

No. 115

THE AKROTIRI COMMUNITY ORDINANCE 2001
(Ordinance No. 23 of 2001 as amended by Ordinance No. 24 of 2001)

BYE-LAWS MADE UNDER SECTION 87(2)

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THE AKROTIRI COMMUNITY ORDINANCE 2001

(Ordinance No. 23 of 2001 as amended by Ordinance No. 24 of 2001)

BYE-LAWS MADE UNDER SECTION 87(2)

In exercise of the powers vested in them under section 87(2) of the Akrotiri Community Ordinance 2001^a, the Akrotiri Community Council, with the approval of the Chief Officer, hereby make the following Bye-laws:–

PART 1 – GENERAL

Citation

1. These Bye-laws may be cited as the Akrotiri Community Council (Employment of Officers) Bye-laws 2003.

Interpretation

2. In these Bye-laws, unless the context otherwise requires –

“determined” means determined by the Council either in accordance with Bye-laws made under the Ordinance or by decision, directions or circulars and cognate expressions shall be construed accordingly;

“employee” means any permanent or casual employee employed on a full or part-time basis by the Council, including the Secretary and any employee employed jointly by other Councils notwithstanding his usual place of work;

“post” means any post provided for in subsection (1) of section 87 of the Ordinance but does not include any workmen appointed by the Council;

“the Ordinance” means the Akrotiri Community Ordinance 2001.

Application

3. Unless otherwise provided, these Bye-laws apply to each employee of the Council.

Appointment etc. of staff

4. Save as otherwise provided by these Bye-laws or elsewhere, the Council shall appoint staff (whether subject to a probationary period or on a permanent basis), assign them to their respective posts, and, as appropriate, may promote them and exercise disciplinary control over them, and shall make arrangements and establish procedures in relation to their retirement (including compulsory retirement) and dismissal.

Protection of the members of the Council

5. Subject to the provisions of the Ordinance and of these Bye-laws, neither the Head of Community nor any other member of the Council shall be liable for anything said or done or not done in the course of performing their duties in good faith.

Obligation of employees to assist the Council

6. The Council may require any employee to appear and testify

^a Ordinance 23/01 as amended by Ordinance 24/01.

before it or give any information or assist the Council in any other way in connection with any matter for which the Council is responsible, and may require the production of any official documents in relation to any such matter.

Supply of documents

7. If an employee submits an issue to be decided upon by the Council he shall ensure that all relevant exhibits and documents are at the disposal of the Council.

PART 2 – STAFFING STRUCTURE

Number of posts

8. The Council shall determine, in accordance with section 87(1) of the Ordinance, and with the approval of the Chief Officer, the number of permanent employee posts required by the Council.

Posts to be entered in annual estimates

9. The approved number of posts shall be entered in the annual estimates of the Council together with the title, salary or salary scale of each post.

Pensionable posts

10. Permanent posts may be pensionable or non-pensionable:

Provided that any pensionable posts which exist at the date that these Bye-laws come into force shall be regarded as pensionable in accordance with the provisions of these Bye-laws.

Transferable posts

11. – (1) A post shall be categorised as either transferable or non-transferable.

(2) The Council shall determine into which category each post shall be placed.

Categories of posts

12. The Council shall divide each post into a category and class as appropriate and include such divisions in the approved budget of the Council and in the schemes of service:

Provided that until such categories and classes are determined, any categories and classes of the various posts which exist at the date that these Bye-laws come into force shall continue to exist.

PART 3 – APPOINTMENTS, PROMOTIONS, TRANSFERS, RESIGNATIONS AND RETIREMENTS

Interpretation

13. For the purposes of this Part, unless the context otherwise requires –

“appointment” means the assignment of a post to a person not already employed by the Council or the assignment of an employee to a post other than the one he permanently possesses in circumstances which do not constitute a promotion, and cognate expressions shall be construed accordingly;

“promotion” means a permanent change in an employee’s post which results in an increase of his remuneration or his accession to a higher rank or to a salary scale with a higher maximum limit, whether or not the remuneration of the employee is increased immediately upon such change, and cognate expressions shall be construed accordingly.

Schemes of service

14. – (1) The Council shall, with the approval of the Chief Officer, determine the general duties and responsibilities of a post and any qualifications required for its possession and set these out in a scheme of service.

(2) In addition to any qualifications required, a candidate may also be required to succeed at a competition by way of written examination or oral interview (or both) as directed by the scheme of service.

Categories of posts for purposes of appointment or promotion

15. – (1) For the purposes of appointment or promotion each post is divided into one of the following categories –

- (a) a First Appointment Post to which any person (whether or not he is already employed by the Council) may be appointed;
- (b) a First Appointment and Promotion Post, to which any person (whether or not he is already employed by the Council) may be appointed or promoted;
- (c) a Promotion Post, to which any employee currently employed in the grade or post of the specific class or subdivision of a class immediately below the grade or post to which promotion is sought (“the relevant post”), may be promoted.

(2) The category of each post shall be determined by the Council and set out in the relevant scheme of service.

(3) For the purposes of this bye-law, “subdivision of a class” means a class which consists of two or more posts which are either the same or of a similar nature but which involve different salaries or salary scales.

Advertisement of vacant posts

16. (1) Subject to the provisions of the Ordinance, the Council shall advertise any vacancy as follows –

- (a) vacancies for First Appointment or First Appointment and Promotion posts shall be published in at least two daily newspapers and a copy of the vacancy notice shall additionally be displayed at a conspicuous place in the community;
- (b) a Promotion vacancy shall not be advertised but is to be filled by the promotion of an employee employed in the relevant post as defined in bye-law 15(1)(c);
- (c) the publication of a vacancy shall provide full details of the scheme of service and the time-limit for the submission of an application.

Type of appointment

17. Subject to the provisions of the Ordinance, a permanent post may be filled either permanently or by contract for a specified period as the Council may decide.

