THE COMMISSIONER FOR THE PROTECTION OF CHILDREN’S RIGHTS LAWS, 2007 AND 2014

(English translation and consolidation)

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NOTE FOR THE READER

The publication at hand by the Office of the Law Commissioner is an English translation and consolidation of the Commissioner for the Protection of Children’s Rights Laws 2007 and 2014 [i.e. Laws 74(I)/2007, 44(I)/2014].

However useful the English translation of the consolidated Laws is in practice, it does not replace the original text of the Laws since only the Greek text of the Laws published in the Official Gazette of the Republic is authentic.

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THE COMMISSIONER FOR THE PROTECTION OF CHILDREN’S RIGHTS LAWS, 2007 AND 2014

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A LAW TO PROVIDE FOR THE APPOINTMENT OF
A COMMISSIONER FOR THE PROTECTION OF
CHILDREN’S RIGHTS, THE ESTABLISHMENT AND
OPERATION OF HIS OFFICE, AND OTHER RELATED MATTERS

The House of Representatives enacts as follows:

1. This Law may be cited as the Commissioner for the Protection of Children’s Rights Laws, 2007 and 2014.

PART I – INTRODUCTORY PROVISIONS

Interpretation.

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

“act” includes an omission;

“Advisory Committee” Deleted;

“child” means any natural person under the age of eighteen;

“Children’s Parliament” means the children’s representative body, the members of which are permanently resident in Cyprus and who are between twelve (12) and eighteen (18) years of age, and which has been formed by private initiative and functions upon the model, mutatis mutandis, of the Cyprus House of Representatives, on the basis of the rules of procedure approved by the plenary session of the Children’s Parliament itself;

“children’s rights” means the children’s rights safeguarded by the Constitution and the laws, the United Nations Convention, the European Convention and any other relevant international treaty which may be ratified by the Republic;

“Commissioner” means the Commissioner for the Protection of Children’s Rights, appointed pursuant to section 10;

“Commissioner’s Young Advisors Team (YAT)” means the advisory group of children established in accordance with the provisions of section 13 of this Law;

“European Convention” means the European Convention on the Exercise of the Rights of the Child which has been ratified by the European Convention on the Exercise of the Rights of the Child
“Pan-Cyprian Coordinating Students' Committee (PSEM)” shall have the meaning assigned to it by paragraph (40) of Regulation 15 of the Operation of Public Secondary Education Regulations, 1990 to 2011;

“person” means any natural person or legal entity of public or private law;

“public officer” means an officer of the Service;

“Republic” means the Republic of Cyprus;

“Service” means the public service of the Republic and includes the public educational service;


PART II – MISSION, COMPETENCES AND INDEPENDENCE OF THE COMMISSIONER

3. The mission of the Commissioner shall be to protect and promote children’s rights.
Competences of the Commissioner.

4.—(1) For carrying out the purposes of section 3, the competences of the Commissioner shall include the following:

(a) to represent children and their interests at all levels,

(b) to promote public awareness and sensitivity so that the society will be mobilized and safeguard in practice children’s rights in the family, the school, the community and in the society in general,

(c) to identify and promote the views of the children where they themselves cannot be heard,

(d) to supervise and monitor the implementation of the provisions of the United Nations Convention and the European Convention,

(e) to monitor and follow up the legislation and practices and to submit proposals, aiming at the harmonization of the legislation with the relevant international treaties, and the promotion of ratification of these treaties by the Republic,

(f) to carry out public awareness and change of attitude campaigns with regard to the status of children in society,

(g) to submit, on behalf of any child, applications for the appointment of a special representative in judicial proceedings affecting the child, where the law or the Court may exclude persons having parental responsibility from representing the child, as a result of conflict of interests with the latter,

(h) to represent children and their interests in procedures affecting the children, where provided by law, as well as in judicial proceedings, where he may be appointed by the Court as the representative of a child;

(i) in general, to take any action as he may deem necessary, in the fulfillment of his mission within the framework of this Law.

(2) In particular, for the purposes of subsection (1), the Commissioner may:

(a) organize educational, training programs relevant to children’s rights;
(b) conduct studies on the status of children in Cyprus;

(c) promote any necessary legislative measures for the protection of children’s rights;

(d) make recommendations and proposals to all competent bodies engaged with children and, in his discretion, give publicity to them;

(e) co-ordinate the uniform application of the provisions relating to the protection of children’s rights;

(f) assist the work of non-governmental organizations protecting children’s rights or rendering services to children and contribute to the drafting and application of guidelines for the effective protection of children’s rights;

(g) Deleted;

(h) submit, ex proprio motu, to the competent authorities for investigation, complaints for violations of children’s rights, and, in every case he has a duty to forward to the said authorities such complaints submitted to him, and to follow the course of their investigation by the said authorities, even in case of complaints not forwarded through him;

(i) evaluate the outcome of the investigation of a complaint by any authority or service regarding the violation of children’s rights;

(j) co-operate with equivalent bodies and authorities of other states and especially those of the member states of the European Union and the Council of Europe, with regard to issues relating to the exercise of his competences;

(k) subject to the provisions of the Processing of Personal Data (Protection of Individuals) Law and any law amending or substituted for the same, create and maintain a Statistical Data Record on the level of protection of children’s rights in the Republic:

Provided that the data of the Record may be used, with the Commissioner’s approval, solely for the purposes of scientific research and providing information to the competent authorities and organizations, as well as promoting public awareness and sensitivity;

(l) express views on any bill concerning, directly or indirectly,
the children.\(\text{c}\)

(m) obtain the views of the children and promote their awareness in relation to their rights.

