



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

CONTENTS:

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

	Ordinance No.
Limitation Ordinance 2013	17

LIMITATION ORDINANCE 2013

CONTENTS

Part 1

Preliminary

1. Short title
2. Commencement
3. Interpretation
4. Ordinance applies to actions whenever accruing
5. Application to the Crown

Part 2

Ordinary limitation periods

General

6. Limitation periods in Part 2 are subject to extension or exclusion under Part 3
7. Limitation period where no other limitation period given

Civil wrongs

8. Actions in respect of civil wrongs
9. Actions for defamation and injurious falsehood

Contract, etc

10. Actions founded on contract
11. Actions in respect of remuneration of self-employed professionals, etc
12. Actions in respect of certain loans

Personal injuries

13. Actions in respect of personal injuries

Other

14. Actions on or in respect of mortgage or charge
15. Actions on or in respect of cheques, etc
16. Actions in respect of estates of deceased persons and wills
17. Actions to enforce judgments
18. Actions for an account

Part 3

Extension, etc of ordinary limitation periods

Exclusion of time from, and postponement of, limitation period

19. Actions between particular litigants
20. Force majeure, etc
21. Exclusion of time under section 19 or 20: further 6 months in which to bring action
22. Persons under disability
23. Fraud, concealment or mistake

Fresh accrual of action

24. Acknowledgments and part payments

Court's discretion to extend or disapply limitation period

25. Court may extend limitation period by up to 2 years
26. Court may disapply limitation period: actions in respect of personal injuries or death
27. Court may exclude periods of arbitration from calculation of limitation period

Part 4

Miscellaneous

28. Suspension of limitation periods: events of 1974 in Cyprus
29. Counterclaims
30. Payments made after expiry of limitation period may not be recovered
31. Limitation must be raised by parties
32. Agreement that no cause of action accrues until arbitration void
33. Limitation periods given in other legislation
34. Savings and transitional provision
35. Repeals

SCHEDULE 1

SAVINGS AND TRANSITIONAL PROVISIONS

SCHEDULE 2

REPEALS

LIMITATION ORDINANCE 2013

An Ordinance to provide for time limits for bringing actions and for related purposes.

R. J. CRIPWELL
ADMINISTRATOR

19th June 2013.

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 Limitation Ordinance 2013.

2. Commencement

This Ordinance comes into force on 1 July 2013.

3. Interpretation

(1) In this Ordinance—

“action” means any civil proceeding in a court (including a counterclaim);

“banking institution” means a bank, a co-operative society or another undertaking authorised by the competent authorities of the Areas, a member State or any other country or territory to conduct the business of accepting deposits from, or lending to, the public;

“bill of exchange” has the meaning given in section 3 of the Bills of Exchange Ordinance**(a)**;

“bond in customary form” has the meaning given in section 78 of the Contract Ordinance**(b)**;

“civil wrong” means—

(a) a civil wrong for the purposes of the Civil Wrongs Ordinance**(c)** (see section 3 of that Ordinance);

(b) a tort that forms part of the law of the Areas by virtue of section 33(1)(c) of the Courts (Constitution and Jurisdiction) Ordinance 2007**(d)**;

“disability” and “under a disability” must be construed in accordance with subsection (2);

“personal injuries” includes any disease and any impairment of a person’s physical or mental condition;

“plaintiff” includes any person bringing an action;

“promissory note” has the meaning given in section 83 of the Bills of Exchange Ordinance;

“trustee” must be construed in accordance with section 3 of the Trustee Ordinance(e).

- (2) For the purposes of this Ordinance, a person is “under a disability” if the person—
 - (a) has not reached the age of 18 years; or
 - (b) is incapable, because of physical or mental illness, of managing the person’s property and affairs.

4. Ordinance applies to actions whenever accruing

Except as provided in Schedule 1, this Ordinance applies to causes of action and rights to bring actions accruing before and after it comes into force.