Qualifications for appointment

18. No person is eligible for employment by the Council, unless he—

- (a) is a citizen of the Republic;
- (b) is aged 18 or over and has fulfilled his military obligations or has been lawfully exempted from fulfilling such obligations;
- (c) has not completed his sixtieth birthday;
- (d) possesses the qualifications prescribed in the scheme of service for the post in respect of which an appointment is about to be made;
- (e) has not been convicted of a crime of a serious nature involving moral indecency or a lack of honesty;
- (f) has not previously been dismissed by the Council or by any service of the Areas or of the Republic or by a public law corporation by reason of any disciplinary offence; and
- (g) is certified by a doctor appointed by the Council as physically able to carry out the duties of the proposed post following a medical examination which includes an X-ray of the chest.

Provided that the Council may, subject to the provisions of the Ordinance or of any other Ordinance, exceptionally appoint a person who is not a citizen of the Republic if the Council is satisfied the appointment could not be appropriately filled by a citizen of the Republic. If such an appointment is made, it shall be a contract for a specified period.

Assessment and appointment of candidates

19. – (1) Subject to the provisions of the Ordinance and the relevant scheme of service, a candidate for an appointment shall take a written or oral examination, or both, as the case may be.

(2) In assessing a candidate, regard shall be given to the provisions of the Assessment of Candidates for Appointment to the Public Service Law of the Republic 1998 as amended^b, the results of any examinations set by the Council, any qualifications held by the candidate which are relevant to the duties of the post applied for, the particulars of his application and his experience in relation to the duties of the post applied for.

(3) A permanent appointment shall be made by a written offer from the Council to the person it selects for appointment and by the written acceptance by him.

(4) An offer shall state the remuneration and other conditions of service for the post.

(5) Where the person selected declares that he accepts any offer

^b Republican Laws Nos. 6(I)/1998; 73(I)/1998 and 52(I)/2001.

made to him, and, in the case of a person who is not already an employee of the Council, the report of an approved Council doctor who examined him is satisfactory, the Council shall inform him in writing that he has been appointed and shall determine the date from which such appointment shall take effect.

Promotion

20. – (1) The criteria to be taken into account for the promotion of employees shall be –

- (a) his value to the Council;
- (b) his qualifications; and
- (c) his seniority.

(2) In assessing the value of a candidate for promotion the Council shall duly take into consideration the content of any staff reports prepared in respect of him, any justified recommendations by the Secretary and the impression which the Council has formed about him during any oral examination which may have taken place.

(3) A promotion shall be made by written offer by the Council to the employee selected for promotion and by the written acceptance by him.

(4) An offer shall state the remuneration and other conditions of service for the post.

(5) When an employee selected for promoted declares that he accepts any offer made to him, the Council shall inform him in writing that he has been promoted and shall determine the date from which such promotion shall take effect.

Probationary period of employment

21. – (1) The permanent appointment of a person who is not already a permanent employee of the Council shall be made subject to a probationary period of two years:

Provided that the Council may in an exceptional case and in accordance with specified criteria not require a probationary period at all or reduce or extend such period.

(2) The appointment of an employee who is subject to a probationary period may, subject to the provisions of this bye-law and of sections 88 and 91 of the Ordinance, be terminated at any time during the probationary period.

(3) Before any termination in accordance with paragraph (2) takes place, a notice must be given to the employee of the intention to terminate, containing the reasons for the proposed termination and inviting him to make any representations he would wish to make against the proposed termination.

(4) Having regard to any representations submitted in accordance with paragraph (3), the Council may either terminate the appointment or extend the probationary period by up to one further year, as the Council may deem appropriate:

Provided that the total length of any extension of a probationary period may not in any case exceed three years.

(5) The provisions of paragraphs (2) to (4) apply to each extension of a probationary period which may be ordered by the Council.

(6) Within one month from the expiry of the probationary period the Council shall decide whether the appointment shall be validated or terminated.

(7) In any case in which the Council decides to extend the probationary period, the relevant employee shall be notified in writing of that decision not later than ten days after the completion of the original probationary period. The notice shall state the reasons for the extension in order to facilitate the employee to improve his effectiveness.

Terms of the contract of employment

22. (1) Subject to the provisions of the Ordinance, an appointment by contract shall be in the form of a written contract which is to include the duration of such contract, the remuneration of the person to be appointed and the other conditions of the appointment.

(2) The duration of the contract, remuneration and remaining conditions of an appointment shall be decided by the Council.

Replacement appointments

23. Subject to the provisions of the Ordinance, when a post becomes vacant for any reason or the holder of a post is absent on leave or is not in a position to carry out the duties of the post, another employee may be appointed to that post under such conditions as may be determined by the Council.

Staff reports

24. – (1) A staff report shall be prepared for each employee, other than the Secretary, and submitted to the Head of Community.

(2) Where an employee is appointed subject to a probationary period of two years, a staff report shall be prepared in respect of him every six months. The final staff report shall be prepared and submitted one month prior to the expiry of his probationary period and shall contain a recommendation as to whether his appointment should be validated or terminated or whether his probationary period should be extended.

(3) After being prepared, a copy of the staff report must be provided to the relevant employee:

Provided that no unfavourable staff report shall be prepared for an employee before he is given the opportunity to make representations as to its proposed content.

(4) Where in a staff report, an employee is criticised for acting in a negligent or improper manner in the discharge of his duties or for omitting to discharge any of his duties, the part of the report which refers to such matters shall be notified to him without delay, and within fifteen days from such notice he shall have the right to be heard by the Council and request the deletion or amendment of this part of the report. The Council shall examine the matter and after listening to the opinions of the assessment group and the opinions of the employee concerned, shall decide upon the matter without delay, update the respective file of the employee concerned, and notify the employee of its decision.

(5) Subject to paragraph (2) above, a staff report shall be prepared for each employee, by an assessment group, during the first three months of each year and shall be recorded in the personal file of that employee. In preparing such reports, regard shall be given to the Rules to be followed in the preparation of civil servants' staff reports, in accordance with the Civil Servants (Assessment) Regulations of the Republic^c.

(6) Assessment groups for employees other than heads of departments shall consist of at least two members, one of whom must be the Secretary and one of whom must be the head of the department in which the relevant employee is posted. Where the employee has served in one or more different posts during the relevant reporting period, the assessment group shall additionally include the heads of each of those departments:

Provided that if there is a vacancy in the post of head of the department in which the employee for the time being is posted, the staff report shall be prepared by the Secretary alone who shall note the existence of the vacancy in his report.

