
INTERPRETATION ORDINANCE 2012

CONTENTS

Part 1

Preliminary

1. Short title
2. Commencement
3. Interpretation
4. Application

Part 2

Operation and interpretation of legislation

General

5. Judicial notice
6. Ordinances are public Ordinances
7. Application to the Crown
8. Time and date of commencement
9. References to other legislation, etc
10. Amending legislation
11. Citation

Repeal

12. Repeal generally
13. Expiry of temporary legislation
14. Repeal of repealing legislation, etc
15. Repeal and substitution

Powers and duties

16. Continuity of powers and duties
17. Exercise of power may be corrected
18. Exercise of powers before commencement
19. Powers conferred on office holders may be exercised by successors
20. Power to appoint may be exercised by name or office
21. Construction of power to appoint to office
22. Construction of power to delegate
23. Exercise of certain powers by delegate
24. Power of majority of more than 2 persons

Subordinate instruments

25. Acts under subordinate instruments deemed done under Ordinance
26. Subordinate instruments void if inconsistent with Ordinances
27. Subordinate instruments deemed made under all enabling powers
28. Recital of facts, etc unnecessary
29. Construction of power to make legislative instruments: general
30. Construction of power to make orders, regulations or rules: power to provide criminal offence
31. Construction of power to make orders, regulations or rules: power to designate functions as delegated functions and to adopt instruments of the Republic
32. Construction of power to commence Ordinance by order

Words and expressions used in legislation

33. Definitions apply unless context otherwise requires
34. Words and expressions used in subordinate instruments
35. Words and expressions used in legislation defined
36. Interpretation of colonial legislation
37. Parts of speech and grammatical forms
38. Gender and number
39. References to the Sovereign
40. References to “corresponding” legislation of the Areas and laws of the Republic
41. Disjunctive construction of “or”, etc

Time and distance

42. Provision where no time prescribed
43. Calculating periods of time
44. Months: meaning and calculating periods
45. References to time of day
46. References to distance

Penalties

- 47. Offences under 2 or more provisions
- 48. Penalties prescribed are maximum penalties
- 49. Statement of penalty at end of provision

Miscellaneous

- 50. References to service of documents by post
- 51. Prescribed forms containing minor differences not invalid
- 52. Forfeited property: disposal and application
- 53. Status of examples
- 54. Imperial laws

Part 3

Publication, etc

- 55. Publication and numbering of public instruments
- 56. Laws of the Republic having effect in the Areas must be placed in Legal Library
- 57. Administrator may order legislation to be printed as amended
- 58. Legal status of published versions of legislation, etc

Part 4

Consequential amendments, repeals and savings

- 59. Consequential amendments
- 60. Repeals and revocations
- 61. Savings

SCHEDULE 1

DEFINITIONS

SCHEDULE 2

INTERPRETATION OF COLONIAL LEGISLATION

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS

SCHEDULE 4

REPEALS AND REVOCATIONS

SCHEDULE 5

SAVINGS

INTERPRETATION ORDINANCE 2012

An Ordinance to amend and consolidate the law relating to the operation, interpretation and publication of legislation and to provide for related purposes

G. E. STACEY
ADMINISTRATOR

11th May 2012.

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

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Interpretation Ordinance 2012.

2. Commencement

This Ordinance comes into force on 1 June 2012.

3. Interpretation

In this Ordinance, unless the context otherwise requires,—

“colonial legislation” means a law enacted before 16 August 1960 by any authority established for the Island of Cyprus, or an instrument made before that date under such a law, that continues to have effect in the Areas by virtue of article 5 of the Order in Council(a);

“legislation” means the whole or part of an Ordinance or of a subordinate instrument (and includes colonial legislation);

“legislative instrument” means a subordinate instrument that contains 1 or more provisions having legislative effect;

“repeal” includes revoke;

“subordinate instrument” means an instrument made under an Ordinance.

4. Application

- (1) Except as provided in sections 35 and 55, this Ordinance applies to all legislation, whenever made, including itself.
- (2) This Ordinance binds the Crown.

Part 2

Operation and interpretation of legislation

General

5. Judicial notice

Ordinances and public instruments must be judicially noticed.

6. Ordinances are public Ordinances

Every Ordinance is a public Ordinance, unless the contrary is expressly provided.

7. Application to the Crown

An Ordinance does not bind the Crown unless—

- (a) the Ordinance expressly provides that the Crown is bound; or
- (b) it appears by necessary implication that the Crown is bound.

8. Time and date of commencement

- (1) Where provision is made for legislation to come into force on a particular day, it comes into force, unless the contrary intention appears, at the beginning of that day.
- (2) Where no provision is made for legislation to come into force, it comes into force on publication in the Gazette.

9. References to other legislation, etc

- (1) Where legislation refers to other legislation, the reference is, unless the contrary intention appears, a reference to the other legislation as amended from time to time.
- (2) Where legislation refers to an Imperial law, a law of the Republic or a legislative instrument issued by an institution of the European Union, the reference is, unless the contrary intention appears, a reference to the law or instrument as amended at the date on which the legislation is made.

10. Amending legislation

Where legislation amends other legislation, the amending legislation must, unless the contrary intention appears, be construed as one with the amended legislation.

11. Citation

- (1) Legislation may be cited—
 - (a) by the short title or citation authorised by the legislation;
 - (b) by the year in which it was made and its number in any annual series for the year; or
 - (c) by its number in any revised edition of legislation printed by authority.
- (2) Legislation may continue to be cited by the short title or citation authorised by the legislation despite the repeal of the authorising provision.
- (3) A reference to legislation is, unless the contrary intention appears, a reference—
 - (a) in the case of legislation included in any revised edition of legislation printed by authority, to that edition;
 - (b) in the case of legislation not so included, to a copy of the legislation published in the Gazette or printed by the Administration.