5. Application to the Crown

- (1) This Ordinance applies to actions by or against the Crown in like manner as it applies to actions between subjects.
- (2) Despite subsection (1), this Ordinance does not apply to—
 - (a) an action for the recovery of tax or duty (including tax or duty collected by the Republic in accordance with arrangements made with the Republic) or of interest on tax or duty;
 - (b) forfeiture proceedings under customs legislation or associated legislation (within the meaning of the Customs Ordinance 2005(f)); or
 - (c) proceedings in respect of the forfeiture of a vessel.
- (3) For the purposes of this Ordinance, proceedings by petition of right (in a case where any such proceedings lie by virtue of any saving in section 31 of the Crown Proceedings Ordinance 1966(g), despite the general abolition by that Ordinance of proceedings by petition of right) must be treated as being commenced on the date on which the petition is presented.

Part 2

Ordinary limitation periods

General

6. Limitation periods in Part 2 are subject to extension or exclusion under Part 3

- (1) This Part gives ordinary limitation periods for bringing actions of various classes.
- (2) The ordinary limitation periods given in this Part are subject to extension or exclusion in accordance with Part 3.
- (3) This Part is subject to—
 - (a) section 33 (limitation periods given in other legislation);
 - (b) Schedule 1 (savings and transitional provision).

7. Limitation period where no other limitation period given

Except as otherwise provided in this or any other Ordinance, an action may not be brought after the expiry of 10 years after the date on which the cause of action accrued.

Civil wrongs

8. Actions in respect of civil wrongs

An action in respect of a civil wrong may not be brought after the expiry of 6 years after the date on which the cause of action accrued.

9. Actions for defamation and injurious falsehood

Despite section 8, an action for defamation or injurious falsehood may not be brought after the expiry of 1 year after the date on which the cause of action accrued.

Contract, etc

10. Actions founded on contract

Except as otherwise provided in this Ordinance, an action founded on contract may not be brought after the expiry of 6 years after the date on which the cause of action accrued.

11. Actions in respect of remuneration of self-employed professionals, etc

An action (whether on not founded on contract) in respect of the remuneration, fees or charges of a self-employed advocate, doctor, dentist, architect, engineer or other professional or contractor may not be brought after the expiry of 3 years after the date on which the cause of action accrued.

12. Actions in respect of certain loans

Where a contract of loan—

- (a) does not provide for repayment of the debt on or before a fixed or determinable date; and
- (b) does not make the obligation to repay the debt conditional on a demand for repayment made by or on behalf of the creditor,

section 10 applies as if the cause of action to recover the debt accrued on the date on which a demand in writing for repayment of the debt is first made by or on behalf of the creditor (or, where there are joint creditors, by or on behalf of any 1 of them).

Personal injuries

13. Actions in respect of personal injuries

- (1) This section applies to an action for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or by virtue of provision made by or under an Ordinance or independently of any contract or any such provision) where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to the plaintiff or any other person.
- (2) An action to which this section applies may not be brought after the expiry of 3 years after the later of—
 - (a) the date on which the cause of action accrued;
 - (b) the date on which the person injured knew of the injury.
- (3) The limitation period given in subsection (2) for bringing an action to which this section applies overrides any limitation period given in a preceding provision of this Ordinance.

Other

14. Actions on or in respect of mortgage or charge

- (1) An action on or in respect of a mortgage or charge on movable or immovable property may not be brought after the expiry of 12 years after the date on which the cause of action or the right to bring the action accrued.
- (2) In subsection (1), “action” includes any proceedings for the sale or transfer of property secured by a mortgage or charge.

15. Actions on or in respect of cheques, etc

- (1) This section applies to—
 - (a) a cheque;

- (b) a bill of exchange;
 - (c) a promissory note;
 - (d) a bond in customary form;
 - (e) a book debt to or from a banking institution;
 - (f) a debt due to or from a banking institution or moneylender under a hire-purchase, financial lease, credit card or overdraft facility agreement or an agreement relating to any other similar product other than a loan.
- (2) An action on or in respect of anything to which this section applies may not be brought after the expiry of 6 years after the date on which the cause of action accrued.

