



**SUPPLEMENT No. 2**  
**TO**  
**THE SOVEREIGN BASE AREAS GAZETTE**  
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**LEGISLATION**

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**COURTS (CONSTITUTION AND JURISDICTION) (AMENDMENT) ORDINANCE 2014**

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**COURTS (CONSTITUTION AND JURISDICTION) (AMENDMENT) ORDINANCE 2014**

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An Ordinance to amend the Courts (Constitution and Jurisdiction) Ordinance 2007

**J. S. WRIGHT**  
**DEPUTY ADMINISTRATOR**

*9th January 2014.*

**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 Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2014.

**2. Commencement**

This Ordinance comes into force on 12 January 2014.

**3. Courts (Constitution and Jurisdiction) Ordinance 2007 amended**

The Courts (Constitution and Jurisdiction) Ordinance 2007(a) is amended in accordance with sections 4 to 14.

**4. Section 2 amended (Interpretation)**

(1) Section 2(1) is amended in accordance with subsections (2) to (5).

(2) After “In this Ordinance”, insert “, unless the context indicates otherwise,”.

(3) Insert the following definitions in the appropriate places—

““Acting Judge” means a person appointed as an Acting Judge in accordance with section 9(1);”;

““Associate Judge” means a person appointed as an Associate Judge in accordance with section 8(1);”;

““live link” has the meaning given in section 2A;”.

- (4) For the definition of “Resident Judge” substitute—  
 ““Resident Judge” means the person appointed as the Resident Judge in accordance with section 7(1);”.
- (5) For the definition of “Senior Judge” substitute—  
 ““Senior Judge”—  
 (a) means  
 (i) a person appointed as a Senior Judge in accordance with section 6(1); and  
 (ii) except in section 6 and section 11(1), an Acting Judge who is a member of the Senior Judges’ Court; and  
 (b) for the avoidance of doubt, includes the Presiding Judge.”.

**5. New section 2A inserted (Meaning of live link)**

The following section (including the heading) is inserted after section 2—

**“2A. Meaning of live link**

- (1) In this Ordinance, “live link” means a live television link or other arrangement by which a person, when not in the courtroom or other place where proceedings are being held, is able to participate in the proceedings and is able—  
 (a) to see and hear the proceedings; and  
 (b) to be seen and heard by the persons referred to in subsection (2) (if those persons are present in the courtroom or other place where the proceedings are being held).
- (2) The persons are—  
 (a) the Senior Judge or Judge hearing the proceedings;  
 (b) the parties to the proceedings;  
 (c) the legal representatives appearing in the proceedings;  
 (d) any interpreter, witness or other person assisting the parties or the Court during the proceedings.”.

**6. Section 7 amended (Appointment of Resident Judge)**

At the beginning of section 7(2), insert “Subject to section 11(5),”.

**7. Section 8 amended (Appointment of an Associate Judge)**

- (1) After section 8(1), insert—  
 “(1A) Before appointing a person as an Associate Judge, the Administrator must consult the Presiding Judge.”.
- (2) At the beginning of section 8(2), insert “Subject to section 11(5),”.

**8. Section 9 amended (Appointment of Acting Judge)**

- (1) After section 9(1), insert—  
 “(1A) Before appointing a person as an Acting Judge, the Administrator must consult the Presiding Judge.”.
- (2) At the beginning of section 9(2), insert “Subject to section 11(5),”.

**9. Section 11 amended (Qualification)**

- (1) Section 11 is amended in accordance with subsections (2) to (4).
- (2) In section 11(1), omit “a member of the Senior Judges’ Court” and substitute “, or to continue to hold office, as a Senior Judge”.

- (3) In subsection 11(2), omit “a member of the Resident Judge’s Court” and substitute “as the Resident Judge”.
- (4) Subsections (3) to (5) are repealed and the following subsections substituted—
  - “(3) A person is not qualified to be appointed as an Associate Judge unless the person is below the age of 70 and has—
    - (a) for not less than 7 years, been qualified to practise as a barrister, solicitor or advocate in the United Kingdom; or
    - (b) for not less than 7 years, been qualified, in a professional capacity equivalent to that of a barrister, solicitor or advocate in the United Kingdom, to practise in any part of Her Majesty’s Dominions, the Republic of Ireland or in the Republic of Cyprus.
  - (4) A person is not qualified to be appointed as an Acting Judge unless—
    - (a) where the instrument of appointment specifies that the person appointed will be a member of the Senior Judges’ Court, the person holds full-time judicial office in England and Wales; or
    - (b) where the instrument of appointment specifies that the person appointed will be a member of the Resident Judge’s Court, the person satisfies subsection (2).
  - (5) The period of appointment (including any renewal of appointment) of a person as the Resident Judge, an Associate Judge or an Acting Judge who is a member of the Resident Judge’s Court may not extend beyond the day on which the person attains the age of 70 years of age.”.

