

9. The Principal Law, section 61, is hereby amended by the deletion of the words "to the Rural Police Fund" in line thirteen and the substitution therefor of the words "into the Revenues of Cyprus."

Amendment of Law 2 of 1878, sec. 61.

10. The Principal Law, section 64 (2), is hereby amended by the deletion of the word "consent" and the substitution therefor of the words "previous written permission in the prescribed form."

Amendment of Law 2 of 1878, sec. 64 (2).

11. The Principal Law, section 78, is hereby repealed and in place thereof the following section shall have effect:

Repeal of Law 2 of 1878, sec. 78, and substitution of new section.

"78. Any sum paid in respect of damages to the Police Group Commander under the provisions of this Law shall forthwith be paid by him as follows:—

Eighty-five per centum thereof shall be paid to the person entitled to the same under the provisions of this Law.

Fifteen per centum thereof shall be paid into the Revenues of Cyprus in such manner as the Chief Commandant of Police shall direct. Provided that in attributing the share payable into the Revenues no fraction of a piastre shall be payable thereto."

12. The Principal Law, section 79, is hereby repealed.

Repeal of Law 2 of 1878, sec. 79.

This Law was published in the Cyprus Gazette No. 2026 of the 3rd January, 1930.

No. 12 of 1929.

TO MAKE PROVISION FOR CERTAIN MATTERS RELATING TO CRIMINAL EVIDENCE AND PROCEDURE.

A.D. 1929.
12 of 1929.

H. HENNIKER-HEATON.]

[December 14, 1929.

BE it enacted:—

*Amended by Law 37/1933
18/1934
38/1935
14/1946.*

PART I.

TITLE AND INTERPRETATION.

1. This Law may be cited as the Criminal Evidence and Procedure Law, 1929.

Short title.

2. In this Law:—

"Telegram" means any message or other communication transmitted or intended for transmission by any apparatus for transmitting messages or other communications by means of electric signals.

Interpretation.

"Wireless telegraphy" means any system of communication by telegraph without the aid of any wire connecting the points from and at which the messages or other communications are sent and received.

PART II.

EVIDENCE AND PROCEDURE.

Examination
of persons by
a Local Com-
mandant
or by au-
thorised
persons.

*R. & R. by
Law 37/33.*

3. A Local Commandant of Police, or any competent and trustworthy person having experience in criminal investigation whom the Governor has by writing under his hand authorised to hold inquiries into the commission of offences, may examine orally any person whom he has good reason to suppose is acquainted with the facts and circumstances of any offence in respect whereof the Local Commandant of Police or other authorised person is inquiring, and may reduce into writing any statement made by a person so examined.

The person so examined shall be bound to answer truly all questions put to him by the Local Commandant of Police or other authorised person, other than questions the answers to which would have a tendency to expose him to a criminal charge.

Statements
when re-
duced into
writing to be
signed, etc.

4. Any such statement when reduced into writing shall be read over to the person examined, who shall be requested to sign it, or, if he is illiterate, to affix his mark to it.

If he refuses to sign the statement or affix his mark to it, the Local Commandant of Police or other authorised person shall note in writing at the foot of the written statement that the person making the statement has refused to sign it or affix his mark to it, and the reason, if ascertained, of the refusal.

The written statement shall then be signed by the Local Commandant of Police or other authorised person; and in any proceeding against the person making it for not truly answering any question put to him or for a misdemeanour under section 5 of this Law, the written statement shall be evidence of the statements made by him, unless it is proved that he did not make the statements or any of them.

Evidence
before
Magisterial
Court con-
tradictory
to statement
made to an
authorised
person.

in force

5. Any person who, having made a statement to a Local Commandant of Police, or to any competent and trustworthy person having experience in criminal investigation whom the Governor has by writing under his hand authorised to hold inquiries into the commission of offences, which statement shall have been reduced into writing as hereinbefore provided, subsequently, on his examination as a witness before a Magisterial Court when the offence in relation to which the statement was made is being tried, makes any statement tending to prove the guilt or innocence

of any person inconsistent with or contradictory to his first mentioned statement is guilty of a misdemeanour and is liable to imprisonment for one year or to a fine not exceeding fifty pounds.

