



**SUPPLEMENT No. 2**  
**TO**  
**THE SOVEREIGN BASE AREAS GAZETTE**  
**No. 1606 of 18th January 2011**  
**LEGISLATION**

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**POLICE (AMENDMENT) ORDINANCE 2011**

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An Ordinance to amend the Police Ordinance 2007.

**G. E. STACEY**  
**ADMINISTRATOR**

*14th January 2011.*

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

**1. Short title**

This Ordinance may be cited as the Police (Amendment) Ordinance 2011.

**2. Interpretation**

In this Ordinance the “principal Ordinance” means the Police Ordinance 2007(a).

**3. Sections 6 and 7 of the principal Ordinance repealed and replaced**

Section 6 (General Powers of the Chief Constable) and section 7 (General Powers of the Deputy Chief Constable) are repealed and replaced with—

**“6. General powers of the Chief Constable**

- (1) The Chief Constable is accountable to the Administrator for the organisation and administration of the Service, for the maintenance of law and order throughout the Areas and for the efficient administration and government of the Service, subject to any order or direction of the Administrator.
- (2) The Chief Constable may—
  - (a) co-operate with the Republic of Cyprus Police; and
  - (b) disclose information to any person or body in the Areas or in any other place if it is necessary or expedient to do so for the maintenance of law and order in any place or for the safety and well being of persons in any place.

## **7. Deputy Chief Constable**

- (1) The Deputy Chief Constable may exercise any power or perform any duty which may by law be exercised or performed by the Chief Constable.
- (2) If the Chief Constable considers it expedient to do so, the Chief Constable may nominate an officer of the rank of Chief Superintendent who may exercise or perform all of the functions which may by law be exercised or performed by the Chief Constable or the Deputy Chief Constable.
- (3) A nomination referred to in subsection (2) is to be published by a public notice in the Gazette.”.

## **4. Section 19 of the principal Ordinance repealed and replaced**

- (1) Section 19 (Taking of measurements, photographs and fingerprints etc.) of the principal Ordinance is repealed and replaced with—

### **“19. Taking of measurements, photographs and fingerprints etc.**

- (1) A police officer of the rank of inspector or above may take or direct another police officer to take from a person who has been arrested (a “suspect”) a sample for the purpose of investigating an offence.
- (2) Subject to subsections (4) and (7) and (8), a sample must not be taken from a person unless it is taken—
  - (a) with the consent of that person; and
  - (b) in the case of a person under the age of 18 years, with the consent of that person’s parent or guardian or some other responsible adult.
- (3) If an intimate sample is to be taken from a suspect under subsection (1) the police officer who authorises the taking of that sample is to record the authorisation in writing.
- (4) A police officer of the rank of inspector or above may take or authorise the taking of a non-intimate sample from a suspect if—
  - (a) that person (and if relevant, that person’s parent or guardian or a responsible adult) does not consent to a police officer taking a non-intimate sample when requested to do so; or
  - (b) it is not possible to obtain the consent of that person (and if relevant, that person’s parent or guardian or a responsible adult).
- (5) If a police officer authorises the taking of a sample in accordance with subsection (4), that police officer may use or authorise the use of reasonable force if it is necessary to obtain the sample.
- (6) A police officer may give an authorisation under subsection (4) or (5) orally or in writing, but is to record any oral authorisation in writing as soon as possible.
- (7) A police officer of the rank of inspector or above may make an application to the Court in accordance with regulations made under this section for an order permitting an intimate sample to be taken from a suspect if—
  - (a) that person (and if relevant, that person’s parent or guardian or a responsible adult) does not consent to a police officer taking an intimate sample when requested to do so; or
  - (b) it is not possible to obtain the consent of that person (and if relevant, that person’s parent or guardian or a responsible adult).
- (8) Following an application under subsection (7) the Court may make an order requiring a person to permit the intimate sample described in the order to be taken.

- (9) If a person from whom a sample has been taken is not charged with an offence or is subsequently discharged or acquitted by a Court and that person has not previously been convicted of an offence then that sample must be destroyed in accordance with regulations made under this section unless such regulations provide otherwise.
- (10) The Administrator may make regulations relating to the taking, use, analysis, storage retention and destruction of samples from persons and without prejudice to the generality of the foregoing, such regulations may make provision for—
- (a) the establishment or maintenance of databases containing information relating to samples;
  - (b) the use by the Service of databases established by the Republic, by any other police force or by any international organisation;
  - (c) sharing information about samples, or information derived from samples, with the Republic, any police force or any international organisation;
  - (d) samples taken from victims and for the purpose of eliminating a person from an investigation to be treated differently from samples taken from suspects;
  - (e) retaining samples and information derived from samples if a relevant person is under investigation by any other police force because that person is suspected of having committed a criminal offence;
  - (f) indefinitely retaining samples and information derived from samples if a person is convicted of an offence (or acquitted on the grounds of insanity) in any jurisdiction, notwithstanding the provisions of the Rehabilitation of Offenders Ordinance 2009**(b)**;
  - (g) using samples to assist in the identification of deceased persons.
- (11) A person who obstructs a police officer in the taking a sample under subsection (4) commits an offence and is liable to imprisonment for 6 months or a fine of €1,500 or both.
- (12) Nothing in this section, or in regulations made under it, applies to the taking of a specimen for the purposes of the Drinking and Driving Ordinance 1993**(c)**.
- (13) In this section—
- “intimate sample” means—
- (a) samples of blood, semen, urine, pubic hair or residues of foreign substances inside the body;
  - (b) a dental impression;
  - (c) a swab taken from any part of a person’s genitals or from a person’s body orifice other than the mouth;
- “non-intimate sample” means any measurements, photographs, fingerprints, hand prints, footprints, examples of handwriting, nail cuttings, matter taken from under the nails, hair (other than pubic hair), residues of foreign substances on the body, saliva or swabs taken from the mouth;
- “sample” means an intimate or a non-intimate sample.”.

