
CRIMINAL PROCEDURE (AMENDMENT) ORDINANCE 2013

An Ordinance to amend the Criminal Procedure Ordinance

J. S. WRIGHT
DEPUTY ADMINISTRATOR

24th January 2013.

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 Criminal Procedure (Amendment) Ordinance 2013.

2. Commencement

This Ordinance comes into force on the day after the date of its publication in the Gazette.

3. Criminal Procedure Ordinance amended

The Criminal Procedure Ordinance(a) is amended in accordance with sections 4 and 5.

4. Section 118 amended (payment of penalty)

Section 118(b) is amended by omitting “twenty five pounds” from the proviso following subsection (1) and substituting “€250”.

5. New sections 157ZA and 157ZB inserted

The following new sections are inserted after section 157—

“157ZA. Defence appeal against withholding of bail

(1) This section applies where—

- (a) the Resident Judge’s Court has withheld bail from a person (the “defendant”) charged with, or convicted of, an offence; and

- (b) the defendant wishes to appeal to the Senior Judges' Court against the withholding of bail.
- (2) The defendant must, within 10 days after the date of the decision to withhold bail, serve a notice of appeal on—
 - (a) the Registrar or Senior Registrar; and
 - (b) the prosecutor.
- (3) Where the defendant is in custody, it is sufficient for the purposes of subsection (2) if the defendant delivers the notice of appeal to the officer having charge of the defendant for transmission to the Senior Registrar and the prosecutor.
- (4) The notice of appeal must—
 - (a) specify each offence that the defendant is charged with or convicted of;
 - (b) explain why the Senior Judges' Court should not withhold bail;
 - (c) explain what further information or legal argument, if any, has become available since the decision of the Resident Judge's Court;
 - (d) propose the terms of any suggested conditions of bail; and
 - (e) if the defendant wishes the hearing of the appeal to be expedited, explain why the hearing needs to be expedited.
- (5) A prosecutor who opposes the appeal must—
 - (a) notify the defendant and the Registrar or Senior Registrar as soon as possible; and
 - (b) serve on the defendant and the Registrar or Senior Registrar notice of the reasons for opposition.
- (6) On receipt of the notice of appeal, the Senior Registrar must arrange for the Senior Judges' Court to hear the appeal as soon as practicable.
- (7) The appeal may be heard by a Senior Judge outside the Areas using a live link (as defined in section 27B of the Courts (Constitution and Jurisdiction) Ordinance 2007(c)).
- (8) The appeal is by way of rehearing, and the Senior Judges' Court may remand the defendant in custody or may grant bail subject to such conditions, if any, as the Court thinks fit.
- (9) The Senior Judges' Court may extend the time limit referred to in subsection (2).

157ZB. Prosecution appeal against grant of bail

- (1) This section applies where—
 - (a) the Resident Judge's Court grants bail to a person (the "defendant") charged with, or convicted of, an offence punishable with imprisonment; and
 - (b) the Attorney-General and Legal Adviser wishes to appeal to the Senior Judges' Court against the grant of bail.
- (2) The prosecutor must inform the Resident Judge's Court of the decision to appeal—
 - (a) at the end of the hearing during which the Resident Judge's Court granted bail; and
 - (b) before the defendant is released on bail.
- (3) If informed in accordance with subsection (2), the Resident Judge's Court must remand the defendant in custody pending determination of the appeal.

- (4) The prosecutor must, within 2 hours after informing the Resident Judge's Court of the decision to appeal, serve a notice of appeal on—
 - (a) the Registrar or Senior Registrar; and
 - (b) the defendant.
- (5) The notice of appeal must specify—
 - (a) each offence that the defendant is charged with or convicted of;
 - (b) the decision under appeal;
 - (c) the reasons given for the grant of bail; and
 - (d) the grounds of appeal.
- (6) On receipt of the notice of appeal, the Senior Registrar must arrange for the Senior Judges' Court to hear the appeal as soon as practicable.
- (7) The appeal may be heard by a Senior Judge outside the Areas using a live link (as defined in section 27B of the Courts (Constitution and Jurisdiction) Ordinance 2007).
- (8) The appeal is by way of rehearing, and the Senior Judges' Court may remand the defendant in custody or may grant bail subject to such conditions, if any, as the Court thinks fit.
- (9) The prosecutor may abandon an appeal to the Senior Judges' Court at any time by serving a notice of abandonment on—
 - (a) the defendant; and
 - (b) the Registrar or Senior Registrar.
- (10) The Senior Registrar must give instructions for the defendant to be released on the bail granted by the Resident Judge's Court if—
 - (a) the prosecutor fails to serve a notice of appeal within the time referred to in subsection (4); or
 - (b) the prosecutor serves a notice of abandonment under subsection (9)."

Notes

- (a) 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 (SI 1960/1369 (UK)). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/12) provides for the interpretation of such legislation.
- (b) Section 118 is amended by the Criminal Procedure (Amendment) Ordinance 1992 (Ordinance 4/92).
- (c) Ordinance 5/07. Section 27B is inserted by the Courts (Constitution and Jurisdiction) (Amendment) Ordinance 2011 (Ordinance 10/11).

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

1. This explanatory note relates to the Criminal Procedure (Amendment) Ordinance 2013 (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 and should be read in conjunction with the Ordinance.
2. The Ordinance amends the Criminal Procedure Ordinance (the “principal Ordinance”).
3. Section 118 of the principal Ordinance is amended to raise from £25 (€42) to €250 the level of fine which, when imposed by the court, must be paid forthwith unless the court otherwise orders.
4. New section 157ZA of the principal Ordinance provides a person charged with, or convicted of, an offence with a right to appeal to the Senior Judges’ Court against a decision of the Resident Judge’s Court to withhold bail.
5. New section 157ZB of the principal Ordinance provides the prosecution with a right to appeal to the Senior Judges’ Court against a decision of the Resident Judge’s Court to grant bail to a person charged with, or convicted of, an offence. If such an appeal is made, the defendant must be remanded in custody pending the determination of the appeal.
6. Appeals under new sections 157ZA and 157ZB may be heard by live link from outside the Areas.
7. The amendments reflect (in part) amendments made to the Criminal Procedure Law of the Republic by Laws 14(I)/2001 and 160(I)/2012.

(SBA/AG/2/CR/152)