**10. Section 27 repealed and substituted (Senior Judges may exercise functions from outside the Areas)**

Section 27(b) is repealed and the following section (including the heading) substituted—

**“27. Senior Judges may exercise functions from outside the Areas**

- (1) A Senior Judge (including a Senior Judge sitting as a member of the Resident Judge’s Court in accordance with section 6(3)) may, in accordance with this section, exercise any functions of a Senior Judge from outside the Areas.
- (2) In particular, a Senior Judge may, from outside the Areas,—
  - (a) subject to subsections (4) to (6), hear any proceedings by live link;
  - (b) make a decision following a hearing (whether or not the hearing was heard by live link);
  - (c) make a decision that may be made without a hearing;
  - (d) issue case management directions.
- (3) Anything done outside the Areas under this section may, at the direction of a Senior Judge or a Judge be promulgated in writing, by live link or by being read verbatim in open court.
- (4) A Senior Judge may not hear proceedings from outside the Areas by live link if a Senior Judge (other than one disqualified from hearing the proceedings by virtue of section 6(4) or section 26(2)) is available in the Areas and is competent to hear the proceedings.
- (5) A Senior Judge may not hear proceedings from outside the Areas by live link unless—
  - (a) the Presiding Judge considers that it is in the interests of the efficient or effective administration of justice for the proceedings to be heard by live link; and

- (b) either—
  - (i) the Presiding Judge considers that the matter is so urgent that the hearing of the proceedings should not be delayed until the arrival of a Senior Judge in the Areas; or
  - (ii) all the parties to the proceedings agree to the proceedings being heard by live link.
- (6) Where the Presiding Judge is not available for the purposes of subsection (5), a Senior Judge (including the Senior Judge who is to hear the proceedings) may exercise the functions of the Presiding Judge under subsection (5)(a) and (b)(i) but only if the Senior Judge considers that the matter is so urgent that it should not be delayed until the Presiding Judge is available.
- (7) Subsection (5) does not apply to the hearing of an appeal under section 157ZA or section 157ZB of the Criminal Procedure Ordinance(c).”.

#### **11. Sections 27A and 27B repealed**

Sections 27A and 27B are repealed.

#### **12. Section 28 amended (Practice directions)**

Before the full stop at the end of section 28(2), insert “and numbered as a public instrument”.

#### **13. Section 37 amended (Place of sittings)**

At the beginning of section 37, insert “Subject to the exercise of powers by a Senior Judge in accordance with section 27,”.

#### **14. New section 38 inserted (Use of live link for witness evidence)**

After section 38, insert the following section (including the heading)—

##### **“38A. Use of live link for witness evidence**

A Court may, in the interests of the efficient or effective administration of justice, permit a witness to give evidence by live link (from within or outside the Areas).”.

#### **15. Transitional provisions**

- (1) Section 11(5) of the Courts (Constitution and Jurisdiction) Ordinance 2007, as substituted by this Ordinance, applies to appointments whether made before or after the coming into force of this Ordinance.
- (2) Section 27 of the Courts (Constitution and Jurisdiction) Ordinance 2007, as substituted by this Ordinance, applies to proceedings whether commenced before or after the coming into force of this Ordinance.

#### **16. Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2011 repealed**

The Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2011(d) is repealed.

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#### **Notes**

- (a) Ordinance 5/07 as amended by the Interpretation Ordinance 2012 (Ordinance 8/12).
- (b) Section 27 was amended by Ordinance 27/07 which was subsequently repealed by Ordinance 10/11. Ordinance 10/11 substituted a new section 27 and new sections 27A and 27B. Ordinance 10/11 is repealed by this Ordinance.
- (c) Cap. 155, 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 (S.I. 1960/1639 (U.K.)). Schedule 2 to the Interpretation Ordinance 2012 provides for the interpretation of such legislation. Sections 157ZA (appeals against withholding of bail) and 157ZB (appeals against granting of bail) were inserted by the Criminal Procedure (Amendment) Ordinance 2013 (Ordinance 2/13).
- (d) Ordinance 10/11.



## EXPLANATORY NOTE

### (This note is not part of the Ordinance)

1. This explanatory note relates to the Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2014 (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. 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.
2. The Ordinance amends the Courts (Constitution and Jurisdiction) Ordinance 2007 (the “principal Ordinance”).
3. Section 4 of the Ordinance inserts some new definitions into section 2 of the principal Ordinance and amends other definitions.
4. Section 5 inserts a new section 2A (amended definition of “live link”) into the principal Ordinance for the purposes of sections 27 (exercise of functions by Senior Judges outside the Areas) and section 38 (witness evidence by live link).
5. Section 9 of the Ordinance amends section 11 of the principal Ordinance which deals with the qualifications for appointment for the judiciary in the Areas. In particular, the amendments extend the eligibility criteria for appointment as an Associate Judge by providing for a person who has, for a minimum of 7 years, been qualified to practise in the Republic of Cyprus (in a capacity equivalent to that of a barrister, solicitor or advocate in the United Kingdom) to be eligible for appointment as an Associate Judge.
6. The amendments made to section 11 of the principal Ordinance also put beyond doubt that the age qualification for appointment as the Resident Judge, an Associate Judge or an Acting Judge (upper limit of 70 years of age) also applies to a person’s capacity to continue to hold office.
7. Section 27 of the principal Ordinance, which enables a Senior Judge to exercise functions from outside the Areas, is re-enacted with modifications by section 10 of the Ordinance. In particular, it is now clear that the provision applies when a Senior Judge is sitting as a member of the Resident Judge’s Court under section 6(3) of the principal Ordinance.
8. The Ordinance repeals the Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2011 and makes other minor amendments.