16. Actions in respect of estates of deceased persons and wills

- (1) Except as provided in subsection (3), an action in respect of any claim to the estate of a deceased person, or to any share or interest in any such estate, may not be brought after the expiry of 8 years after the date of the deceased's death.
- (2) Except as provided in subsection (3), an action in relation to the validity of a will may not be brought after the expiry of 8 years after the date of the testator's death.
- (3) Where the plaintiff in an action referred to in subsection (1) or (2) was not on the island of Cyprus at the date of the deceased's or the testator's death, an action may not be brought after the later of—
 - (a) the expiry of 8 years after the date of the death;
 - (b) the expiry of 1 year after the earliest of—
 - (i) the date on which the plaintiff learned of the death;
 - (ii) the date on which the plaintiff could with reasonable diligence have discovered the death;
 - (iii) the date on which the plaintiff returned to the island of Cyprus.

17. Actions to enforce judgments

An action may not be brought on a judgment after the expiry of 15 years after the date on which the judgment became enforceable.

18. Actions for an account

An action for an account may not be brought after the expiry of any limitation period that is applicable to the claim that is the basis of the duty to account.

Part 3

Extension, etc of ordinary limitation periods

Exclusion of time from, and postponement of, limitation period

19. Actions between particular litigants

The following periods must be excluded when calculating a limitation period given in this Ordinance—

- (a) any period during which the plaintiff and defendant are married to each other (whether or not the marriage is subsequently dissolved);
- (b) any period during which the plaintiff and the defendant co-habit as domestic partners;
- (c) in the case of an action between a child and a parent, the period until the child reaches the age of 18 years;
- (d) in the case of an action between a beneficiary and a trustee, the period until the beneficiary reaches the age of 18 years;

- (e) in the case of an action between a person inheriting or claiming under a will or intestacy and the personal representative of the deceased, the period until the person so inheriting or claiming reaches the age of 18 years.

20. Force majeure, etc

The following periods must be excluded when calculating a limitation period given in this Ordinance—

- (a) any period during the last 6 months of the limitation period during which the plaintiff is prevented from bringing an action by force majeure or by a moratorium;
- (b) any period during the last 6 months of the limitation period during which the plaintiff is prevented from bringing an action by the defendant or an agent of the defendant;
- (c) where the person with the right to bring the action dies, the period beginning on the date of the death and ending after the expiry of 3 months after the date of grant of probate or administration;
- (d) where, in accordance with any Ordinance, mediation proceedings between the plaintiff and the defendant take place, the period during which the proceedings last or are deemed to last;
- (e) where the plaintiff brings proceedings (the “original proceedings”) that are withdrawn or dismissed in circumstances in which the plaintiff is not barred from bringing fresh proceedings in respect of the same cause of action and subsequently brings such proceedings within 6 months after the date of the withdrawal or dismissal of the original proceedings, the period beginning on the date on which the original proceedings were brought and ending on the date of their withdrawal or dismissal.

21. Exclusion of time under section 19 or 20: further 6 months in which to bring action

Where, in accordance with section 19 or 20, a period (the “excluded period”) must be excluded when calculating a limitation period, an action may be brought within 6 months after the date on which the excluded period ends (even in a case where the limitation period otherwise given in this Ordinance may have expired).

22. Persons under disability

Any period when a person who has the right to bring an action—

- (a) is under a disability; and
- (b) does not have a representative appointed under an Ordinance or a law of the Republic who is able to bring the action and is not also under a disability,

must be excluded when calculating a limitation period given in this Ordinance.

23. Fraud, concealment or mistake

- (1) Where, in the case of an action for which a limitation period is given in this Ordinance,—

- (a) the action is based upon the fraud of the defendant;
- (b) any fact relevant to the plaintiff’s right to bring the action has been deliberately concealed from the plaintiff by the defendant; or
- (c) the action is for relief from the consequences of a mistake,

the period of limitation does not begin to run until the plaintiff or an agent of the plaintiff has discovered the fraud, concealment or mistake or could with reasonable diligence have discovered it.