Repeal

12. Repeal generally

- (1) Where legislation repeals other legislation, the following provisions of this section apply, unless the contrary intention appears.
- (2) The repeal does not—
 - (a) revive anything not in force or existing at the time at which the repeal takes effect;
 - (b) affect the previous operation of the repealed legislation or anything done or suffered under the repealed legislation; or
 - (c) affect an existing right or obligation.
- (3) The repeal does not affect any investigation, legal proceeding or remedy that relates to an existing right or obligation; and such an investigation, legal proceeding or remedy may be instituted, continued or enforced as if the repealed legislation had not been repealed.
- (4) The repeal does not affect a liability to a penalty, forfeiture or punishment for—
 - (a) an offence under the repealed legislation that was committed before the repeal; or
 - (b) a breach of the repealed legislation that occurred before the repeal.
- (5) Despite the repeal, the repealed legislation continues to have effect as if it had not been repealed for the purpose of—
 - (a) investigating the offence or breach;
 - (b) bringing or completing proceedings for the offence or breach;
 - (c) imposing a penalty, forfeiture or punishment for the offence or breach.
- (6) In this section, “existing right or obligation” means a right, privilege, obligation or liability acquired, accrued or incurred under the repealed legislation.

13. Expiry of temporary legislation

Section 12 (repeal generally) applies to the expiry of temporary legislation as if the temporary legislation has been repealed.

14. Repeal of repealing legislation, etc

- (1) Where legislation repeals repealing legislation, the repeal does not revive any legislation previously repealed unless words are added reviving it.
- (2) Where legislation repeals legislation that abolishes a rule of law, the repeal does not revive the rule of law unless words are added reviving it.

15. Repeal and substitution

- (1) Where legislation repeals legislation and substitutes provisions (the “substituted legislation”) for the repealed legislation, the following provisions of this section apply, unless the contrary intention appears.
- (2) A reference to the repealed legislation in other legislation must be construed as a reference to the substituted legislation.
- (3) In so far as a subordinate instrument made, or having effect as if made, under the repealed legislation could have been made under the substituted legislation, the subordinate instrument—
 - (a) has effect as if made under the substituted legislation; and
 - (b) may be amended or revoked as if made under the substituted legislation.
- (4) In so far as anything done, or having effect as if done, under the repealed legislation could have been done under the substituted legislation, the thing is to have effect as if done under the substituted legislation.
- (5) The repealed legislation remains in force until the substituted legislation comes into force.

Powers and duties

16. Continuity of powers and duties

Where legislation confers a power or imposes a duty, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as occasion requires.

17. Exercise of power may be corrected

Where legislation confers a power or imposes a duty to do anything of an administrative or executive character or to make an appointment, unless the contrary intention appears, the power or duty may be exercised or performed as often as is necessary to correct an error or omission in a previous exercise or performance of the power or duty, even though the power or duty is not in general capable of being exercised or performed from time to time.

18. Exercise of powers before commencement

- (1) Where legislation confers a power (the “enabling power”) to make a subordinate instrument, to establish a body corporate or incorporate, to make an appointment, to give notice, to prescribe a form or to do any other thing for the purposes of the legislation, the following provisions of this section apply, unless the contrary intention appears.
- (2) The enabling power may be exercised during the pre-commencement period if it is necessary or expedient to do so for the purpose of—
 - (a) bringing the legislation into force; or
 - (b) giving full effect to the legislation at or after the time when it comes into force.
- (3) However, the enabling power may not be exercised so as to bring into force a legislative instrument or give anything else effect before the provision conferring the enabling power comes into force.
- (4) In this section, “pre-commencement period” means the period beginning when the legislation conferring the enabling power is made and ending immediately before the provision conferring the enabling power comes into force.

19. Powers conferred on office holders may be exercised by successors

Where legislation confers a power or imposes a duty on the holder of an office as such, unless the contrary intention appears, the power may be exercised, and the duty must be performed, by—

- (a) the holder for the time being of the office; or
- (b) a person lawfully appointed to act for the holder for the time being of the office.

20. Power to appoint may be exercised by name or office

- (1) Where legislation confers a power to appoint a person to discharge a function, the appointment may be made by—
 - (a) appointing a person by name; or
 - (b) appointing the holder of an office by the term designating the office.
- (2) An appointment of the holder of an office under subsection (1)(b) must be construed as the appointment of—
 - (a) the holder for the time being of the office; or
 - (b) a person lawfully appointed to act for the holder for the time being of the office.

21. Construction of power to appoint to office

- (1) Where legislation confers a power to appoint a person to an office, unless the contrary intention appears, the power includes the following powers—
 - (a) to remove or suspend a person from the office;
 - (b) to reappoint or reinstate a person to the office;

- (c) where the original appointee is suspended, to appoint another person to act temporarily in place of the original appointee;
 - (d) to appoint another person to fill a vacancy in the office arising from any other cause;
 - (e) where the substantive holder of the office is on leave of absence pending relinquishment of the office, to appoint another person substantively to the same office.
- (2) Where a person's power to appoint is exercisable only on the recommendation, or is subject to the approval, concurrence or consent, of some other person, unless the contrary intention appears, a power conferred by subsection (1) is exercisable only on the recommendation, or is subject to the approval, concurrence or consent, of the other person.

22. Construction of power to delegate

- (1) Where legislation authorises a person (the "delegator") to delegate the exercise of a power conferred, or the performance of a duty imposed, on the delegator by legislation, the following provisions of this section apply, unless the contrary intention appears.
- (2) A delegation does not preclude the delegator from exercising or performing a delegated power or duty in person.
- (3) A delegation may be made subject to such conditions, qualifications, limitations or exceptions as the delegator specifies.
- (4) If a delegation may be made only with the approval of another person, the delegation, and any amendment of the delegation, may be made subject to such conditions, qualifications, limitations or exceptions as the person whose approval is required may specify.
- (5) A delegation may be made to a specified person, to persons of a specified class or to the holder or holders for the time being of a specified office or class of offices.
- (6) A delegation may be amended or revoked by the delegator in the same manner and subject to the same conditions or limitations in and under which the delegation may be made.
- (7) Where the power to delegate is conferred on the delegator by reference to a term designating an office, a delegation does not cease to have effect by reason only of a change in the person lawfully holding, acting in or discharging the functions of that office.
- (8) A delegation of a power is deemed to include the delegation of any duty incidental or connected to the power; and a delegation of a duty is deemed to include the delegation of any power incidental or connected to the duty.