Provided that upon the trial of any person for a misdemeanour under this section it shall not be necessary to prove the falsity of either of the inconsistent or contradictory statements, but, upon proof that both the statements were made by him, the Court before which he is tried, if it considers that the statements, or either of them, were, or was, made with a view to deceive the Court to which, or the person to whom, the statements, or either of them, were, or was, made, and thereby improperly to prove the guilt or innocence of any person of the offence in relation to which the statements were made, shall convict the accused.

Mode of proof.

in force

New sections 59 & 5B added by law 31/1933.

6.—(1) Where upon the trial on information of a person accused of any offence, any witness shall make any material statement of fact in direct contradiction to a statement of fact contained in his deposition taken before a Magisterial Court, or upon commission in accordance with the provisions of Clause 125 of the Cyprus Courts of Justice Order, 1927, in or in the course of the preliminary inquiry into the charge against the accused person, the deposition may be put in evidence; and if it appears to the Court, having regard to all the circumstances of the case, that the statement therein contained is true (notwithstanding that the witness has so contradicted it as aforesaid), it shall be lawful for the Court, in considering whether the accused person has or has not committed the offence charged against him in the information or any offence for which he may be lawfully convicted by the Court on his trial, to treat the statement of fact contained in the deposition as the true evidence of the witness and to act upon it accordingly.

Statements in depositions afterwards contradicted may be considered as evidence in certain cases.

Repealed by law 14 of 1946

Provided that the Court shall not treat the statement of fact contained in the deposition of a witness as his evidence unless it appears to the Court that the fact deposed to by the witness is corroborated by other evidence in the case.

(2) For the purposes of this section proceedings under which a committal for trial on information has been ordered in accordance with the provisions of Clause 48 (iii.) of the Cyprus Courts of Justice Order, 1927, shall be deemed to be a preliminary inquiry.

obsolete

Particulars of immediate complaint may be given in evidence on behalf of the prosecution.

7. Any Magisterial Court before which any person charged of any offence triable summarily with or without consent is being tried, or any Magisterial Court before which a preliminary inquiry on a charge for any offence not triable summarily brought against any person is being held, or any Court before which any person accused of any offence by information is being tried, may receive in evidence, on behalf of the complainant or of the prosecution, the particulars of any complaint or any statement relating to the offence made by the person on whom the offence has been committed, or the person in charge of any property against which the offence has been committed and who was present when the offence was so committed.

Provided that the particulars of any such complaint or statement shall not be admissible on behalf of the complainant or of the prosecution unless it appears to the Magisterial Court before which a preliminary inquiry is being held or the Court before which the accused person is being tried that the complaint or statement has been made, having regard to the circumstances of the case, immediately after the commission of the offence, and to the first person or persons to whom the person making the complaint or statement spoke after the commission of the offence, or to the person or persons to whom the Court considers that it was natural that he would complain or make a statement regarding the offence.

Power to require the production of telegrams.

8.—(1) Whenever an inquiry into the commission of any offence is held or is about to be held by a Local Commandant of Police, or any competent and trustworthy person having experience in criminal investigation whom the Governor has by writing under his hand authorised to hold inquiries into the commission of offences, the Governor may, if it appears to him that such a course is expedient in the public interest, by warrant under his hand require any person who owns or controls any telegraphic cable or wire, or any apparatus for wireless telegraphy, used for the sending or receipt of telegrams to or from any place either within or out of Cyprus, to produce to him, or to any person named in the warrant, the originals and transcripts, either of all telegrams, or of telegrams of any specified class or description, or of telegrams sent from or addressed to any specified person or place, sent or received to or from any place either within or out of Cyprus by means of any such cable, wire or apparatus, and all other papers relating to any such telegram as aforesaid.