## 5. Section 24 of the principal Ordinance amended

Section 24 (Power of Chief Constable to prohibit or restrict traffic in certain cases) of the principal Ordinance is repealed and replaced with—

## **“24. Power to prohibit or restrict traffic in certain cases**

- (1) The Chief Constable may, in the public interest, make a direction relating to traffic on a road or within an area specified in the direction.
- (2) A direction made under subsection (1)—
  - (a) may prohibit traffic generally or during hours specified in the direction;
  - (b) may relate to—
    - (i) all traffic; or
    - (ii) a type of traffic (other than pedestrians) specified in the direction; and
  - (c) may remain in force for a maximum duration of 1 month.
- (3) The Chief Constable is to ensure that—
  - (a) a direction made under subsection (1) is appropriately publicised, taking account of the nature of that direction and the time that it will be in force; and
  - (b) during periods when a road specified in the direction is closed in accordance with the direction, appropriate traffic signs are erected on or near the road to indicate that it is closed.
- (4) The Administrator may, in the public interest, make an order published in the Gazette relating to traffic on a road or within an area specified in that order—
  - (a) prohibiting traffic generally or during hours specified in the order;
  - (b) relating to all traffic or to a type of traffic (other than pedestrians) specified in the order.
- (5) A person commits an offence and is liable to imprisonment for 6 months or a fine of €768 or both if that person uses or causes or permits a vehicle to be used in breach of a direction made under subsection (1) or an order made under subsection (4).”.

## **6. New section 26A inserted**

The principal Ordinance is amended by inserting the following new section after section 26 the following new section—

### **“26A. Provision of special services**

The Chief Constable may provide, at the request of any person, special police services at any premises or in any locality, subject to the payment to the Administration of charges on such scales as may be determined by the Administrator.”.

## **7. Repeal of the Police (Amendment) Ordinance 2009**

The Police (Amendment) Ordinance 2009(d) is repealed.

## **8. Commencement**

- (1) This Ordinance comes into force on 1 April 2011.
- (2) Section 4 has effect in relation to any person who is charged with an offence after the date that this Ordinance comes into force.

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### **Notes**

- (a) Ordinance 6/07.
- (b) Ordinance 11/09.
- (c) Ordinance 6/93.
- (d) Ordinance 18/09.

## EXPLANATORY NOTE

**(This note does not form part of the Ordinance)**

### Introduction

1. This explanatory note relates to the Police (Amendment) Ordinance 2011. 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 amends the Police Ordinance 2007 (the “principal Ordinance”).
4. Section 3 of the Ordinance inserts a new section 6 into the principal Ordinance. Section 6 contains the general duties of the Chief Constable. An additional subsection has been inserted into section 6 enabling the Chief Constable to co-operate with the Republic of Cyprus Police and permitting the Chief Constable to provide information to other persons if it is expedient to do so for the purposes of maintaining order or for the safety or wellbeing of persons in the Areas or in any other place. In other words, section 6(2) provides a statutory “information gateway” for the police to disclose information.
5. Section 4 of the Ordinance amends section 19 of the principal Ordinance which contains provisions relating to the taking of samples, photographs and measurements from persons.
6. Previously section 19 required the consent of persons before a sample such as a finger nail clipping or a sample of saliva was taken from a suspect. Following the amendment if an arrested person refuses to consent to the taking of a sample then a police officer above the rank of inspector may authorise the taking of a non-intimate sample and may authorise the use of reasonable force to obtain that sample. In the case of an intimate sample, the police may apply to the Court for an order requiring the sample to be provided.
7. Another change relates to the keeping of samples and fingerprints. Previously, unless a person had a previous conviction, the consent of the Attorney General and Legal Advisor was required to keep fingerprints and samples collected from a person after the person had been acquitted, discharged or where that person was not prosecuted. The amended provisions now require samples and fingerprints to be destroyed in accordance with regulations made under section 19 after a person had been acquitted, discharged or where that person was not prosecuted (unless the person has previous convictions).
8. Section 5 of the Ordinance also amends the power of the Chief Constable contained in section 24 of the principal Ordinance. Section 24 is a power of the Chief Constable to prohibit or restrict traffic on a specified road or in a specified area for a maximum period of 1 month.
9. Previously the Chief Constable could, by an order published in the Gazette prohibit or restrict traffic. The amendment dispenses with the need to make an order and publish it in the Gazette. Instead, the Chief Constable can issue a direction that a road is to be closed. That direction must be published in a manner which is proportionate to the nature and duration of the road closure and appropriate traffic signs must be displayed on the road in question.
10. The Administrator will continue to have power to make an order prohibiting or restricting traffic on any road or in any specified area for any period of time.
11. Section 6 of the Ordinance inserts a new section 26A into the principal Ordinance. Section 26A puts into statutory form a power which the Chief Constable has to charge for additional policing services of a special kind which, though not within the obligations of the police, can be most effectively rendered by them.

(SBA/AG/2/CR/187)