23. Exercise of certain powers by delegate

Where legislation provides that the exercise of a power, or the performance of a duty, by a person is dependent upon the opinion, belief or state of mind of that person in relation to a matter and the exercise of that power or the performance of that duty has been delegated under legislation, unless the contrary intention appears, the power or duty may be exercised or performed by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

24. Power of majority of more than 2 persons

Where legislation requires an act or thing to be done by more than 2 persons, unless the contrary is expressly provided, a majority of them may do it.

Subordinate instruments

25. Acts under subordinate instruments deemed done under Ordinance

An act done under a subordinate instrument is deemed to be done under the Ordinance under which the instrument is made or has effect as if made.

26. Subordinate instruments void if inconsistent with Ordinances

- (1) A subordinate instrument that is inconsistent with the provisions of an Ordinance is void to the extent of the inconsistency.
- (2) Subsection (1) does not prevent a subordinate instrument that is amended or substituted by an Ordinance being amended, replaced or revoked by another subordinate instrument.

27. Subordinate instruments deemed made under all enabling powers

Unless the contrary intention appears, where a subordinate instrument purports to be made in exercise of a particular power or powers, it is deemed also to be made in exercise of all powers under which it may be made.

28. Recital of facts, etc unnecessary

Unless the contrary is expressly provided, it is not necessary for a subordinate instrument to refer to facts, circumstances or preconditions that must exist or be satisfied before the instrument may be made.

29. Construction of power to make legislative instruments: general

- (1) Where legislation confers a power to make a legislative instrument, unless the contrary intention appears, the power includes—
 - (a) a power to amend, revoke or re-make the instrument in the same manner and subject to the same conditions or limitations in and under which the instrument was made;
 - (b) a power to make different provision for different purposes, areas, cases or classes of case;
 - (c) a power to make such incidental, supplementary, consequential, transitional or saving provision as the person making the instrument thinks appropriate.
- (2) Where legislation confers a power to make a legislative instrument for a general purpose and also for any special purposes incidental to the general purpose, unless the contrary intention appears, the enumeration of the special purposes does not derogate from the generality of the power conferred with reference to the general purpose.

30. Construction of power to make orders, regulations or rules: power to provide criminal offence

Where legislation confers a power to make a legislative instrument in the form of an order, regulations or rules, unless the contrary intention appears, the power includes a power to provide that a person who contravenes a provision of the order, regulations or rules is guilty of an offence and is liable, on conviction, to a fine not exceeding €500.

31. Construction of power to make orders, regulations or rules: power to designate functions as delegated functions and to adopt instruments of the Republic

- (1) Where legislation confers a power (the “enabling power”) to make a legislative instrument in the form of an order, regulations or rules, unless the contrary intention appears, the power includes—
 - (a) a power to designate a power or duty conferred or imposed by the order, regulations or rules as a general or qualified delegated function (but not a modified delegated function) for the purposes of the Delegation of Functions to the Republic Ordinance 2007**(b)**;
 - (b) a power to provide that, subject to such exceptions, adaptations or modifications as may be specified in the order, regulations or rules, the whole or a specified part of a relevant Republican instrument is to have effect in the Areas as if made under the enabling power.
- (2) In subsection (1)(b), “relevant Republican instrument” means an instrument made, or having effect as if made, under a power conferred by a provision of a law of the Republic that corresponds to the enabling power.

32. Construction of power to commence Ordinance by order

Without prejudice to section 29, where an Ordinance confers a power to fix by order a day on which the Ordinance is to come into force, unless the contrary intention appears,—

- (a) the order may provide for the Ordinance to come into force at a specified time of day;
- (b) different days and times may be fixed for different provisions of the Ordinance;
- (c) the order may be revoked or amended, to the extent that the revocation or amendment relates to a provision of the Ordinance that is not in force, before the time fixed for the provision to come into force.

Words and expressions used in legislation

33. Definitions apply unless context otherwise requires

Where a word or expression is defined in legislation, the word or expression has that meaning in the legislation unless the context otherwise requires.

34. Words and expressions used in subordinate instruments

Words and expressions used in a subordinate instrument have, unless the context otherwise requires, the meaning that they have in the Ordinance under which the instrument is made.

35. Words and expressions used in legislation defined

- (1) Where a word or expression in Schedule 1 is contained in legislation, the word or expression must, unless the contrary intention appears, be construed according to that Schedule.
- (2) However, where a date in square brackets appears at the end of the definition of a word or expression in Schedule 1, subsection (1) applies, in relation to that word or expression, only to legislation made on or after that date.
- (3) In legislation made on or after 16 August 1960 and before 1 June 2012, unless the contrary intention appears,—
 - (a) a reference to the Chief Police Officer must be construed as a reference to the Chief Constable;
 - (b) a reference to a Deputy Senior Judge must be construed as a reference to a Senior Judge;
 - (c) a reference to the Director of Administration must be construed as a reference to the Administrative Secretary;
 - (d) a reference to the Judge must be construed as a reference to the Resident Judge;
 - (e) a reference to the Judge's Court must be construed as a reference to the Resident Judge's Court;
 - (f) a reference to the Legal Adviser must be construed as a reference to the Attorney-General and Legal Adviser.

36. Interpretation of colonial legislation

Schedule 2 (which makes provision for the interpretation of colonial legislation) has effect.

37. Parts of speech and grammatical forms

Parts of speech and grammatical forms of a word or expression that is defined in legislation have corresponding meanings in the legislation.

38. Gender and number

In legislation, unless the contrary intention appears,—

- (a) words denoting the masculine gender include the feminine;
- (b) words denoting the feminine gender include the masculine;
- (c) words in the singular include the plural and words in the plural include the singular.

39. References to the Sovereign

Where legislation refers to the Sovereign reigning at the time the legislation is made, the reference must be construed, unless the contrary intention appears, as a reference to the Sovereign for the time being.

