



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

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LANDS AND SURVEYS (FEES AND CHARGES) ORDINANCE 2010

An Ordinance to make provision for fees and charges taken in relation to immovable property
in the Areas

G. E. STACEY
ADMINISTRATOR

15th November 2010.

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 Lands and Surveys (Fees and Charges) Ordinance 2010.

2. Interpretation

(1) In this Ordinance—

“corresponding Republican Law”; means the Republican Lands and Surveys (Fees and Charges) Law**(a)**;

“fees and charges” means the fees and charges referred to in section 3(1);

“officer of the Republic” means a person who has any powers conferred, or any duties imposed upon that person of a public nature by or under the corresponding Republican Law and includes—

- (a) such a person whether or not that person is a member of the public service of the Republic,
- (b) any body of persons whether or not it is an official body and whether or not it is incorporated; and

“Schedule” means the Schedule to the corresponding Republican Law.

(2) Any reference to a provision of the Areas and a provision of the Republic corresponding one to the other shall be construed as a reference to provisions of the Areas and of the Republic respectively whose effects are similar or substantially similar.

- (3) Any reference to the corresponding Republican Law includes—
 - (a) any amendment made to that Law (whether enacted before or after this Ordinance);
 - (b) any public instrument made under that Law (whether made before or after this Ordinance);
 - (c) any public instrument made under a public instrument described in paragraph (b) (whether made before or after this Ordinance).

3. Fees and charges to be taken

- (1) The fees and charges set out in the Schedule are to be taken by the Chief Officer in respect of the items described in that Schedule.
- (2) The fees and charges are to form part of the revenue of the Republic.
- (3) Refunds of fees and charges payable under this Ordinance are not payable by the Administration.
- (4) The Administrator may, by order published in the Gazette—
 - (a) waive or reduce any of the fees and charges;
 - (b) increase any fees or charges by a maximum amount of 50%; or
 - (c) exempt from payment of any fee or charge the government of any state or any international organisation with which the Crown or the Republic has made an agreement to that effect.
- (5) The Chief Officer may waive or reduce a fee or charge in relation to any matter if that matter relates to a case promoting (directly or indirectly)—
 - (a) the consolidation of immovable property;
 - (b) separate interests in immovable property; or
 - (c) the elimination of dual interests in immovable property.

4. Power to require deposit of fees

- (1) The Chief Officer may require a person who applies for a service for which a fee or charge is payable to deposit a sum of money with the Chief Officer before that service is provided.
- (2) The sum of money is to be the amount which, in the opinion of the Chief Officer, is required to cover the cost of performance of the service in question.
- (3) Subject to subsection (4), if a person has deposited a sum under subsection (1), after the service is provided—
 - (a) any sum deposited in excess of the fee or charge levied is to be refunded;
 - (b) any balance outstanding towards the fee or charge levied remains payable.
- (4) If the sum that would be refundable or payable under subsection (3) is so small that it would not be refunded or payable under the corresponding Republican Law, the sum is not refundable or repayable under subsection (3).
- (5) If a person has deposited a sum under subsection (1) and that person subsequently withdraws the application for the service in question or the Chief Officer is unable to perform the service in question, the Chief Officer may refund all or part of the deposit, having regard to the amount of time and work already expended on providing the service.

5. Fees and charges to be a charge on immovable property

- (1) A charge will arise on immovable property if—
 - (a) the owner or person entitled to be registered as the owner of that immovable property applies to the Chief Officer for any service in a matter relating to it;
 - (b) the Chief Officer has provided that service; and
 - (c) any balance of the fee or charge payable for that service remains unpaid.
- (2) If a charge arises on immovable property under subsection (1)—
 - (a) that charge has priority over all other charges and encumbrances whatsoever, whether accruing before or after the service has been performed;
 - (b) no transfer of, or mortgage over, that immovable property may be registered unless the unpaid balance is first paid; and

- (c) if the property is to be sold for the satisfaction of any other charge or encumbrance, the sale is to be subject to a reserve price which is not to be less than the balance of the fee or charge payable.

6. Registrations of title free of charge

Subject to subsection (2), no ownership right, interest, right, privilege, freedom, servitude or any other privilege in, on or over immovable property is to exist, be created acquired or transferred unless the fees and charges provided for in the Schedule are paid.

7. Fees for transactions with the Crown or the Republic

- (1) If either the Crown or the Republic is a party to any transaction no fee or charge is payable by the Crown or the Republic under this Ordinance.
- (2) For the purpose of this section “the Crown” means Her Majesty in right of Her Government of the United Kingdom and in right of Her Administration in the Areas.

