



**SUPPLEMENT No. 2**

TO

**THE CYPRUS GAZETTE No. 3256 OF 8TH AUGUST, 1946.**

**LEGISLATION.**

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**THE STATUTE LAWS OF CYPRUS**

**No. 14 OF 1946.**

**A LAW TO AMEND AND CONSOLIDATE CERTAIN PROVISIONS  
RELATING TO THE LAW OF EVIDENCE.**

**C. C. WOOLLEY,]**  
*Governor.*

*[4th August, 1946.*

**B**E it enacted by His Excellency the Governor and  
Commander-in-Chief of the Colony of Cyprus as  
follows :—

1. This Law may be cited as the Evidence Law, 1946. Short title.

Interpreta-  
tion.

2. In this Law, unless the context otherwise requires—

“civil proceeding” and cognate expressions means any proceeding other than a criminal proceeding and includes arbitrations and references;

“Court” means a Court of competent jurisdiction and, in relation to arbitrations or references, shall be construed accordingly;

“criminal proceeding” and cognate expressions means any proceeding against any person to obtain punishment of such person for any offence against any Law or public instrument;

“document” includes books, maps, plans, drawings, photographs and also includes any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of these means, intended to be used or which may be used for the purpose of recording that matter.

#### *General.*

Application  
of English  
law and rules  
of evidence.

3. Save in so far as other provision is made in this Law or has been or shall be made in any other Law in force for the time being, every Court, in the exercise of its jurisdiction in any civil or criminal proceeding, shall apply, so far as circumstances may permit, the law and rules of evidence as in force in England on the 5th day of November, 1914.

#### *Provisions relating to Civil Cases.*

Admissi-  
bility of  
documentary  
evidence as  
to facts in  
issue.

4.—(1) In any civil proceeding where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied, that is to say—

(a) if the maker of the statement either—

(i) had personal knowledge of the matters dealt with by the statement; or

(ii) where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with thereby are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have, personal knowledge of those matters; and

(b) subject to sub-section (2) of this section, if the maker of the statement is called as a witness in the proceedings :

Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead or unfit by reason of his bodily or mental condition to attend as a witness, or if he is beyond the seas and it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success.

(2) In any civil proceedings, the Court may, at any stage of the proceedings, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that such a statement as is mentioned in sub-section (1) of this section shall be admissible as evidence or may, without any such order having been made, admit such a statement in evidence—

(a) notwithstanding that the maker of the statement is available but is not called as a witness ;

(b) notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or as the Court may approve, as the case may be.

(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish.

(4) For the purposes of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part thereof was written, made or produced by him with his own hand, or was signed or initialled by him or otherwise recognized by him in writing as one for the accuracy of which he is responsible.

(5) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of the foregoing provisions, the Court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a registered medical practitioner, and

the Court may in its discretion reject the statement notwithstanding that the requirements of this section are satisfied with respect thereto, if for any reason it appears to it to be inexpedient in the interests of justice that the statement should be admitted.

(6) Nothing in this section shall prejudice the admissibility of any evidence which would, apart from the provisions of this section, be admissible or enable documentary evidence to be given as to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this Law had not been enacted.

Weight to be attached to evidence.

5.—(1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by section 4 of this Law, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts.

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by section 4 of this Law shall not be treated as corroboration of evidence given by the maker of the statement.

Evidence in actions for breach of promise.

6. A plaintiff in any action for breach of promise of marriage shall not recover judgment unless his or her testimony is corroborated by some other material evidence in support of such promise. The fact that the defendant did not answer letters affirming that he had promised to marry the plaintiff is not such corroboration.

Claim upon estate of deceased person.

7. A claim upon the estate of a deceased person, whether founded upon an allegation of debt or of gift, shall not be maintained upon the uncorroborated testimony of the claimant, unless circumstances appear or are proved which make the claim antecedently probable, or throw the burden of disproving it on the representatives of the deceased.

*Provisions relating to Criminal Cases.*

Evidence in case of treason and misprision of treason.

8. In all cases of treason and of misprision of treason the person charged with such offence may be convicted upon the like evidence as if such person stood charged with murder.

9. No person shall be convicted of an offence upon the unsworn evidence of a child of tender years unless such unsworn evidence is corroborated by material evidence implicating the accused.

Unsworn evidence of child of tender years.

10. Any Court, before which any preliminary inquiry is being held or before which any person accused of any offence is being tried, may receive in evidence, on behalf 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 :

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

Provided that the particulars of any such complaint or statement shall not be admissible on behalf of the prosecution unless it appears to the 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.

11.—(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 or shall deny or state that he does not recollect that he had made any such statement, 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 or denied it or has stated 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.

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, the word "deposition" shall have the same meaning as in the Cyprus Courts of Justice Orders and Laws, 1927 to 1945.

Report of government analyst, etc., to be evidence in certain cases.