40. References to “corresponding” legislation of the Areas and laws of the Republic

Where legislation refers to legislation of the Areas and a law of the Republic corresponding 1 to the other, the reference must be construed as a reference to the legislation of the Areas and the law of the Republic respectively whose effects are similar or substantially similar.

41. Disjunctive construction of “or”, etc

In legislation, unless the contrary intention appears, “or”, “other” and “otherwise” must be construed disjunctively and not as implying similarity unless the word “similar” or some other word of like meaning is added.

Time and distance

42. Provision where no time prescribed

Where legislation does not prescribe a time within which an act or thing must be done, unless the contrary intention appears, the act or thing must be done with all convenient speed and as often as the prescribed occasion arises.

43. Calculating periods of time

- (1) In calculating a period of time for the purposes of legislation, unless the contrary intention appears,—
 - (a) a period expressed to begin at, on or with a specified day includes that day;
 - (b) a period expressed to end at, on, with or by a specified day or to continue to or until a specified day includes that day;
 - (c) a period expressed to be reckoned from or after a specified day does not include that day;
 - (d) where the last day of a period is an excluded day, the period includes the next day that is not an excluded day;
 - (e) where an act or proceeding is directed or allowed to be done or taken on or before a certain day and that day is an excluded day, the act or proceeding is to be considered as done or taken in due time if it is done or taken on the next day that is not an excluded day;
 - (f) where an act or proceeding is directed or allowed to be done or taken within a period that does not exceed 6 days, excluded days are to be excluded from the calculation.
- (2) In this section, “excluded day” means a Sunday or public holiday.

44. Months: meaning and calculating periods

- (1) In legislation, unless the contrary intention appears, “month” means one of the 12 months of the calendar.
- (2) Subsections (3) and (4) apply, unless the contrary intention appears, for calculating periods of months for the purposes of legislation.
- (3) If a period of 1 month begins on a date other than the first day of any of the 12 months of the calendar, the period is to be reckoned from the date on which it is to begin to the date in the next month numerically corresponding less 1 or, if there is no corresponding date, to the last day of that month.

Example 1: a month beginning on 15 January ends on 14 February.

Example 2: a month beginning on 30 or 31 January ends on 28 February, or 29 February in a leap year.

- (4) If a period of 2, 3 or more months begins on a date other than the first day of any of the 12 months of the calendar, the period is to be reckoned from the date of the month on which it is to begin to the date numerically corresponding less 1, in the second, third or other successive month or, if there is no such corresponding date, to the last day of such month.

Example 3: a period of 6 months beginning on 15 August ends on 14 February in the following year.

Example 4: a period of 6 months beginning on 30 or 31 August ends on 28 February in the following year or, if the following year is a leap year, on 29 February.

45. References to time of day

Where an expression of time occurs in legislation, the time referred to is, unless the contrary is expressly provided, the time determined in accordance with section 2 of the Summer and Winter Time Ordinance 2007(c).

46. References to distance

In the measurement of any distance for the purposes of legislation, that distance is, unless the contrary intention appears, to be measured in a straight line on a horizontal plane.

Penalties

47. Offences under 2 or more provisions

Where an act or omission constitutes an offence under 2 or more provisions, the offender is, unless the contrary intention appears, liable to be prosecuted and punished under either or any of those provisions, but is not liable to be punished more than once for the same offence.

48. Penalties prescribed are maximum penalties

Where legislation prescribes a penalty for an offence, unless the contrary is expressly provided, the offence is punishable, on conviction, by a penalty not exceeding the prescribed penalty.

49. Statement of penalty at end of provision

Where a penalty is set out at the end of a provision of legislation—

- (a) contravention of the provision is an offence; and
- (b) unless the contrary is expressly provided, the offence is punishable, on conviction, by a penalty not exceeding the penalty set out.

Miscellaneous

50. References to service of documents by post

Where legislation authorises or requires a document to be served by post (whether “serve”, “give”, “send” or any other word is used), unless the contrary intention appears, the service is deemed—

- (a) to be effected on a person by properly addressing, pre-paying and posting a letter containing the document to the proper address of the person; and
- (b) unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

51. Prescribed forms containing minor differences not invalid

Where legislation prescribes a form, unless the contrary is expressly provided, a form is not invalid just because it contains minor differences from the prescribed form as long as the form still has the same effect and is not misleading.

52. Forfeited property: disposal and application

- (1) Where a court orders any money, animal or thing to be forfeited in accordance with legislation or the money, animal or thing is otherwise forfeited under legislation, unless the contrary is expressly provided,—
 - (a) the money, animal or thing is forfeited to the Crown; and
 - (b) if the animal or thing is ordered by competent authority to be sold, the net proceeds of sale must be paid to the Fiscal Officer and form part of the revenue of the Areas.
- (2) Nothing in this section affects any provision of legislation whereby any portion of a forfeit or of the proceeds of sale of a forfeit is expressed to be recoverable by any person or may be granted by an authority to a person.

53. Status of examples

Where a provision of legislation uses an example, unless the contrary intention appears,—

- (a) the example is illustrative of the provision to which it relates and does not limit the provision;
- (b) if the example and the legislation are inconsistent, the legislation prevails.

54. Imperial laws

Where an Imperial law is extended or applied to the Areas, the law must be construed with all modifications necessary to make it applicable to the circumstances.

Part 3

Publication, etc

55. Publication and numbering of public instruments

- (1) This subsection applies to the following instruments—
 - (a) a legislative instrument made in the form of a byelaw, notice, order, proclamation, regulations or rules;
 - (b) a legislative instrument made in any other form if the principal Ordinance under which the instrument is made is enacted on or after 1 June 2012;
 - (c) an instrument required by legislation to be made as, treated as or published and numbered as a public instrument;
 - (d) an instrument of a prescribed kind;
 - (e) an instrument that the Attorney-General and Legal Adviser determines should be published and numbered as a public instrument.
- (2) Unless the contrary intention appears, an instrument to which subsection (1) applies must be—
 - (a) published in the Gazette; and
 - (b) numbered consecutively as part of an annual series of public instruments for the year in which the instrument is made.
- (3) An instrument to which any of paragraphs (a) to (d) of subsection (1) apply must be sent to the Attorney-General and Legal Adviser as soon as it is made.
- (4) The Attorney-General and Legal Adviser may, by order made as a public instrument, prescribe kinds of instrument for the purposes of subsection (1)(d).
- (5) In legislation made on or after 1 June 2012, “public instrument” means an instrument that is published and numbered in accordance with subsection (2).