(7) The Secretary shall preside over each assessment group.

(8) A staff report for each head of department shall be prepared by the Secretary. Where a head of a department has any objection to a staff report which the Secretary has prepared for him, he shall have the right to refer the matter to the Head of Community. After listening to the opinions of the objecting head of a department and of the Secretary, the Head of Community shall record his own opinion in the report together with the opinions of the Secretary and of the objecting head of department.

(9) No person who is a spouse or relative by blood or by affinity up to third degree of any employee to be assessed shall participate in the assessment of an employee:

Provided that if, by reason of any obstacle caused by affinity, it is not possible for both members of the assessment group to prepare the staff report it shall be drawn up by the other member of the group alone; in such a case the existence of an affinity shall be noted in the report

(10) An employee who wishes to dispute the promotion of one or more employees shall have the right, either personally or by his advocate, to inspect the file containing his own staff reports and those of the employee or employees who have been promoted.

Supernumerary appointments and promotions

25. – (1) The Council may make a supernumerary appointment or promotion to a post of a lower grade and salary in the same sector in one of the following cases –

- (a) when a vacancy in a higher grade post and which commands a higher salary in the same sector cannot be filled due to the absence of an appropriate candidate;
- (b) in place of a vacant promotion post of a higher grade and salary in the same sector which exists on the day of filling, a vacant post of a lower grade and salary in the same sector.

^c Republican Gazette III (I) 29.2.1990; 30.4.1993; 2.2.1996.

(2) A supernumerary appointment or promotion shall be made on a temporary basis and shall be terminated without delay after filling the post for which such appointment or promotion was effected:

Provided that, in the case of a vacancy for which any supernumerary appointment or promotion has been created, such appointment or promotion may continue until the vacancy is filled.

Employment of disabled persons

26. – (1) Subject to the provisions of any other Ordinance, any disabled person who applies for a vacancy and possesses all the qualifications required under the scheme of service, shall be preferred above other candidates for the same post, provided the Council is satisfied that –

- (a) he is capable of properly exercising the duties of the post; and
- (b) he is not less suitable, in comparison to the other candidates, in terms of his potential value to the Council and in terms of his qualifications.

(2) When formulating its opinion on a disabled person, the Council may request and take into account the opinions of such experts as it deems appropriate.

(3) For the purposes of this bye-law –

“disabled person” means any person suffering from birth or as a result of a subsequent accident, partial or total physical disability where such disability derives from a serious malformation or serious amputation of the upper or lower limbs or from myopathy, paraplegia, tetraplegia or from loss of the hearing from both ears or from other severe cause which provokes a substantial reduction of the physical ability and allows such person to exercise only a limited number of occupations to earn his living.

Cancellation of promotion

27. – (1) Subject to the provisions of this bye-law, the Industrial Disputes Tribunal shall have exclusive jurisdiction to determine any dispute of a civil nature arising from a decision of the Council to promote an employee.

(2) Part III of the Citizens of the Republic (Jurisdiction of Courts) Ordinance 1960^d shall apply to disputes of a civil nature arising from a decision of the Council to promote an employee, and for such purpose –

- (a) any proceedings in connection with such a dispute shall be treated as civil proceedings and, as appropriate, as an action or an appeal; and
- (b) the Industrial Disputes Tribunal shall be treated as a Court of the Areas, and the Industrial Disputes Court of the Republic shall be treated as a District Court of the Republic.

^d Ordinance 10/73 as amended by Ordinance Nos. 12/79, 21/80 and 40/02.

(3) An award by the Industrial Disputes Tribunal or by the Industrial Disputes Court of the Republic under the provisions of this bye-law shall be recoverable as a civil debt.

(4) Where a decision of the Council to promote an employee is cancelled by the Council pursuant to a decision of the Industrial Disputes Tribunal, and subsequently the Council reconsiders the matter and reaches a different decision, it may, in accordance with paragraph (5) below, promote the employee concerned (including giving him a supernumerary promotion) to a post such as he might reasonably have been promoted to had his original promotion not been cancelled.

(5) The power of the Council referred to in paragraph (4) above shall be exercised only if the Council determines that, given the value to the Council of the employee, his qualifications and seniority and the number of vacancies which have been filled during the period between its original decision and the cancellation of such decision, the career of the employee has been adversely affected.

(6) Notwithstanding any other provision in these Bye-laws, when a supernumerary promotion of an employee is effected in accordance with paragraph (4) above, that employee shall enjoy all the rights and benefits pertaining to such post until a permanent vacancy is created under the same title, when he shall fill in such vacancy by means of promotion.

(7) When the Council promotes an employee in accordance with paragraph (4), it shall take effect from the date on which, in the opinion of the Council, the employee would originally have been promoted, had such promotion not been cancelled.

Abolition of post

28. Subject to the provisions of the Ordinance, in any case in which a post is abolished, the employee in post at the time of that decision shall be regarded as continuing to hold it and shall remain entitled to all the privileges and benefits attaching to that post until such time as he retires, or is appointed or promoted to another post.

Transfer of employees

29. – (1) For the purposes of this bye-law –

“transfer” means the movement of an employee from one sector of the Council to another sector of the Council.

(2) A transfer of an employee shall be carried out following a duly justified decision by the Secretary and with the approval of the Head of Community:

Provided that no more than two such transfers of the same employee may be carried out in the same year, unless the Council otherwise decides.

Seniority amongst employees

30. – (1) Seniority amongst employees who hold the same permanent post or class of the same post shall be calculated in accordance with the date of their appointment or promotion to that post, irrespective of the manner of holding such post.

(2) In the case of a simultaneous appointment or promotion to a

specific post or class of the same post, the seniority of employees shall be determined in accordance with their previous seniority.

(3) The seniority of employees who hold different posts under the same salary terms shall be determined in accordance with the date of their appointment or promotion to their present posts, irrespective of the manner of holding such posts, or if the dates are the same, in accordance with their previous seniority.

(4) The seniority of employees who hold posts under different salary terms shall be determined in accordance with the salary terms of the respective posts.