- (2) For the purposes of subsection (1), deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts to deliberate concealment of the facts involved in that breach of duty.

Fresh accrual of action

24. Acknowledgments and part payments

- (1) Where a right to bring an action has accrued for which a limitation period is given in this Ordinance, the right must be treated as having accrued on (and not before)—
 - (a) the date on which the person liable acknowledges the claim in writing; or
 - (b) in the case of a debt or other liquidated pecuniary claim, the date (if later) on which the person liable makes a payment that exceeds, or makes the last in a series of payments that together exceed, half the total due (including interest).
- (2) A current period of limitation may be repeatedly extended under this section by further acknowledgements or payments.
- (3) Despite subsections (1) and (2), a right to bring an action, once barred by this Ordinance, is not revived by any subsequent acknowledgement or payment.

Court's discretion to extend or disapply limitation period

25. Court may extend limitation period by up to 2 years

- (1) If it appears to the court that it would be equitable in the circumstances, the court may order that the limitation period given in this Ordinance should be extended by a period not exceeding 2 years.
- (2) An application to the court for an extension of the limitation period under subsection (1) may be made either before or after the commencement of an action.

26. Court may disapply limitation period: actions in respect of personal injuries or death

- (1) If it appears to the court that it would be equitable in the circumstances, the court may order that the limitation period given in this or any other Ordinance should not apply to an action for damages in respect of personal injuries or death.
- (2) However, the court may not exercise the power in subsection (1) more than 2 years after the expiry of the limitation period.
- (3) In exercising the power in subsection (1), the court must have regard to all the circumstances of the case and in particular to—
 - (a) the length of, and the reasons for, the delay in bringing the action;
 - (b) the duration of any disability of the plaintiff or the deceased;
 - (c) the conduct of the parties, including the steps taken (if any) by the plaintiff or the deceased to obtain relevant evidence;
 - (d) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the plaintiff or the defendant is, or is likely to be, less cogent than if the action had been brought within the limitation period.

27. Court may exclude periods of arbitration from calculation of limitation period

- (1) This section applies where a court—
 - (a) orders that an arbitration award should be set aside; or
 - (b) orders, after the commencement of an arbitration, that the arbitration agreement should cease to have effect with respect to the dispute referred.
- (2) The court may order that the period beginning on the date on which the arbitration is commenced and ending on the date of the order should be excluded from the calculation of a limitation period given in this or any other Ordinance for the commencement of proceedings (including arbitration) with respect to the dispute referred.
- (3) For the purposes of this section, an arbitration must be treated as being commenced—
 - (a) when 1 party to the arbitration serves on the other party a notice requiring the other party to appoint an arbitrator or to agree to the appointment of an arbitrator;

- (b) where the arbitration agreement provides that the reference must be to a person named or designated in the agreement, when 1 party to the arbitration serves on the other party a notice requiring the other party to submit the dispute to the person so named or designated; or
- (c) the date on which any Ordinance provides that an arbitration is deemed to be commenced.

Part 4

Miscellaneous

28. Suspension of limitation periods: events of 1974 in Cyprus

- (1) The running of any limitation period (whether given in this or any other Ordinance) for the following actions is suspended—
 - (a) an action in respect of movable or immovable property that is—
 - (i) in a part of Kondea, Lysi or Pergamos that is within the Dhekelia Sovereign Base Area; and
 - (ii) owned by a Greek Cypriot or a Greek Cypriot-controlled company;
 - (b) an action in respect of movable or immovable property owned by a Turkish Cypriot or a Turkish Cypriot-controlled company;
 - (c) an action in respect of property dedicated by way of vakf;
 - (d) subject to subsection (2), an action (other than an action referred to in paragraph (a), (b) or (c)) by or against a person missing as a consequence of the events of 1974 in Cyprus.
- (2) Where an administrator in respect of a person referred to in subsection (1)(d) is appointed in accordance with Law 178(I) of 2003 of the Republic (as amended from time to time) (the Regulation of Certain Issues relating to the Estates of Missing Persons Law of 2003)—
 - (a) the period between the date on which the person went missing and the date of the appointment must be excluded when calculating the limitation period for an action referred to in that subsection;
 - (b) the limitation period begins, or (as the case may be) continues, to run from the date of the appointment.