56. Laws of the Republic having effect in the Areas must be placed in Legal Library

Where legislation provides for a law of the Republic to have effect in the Areas, the Attorney-General and Legal Adviser must place a copy of the Gazette of the Republic containing that law in the the Legal Library of the Administration.

57. Administrator may order legislation to be printed as amended

The Administrator may order legislation that has been amended to be reprinted so as to state the law enacted by the legislation and by the amendments to that legislation.

58. Legal status of published versions of legislation, etc

Legislation, an Order in Council, a charter, a commission, a royal warrant, a treaty, letters patent, a public notice, a proclamation or an appointment that is published in the Gazette, printed by the Administration or included in any revised edition of legislation printed by authority must be taken, unless the contrary is proved,—

- (a) as evidence that it was duly made or issued; and
- (b) to correctly set out its text or effect.

Part 4

Consequential amendments, repeals and savings

59. Consequential amendments

Schedule 3 (which contains consequential amendments) has effect.

60. Repeals and revocations

- (1) The Ordinances set out in Part 1 of Schedule 4 are repealed.
- (2) The public instruments set out in Part 2 of Schedule 4 are revoked.

61. Savings

Schedule 5 (which makes savings) has effect.

SCHEDULE 1

(section 35)

DEFINITIONS

“2003 Accession Treaty” means the treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, signed at Athens on 16 April 2003. [1 June 2012]

“Act”, in relation to an offence or civil wrong, includes—

- (a) an omission;
- (b) a series of acts or omissions;
- (c) a series of acts and omissions.

“Acting Administrator” means the officer designated by Her Majesty under article 2 of the Order in Council to discharge the functions of the office of Administrator and administer the government of the Areas at certain times, during such periods when the officer is, in accordance with the Order in Council, actually discharging the functions of the office of Administrator and administering the government of the Areas.

“Administration” means the Administration of the Areas.

“Administrative Secretary”—

- (a) in colonial legislation, must be construed in accordance with Schedule 2;
- (b) in other legislation, means the Administrative Secretary to the Administration.

“Administrator” has the meaning given in article 9(1) of the Order in Council.

“Administrator’s Advisory Board” means the Administrator’s Advisory Board appointed under the Royal Instructions.

“Advocate” has the meaning given in the Advocates Ordinance 2011(d).

“Affidavit”, in the case of a person allowed by law to affirm or declare instead of swearing, includes affirmation and declaration.

“Akrotiri Sovereign Base Area” means that part of the Areas, the land boundaries of which are contiguous to the district of Limassol in the Republic.

“Area” means a Sovereign Base Area.

“Areas” means the Sovereign Base Areas.

“Area Officer” means an Area Officer appointed by the Administrator for the Akrotiri Sovereign Base Area or the Dhekelia Sovereign Base Area.

“Attorney-General and Legal Adviser” means the Attorney-General for the Areas and Legal Adviser to the Administrator.

“Authorised service organisation” means an organisation listed in the Schedule to Part I of Annex B to the Treaty of Establishment. [1 June 2012]

“Chief Constable” means the Chief Constable of the Police Service.

“Chief Officer” means the Chief Officer of the Areas.

“Colony”—

- (a) in colonial legislation, must be construed in accordance with Schedule 2;
- (b) in other legislation, means the area, including the territorial waters and all islands and islets within the territorial waters, comprised in the former colony of Cyprus.

“Community council” means the community council of—

- (a) Akrotiri village;
- (b) an overlapping community. [1 June 2012]

“Corresponding”, in relation to legislation of the Areas and a law of the Republic, must be construed in accordance with section 40.

“Court” means a court of the Areas.

“Customs officer” means an officer of the Sovereign Base Areas Customs and Immigration Service (and includes the Fiscal Officer). [1 June 2012]

“Cypriot” means a citizen of the Republic.

“Days” means clear days.

“Deputy Chief Constable” means the Deputy Chief Constable of the Police Service.

“Dhekelia Sovereign Base Area” means that part of the Areas, the land boundaries of which are contiguous to the districts of Larnaca and Famagusta in the Republic.

“Document” means any record of information (including in electronic form) and includes—

- (a) anything on which there is writing;
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else;
- (d) a map, plan, drawing or photograph. [1 June 2012]

“Donum” or “scala” means an area of 1,337.8 square metres.

“EEA agreement” means the agreement on the European Economic Area signed at Oporto on 2 June 1992, together with the Protocol adjusting that agreement signed at Brussels on 17 March 1993, as modified or supplemented from time to time. [1 June 2012]

“EEA state” means—

- (a) a member State;
- (b) any other state that is a party to the EEA agreement. [1 June 2012]

“European Union” or “EU” means the Union established by the Treaty on European Union signed at Maastricht on 7 February 1992 (as amended by any later treaty). [26 July 2010]

“Financial year” means the 12 months ending on 31 December.

“Fiscal Officer” means the Fiscal Officer of the Areas.

“Gazette” means the official Gazette of the Areas.

“Imperial law” means an Act of the Imperial Parliament or an instrument made under such an Act. [1 June 2012]

“Imperial Parliament” or “Parliament” means the Parliament of the United Kingdom.

“Island of Cyprus”—

- (a) in colonial legislation, must be construed in accordance with Schedule 2;
- (b) in other legislation, means the area, including the territorial waters and all islands and islets within the territorial waters, comprised in the former colony of Cyprus.

“Master”, in relation to a vessel, includes any person except a pilot or harbour master having for the time being control or charge of the vessel.

“Member State” means a state that is a member of the European Union. [1 June 2012]

“Month” must be construed in accordance with section 44.

“Municipal council” means the municipal council of an overlapping municipality. [1 June 2012]

“Oath”, in the case of a person allowed by law to affirm or declare instead of swearing, includes affirmation and declaration.