(5) A determination as to seniority based on salary terms shall be made as follows –

- (a) where there is a salary scale for the relevant post, by having regard to the highest point of such scale;
- (b) in the case of scales of the same highest point, by having regard to the lowest point of the scales;
- (c) in the case of combined salary scales of a post or class of a post, by having regard to the highest point of the highest scale of each post or class and in the case of scales of the same highest point, the lowest point of the lowest scale of each post or class.

(6) The seniority of employees who previously held the same post or class of the same post or different posts under the same salary terms, but where the salary and title of such post or posts has changed as a result of a revision of salaries or reorganisation, shall be determined in accordance with the seniority of those employees immediately before such revision or reorganisation.

(7) The seniority of an employee who has been reappointed at the same post or class of the same post after an interruption of his service shall be determined, subject to the provisions of any Ordinance and these Bye-laws, in accordance with the date of his reappointment.

(8) In this bye-law –

“previous seniority” means the seniority of employees in the post or class they held immediately before holding their present post or class. If such seniority is the same, the same comparison shall be carried out in respect of any earlier posts, until their first appointment in the service. Where any seniority at the first appointments is the same, seniority shall be determined in accordance with the age of employees;

“class of the same post” means a class of a certain post which is combined with another class in the same post, where the classes have a unified maximum number of posts.

Education of employees

31. Any series of educational lessons and other facilities may be arranged by the Council for its employees for the purpose of improving the employees’ ability in the discharge of their duties and the acquisition by such employees of any qualifications required in order to progress in the service. The Council may require employees to attend any such lessons and pass any examinations.

Resignation

32. – (1) Save as provided elsewhere, an employee shall not resign from his post without the previous permission of the Council.

(2) An employee who resigns from his post without the previous permission of the Council shall be considered to be absent from duty without permission and may be liable to disciplinary action.

Retirement

33. – (1) Subject to the provisions of the Ordinance and notwithstanding the provisions of any other Bye-laws the Council shall agree to the retirement of a permanent pensionable employee from its employment in the following cases –

- (a) when the age for the compulsory retirement of an employee has passed;
- (b) when retirement is requested by an employee who has completed his fifty fifth birthday;
- (c) after an application from an employee for voluntary premature or early retirement;
- (d) for health reasons;
- (e) due to the bankruptcy of an employee as provided for in bye-law 49;
- (f) when the retirement takes place to enable the employee to take up an appointment in a public office which is incompatible with the post he holds as an Officer of the Council or so that he may be appointed to a public law corporation or to another local authority;
- (g) as a disciplinary penalty, in accordance with the provisions of the Ordinance or any Bye-laws made under it.

(2) If the Head of Community proposes retirement in the circumstances set out in sub-paragraphs (a) or (f) of paragraph (1) above, the Council shall agree to the compulsory retirement of that employee:

Provided that in the case of sub-paragraph (f), the requirements in paragraph (4) below are satisfied.

(3) Any decision regarding the retirement of an employee in accordance with sub-paragraph (b) of paragraph (1) shall be taken only after the employee is given the opportunity to be heard.

(4) In the cases of sub-paragraphs (c) and (f) of paragraph (1) above, the Council shall agree to the retirement of an employee only after confirming that –

- (a) an employee has no financial obligations towards the Council or the Administration or, if he has any, that he proposes to settle such obligations, and
- (b) no disciplinary or criminal case is pending against him.

Age of employee

34. – (1) The date of birth of an employee shall be proved by the production of a birth certificate issued by the competent authority responsible for the issue of such certificates.

(2) Where the production of an official birth certificate in accordance with paragraph (1) above is not possible, the age of the employee shall be proved by the production of other particulars to be determined by the Council in each case.

(3) The date of birth of an employee who was employed by the Council at the date that these Bye-laws come into force and whose date of birth cannot be proved by an official birth certificate shall be considered, for all purposes, including the computation of his retirement date, to be the date of birth declared by the employee at the time of his initial recruitment as an employee of the Council.

(4) If only the year or month of birth may be proved in accordance with this bye-law, an employee shall be considered to have been born on the last day of the said year or month, as the case may be.

PART 4 – BENEFITS OF EMPLOYEES

Remuneration

35. The remuneration of an employee shall include his salary and any grants.

Sick Leave

36. An employee of the Council is entitled to the same sick leave as that which is provided for employees of the Public Service of the Republic.

Medical Care

37. An employee shall be entitled to such medical care as may be determined by the Council.

Uniforms of employees

38. (1) The Council shall from time to time decide which employees are entitled to receive uniforms.

(2) An employee who is provided with a uniform in accordance with paragraph (1) shall be required to wear it at all times during the performance of his duties.

PART 5 – DUTIES, OBLIGATIONS AND RIGHTS OF EMPLOYEES

Duties of employees

39. – (1) In the performance of his duties and the exercise of his powers an employee shall –

- (a) at all times act within the law;
- (b) perform his duties without bias, fairly and only on the basis of objective criteria and take all possible steps to promote the smooth operation of the Council and any service provided by it;
- (c) not participate, either personally or as a member of a collective body, in the resolution of any issue if he, his spouse or partner or a relative by blood or by affinity up to fourth degree, has any beneficial interest in the matter. Any employees who are relatives between them of up to fourth degree by blood or by affinity shall not be entitled

to participate in the same meeting of a collective body:

Provided that it shall not be permitted to exempt so many members from the meeting of a collective body to the extent that any remaining members may not form a quorum;

- (d) take all possible steps to provide services to the public without bias and in an objective and fair manner;
- (e) comply with any legal provisions, administrative instructions and circular orders issued by the Council which are made in accordance with such provisions, and also with the instructions of employees in a higher rank than him. At the same time he must be responsible for the carrying out of his duties and the legitimacy of his service actions:

Provided that where any order appears to be manifestly illegal, an employee shall not perform it but instead shall refer it to his superior. If his superior, based on the opinion of the legal adviser of the Council that the order is not illegal, insists on the execution of the order, the employee shall be required to comply with such order;

- (f) not act or fail to act or behave in a manner that may damage the reputation of the Council in general, or his post in particular, or which may lead to the wavering of the public's confidence in the Council; and
- (g) behave with dignity, politeness and sincerity.

(2) The duties of an employee are the normal duties of his post as set out in the relevant scheme of service, and any other duties which may be assigned to him by the Council.

