



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1097 of 6th May, 1997
LEGISLATION

ORDINANCE 1 OF 1997

AN ORDINANCE
TO AMEND THE CRIMINAL PROCEDURE ORDINANCE

P. MILLAR
ADMINISTRATOR

1st May, 1997.

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

1. This Ordinance may be cited as the Criminal Procedure (Amendment) Ordinance 1997 and shall be read as one with the Criminal Procedure Ordinance, as amended from time to time (hereinafter referred to as "the principal Ordinance").

Short title.

Cap. 155 (Laws of Cyprus), Ordinances 4/60, 19/63, 1/66, 2/72, 2/73, 10/75, 4/78, 11/79, 22/87, 4/92 and 8/96.

2. The principal Ordinance is hereby amended by inserting immediately after section 5 thereof the following two new sections to be numbered 5A and 5B respectively:-

New sections 5A and 5B added to the principal Ordinance.

"Power of Court to draw inferences from silence of accused.

5A.- (1) Where in any criminal proceedings against a person subject to service law for an offence, evidence is given that the accused -

- (a) on being questioned under caution by a service policeman trying to discover whether or by whom the offence had been committed, failed to mention any fact relied on in his defence in those proceedings; or
- (b) on being informed by a service policeman that he will be reported for it, failed to mention any such fact,

being a fact which in the circumstances existing at the time the accused could reasonably have been expected to mention when so questioned or informed, as the case may be, subsection (2) below applies.

(2) Where this subsection applies, the court, in determining whether there is a case to answer, or whether the accused is guilty of the offence charged, may draw such inferences from the failure as appear proper.

(3) Subject to any directions by the court, evidence tending to establish the failure may be given before or after evidence tending to establish the fact which the accused is alleged to have failed to mention.

(4) This section does not -

(a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from this section; or

(b) preclude the drawing of any inference from any such silence or other reaction of the accused which could properly be drawn apart from this section.

(5) This section does not apply in relation to a failure to mention a fact if the failure occurred before the commencement of this section.”.

“Admissibility of statements made under Police and Criminal Evidence Act 1984.

5B. - (1) Any statement made to a service policeman by a person subject to service law which is proved to have been made in accordance with the Police and Criminal Evidence Act 1984 shall be admissible against such a person in any criminal proceedings for an offence within the Sovereign Base Areas.

(2) For the purposes of this section and section 5A above:-

“Police and Criminal Evidence Act 1984” means the Police and Criminal Evidence Act 1984 as the same applies in England and Wales as applied to the Armed Forces by orders made from time to time under section 113 of that Act and includes any code of practice issued under that section;

“person subject to service law” means a person subject to the Naval Discipline Act 1957 or the Army Act 1955 or the Air Force Act 1955;

“service policeman” means a member of the Royal Navy Regulating Branch, the Royal Military Police, the Royal Air Force Police or the staff of the Royal Air Force Provost Marshal.”.

3. Section 8 of the principal Ordinance is hereby amended by deleting the words “section 5” and substituting the words “sections 5, 5A and 5B”.

Section 8 of the principal Ordinance amended.

1 May, 1997
(128/16)

P.A. ROTHERAM,
Chief Officer.