<sup>u</sup> 12. Whenever a preliminary inquiry on a charge brought against any person is being held before a Court, any document purporting to be a report under the hand of the government analyst or the government bacteriologist or the government pathologist or of any person purporting to act on their behalf or on behalf of any of them upon any matter or thing relating to such offence and submitted by the Police to such analyst, bacteriologist, pathologist or person for examination or analysis and report, shall be admissible as evidence when tendered by the prosecution and shall be evidence of all that is stated therein both at such preliminary inquiry and at the Assize Court if the person charged is committed for trial:

Provided that—

- (a) notwithstanding anything in any enactment contained, the prosecution may, without notice to the accused, call the person who has signed such report to give evidence at the trial of the offence before the Assize Court; and
- (b) at the request of the Assize Court or at a written request by or on behalf of the accused, notified to the prosecution not less than seven days before the trial in the Assize Court, the prosecution shall call the person who has signed such report to give evidence before the Assize Court.

#### *Miscellaneous.*

Who are competent witnesses.

13. Subject to section 14 of this Law, all persons shall be competent to give evidence in any proceedings, whether civil or criminal, unless the Court considers that they are prevented by reason of tender years, mental incapacity or any other cause of the same kind from knowing that they ought to speak the truth or from understanding questions put to them or from giving rational answers to those questions.

Husband and wife.

14.—(1) Subject to sub-section (2), in criminal proceedings against any person, the husband or wife, as the case may be, of such person shall not be a competent witness for the prosecution against that person nor a compellable witness against any other person jointly charged with him or her.

(2) The husband or wife of a person charged—

(a) with inflicting or attempting to inflict any bodily injury or violence upon him or her or upon any of his or her children ;

(b) with an offence under any of the sections of the Cyprus Criminal Code, 1928 to 1944, set out in the First Schedule to this Law,

First  
Schedule.

shall be a competent witness for the prosecution against the person so charged and a compellable witness against any other person jointly charged with him or her.

(3) Nothing in this section shall make a husband compellable to disclose any communication made to him by his wife during the marriage or a wife compellable to disclose any communication made to her by her husband during the marriage.

15. In any proceedings, whether civil or criminal, there shall, in the case of a document proved, or purporting, to be not less than twenty years old, be made the same presumption which before the commencement of this Law would have been made in the case of a document of like character proved, or purporting, to be not less than thirty years old.

Presump-  
tions as to  
documents  
twenty  
years old.

16. In any proceedings, whether civil or criminal, an instrument to the validity of which attestation is requisite may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive :

Proof of  
instrument  
to validity  
of which  
attestation  
is necessary.

Provided that nothing in this section shall apply to the proof of wills or other testamentary documents.

17. Where any register is kept or any entry or record is made, under any Law in force for the time being, an extract therefrom or a copy thereof purporting to be signed and certified as a true copy by the person having authority to keep the register or make the entry or record, shall be admissible, in any proceedings whether civil or criminal, as evidence of all that is stated therein relating to such register, entry or record.

Certified  
copies of  
registers,  
etc., to be  
evidence.

#### *Repeals.*

18. The enactments in the first column of the Second Schedule to this Law shall be repealed to the extent specified in the second column of the said Schedule.

Repeals.  
Second  
Schedule.

FIRST SCHEDULE (*Section 14 (2) (b).*)

## OFFENCES.

*Cyprus Criminal Code, 1928 to 1944.*

Section	Marginal note
135.	Definition of rape.
137.	Attempt.
138.	Abduction.
139.	Abduction of girls under sixteen.
140.	Compulsion of marriage.
141.	Indecent assault on females.
141A.	Indecent assault on males.
142.	Defilement of girls under thirteen years of age.
143.	Defilement of idiots or imbeciles.
143A.	Suppression of brothels.
144.	Procuration.
144A.	Allowing child or young person to frequent a brothel.
145.	Procuring defilement of woman by threats, or fraud or administering drugs.
146.	Householder, etc., permitting defilement of woman under thirteen years on his premises.
147.	Householder permitting defilement of woman under sixteen years of age on his premises.
148.	Detention with intent or in brothel.
150.	Person living on earnings of prostitution or persistently soliciting.
157.	Unnatural offences.
164.	Fraudulent pretence of marriage.
165.	Bigamy.
167.	Exposure of child.
168.	Neglecting to provide food, etc., for children.
169.	Desertion of children.
171.	Child stealing.
199A.	Infanticide.
211.	Responsibility of person who has charge of another.
212.	Duty of head of family.
213.	Duty of master.

SECOND SCHEDULE—(*Section 18.*)

## ENACTMENTS REPEALED.

Enactments	Extent of repeal
The Cyprus Courts of Justice Orders and Laws, 1927 to 1945.	Clauses 202, 204 and 205.
The Criminal Evidence and Procedure Laws, 1929 to 1934.	Sections 5B, 6 and 7.
The Evidence Law, 1935.	The whole.

4th August, 1946.

H. G. RICHARDS,  
*Acting Colonial Secretary.*