Trade union rights

40. An employee shall have the freedom to exercise any trade union rights unobstructed.

Membership of Trade Union

41. An employee may become a member of a trade union or of an association of trade unions or confederation in so far as these are registered under the Trade Unions Ordinance^e.

Officers of the trade union

42. Any officer of an employees' trade union or any other member duly authorised by such union shall be entitled to such facilities and leave with or without pay as may be considered reasonable by the Council, to the extent that each is necessary for the exercise of his trade union duties.

Absence of employee

43. An employee who is absent from duty without leave or who wilfully refuses or fails to carry out his duties may be liable to disciplinary action.

Freedom of expression

44. – (1) Subject to the provisions of paragraph (2), an employee is free to express his opinion either in private or in public, by

^e Ordinance 4/68.

speeches, lectures, announcements, surveys or articles in relation to science, art, civilization, religion or matters of general interest.

(2) No employee may publish or broadcast on the television, radio or other means any material which concerns the exercise of his duties without the prior approval of the Council.

(3) No employee may be paid for any publication or broadcast without the prior approval of the Council.

Work environment

45. An employee has the right to be provided with hygienic and safe conditions in his workplace.

Occupations outside the Council

46. – (1) An employee is required to attend for work at any time, to the extent this is required by the needs of the Council.

(2) An employee shall not exercise any profession or occupation or be engaged in any work or undertaking apart from his work for the Council:

Provided that in exceptional cases, the Council may grant a licence to an employee for part-time occupation or recruit an employee on such conditions as shall permit him to exercise any part-time occupation provided this shall not affect the carrying out of his duties as an employee of the Council.

(3) An employee shall not –

- (a) participate in the administration of any company or co-operative or other undertaking of a private nature; or
- (b) hold shares or other interests in any company or co-operative or other undertaking of a private nature,

other than in accordance with a permission or licence granted by the Council, which may be granted on such conditions as the Council may determine, in so far as the granting of such permission or licence does not conflict with the community duties of the employee.

(4) Notwithstanding the provisions of paragraph (3), the Council shall grant a permission or licence to an employee, for the purposes set out in paragraph (3), in the following cases –

- (a) when the granting of a permission or licence serves the public interest; or
- (b) when the interest of an employee in a company, co-operative or undertaking of a private nature arose from hereditary succession and such interest will not affect that employee in the exercise of his duties.

(5) An employee is entitled to acquire shares of public companies, securities of the Republic and securities of the Council.

(6) An employee shall, on his appointment by the Council and subsequently on the anniversary of such appointment, declare to the Council the particulars of any investment or interest he may have in any company or co-operative or undertaking of a private nature, the business of which is directly or indirectly related to his duties.

Acquisition of property

47. – (1) An employee shall not acquire either directly or indirectly any movable or immovable property by taking advantage of his post; nor shall he own any property in circumstances where his personal interest in that property conflicts with his community duties.

(2) An employee shall –

- (a) submit to the Council a declaration of his assets or those of his wife or of any child of his whom he is maintaining, by 31st March of the year following the year in which these Bye-laws come into force;
- (b) thereafter submit to the Council by 31st March of every third year of his appointment, a declaration of any changes or foreseen changes in such assets;
- (c) submit a nil declaration if there are no changes to report since his previous submission.

(3) The Council may, where circumstances justify its doing so, require the submission of a declaration of an employee's assets at any other time provided a reasonable period of time is given to the employee for its submission.

(4) The Council may require an explanation about any part of an employee's declaration.

(5) If an inaccuracy is found in an employee's declaration of his assets he may be liable to disciplinary action.

(6) In any case in which there is a reasonable suspicion as to the legitimacy of the source of any financial resources of an employee, an investigation may be carried out in a manner established by the Council in order to ascertain the origin of such resources. Where it is ascertained from such an investigation that an employee has acquired such resources under circumstances which appear to constitute a criminal or disciplinary offence, the Council shall take all appropriate measures.

Official information, testimonies and documents

48. – (1) Any written or oral information provided by an employee during the discharge of his duties shall be confidential to the Council and shall not be communicated to any person, except for reasons of proper discharge of a duty of the Council or upon an explicit order by the Head of Community or the Council.

(2) Subject to the provisions of any other Ordinance, where a summons is served on an employee to give evidence in relation to a matter concerning the discharge of his duties, or to produce an official document which is in his custody, the employee shall refer the matter to the Head of Community or to the Council for a decision as to whether such evidence or the production of any required document is likely to be contrary to the public interest, in which case the Head of Community or Council, as the case may be, shall seek advice from the legal adviser to the Council before deciding how to proceed.

(3) An employee shall not give technical or scientific advice to any person without the permission of the Council, unless in connection with the discharge of his duties.

Bankruptcy of employees

49. – (1) An employee against whom a bankruptcy process is commenced shall forthwith inform the Head of Community.

(2) As soon as an employee is declared bankrupt or an order of receivership is issued against him or a compromise is reached with his creditors, he shall be suspended in accordance with the provisions of these Bye-laws and shall not be restored to his post unless the Council shall determine, in accordance with any procedure before the Court or after examining the facts and listening to the employee, that his financial difficulties were caused by unavoidable misfortune and not be his gross negligence or that there are any other mitigating circumstances for such employee.

(3) During any period of suspension imposed on an employee under this bye-law, all powers, privileges and benefits attaching to his post shall be suspended:

Provided that the Council shall allow an employee to receive part of the remuneration of his post, not less than half, as the Council may determine.

(4) If the Council decides upon the restitution of an employee to his post in accordance with paragraph (2) above, his suspension shall be terminated forthwith and he shall be entitled to the whole amount of the remuneration he would have received had he not been suspended.

(5) If the Council decides not to restore the employee to his post, the employee shall be retired from the employment of the Council and the provisions of paragraph (6) of bye-law 60 below shall apply.

Gifts and bribes

50. – (1) An employee shall not directly or indirectly receive or give any gifts which consist of money, other goods, or any personal benefits other than gifts of a kind commonly received from or given to relatives and friends:

Provided that, on retiring from the employment of the Council, an employee may accept any gift in accordance with the prescribed manner;

Provided further that this provision may be suspended by the Council in any case in which the Council considers that to refuse the gift would be contrary to the public interest.