“Or”, “other” and “otherwise” must be construed in accordance with section 41.

“Order in Council” means the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 as amended or substituted by any subsequent Order in Council.

“Ordinance” means—

- (a) an Ordinance of the Areas enacted on or after 16 August 1960;
- (b) colonial legislation, insofar as it consists of a law (see paragraph 1(a) of Schedule 5);
- (c) an instrument made under an Ordinance referred to in paragraph (a) or (b).

“Overlapping community” has the meaning given in section 2 of the Overlapping Communities Ordinance 2001(e). [1 June 2012]

“Overlapping municipality” has the meaning given in section 3 of the Overlapping Municipalities Ordinance 2011(f). [1 June 2012]

“Person” includes a company, partnership, association, society, institution or body of persons, corporate or unincorporated.

“Police officer” means an officer of the Police Service (and includes the Chief Constable and Deputy Chief Constable).

“Police Service” means the Sovereign Base Areas Police Service. [1 June 2012]

“Prescribed” means prescribed by the Ordinance in which the word occurs or by an instrument made under that Ordinance.

“Public holiday” means a day declared or proclaimed as a public or bank holiday under an Ordinance.

“Public instrument”—

- (a) in legislation made before 1 June 2012 means an order, proclamation, regulations, rules, byelaws, notice or register made, issued or kept under an Ordinance;
- (b) in legislation made on or after 1 June 2012, has the meaning given in section 55.

“Public notice” means an announcement not having legislative effect that is published in the Gazette.

“Public officer” means a person in the service of, or holding office under, the Crown in right of the Areas.

“Register” means a register kept or in use under an Ordinance.

“Registered”, in relation to a document, means registered under the Ordinance for the time being applicable to the registration of the document.

“Registrar” means the Registrar of the Senior Judges’ Court and the Resident Judge’s Court.

“Republic” means the Republic of Cyprus.

“Republican law” or “law of the Republic” means a law of the Republic or an instrument made under such a law.

“Royal Instructions” means the Sovereign Base Areas of Akrotiri and Dhekelia Royal Instructions 1960 as amended or substituted.

“Sale” and “sell” includes barter, exchange, offer to sell and expose for sale.

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State.

“Senior Registrar” means the Senior Registrar of the Senior Judges’ Court and the Resident Judge’s Court. [1 June 2012]

“Sign” includes, in relation to a person who is unable to write, the affixing or making of a seal, mark or thumbprint.

“Sovereign” must be construed in accordance with section 39.

“Sovereign Base Area” means the Akrotiri Sovereign Base Area or the Dhekelia Sovereign Base Area.

“Sovereign Base Areas” means the areas referred to in section 2(1) of the Cyprus Act 1960(g).

“Swear”, in the case of a person allowed by law to affirm or declare instead of swearing, includes to affirm and to declare.

“Territorial waters” means the territorial waters of the Areas.

“Treaty of Establishment” or “Treaty” means the treaty concerning the establishment of the Republic of Cyprus between the United Kingdom, the Kingdom of Greece, the Republic of Turkey and the Republic of Cyprus signed at Nicosia on 16 August 1960.

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland.

“Vessel” includes any ship, boat, lighter or other floating craft used for transport by water.

“Will” includes a codicil.

“Writing” includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form (including electronic form).

“Year” means a period of 12 months.

SCHEDULE 2

(section 36)

INTERPRETATION OF COLONIAL LEGISLATION

Interpretation of colonial legislation

1. In colonial legislation,—

- (a) a reference to the Colony, Cyprus or the Island of Cyprus must be construed as a reference to the Areas;
- (b) a reference to the Governor, the Government of the Colony, the Governor in Council, the Executive Council or the Legislature of the Colony must be construed as a reference to the Administrator;
- (c) a reference to the Deputy Governor, the Colonial Secretary, the Administrative Secretary or the Board of Censors must be construed as a reference to the Chief Officer;
- (d) a reference to the Attorney-General, the Solicitor-General, a Crown Counsel or a Law Officer must be construed as a reference to the Attorney-General and Legal Adviser;
- (e) a reference to the Accountant-General, the Financial Secretary, the Comptroller of Customs and Excise, the Comptroller of Inland Revenue or the Commissioner of Income Tax must be construed as a reference to the Fiscal Officer;
- (f) a reference to a Commissioner, an Assistant Commissioner, an Officer of the Labour Department or the Censorship Committee must be construed as a reference to an Area Officer;
- (g) a reference to the Chief Justice, a Puisne Judge or a Judge of the Supreme Court must be construed as a reference to a Senior Judge;
- (h) a reference to a President of a District Court, a District Judge or a magistrate must be construed as a reference to the Resident Judge;
- (i) a reference to the Court of Appeal or Supreme Court must be construed as a reference to the Senior Judges' Court;
- (j) a reference to an Assize Court or a District Court must be construed as a reference to the Resident Judge's Court;
- (k) a reference to a court must be construed as a reference to the Senior Judges' Court or the Resident Judge's Court;
- (l) a reference to the Registrar of the Supreme Court or the District Court must be construed as a reference to the Senior Registrar or the Registrar of the Senior Judges' Court and the Resident Judge's Court;
- (m) a reference to the Cyprus Police Force must be construed as a reference to the Sovereign Base Areas Police Service;
- (n) a reference to any other public officer or department of the Colony or to an authority or body constituted in or for the Colony must be construed as a reference to any corresponding public officer or department or any corresponding authority or body in the Areas;
- (o) a reference to a public officer or department of the Colony or to an authority or body constituted in or for the Colony must, if there does not appear to be any corresponding public officer or department in the Areas or any corresponding authority or body constituted in or for the Areas, be construed as a reference to the Chief Officer;
- (p) a reference to a law of the Colony must be construed as a reference to the corresponding Ordinance of the Areas;
- (q) a reference to the Gazette or the Cyprus Gazette must be construed as a reference to the Gazette of the Areas;
- (r) a reference to Nicosia or to a place in the Colony in which the headquarters

of a department of the central Government of the Colony was situated at the time of the enactment of the reference must be construed as a reference to the Headquarters of the Administration at Episkopi;

- (s) a reference to an unspecified district of the Colony must be construed as a reference to an Area;
- (t) a reference to the district of Limassol must be construed as a reference to the Akrotiri Sovereign Base Area;
- (u) a reference to the districts of Famagusta or Larnaca must be construed as a reference to the Dhekelia Sovereign Base Area.