29. Counterclaims

For the purpose of calculating the limitation period for an action brought by way of counterclaim—

- (a) where the cause of action of the counterclaim arises out of the same facts or substantially the same facts as are already in issue in the original action, the counterclaim is deemed to have been brought on the same day as the original action was brought;
- (b) in any other case, the counterclaim is treated as a separate action (and may not be brought if, at the date on which the counterclaim was filed in court, the limitation period for the counterclaim has expired).

30. Payments made after expiry of limitation period may not be recovered

Where a person makes a payment in respect of a debt in ignorance of the expiry of the limitation period, the payment may not be recovered.

31. Limitation must be raised by parties

A court may not, in any proceedings, determine a limitation issue unless the issue is raised by a party to the proceedings.

32. Agreement that no cause of action accrues until arbitration void

Despite any term in an arbitration agreement to the effect that no cause of action accrues in respect of a dispute required by the agreement to be referred to arbitration until an award is made under the agreement, the cause of action accrues in respect of the matter at the time when it would have accrued but for the term.

33. Limitation periods given in other legislation

Part 2 does not apply to an action or arbitration for which a limitation period is given in any other Ordinance (whether enacted before or after this Ordinance comes into force).

34. Savings and transitional provision

Schedule 1 (savings and transitional provisions) has effect.

35. Repeals

The legislation set out in column 1 of the table in Schedule 2 (repeals) is repealed to the extent set out in column 2.

SCHEDULE 1

(section 34)

SAVINGS AND TRANSITIONAL PROVISIONS

Actions in respect of certain civil wrongs accruing on or before 30 June 2013

1. (1) This paragraph applies to an action in respect of a civil wrong if—
 - (a) the action is one to which section 68 of the Civil Wrongs Ordinance applied (before its repeal by this Ordinance); and
 - (b) the cause of action accrued on or before 30 June 2013.
- (2) The limitation period for an action to which this paragraph applies must be determined as if section 68 of the Civil Wrongs Ordinance and the Limitation of Actions Ordinance^(h) had not been repealed (and not in accordance with this Ordinance).
- (3) This paragraph is subject to—
 - (a) section 28 (suspension of limitation periods: events of 1974 in Cyprus);
 - (b) paragraphs 2 to 4.

Actions accruing on or before 30 June 2013: additional limitation period

2. (1) This paragraph applies to an action if—
 - (a) the cause of action or right to bring the action accrued on or before 30 June 2013; and
 - (b) either—
 - (i) the action is of a class referred to in Part 2; or
 - (ii) the running of the limitation period for the action was suspended under the Limitation of Actions (Suspension) Ordinance 1979⁽ⁱ⁾.
- (2) An action to which this paragraph applies is not barred if it is brought on or before 31 December 2013.
- (3) This paragraph—
 - (a) is subject to paragraphs 3 and 4; but
 - (b) otherwise overrides anything in this or any other Ordinance.

Actions and arbitrations commenced on or before 30 June 2013

3. Nothing in this Ordinance affects an action or arbitration commenced on or before 30 June 2013 or the title to any property that is the subject of such an action or arbitration.

Actions barred by repealed legislation

4. Nothing in this Ordinance enables an action to be brought that before 1 July 2013 was barred by any legislation repealed by this Ordinance.