(2) Where the Council determines that a refusal of the gift would be contrary to the public interest, an employee may accept it but must notify the Head of Community forthwith and such gift shall be dealt with in such manner as the Council shall determine.

(3) An employee shall inform the Head of Community of any offer of a gift made to him in contravention of the provisions of this bye-law and such gift shall be dealt with in such manner as the Council shall determine.

(4) If a gift is offered or given to an employee for any service provided or is to be provided by such employee acting in his official capacity, he must inform the Head of Community before accepting or giving it as the case may be.

Civil liability for loss or damage

51. – (1) An employee shall be responsible to the Council for any loss or damage caused by any negligent or dangerous act or omission of his in the discharge of his duties and may be liable for the whole or part of any loss or damage caused in this manner, if the Council shall so decide, after receiving the opinion of the legal adviser of the Council and the Chief Officer.

(2) An employee shall also be responsible to the Council for any compensation that the Council has paid to any third persons for any loss or damage arising from the negligent or dangerous acts or omissions of the employee in the discharge of his duties.

(3) A claim by the Council for compensation against any employee in the case of the above paragraphs shall lapse as follows –

- (a) in the case of paragraph (1) after three years from the date the damage has occurred;
- (b) in the case of paragraph (2) after three years from the date the Council has paid the compensation to the third party.

Political rights of employees

52. – (1) Subject to the provisions of these Bye-laws, an employee has the right to express freely his political beliefs and political views, either publicly or in private, other than during his working hours.

(2) An employee has the right to be a simple member of a political party of his choice.

(3) An employee has the right to attend political gatherings or other similar events.

(4) An employee shall not become involved in the organising of any party-related gatherings or other events or take part in or make any speeches at any such gatherings or events at which the aim is to promote the political expectations of any person or party.

(5) An employee shall not do any act, by using his post or exerting his influence, which aims to assist any person in a political party or a party-related organisation or which might lead to any person being influenced in favour of a political party or political person.

(6) A licence, permission or leave as appropriate shall be granted to an employee who wishes to become a candidate for a political post which is incompatible with the status of an employee of the Council, for a period of forty days prior to the carrying out of the elections.

(7) On an application by an employee, a licence, permission or leave as appropriate shall be granted to him for a period of one month after the announcement of the results of the elections.

(8) Any licence, permission or leave granted within the period prior to the elections may be extended up to forty five days, if the employee so wishes.

(9) Any leave granted in accordance with paragraphs (6) to (8) may either be leave without payment, unless this is contrary to the public interest, or normal leave, such as the leave an employee is entitled to in accordance with his scheme of service, as an employee may choose. During such period, the provisions of paragraphs (4) and (5) shall not apply.

(10) Where an employee succeeds in the elections, he shall be required to retire from the post he holds.

(11) The conditions of employment for an employee who returns to his post following any leave granted in accordance with paragraphs (6) to (8) shall not be affected by his activities and any opinions he may have expressed during the pre-election period.

Working time

53. – (1) Subject to the remaining provisions of this bye-law, the working time of an employee for each week shall be divided into five working days, in a manner to be determined by the Council:

Provided that the total of the weekly working time of employees employed by the Council at the time these Bye-laws come into force shall not be affected, unless the Council shall otherwise decide.

(2) An exemption may be ordered in relation to an employee from the application of the five-day working week in so far as this is required by the conditions of operation of the post and the kind and type of work.

(3) The other conditions of the application and operation of the five-day working week shall be determined by the Council.

PART 6 – DISCIPLINARY CODE

Disciplinary Action

54. – (1) In addition to any disciplinary offences specified elsewhere in these Bye-laws, an employee shall be liable to disciplinary action if –

- (a) he commits an offence which involves moral indecency or lack of honesty;
- (b) he acts in a manner which is contrary to his duties as an employee or fails to carry out any obligations arising from his employment;
- (c) during any disciplinary procedure before the Council, he behaves in an improper or contemptuous manner towards the Council or without sufficient cause fails to appear before the Council, when legally called to do so, or fails to comply with any instruction lawfully given by the Council.

(2) For the purposes of this bye-law the term “obligations arising from his employment” shall include any duty or obligation imposed upon an employee under these Bye-laws or any other Ordinance or Bye-laws or under any administrative act made under it or under any order or instruction issued by the Council.

Disciplinary Action for the same offence

55. An employee shall not be liable to disciplinary action in respect of a disciplinary offence which has already been the subject of disciplinary action and in relation to which he has previously been found guilty or innocent.

Number of disciplinary penalties

56. Only one disciplinary penalty shall be imposed for the same disciplinary offence:

Provided that a reprimand or severe reprimand may be imposed with any other penalty prescribed in sub-paragraphs (c), (d), (e) or (f) of paragraph (1) of bye-law 61.

Liability to disciplinary action of former employees

57. An employee who is no longer employed by the Council shall not be subject to disciplinary action which is commenced after his employment ceased, but any action which may have started prior to the cessation of his employment shall continue, save in the case of the death of the employee.

Disciplinary action when criminal proceedings issued

58. If criminal proceedings are issued against an employee, disciplinary action may not be commenced or continued with in relation to him in connection with any matter connected with the criminal prosecution, until such prosecution has been finalised.

Disciplinary action after criminal prosecution

59. An employee who has been prosecuted for a criminal offence and has been found not guilty of the same by a Court may not be subject to disciplinary action for the same charge, but if appropriate, action may be taken against him in relation to a disciplinary offence which arises from his conduct, or which is related to the criminal case, but which has not given rise to any specific criminal charge.

Disciplinary penalties

60. – (1) The following disciplinary penalties may be imposed by the Council under the provisions of section 91 of the Ordinance –

- (a) reprimand;
- (b) severe reprimand;
- (c) interruption of annual increment;
- (d) deferment of annual increment;
- (e) monetary penalty not exceeding three months emoluments;
- (f) demotion to a lower scale;
- (g) compulsory retirement subject to the provisions of subsection (2) of section 91 of the Ordinance; or
- (h) dismissal.

(2) A reprimand shall be given orally and shall be noted in the personal file of the employee concerned.