(2) Any person who, on being required to produce any such original or transcript or paper as aforesaid, refuses or neglects to do so shall be guilty of a misdemeanour, and shall, for each misdemeanour, be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both.

8B } added by 37/33
8C }

PART III.

section 9 to 20
repealed by Law 38/1935

PROSECUTION OF APPEALS, ETC.

9. Where any person has declared his desire to appeal from a conviction or order of a Magisterial Court under Clause 101 of the Cyprus Courts of Justice Order, 1927, the Registrar of the District Court of the District within which the Magisterial Court has jurisdiction shall forthwith transmit to the Chief Registrar of the Supreme Court the documents hereinafter specified (which are hereinafter referred to as the file of the proceedings), that is to say, the charge, summons or warrant, the notes of the evidence taken by the Magisterial Court and any statement which may have been made by the appellant before the Magisterial Court together with any document which may have been put in evidence of which the Magisterial Court has the custody, or certified copies of any of them of which the Court has not the custody. If the Registrar is not able to forward the originals or copies of any such documents he shall furnish a statement of the reason why he is unable to do so. The Registrar of the District Court shall also forward to the Chief Registrar of the Supreme Court the form of particulars of the grounds of appeal to be furnished by the appellant as hereinafter provided.

Documents
to be for-
warded to
Supreme
Court.

10. The appellant shall within seven days of the conviction or order of the Magisterial Court from which the appeal is made, furnish the Registrar of the District Court of the District within which the Magisterial Court from which the appeal is made has jurisdiction with full particulars of the grounds of his appeal in the Form set out in the First Schedule to this Law signed by himself or his advocate. Provided that non-compliance on the part of the appellant with this section shall not prevent the further prosecution of his appeal, if the Supreme Court consider that such non-compliance is not wilful and that the same may be waived or remedied by amendment or otherwise. Provided always that the Supreme Court may in such manner as they think right direct the appellant to remedy such non-compliance, and thereupon the appeal shall proceed.

Stating
grounds
of appeal.

Intermediate
effects of
appeal.

amended

11. Where any person has declared his desire to appeal as aforesaid, the Magisterial Court before which he is convicted shall, where sentence of imprisonment has been passed, suspend execution of the sentence, and shall either remit the appellant to prison for safe custody or admit him to bail pending hearing of the appeal, and, where a penalty has been ordered to be paid, shall either cause the sentence to be put into execution or shall take such security as it shall think necessary, either by recognizances with or without security, or by deposit of money, for securing the payment of any penalty that may have been imposed upon him.

Provided that the Court shall not admit the appellant to bail unless he names some proper place within the municipal limits of the town within which the Court house is situate where all notices, summonses, orders, and other written communications may be left for him. Any notice, summons, order or other written communication left at the place named by any appellant in accordance with the provisions of this section shall be deemed to have been thereupon received by him or to have come to his knowledge.

Supreme
Court or
Judge
thereof may
admit
appellant
to bail.

12. In any case where a Magisterial Court has refused to admit an appellant to bail, the Supreme Court or any Judge thereof may, on his application, admit him to bail on the same terms as he might have been admitted to bail by the Magisterial Court under the provisions of the preceding section.

Notice of
hearing of
appeal.

13. The Chief Registrar of the Supreme Court shall, as soon as conveniently may be after he has received the file of the proceedings, fix the time for the hearing of the appeal and give notice thereof or cause notice to be given to the Attorney-General and to the appellant, and shall transmit to the Local Commandant of Police of the District within which is situate the place appointed for the service of notice on the appellant a notice in writing of the time so fixed. The Local Commandant of Police shall cause the notice to be duly served on the appellant; and a certificate under the hand of the Local Commandant of Police that the notice has been left at the appellant's address for service shall be taken as evidence that the notice has been duly served.