8. Application and interpretation of the Schedule

- (1) All rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Schedule and all remedies and procedures from time to time provided for by or under the Schedule are, subject to necessary adaptation and so far as possible, to be applied and have effect in law in the Areas.
- (2) The application of the Schedule in the Areas is, unless the context otherwise requires, subject to the following—
 - (a) if the Schedule is repealed but is not replaced by the Republic it ceases to have effect in the Areas;
 - (b) if the Schedule is repealed and replaced by the Republic with another Schedule, that other Schedule is to have effect in the Areas;
 - (c) if a provision of the Schedule contains a reference to any other Republican legislation, then—
 - (i) if there is a provision of the Areas corresponding to that other Republican provision, the reference is to be construed as a reference to the corresponding provision of the Areas;
 - (ii) in any other case, the provision of the Schedule containing that reference does not have effect in the Areas.
- (3) The application of the Schedule in the Areas is, unless the context otherwise requires, subject to the following interpretations—
 - (i) a reference to a Court is to be construed as the Resident Judge’s Court, the Senior Judges’ Court or a tribunal, as appropriate;
 - (ii) a reference to the Republic is to be construed as a reference to the Areas.
- (4) The application of the Schedule in the Areas is subject to any provision in the corresponding Republican Law so far as that provision relates to—
 - (a) the calculation of fees and charges for any matter relating to immovable property; or
 - (b) refunds of any fees.
- (5) The Administrator may by order to be published in the Gazette provide for the application of the Schedule in the Areas to be subject to such additional exceptions, adaptations or modifications, from such date as may be specified in the order, as the Administrator may consider expedient in the circumstances.

9. Delegation to the Republic

- (1) Any power conferred or duty imposed on an officer of the Republic under the Schedule is deemed to be conferred or, as the case may be, imposed on the Chief Officer.
- (2) Any power conferred or duty imposed on the Chief Officer by virtue of this Ordinance is a general delegated function for the purposes of the Delegation of Functions to the Republic Ordinance 2007**(b)**.

- (3) Without prejudice to subsection (2), the Chief Officer may authorise any officer of the Areas to perform any duty imposed or exercise any power conferred by the Schedule subject to such restrictions or conditions as the Chief Officer may specify.

10. Legal Proceedings

- (1) A court of the Areas may take judicial notice of Republican law and of any other Republican document of any description granted or otherwise made under Republican law.
- (2) The production of a copy of any part of a Republican enactment—
- (a) contained in a printed collection of enactments purporting to be printed and published by an authority of the Republic; or
 - (b) contained in an issue of the Official Gazette of the Republic; or
 - (c) purporting to be printed by the Government Printer of the Republic, by whatever name called;

is evidence for all purposes, and may be held by a Court to be conclusive evidence, of the due and lawful making of that enactment.

- (3) For the purposes of this section, a version of any part of a Republican enactment in the English language—
- (a) purporting to be produced by an authority of the Republic;
 - (b) certified as being accurate by an officer of the Administration considered by the Court to have been at the time of such certification a competent and adequate translator into the English language from the language in which the Republican enactment was published in the Republic;
 - (c) given or produced in the course of oral evidence of a person whom the Court considers to be a competent translator for the purpose;
 - (d) stated orally in court or produced in writing by a Registrar or official court interpreter;

may in any of those cases be held by the Court to be conclusive evidence for all purposes that such version is the accurate English version of the Republican enactment or part of the Republican enactment in question.

- (4) For the purposes of this section, the production of—
- (a) a relevant document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for the relevant enactment under which the relevant document was made; or
 - (b) an English translation of a relevant document, the accuracy of which is certified in writing by a translator of recognised competence;

may be held by the Court to be conclusive evidence for all purposes of the contents of such document.

11. Repeals and Revocation

- (1) The following Ordinances are repealed—
- (a) the Lands and Surveys (Fees and Charges) Ordinance 1971(c);
 - (b) the Lands and Surveys (Fees and Charges) Ordinance 1973(d);
 - (c) the Lands and Surveys (Fees and Charges) Ordinance 1976(e); and
 - (d) the Lands and Surveys (Fees and Charges) Ordinance 1979(f).
- (2) Public Instrument 32 of 1973 is revoked.

12. Commencement

This Ordinance comes into force on the day it is published in the Gazette.

Notes

- (a) Cap 219, Laws of Cyprus.
- (b) Ordinance 17/07.
- (c) Ordinance 8/71.
- (d) Ordinance 12/73.
- (e) Ordinance 8/76.
- (f) Ordinance 8/79.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Lands and Surveys (Fees and Charges) Ordinance 2010 (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. It does not form part of the Ordinance.

2. The 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.

Particular points

3. The Ordinance repeals and replaces the Lands and Surveys (Fees and Charges) Ordinance 1971.

4. The Ordinance makes provision for payment of fees and charges in relation to immovable property transactions in the Areas. The fees and charges are payable to the Chief Officer but form part of the revenue of the Republic. Refunds of fees and charges payable under the Ordinance are not payable by the Administration.

5. The fees and charges payable are prescribed in the Ordinance by reference to the Schedule to the Republican Lands and Surveys (Fees and Charges) Law (Cap 219, Republic of Cyprus). The fees and charges are identical to those charged in the Republic.

6. The Chief Officer has the power (under section 4) to require a deposit of a fee or a charge before undertaking a service. An unpaid fee or charge is a charge on immovable property which has priority over all other charges or encumbrances. Section 6 provides (in general terms) that a title right or interest cannot be registered if there is an outstanding fee or charge in relation to immovable property.

7. The collection of fees and charges is delegated to the Republic (section 9). In practice, the fees and charges are paid to the Republican District Land Registry, which operates land registry functions on behalf of the Administration.

