as an advocate until that person's name has been entered by the Senior Registrar in the Register of Advocates of the Sovereign Base Areas.
- (2) Subsection (1) does not apply to—
 - (a) a Law Officer of the Areas;
 - (b) a Law Officer of the Republic.
- (3) Subject to subsection (4), a person who is eligible to practise as an advocate under section 3 may not practise as an advocate until that person's name has been entered by the Senior Registrar in the Register of Advocates of the Sovereign Base Areas.
- (4) Subsection (3) does not apply to a pupil.
- (5) The Presiding Judge may order that a person who is eligible to practice under section 3 may not be registered under subsection (3) or may not practise if satisfied that—
 - (a) the person is not of good character; or
 - (b) there is some other substantial reason why it is not in the public interest for that person to practise as an advocate.
- (6) A person may apply to be registered under subsection (1) or (3) from outside the Areas.
- (7) The Senior Registrar may require a pupil to provide evidence that he or she is a pupil.
- (8) The Senior Registrar, on the application of any person whose name appears on the Register, is to issue that person with a certificate of enrolment under the seal of the Senior Judges' Court.

Part 3

Practice

6. Penalties for unlawfully practising as an advocate

- (1) A person commit an offence and is liable on conviction to imprisonment for 3 months or a fine of €427 or both such penalties if that person—
 - (a) practises as an advocate in breach of section 3(1); or
 - (b) although eligible to practise as an advocate, does so in breach of an order made by the Presiding Judge under section 5(5).
- (2) A person may not maintain an action for the recovery of any fee, reward, costs or disbursement on account of, or in relation to, any act or proceedings done or taken by that person practising or appearing as an advocate if that person—
 - (a) practises as an advocate without being entitled or eligible to do so under this Ordinance; or
 - (b) breaches a restriction in section 4 applicable to that person.
- (3) A court may order a person convicted of an offence under subsection (1) to refund any fee, reward, costs or disbursement on account of or in relation to any act or proceedings done or taken by that person while practising as an advocate without being registered under section 5 to the person from whom it has been received.
- (4) An order made under subsection (3) may be enforced as a debt.
- (5) A prosecution may not be brought under subsection (1) without the consent of the Attorney General and Legal Advisor.

Part 4

Discipline

7. Application of this Part

This Part does not apply to a United Nations advocate.

8. Advocates deemed to be officers of the court

An advocate is an officer of the court and is liable to disciplinary proceedings under this Part.

9. Disciplinary committee and disciplinary appeal committee

- (1) The Presiding Judge may convene—
 - (a) a disciplinary committee to exercise disciplinary jurisdiction over an advocate; or
 - (b) a disciplinary appeal committee to consider appeals from the disciplinary committee.
- (2) The disciplinary committee is to consist of 3 Senior Judges.
- (3) The disciplinary appeal committee is to consist of 3 Senior Judges none of whom sat on the disciplinary committee whose decision is appealed.

10. Disciplinary proceedings

- (1) An advocate is guilty of unprofessional conduct if the conduct of that advocate is—
 - (a) such that, if it had taken place in the Republic, it would have amounted to a breach of, or a failure to observe, rules made by the Bar Council under the corresponding Republican Law; or
 - (b) dishonest.
- (2) Disciplinary proceedings may be instituted against an advocate before the disciplinary committee—
 - (a) on the motion of the Attorney General and Legal Advisor or on the direction of a Judge; or

- (b) by a person aggrieved by the conduct of the advocate, with the permission of a Judge.
- (3) If disciplinary proceedings have been instituted against a Republican advocate before the disciplinary committee, the Presiding Judge may direct—
 - (a) the Attorney General and Legal Advisor to refer the complaint to the appropriate authorities in the Republic; and
 - (b) that proceedings before the disciplinary committee are stayed until such time as the Presiding Judge directs otherwise.
- (4) The disciplinary committee may impose any of the penalties referred to in subsection (5) on an advocate if the advocate—
 - (a) is convicted of a criminal offence by any court in the Island of Cyprus; or
 - (b) is, in the opinion of the disciplinary committee, guilty unprofessional conduct.
- (5) The penalties are—
 - (a) ordering the name of the advocate to be struck off the Register, or if the advocate's name is not on the Register, disqualifying the advocate from practising;
 - (b) suspending the advocate from practising for such period as the disciplinary committee thinks fit;
 - (c) ordering the advocate to pay a fine of €1,708;
 - (d) warning or reprimand the advocate;
 - (e) making such order as to costs in respect of the proceedings before it.