(3) A severe reprimand shall be given in writing and a copy of it shall be given to the employee and entered in his personal file.

(4) An interruption of an annual increment means the non-payment, for a specified period of time, of an increment which apart from the imposition of such penalty would otherwise be due to the employee, without changing the date on which such increment is ordinarily due.

(5) A deferment of an annual increment means the deferment of the date on which the next increment due to an employee is payable, with equivalent deferments in following years.

(6) Any dismissal shall result in the loss of all retirement benefits:

Provided that there shall be paid to the wife or dependant children, if any, of an employee who has been dismissed, a pension, as if such employee had died on the date of his dismissal and which is to be calculated on the basis of his actual years of service.

Deletion of penalties

61. – (1) A disciplinary penalty imposed in relation to an employee shall be deleted from his records as follows –

- (a) in the case of a reprimand, after three years from its imposition;
- (b) in the case of a severe reprimand, after five years from its imposition;
- (c) in the case of any other penalty (except the penalties of obligatory retirement and dismissal), after ten years from its imposition.

(2) Once a disciplinary penalty is deleted from the personal file of the employee concerned in accordance with this bye-law it may no longer be used to his prejudice.

Taking of disciplinary measures

62. – (1) Subject to the provisions of paragraph (b) of subsection (1) of section 91 of the Ordinance, the Council shall not take any disciplinary measures against an employee, unless it is a decision taken by the majority of its members.

(2) Where a charge is brought to the Head of Community or if he realises that an employee may have committed a disciplinary offence, he shall inform the Council which shall forthwith ensure that an investigation shall be carried out in the manner prescribed in Part 1 of the First Schedule and take action as provided for in bye-law 65.

(3) Any disciplinary procedure shall, so far as is possible, be in accordance with the procedure applicable in a court of summary jurisdiction.

Procedure to be followed

63. – (1) If an investigation under paragraph (2) of bye-law 62 establishes that a disciplinary offence appears to have been committed, the Head of Community shall forthwith refer the matter to the Council, together with –

- (a) the report of the investigation;
- (b) any charge to be brought which shall be signed by the legal adviser of the Council and the Head of Community; and
- (c) any evidence to support the charge.

(2) Subject to section 91 of the Ordinance, the Head of Community shall ensure that within two weeks from the date the matter was referred to the Council by him in accordance with paragraph (1) above, or within such other period as the Council may determine, a summons is issued and served on the relevant employee, in the form prescribed by Part II of the First Schedule.

(3) An employee who is subject to disciplinary action is entitled to be aware of the case against him.

(4) An employee who is subject to disciplinary action shall be given copies of any witnesses' statements and any other relevant documents.

(5) The hearing of a case before the Council shall be dealt with in accordance with Part III of the First Schedule.

(6) An employee who is subject to disciplinary action shall be given the opportunity to be heard both in relation to the ascertaining of his guilt and, as appropriate, prior to the imposition of any penalty.

(7) In every procedure before the Council in accordance with this Part, an employee who is subject to disciplinary action may be represented by an advocate of his choice or by a representative of his trade union. An employee shall be informed in writing of this right.

Conviction for certain offences

64. – (1) Where an employee is convicted by a competent Court of an offence which appears to involve moral indecency or lack of honesty and such conviction is upheld after an appeal or no appeal is exercised, the Council shall request, without delay, a transcript of the proceedings from the Court which tried the case or of the Court before which any appeal may have been exercised, as the case may be.

(2) Within two weeks from receiving a transcript of the proceedings as referred to in paragraph (1) above, or such other period as the Council may determine, the Council shall require the opinion of its legal adviser as to whether the offence involves moral indecency or lack of honesty.

(3) The legal adviser of the Council shall provide his opinion on the matter without delay, and if he advises the offence does involve moral indecency or a lack of honesty, then subject to the provisions of section 91 of the Ordinance, the Council shall, without further investigation of the case but after giving the employee concerned the opportunity to submit any representations he wishes to make, impose a disciplinary penalty which is justified in the circumstances of the case.

(4) An employee who has been convicted of a criminal offence which appears to be of the type specified in paragraph (1) shall not receive any part of his remuneration from the date of his conviction until the completion of the procedures prescribed by paragraphs (2) and (3) above.

Suspension

65. – (1) Where an investigation is ordered in accordance with the provisions of paragraph (2) of bye-law 62, or upon commencement of a police investigation which may lead to the criminal prosecution of such employee, the Council may, if it considers it is required to do so in the public interest, suspend an employee during the period of investigation:

Provided that the duration of the suspension of an employee during an investigation shall not exceed three months, but may be extended, if a serious reason arises, for a further three months.

(2) If, after the end of an investigation, a criminal prosecution or disciplinary action is commenced, the Council may, if the public interest so requires, suspend an employee until the final completion of the case.

(3) An employee shall be notified in writing without delay of the fact that he has been suspended.

(4) Any powers, privileges and benefits of an employee arising from his post shall be suspended during the period of his suspension:

Provided that the Council may allow an employee to receive part of the remuneration of his post, not less than half, as the Council shall deem appropriate.

(5) Where an employee is found not guilty of any criminal or disciplinary offence, his suspension shall be terminated and he shall be entitled to the whole amount of the remuneration he might have received, had he not been suspended.

(6) Where an employee is found guilty of a criminal or disciplinary offence, the Council shall decide if any part of his remuneration withheld during the period of suspension should be returned to him.

Failure to co-operate

66. An employee who, although being summoned to appear before the Council, fails to present himself at the time and place stated in such summons or refuses to reply to any question which is properly put to him in a disciplinary hearing, shall be guilty of a disciplinary offence.

PART 7 – MISCELLANEOUS PROVISIONS

Circulars etc.

67. – (1) The Head of Community may issue circulars to employees for the better application of the provisions of these Bye-laws, of the decisions of the Council and generally for regulating any matter which concerns the Council and its employees:

Provided that until the issue of such circulars or the settlement in any other way of any matter under these Bye-laws, any administrative instructions contained elsewhere and the policy in force at the time these Bye-laws come into force shall continue to be valid to the extent that they do not conflict with the provisions of these Bye-laws.

