



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1654 of 6th June 2012
LEGISLATION

CONTENTS:

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

	Ordinance No.
Immovable Property (Transfer and Mortgage) (Amendment) Ordinance 2012	11

THE IMMOVABLE PROPERTY (TRANSFER AND MORTGAGE) (AMENDMENT)
ORDINANCE 2012

An Ordinance to amend the Immovable Property (Transfer and Mortgage) Ordinance 1966

G. E. STACEY
ADMINISTRATOR

28th May 2012.

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

1. Short title and commencement

This Ordinance may be cited as the Immovable Property (Transfer and Mortgage) (Amendment) Ordinance 2012 and comes into force on 1 July 2012.

2. Amendments to the Immovable Property (Transfer and Mortgage) Ordinance 1966

The Immovable Property (Transfer and Mortgage) Ordinance 1966(**a**) is amended in accordance with sections 3 to 9.

3. Amendment to section 2 (interpretation)

Section 2(1) is amended as follows—

(a) for the definition of “court” substitute—

““court” means the Resident Judge’s Court;”;

(b) for the definition of “land register” substitute—

““land register” has the meaning given in section 2 of the Immovable Property (Tenure, Registration and Valuation) Ordinance(**b**);”;

(c) for the definition of “registered” substitute—

““registered” with its grammatical variations and cognate expressions means recorded in the land register whether such record is in paper form or electronic form, and the date of registration is the date on which the registration was first recorded by either of the two methods;”.

4. Amendment to section 4 (registered owner may transfer or mortgage immovable property)

In section 4(3) for “books of the Area Office” substitute “land register”.

5. Amendment to section 31 (transfer of immovable property subject to mortgage and the liability of the mortgagee)

For section 31(2) substitute—

“(2) If there is clause in a mortgage contract which prohibits or restricts the transfer of ownership of a mortgaged property, both the mortgagee and the guarantors of the contract must give written consent to the transfer, following which the property may be transferred subject to the mortgage.”.

6. Amendment to section 34 (release of immovable property from mortgage)

In section 34(3)(a) for “books of the Area Office” substitute “land register”.

7. Amendment to section 40 (amount to be raised by sale)

Section 40 is amended as follows—

- (a) in subsection (1)(c) for “by the sworn evidence furnished to the Chief Officer” substitute “in the affidavit of the mortgagee or in a further affidavit of the mortgagee required by the Chief Officer”;
- (b) in subsection (2)(b) omit “and to the mortgagee who has applied for such sale”.

8. Insertion of new sections 52A (delegation of functions to the Republic)

After section 52 insert—

“52A. Delegation of functions to the Republic

- (1) For the purposes of this section—
 - (a) a function includes a power and a duty; and
 - (b) a function placed on an Area Office or a sub-office, or as requiring something to be done at an Area Office or sub-office, is to be treated as a function placed on an Area Officer.
- (2) Except for the for the functions specified in sections 44 and 55, the functions placed on the Administrator, the Chief Officer and an Area Officer by this Ordinance are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007(c).
- (3) Anything that is required to be done at an Area Office or a sub-office may be done at the office of a person to whom the functions of an Area Officer are delegated under this section.”.

9. Amendment to Schedule 2

In Form B in Schedule 2, for the reference to “Area Office” substitute “land register”.

Notes

- (a) Ordinance 16/66, amended by Ordinances 14/70 and 8/78.
- (b) Cap 224, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/12) provides for the interpretation of such legislation. The definition of land register in section 2 is by reference to section 51 of Cap 224. Both sections 2 and 51 were amended by Immovable Property (Tenure, Registration and Valuation) (Amendment) Ordinance 2011 (Ordinance 7/11).
- (c) Ordinance 17/07.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

Introduction

1. This explanatory note relates to the Immovable Property (Transfer and Mortgage) (Amendment) Ordinance 2012 (“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. 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.

Particular points

3. The Ordinance amends the Immovable Property (Transfer and Mortgage) Ordinance 1966 (“the principal Ordinance”) replicating the effect of relevant amendments made to corresponding Republican Law by Laws 52(I)/2008 and 26 (I)/2010.

4. Section 3 amends section 2 (interpretation) of the principal Ordinance. The new definition of land register is by reference to the definition of land register in the Immovable Property (Tenure Registration and Valuation) Ordinance. The land register includes records in both paper and electronic form. Similarly, the new definition of registered includes records in both paper and electronic form.

5. The amendments made by sections 4, 6 and 9 reflect the fact that records about land ownership are held in the land register, not at an Area Office.

6. Section 5 amends provisions in section 31 of the principal Ordinance relating to the transfer of mortgaged property. If a mortgage contract prohibits or restricts the transfer such property, the mortgagee and the guarantors are required to give written consent to a transfer, following which the property may be transferred subject to the mortgage.

7. Section 7 amends requirements in section 40 of Part 6 (sale of mortgaged property) of the principal Ordinance. Under the provisions of Part 6 a mortgagee may apply to the Chief Officer for the sale of property where the mortgage is in arrears. The monies to be recovered by the sale include the principal sum outstanding and any legal expenses incurred by the mortgagee. Such amounts are to be set out in affidavits by the mortgagee.

8. By the insertion of a new section 52A, the fact that various functions under the principal Ordinance are delegated to the authorities of the Republic of Cyprus is made clear on the face of the principal Ordinance in accordance with current drafting practice.