11. Appeals from the disciplinary committee

- (1) An advocate who is dissatisfied by a decision of the disciplinary committee may appeal to the disciplinary appeal committee.
- (2) An appeal must—
 - (a) give particulars of the decision or parts of the decision against which the advocate wants to appeal;
 - (b) include any material or representations that the advocate wants to be taken into account;
 - (c) give an address where notices may be sent; and
 - (d) be sent in writing to the Senior Registrar within 30 days of the publication of the decision of the disciplinary committee.
- (3) The disciplinary appeal committee may confirm, vary or reverse the decision of the disciplinary committee.

12. Subsequent review of disciplinary decisions

- (1) Subject to subsection (2), the Presiding Judge may, no earlier than 12 months from the imposition of a penalty under section 10, convene the disciplinary committee for the purpose of considering whether that order should be varied or revoked.
- (2) If an advocate has appealed to the disciplinary appeal committee, the Presiding Judge, instead of convening the disciplinary committee, is to convene the disciplinary appeal committee for the purpose of considering whether that order should be varied or revoked.

13. Powers and duties of the disciplinary committee and disciplinary appeal committee

- (1) The disciplinary committee is to send to the Senior Registrar a copy of every complaint made against an advocate under this Part.
- (2) The disciplinary committee and the disciplinary appeal committee are to send to the Senior Registrar a copy of their decisions
- (3) The Senior Registrar is to make any necessary amendment to the Register on receipt of a decision under subsection (2).
- (4) The disciplinary committee and the disciplinary appeal committee have the same powers as a court and are to conduct their proceedings as if they were a court.

- (5) Decisions of the disciplinary committee or the disciplinary appeal committee are to have effect as an order of the court and are enforceable in the same manner.
- (6) Notice of every decision of the disciplinary committee or the disciplinary appeal committee is to be published in the Gazette unless the Presiding Judge orders otherwise.

14. Person ceasing to be eligible or entitled

- (1) The name of an advocate who ceases to be entitled or eligible to practice is to be removed from the Register.
- (2) Unless the Presiding Judge orders otherwise, the name of an advocate removed from the Register under subsection (1) is to be restored to the Register by the Senior Registrar if that advocate subsequently becomes entitled or eligible to practise.

Part 5

General

15. Attorney General and Legal Advisor to be Head of the Bar

- (1) Subject to subsection (2), the Attorney General and Legal Advisor is to exercise the powers in the Areas normally exercised in England and Wales—
 - (a) in respect of the Bar, by the Head of the Bar and the Bar Council of England and Wales;
 - (b) in respect of solicitors, by the Law Society of England and Wales.
- (2) Subsection (1) does not apply in respect of the powers to be exercised by the disciplinary committee or the disciplinary appeal committee.

16. Powers exercisable outside the Areas

The Presiding Judge and a Senior Judge may exercise functions under this Ordinance from outside the Areas.

17. Power to make rules

- (1) The Administrator may make rules for the better carrying into effect of this Ordinance.
- (2) The Administrator is to consult the Presiding Judge before making rules under subsection (1).

18. Repeal

The Advocates Ordinance 1962**(b)** is repealed.

Notes

- (a)** Cap 2, Statute Laws of Cyprus.
- (b)** Ordinance 13/62.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Advocates Ordinance 2011 (the “Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.

2. This note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

Particular points

3. The Ordinance regulates the profession of an advocate within the Areas. Ordinarily a person is required to be professionally qualified in some other jurisdiction to appear before a court or to hold judicial office. The Attorney General and Legal Adviser may permit an officer of the Administration to appear as an advocate in proceedings to which the Crown is a party.

4. A person may appear as an advocate if that person is:

- a Republican advocate;
- the pupil of a Republican advocate (subject to some restrictions set out in section 4);
- an advocate from a Member State of the European Union who appears in the Republican Register of Advocates of Member States who Provide Services;
- a barrister at law, advocate or solicitor, admitted to practise in the United Kingdom.
- is a United Nations employee or member of a military force serving under the Military Commander of the United Nations Force in Cyprus and is professionally qualified as an advocate (a “UN advocate”).

5. Most advocates are required to register before practising as an advocate.

6. A person who practises as an advocate without being entitled to do so commits a criminal offence and the Court may also order the advocate to repay fees and disbursements which he or she has received.

7. Part 4 of the Ordinance makes provision for disciplinary proceedings. Advocates are guilty of professional misconduct if the conduct would amount to a breach of rules made by the Republican Bar Council or if the advocate is otherwise dishonest. The disciplinary committees may impose a range of penalties. An advocate may appeal against the decision of a disciplinary committee.

8. The Attorney General and Legal Adviser is the head of the SBA Bar and in the Areas exercises the same powers as exercised by the disciplinary bodies for barristers and solicitors in England and Wales other than the powers exercisable by the disciplinary committee or the disciplinary appeal committee.