14. The Supreme Court on perusing the file of the proceedings, and after hearing the Attorney-General or his representative and the appellant or such of them as shall attend at the time fixed for the hearing of the appeal, shall give judgment, and shall have power to confirm or set aside the finding of the Magisterial Court as to the guilt of the appellant or, subject to the proviso hereinafter contained, to find him guilty of any other offence of which he appears to be guilty from the evidence taken before the Magisterial Court, or to acquit him and, subject to the proviso hereinafter contained, to pass on him any sentence which is provided by law for the offence of which the Supreme Court may consider him guilty, and for that purpose to increase the punishment awarded by the Magisterial Court.

Powers of
Supreme
Court on
hearing
appeal.

Provided always that an appellant shall not on the hearing of his appeal be found guilty of an offence other than that mentioned in the charge if such other offence renders him liable to any greater punishment than that which may be inflicted for the offence mentioned in the charge; but if the Supreme Court considers that the evidence which has been adduced justifies the filing of an information for any such other offence, it may direct that an information be filed against the appellant for such other offence, and he shall be brought up for trial on the information before the Assize Court at the next sitting thereof, and the convict shall in the meantime be committed to prison or released on bail, and his trial shall take place in the same manner as though he had been committed for trial for the offence by a Magisterial Court.

15. The Supreme Court may call upon the Magisterial Court to furnish any information it may think necessary beyond that which is furnished by the file of the proceedings as to the grounds on which it has found the appellant guilty or passed sentence upon him.

Supreme
Court may
ask for
grounds of
judgment.

16. On the hearing of any appeal from a Magisterial Court, the Supreme Court may call for further evidence, and reserve its decision until such evidence has been adduced. The costs of all witnesses called on the part of the prosecution shall in the first instance be paid out of the Public Treasury; and in any proceeding under this Law the Court may order that the expenses of any witness either on the part of the prosecution or of the defence be paid out of the Public Treasury.

Supreme
Court may
call for
further
evidence.

(3) On receipt of the notice of the application the Magisterial Court shall transmit to the Chief Registrar of the Supreme Court all such documents, so far as possible, as the Registrar of the District Court is required to transmit in the case of an appeal and all subsequent proceedings shall be taken in the manner provided in case of an appeal.

(4) On hearing of such application the Court may quash all proceedings before the Magisterial Court or in case of a conviction or order may confirm or set aside the finding of the Magisterial Court and shall have all such other powers as are given to the Supreme Court in case of an appeal, and may make such further or other order as seems to the Court just.

(5) Where the application is to set aside a conviction or judgment all the provisions of the law as to appeals shall apply so far as they are applicable, and the service of the notice of the application on the Judge or the Magisterial Court shall have the same effect as a declaration of a desire to appeal under Clause 101 of the Cyprus Courts of Justice Order, 1927.

PART IV.

REPEALS.

21. The enactments mentioned in the Second Schedule to this Law are hereby repealed to the extent specified in the third column of that Schedule. Repeal.

FIRST SCHEDULE (SECTION 10).

FORM OF PARTICULARS TO BE FURNISHED BY AN APPELLANT.

To the Registrar of the District Court of.....
Name of the Appellant.....
Convicted by the Magisterial Court of.....
Offence

.....

Sentence and when commencing

Date of conviction

Date of sentence

I, the above-named appellant, hereby give you full particulars of the grounds of my appeal to the Supreme Court from the conviction or order of the Magisterial Court aforesaid.

(Here state the grounds of appeal.)

.....
*Signature of Appellant
 or his Advocate.*

Dated.....

SECOND SCHEDULE (SECTION 21).

ENACTMENTS REPEALED.

Number and year of Law.	Short title.	Extent of repeal.
1 of 1886	The Criminal Law and Procedure Amendment Law, 1886.	The long title. Part 4. Part 6, secs. 34 to 44 inclusive and sec. 46.
37 of 1928.	The Criminal Law and Procedure Amendment No. 2 Law, 1928.	The long title. Secs. 1 and 4.

*This Law was published in the Cyprus Gazette No. 2022
 of the 18th December, 1929.*