Certain references to be construed as references to Island of Cyprus

2. Despite paragraph 1(a), the references to the Colony or to Cyprus in the provisions set out in the table must be construed as references to the Island of Cyprus.

<u>Administration of Estates by Consular Officers Ordinance(h)</u>	Section 2: the references to the Colony- (a) following “and no person is present in the”; and (b) following “Consular Agent of such State within the”.
<u>Bills of Exchange Ordinance(i)</u>	Section 83(4): the reference to Cyprus.
<u>Carriage of Goods by Sea Ordinance(j)</u>	Section 5: both references to Cyprus.
<u>Criminal Procedure Ordinance(k)</u>	Section 46(1): both references to the Colony.
<u>Immovable Property (Tenure, Registration and Valuation) Ordinance(l)</u>	Section 49(4): the reference to Cyprus. Section 75(1)(b): both references to the Colony. Section 76(b): the reference to the Colony. Section 80; the reference to the Colony.
<u>Trustee Ordinance(m)</u>	Section 35(1): both references to the Colony. Section 37(1): the reference to the Colony.
<u>Turkish Family (Marriage and Divorce) Ordinance(n)</u>	Section 3: the reference to Cyprus.
<u>Turkish Religious Head (Mufti) Ordinance(o)</u>	Section 6: the reference to Cyprus. Schedule, paragraph 4: the reference to Cyprus. Schedule, paragraph 7: the reference to Cyprus. Schedule, paragraph 8: the reference to Cyprus.

SCHEDULE 3

(section 59)

CONSEQUENTIAL AMENDMENTS

Adopted Instruments Ordinance 2003 amended

1. Section 7 of the Adopted Instruments Ordinance 2003(p) is repealed.

Courts (Constitution and Jurisdiction) Ordinance 2007 amended

2. Section 2(2) of the Courts (Constitution and Jurisdiction) Ordinance 2007(q) is repealed.

Courts (Judicial Review) Ordinance 2004 amended

3. Section 7 of the Courts (Judicial Review) Ordinance 2004(r) is repealed and the following section substituted—

“7. Judicial review of statutory public activities

- (1) Where legislation made on or after 8 April 2004 authorises a statutory public activity, unless the contrary intention appears,—
 - (a) the activity may be reviewed by the court by way of judicial review in accordance with this Ordinance; and
 - (b) any limitation imposed by the legislation on the jurisdiction of the court to review the activity applies only to a jurisdiction other than the jurisdiction to entertain applications for judicial review in accordance with this Ordinance.
- (2) Subsection (1)(b) does not apply to a limitation consisting of preliminary steps required by the legislation before an application may be made for judicial review.”

Delegation of Functions to the Republic Ordinance 2007 amended

4. Section 4 of the Delegation of Functions to the Republic Ordinance 2007 is repealed.

European Union Ordinance 2010 amended

5. Section 2 of the European Union Ordinance 2010(s) is amended by omitting “and in every other Ordinance and in all public instruments”.

Summer and Winter Time Ordinance 2007 amended

6. Section 4(1) of the Summer and Winter Time Ordinance 2007 is repealed.

SCHEDULE 4

(section 60)

REPEALS AND REVOCATIONS

PART 1 - ORDINANCES

1. The Additional Powers, Rights and Duties Ordinance(**t**).
2. The Change of Titles Ordinance(**u**).
3. The Interpretation Ordinance(**v**), except for sections 1, 20, 22, 25 and 26(3).
4. The Interpretation (Amendment) Ordinance 2003(**w**).
5. The Interpretation (Amendment) Ordinance 2005(**x**).
6. The Interpretation (Amendment) Ordinance 2007(**y**), except insofar as it amends sections 22, 25 and 26(3) of the Interpretation Ordinance.
7. The Interpretation (Amendment) Ordinance 2010(**z**).
8. The Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968(**aa**).
9. The Laws (Adaptation and Interpretation) (Consolidation and Extension) (Amendment) Ordinance 1988(**ab**).
10. The Laws (Adaptation and Interpretation) (Consolidation and Extension) (Amendment) Ordinance 1992(**ac**).
11. The Officers of the Administration (Renaming of Posts) Ordinance 1992(**ad**).
12. The Officers of the Administration (Renaming of Posts) (Amendment) Ordinance 2008(**ae**).

PART 2 – PUBLIC INSTRUMENTS

13. The Change of Titles (Registrars) Order 1969(**af**).
14. The Laws (Adaptation and Interpretation) (Public Waterworks) Order 1967(**ag**).
15. The Laws (Adaptation and Interpretation) (Amendment of Schedule) Order 1972(**ah**).
16. Public Instrument No. 4 of 1960 (Order under section 4(2) of the Laws (Adaptation and Interpretation) Ordinance 1960).
17. Public Instrument No. 11 of 1962 (Order under section 4(2) of the Laws (Adaptation and Interpretation) Ordinance 1960).
18. Public Instrument No. 13 of 1963 (Order under section 4(2) of the Laws (Adaptation and Interpretation) Ordinance 1960).
19. Public Instrument No. 25 of 1968 (Order under section 4(2) of the Laws (Adaptation and Interpretation) Ordinance 1960).
20. Public Instrument No. 26 of 1968 (Order under section 4(2) of the Laws (Adaptation and Interpretation) Ordinance 1960).
21. Public Instrument No. 57 of 1974 (Order under section 4(4) of the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968).
22. Public Instrument No. 105 of 1986 (Notice under section 6(2) of the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968).

23. Public Instrument No. 40 of 1992 (Notice under section 6(2) of the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968).
24. Public Instrument No. 104 of 2003 (Notice under section 6(2) of the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968).
25. Public Instrument No. 96 of 2004 (Notice under section 6(2) of the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968).
26. Public Instrument No. 142 of 2004 (Notice under section 6(2) of the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968).