SCHEDULE 2

(section 35)

REPEALS

(1) Legislation	(2) Extent of repeal
The Limitation of Actions Ordinance.	The whole Ordinance.
The Civil Wrongs Ordinance.	Section 68 (limitation of actions for civil wrongs)
The Bills of Exchange Ordinance.	Section 94 (limitation).
The Limitation of Actions (Suspension) Ordinance 1979.	The whole Ordinance.
The Limitation of Actions (Suspension) (Amendment) Ordinance 1983(j).	The whole Ordinance.
The Limitation of Actions (Suspension) (Amendment) Ordinance 1993(k).	The whole Ordinance.
The Employers Liability (Compulsory Insurance) Ordinance 1999(l).	Section 18 (lapse of claim).
The Motor Vehicles (Third Party Insurance) Ordinance 2001(m).	Section 22 (limitation of actions).
The Limitation of Actions (Amendment) Ordinance 2008(n).	The whole Ordinance.

Notes

- (a) Cap. 262, Laws of Cyprus, 1959 ed. Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960. Schedule 2 to the Interpretation Ordinance 2012 provides for the interpretation of such legislation.
- (b) Cap. 149, Laws of Cyprus, 1959 ed.
- (c) Cap. 148, Laws of Cyprus, 1959 ed.
- (d) Ordinance 5/07.
- (e) Cap. 193, Laws of Cyprus, 1959 ed.
- (f) Ordinance 16/05. The definition of “associated legislation” is substituted by the Customs (Amendment) Ordinance 2010.
- (g) Ordinance 9/66. Section 31 is amended by the Crown Proceedings (Amendment) Ordinance 2005.
- (h) Cap. 15, Laws of Cyprus, 1959 ed.
- (i) Ordinance 10/79.
- (j) Ordinance 1/83.
- (k) Ordinance 8/93.
- (l) Ordinance 1/99.
- (m) Ordinance 2/01.
- (n) Ordinance 1/08.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Limitation Ordinance 2013 (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.

2. The Ordinance gives limitation periods for bringing actions. It makes similar provision in the Areas to that made in the Republic of Cyprus by Laws 66(I)/2012 and 41(I)/2013. The Limitation of Actions Ordinance (Cap. 15) is repealed.

Limitation periods

3. Part 2 gives limitation periods for bringing actions of the various classes set out in Part 2. Where no limitation period is given in the Ordinance or in any other Ordinance, the limitation period is 10 years from the date on which the cause of action accrued (section 7). A limitation period may be extended or a period may be excluded from the calculation of a limitation period in accordance with Part 3.

4. Part 2 does not apply where a limitation period is given in other Ordinances (section 33). Other limitation periods are given in *inter alia* section 58 of the Civil Wrongs Ordinance (Cap. 148) (right of action in respect of act causing death), section 34 of the Administration of Estates Ordinance (Cap. 189) (effect of death on certain causes of action), the Defective Products Liability Ordinance 2000 and the Immovable Property (Specific Performance) Ordinance 2012.

Suspension of certain limitation periods

5. The running of certain limitation periods remains suspended (section 28). The actions affected relate to the events of 1974 in Cyprus.

6. The Limitation of Actions (Suspension) Ordinance 1979 is repealed. Accordingly, the general suspension of limitation periods provided by that Ordinance ends.

Savings and transitional provisions

7. The Ordinance applies to actions that accrued before and after 1 July 2013 (section 4). Where actions accrued on or before 30 June 2013, the limitation periods given in the Ordinance apply. However, there are exceptions.

8. First, actions in respect of a civil wrong accruing on or before 30 June 2013 are to be determined in accordance with the previous legislation (paragraph 1 of Schedule 1). Second, there is an additional limitation period for certain actions accruing on or before 30 June 2013 (paragraph 2 of Schedule 1). Where such an action is of a class referred to in Part 2 or was subject to the general suspension of limitation periods provided by the Limitation of Actions (Suspension) Ordinance 1979, the action is not barred if it is brought on or before 31 December 2013. Finally actions and arbitrations commenced on or before 30 June 2013 are unaffected by the Ordinance (paragraph 3 of Schedule 1).

9. The Ordinance also provides for actions that, before 1 July 2013, were barred to remain barred (paragraph 4 of Schedule 1).

(SBA/AG/2/CT/90)