(2) Without prejudice to the generality of subsection (1) above, any such circulars may provide for all or part of the following matters –

- (a) the determination of any matter which is not referred to any judicial process and which needs to be determined under the provisions of these Bye-laws,
- (b) the procedures to be followed and the right of an employee on any matter required or permitted by or under these Bye-laws or arising from their provisions.

Medical examination

68. The Council may at any time require an employee to present himself before a medical practitioner or medical practitioners appointed by the Council, and the Council itself, in order to ascertain whether such employee is capable of discharging the duties pertaining to his post.

Loss of property owned by employees

69. The Council shall not assume any responsibility for the loss of any property owned by an employee or damage to any such property which is caused by any reason during such time as such property is on or in any immovable property or vehicle of the Council.

Employment certificate

70. An employee who withdraws from the employment of the Council shall be entitled, if he so wishes, to be supplied with an employment certificate by the Council.

Public Holidays

71. The Council shall keep as public holidays the same days as those defined as public holidays for public servants in the Public Service of the Republic:

Provided that the Council may keep as a public holiday the local feast day of the Community.

Time-keeping

72. – (1) An employee is required to start and finish his duties at the time specified in the fixed time schedule.

(2) A manual Register of Attendance shall be kept in which an employee shall enter his time of arrival and departure from work:

Provided that any appropriate electronic means may be installed and used, where possible, to replace the manual Register of Attendance

(3) The Register of Attendance shall be withdrawn by the Secretary no later than 5 minutes after the prescribed time of commencement of work and shall be put back in its place by the Secretary at the time that such work is to finish.

(4) An employee who arrives late at work shall present himself to the Secretary in order to give an explanation for the delay in commencing his duties.

(5) An employee is not permitted to be absent from his duties for private matters during working hours, unless in an exceptional case and upon prior permission by the Secretary or his superior in charge. In any case in which the employee will be absent for more than 2 hours, the employee must submit an application for permission in accordance with the relevant provisions.

Time of payment of remuneration

73. The monthly remuneration of employees shall be paid on the last day of each month.

FIRST SCHEDULE**PART 1****(Bye-laws 62(2) and 63(2))****Method of research into disciplinary offences**

1. If an investigation in accordance with bye-law 62(2) is ordered, the Council shall, without delay, appoint the Secretary and one or more head of department as investigating officers. An investigating officer must be a senior officer and hold a higher post than the post held by the employee who has been charged:

Provided that if the Council shall deem in any case that it might not be possible, practical or applicable to appoint an investigating officer out of any employees of the Council, it shall appoint another appropriate person to carry out an investigation.

2. An investigation shall be carried out without delay and shall be completed not later than thirty days from the date of the ordering, unless the Council provides an extension of time in an exceptional case.

3. In the carrying out of an investigation, an investigating officer shall have the power to take written statements from any person who may know anything about the facts of the case and any such person shall be required to give any information within his knowledge and sign any statement taken by the investigating officer, after it has been read to him.

4. An employee is entitled to know the case against him and to be given a copy of any statements and any relevant documents.

5. An employee shall be given the opportunity to be heard by the investigating officers.

6. Upon completion of an investigation, an investigating officer shall forthwith submit his findings to the Council duly reasoned together with all relevant documents.

7. After receiving the report of an investigating officer, the Council shall forthwith set out its views on the report and then send this together with all submitted documents to the legal adviser of the Council for his opinion.

8. The legal adviser of the Council shall examine the matter without delay and consult with the Council as to whether a charge may be lodged against an employee. If the legal adviser so recommends, he shall draw up a charge and forward it to the Council together with all relevant documents.

PART II

(Bye-law 63(2))

Summons to employee

1. You are hereby called to present yourself before the Council
.....road.....no.....on.....at.....
.....a.m/p.m for the hearing of a disciplinary charge lodged against
you by reason

(Write down briefly the disciplinary charge or charges).

2. It is your responsibility to make the necessary arrangements
for the production of any evidence on which you wish to rely, or
the calling of any witnesses whom you wish to give evidence before
the Council.

3. If you fail to appear before the Council at the place and time
referred to above, the Council may either require your personal
presence or proceed to the hearing of the case in your absence.

.....

Signature

Chairman of the

Community Council

Service of summons

This summons is served on an employee through the Secretary, who
shall ensure that it shall be delivered to the said employee by hand
and that a certificate of receipt is signed by such employee on the
copy of the summons, which shall be returned to the Council.

Provided that the summons may instead be served in the manner
provided for in civil cases by the Civil Procedure Ordinance^f.

^f Cap.6 (laws of Cyprus), Ordinances 18/66, 9/70, 3/83, 22/89.

PART III**(Bye-law 63(5))****Hearing of case**

1. Where an employee appears at the date set by the Council for the hearing of a case, such hearing shall be carried out as provided for in these Bye-laws and this Part.

2. Where an employee does not appear at the said date, the hearing of the case shall be carried out in his absence, after proof that a summons has been served on the employee:

Provided that the Council may require the personal appearance of an employee.

3. The hearing of a case shall be carried out, where possible, in the same manner as the hearing of a criminal case by a court of summary jurisdiction.

4. The Council shall have the power –

- (a) to call witnesses and require their presence and the presence of the employee subject to the disciplinary action;
- (b) to require the production of any document in relation to a charge;
- (c) to accept any statement, written or oral, even if such statement might not be accepted in a civil or criminal procedure;
- (d) to postpone the hearing from time to time, provided that such hearing proceeds without unnecessary delay.

5. During a hearing, minutes of the proceedings are to be kept.

Any decision of the Council must be reasoned and signed by the Chairman of the Council. One copy of such decision must be sent to the Secretary, another copy must be sent to the head of the department in which the employee is employed and a third copy must be given to the employee free of charge.

I hereby approve the making of the above Bye-laws

Dated this 20th day of November 2003.

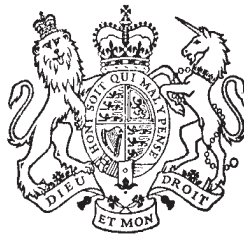
By the Administrator's Command,

P. D. Draycott

Chief Officer,

(128/199)

Sovereign Base Areas.



SUPPLEMENT No. 3
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1314 of 4th December 2003
SUBSIDIARY LEGISLATION

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