SCHEDULE 5

(section 61)

SAVINGS

Colonial laws continue to be referred to as Ordinances, etc

1. Despite the repeal of the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968—

- (a) colonial legislation, insofar as it consists of a law, is to be referred to as an Ordinance;
- (b) the amendments to legislation made by section 3 of that Ordinance (replacing references to laws with references to Ordinances in the long and short titles and in the body of legislation) continue to have effect.

Public Waterworks Ordinance: short title

2. Despite the repeal of the Laws (Adaptation and Interpretation) (Public Waterworks) Order 1967, the short title of Cap. 341 (Laws of Cyprus, 1959 edition) is the Public Waterworks Ordinance.

References to Senior Registrar and Registrar in legislation

3. Despite the repeal of the Change of Titles (Registrars) Order 1969, the amendments to legislation made by article 3 of that Order (replacing references to the Registrar and Assistant Registrar with references to the Senior Registrar and Registrar respectively) continue to have effect.

Notes

- (a) S.I. 1960/1369 (UK), as amended by S.I. 1966/1415 (UK). “Order in Council” is defined in Schedule 1.
- (b) Ordinance 17/07.
- (c) Ordinance 8/07.
- (d) Ordinance 11/11.
- (e) Ordinance 27/01.
- (f) Ordinance 20/11.
- (g) 1960 c. 52 (UK).
- (h) Cap. 190, Laws of Cyprus, 1959 ed.
- (i) Cap. 262, Laws of Cyprus, 1959 ed.
- (j) Cap. 263, Laws of Cyprus, 1959 ed.
- (k) Cap. 155, Laws of Cyprus, 1959 ed. Section 46 is amended by Ordinance 8/96.
- (l) Cap. 224, Laws of Cyprus, 1959 ed.
- (m) Cap. 193, Laws of Cyprus, 1959 ed.
- (n) Cap. 339, Laws of Cyprus, 1959 ed.
- (o) Cap. 340, Laws of Cyprus, 1959 ed.
- (p) Ordinance 15/03.
- (q) Ordinance 5/07.
- (r) Ordinance 10/04.
- (s) Ordinance 23/10.
- (t) Cap. 22, Laws of Cyprus, 1959 ed.
- (u) Cap. 40, Laws of Cyprus, 1959 ed.
- (v) Cap. 1, Laws of Cyprus, 1959 ed.
- (w) Ordinance 37/03.
- (x) Ordinance 10/05.
- (y) Ordinance 21/07.
- (z) Ordinance 16/10.
- (aa) Ordinance 5/68.
- (ab) Ordinance 10/88.
- (ac) Ordinance 10/92.
- (ad) Ordinance 11/92.
- (ae) Ordinance 15/08.
- (af) Public instrument 28/69.
- (ag) Public instrument 17/67.
- (ah) Public instrument 34/72.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

1. This explanatory note relates to the Interpretation Ordinance 2012 (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 and should be read in conjunction with it.

General

2. The Ordinance makes provision for the interpretation and publication of legislation of the Areas. It brings together provisions previously in the Interpretation Ordinance (Cap. 1, Laws of Cyprus, 1959 ed.) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (Ordinance 5/68).

3. The enactment of the Ordinance follows a review of the previous interpretation legislation. The opportunity has been taken to modernise the drafting and update it by including new definitions, incorporate new material based on legislation from other Commonwealth jurisdictions and remove unnecessary or irrelevant provisions.

4. With limited exceptions, the Ordinance applies to legislation made before and after 1 June 2012, the date on which it comes into force. This includes legislation of the former colony of Cyprus made before 16 August 1960 that continues to have effect in the Areas. Such legislation made in the form of a Law continues to be referred to as an Ordinance (paragraph 1(b) of Schedule 5).

Words and expressions used in legislation

5. Schedule 1 contains a list of words and expressions defined for the purposes of legislation. Unless the contrary intention appears in legislation, the word or expression has the meaning given in Schedule 1 (section 35).

6. In the case of legislation made before 16 August 1960, Schedule 2 must also be consulted. For example, a reference in such legislation to the “Governor” must be construed as a reference to the Administrator.

7. Section 35(3) makes provision for the interpretation of certain terms previously used in legislation. These mainly relate to offices that have been renamed or no longer exist.

Public instruments

8. Section 55 makes new provision for the publication and numbering of public instruments in the Areas. (The publication and numbering of Ordinances is provided for in the Sovereign Base Areas of Akrotiri and Dhekelia Royal Instructions 1960.)

9. “Public instrument” is defined in section 55 to mean an instrument that is required to be published in the Gazette and numbered as part of the annual series of public instruments published by the Administration. This reflects the common use of the term.

10. Section 55 provides for the following to be published and numbered as public instruments—

- a legislative instrument made in the form of a byelaw, notice, order, proclamation, regulations or rules;
- a legislative instrument made in any other form if the principal Ordinance under which it is made is enacted on or after 1 June 2012;
- an instrument required by an Ordinance to be made as, treated as or published and numbered as a public instrument;
- an instrument of a kind prescribed in an order made by the Attorney-General and Legal Adviser;
- any other instrument that the Attorney-General and Legal Adviser determines should be published and numbered as a public instrument.

11. “Legislative instrument” is defined to mean an instrument made under an Ordinance that contains 1 or more provisions having legislative effect (see section 3). Whilst “legislative effect” is not defined, instruments that have legislative effect include those that determine the law that

applies to the public or a class or the public by creating, altering or removing rights or obligations or commencing the law. Thus, whilst a commencement order is a public instrument, an instrument that merely appoints a person to an office is not (irrespective of whether notice of the appointment is required to be given in the Gazette).

Repeals

12. The Ordinance repeals and revokes a number of Ordinances and public instruments. The Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 is repealed in its entirety. The Interpretation Ordinance is also largely repealed, except for provisions relating to the delegation of functions (including by the Administrator), the Administrator's powers to appoint to office in the event of the incapacity of the office holder and the signification of the exercise of the Administrator's functions by others.