(3) The Commissioner may authorize in writing any officer of his Office to exercise on his behalf any of his powers, upon such terms, exceptions and reservations as the Commissioner may specify in the authorization.

5. The Commissioner, in the exercise of his task, may communicate with—

(a) the President of the Republic, the Ministers and the independent officers of the Republic;

(b) the Chairpersons and members of the Boards or Committees of legal entities of public or private law;

(c) the equivalent Commissioners for Children or other relevant national organizations of other countries, as well as relevant international organizations; and

(d) children or organized groups of children.

6. Every person, authority or organization, governmental or non-governmental, shall be bound to provide the Commissioner with any information that he may deem necessary for carrying out his mission within the framework of his competences.

7.-(1) The Commissioner shall prepare and submit to the President of the Republic and the President of the House of Representatives, the annual report for the previous calendar year.

(2) The Commissioner shall, in his report, highlight any legislative amendments in the fields of his competence he deems advisable, and submit recommendations regarding generally the policy followed in relation to the protection and promotion of children’s rights.

(3) The report, submitted under this section, shall be published.

8.-(1) In the exercise of his competences, the Commissioner shall:
(a) act independently, complying solely with the law, moral principles and his conscience;

(b) be subject to the duty of confidentiality, which continues to exist, even after he is in any way retired, from his office; and

(c) as a witness or expert, give evidence which is only exclusively related to compliance with the provisions of this Law.

(2) All members of the staff of the Office of the Commissioner shall be subject to the duty of confidentiality, during their service, as well as after they are, in any way retired, therefrom.

(3) The duty of confidentiality of the Commissioner, as well as of the members of the staff of his Office shall extend to handling as confidential any matter, document or information which comes to their knowledge in the exercise of their duties and, disclosure or transmission of any such matter, document or information shall be prohibited, except only for the purposes of this Law.

(4) If the Commissioner or a member of the staff of his Office contravenes the duty of confidentiality imposed by subsections (1), (2) and (3) of this section, he shall commit an offence, which, in case of conviction, shall be punishable with imprisonment not exceeding one (1) year or with a fine not exceeding seventeen thousand and eighty six euros (€17.086,00)∗ or with both such penalties.

Protection of the Commissioner.

9. No legal proceedings may be brought against the Commissioner for any act done or any opinion expressed or the content of a report or any other document submitted by him within the framework of exercising his competences pursuant to this Law.

PART III – APPOINTMENT OF THE COMMISSIONER, OFFICE OF THE COMMISSIONER AND COMMISSIONER’S YOUNG ADVISORS TEAM (YAT)**

Appointment of the Commissioner.

10.-(1) There shall be appointed by the Council of Ministers a citizen and permanent resident of the Republic, of high moral standing,
recognized for his academic and professional knowledge and experience in matters concerning children, as Commissioner:

Provided that, before any decision is taken by the Council of Ministers pursuant to this subsection, the Council shall hear the views of the children, as expressed through the Pan-Cyprian Coordinating Students’ Committee (PSEM) and the Children’s Parliament, concerning the skills and the qualifications the children expect the Commissioner to have:

Provided further that, the Council of Ministers may, instead of appointing a Commissioner as hereinabove, appoint as Commissioner pursuant to this Law, a person who is already appointed as an independent Commissioner pursuant to another law and/or act of the President of the Republic, if satisfied that-

(a) such person is suitable for the purposes of this Law and,

(b) such appointment does not cause conflict of the duties entrusted to either of them by the corresponding to either of them law and/or act of the President of the Republic:

Provided even further that, in case the appointment of the Commissioner is made in accordance with the provisions of the second proviso of this subsection, termination of the appointment or dismissal before the expiry of the term of office of the said person as an independent Commissioner pursuant to another law and/or act of the President of the Republic does not in any way affect the appointment of the Commissioner, by the Council of Ministers, pursuant to this Law, which is controlled only pursuant to the provisions of this Law.

(2) The term of office of the Commissioner shall be six years with the possibility of re-appointment and does not exceed twelve years in total:

Provided that, in case of appointment as Commissioner of a person, who is already an independent Commissioner pursuant to another law and/or act of the President of the Republic, in accordance with the provisions of the second proviso of subsection (1), then, the term of office of the Commissioner pursuant to this Law, may not exceed the term or the remainder of the term of office of the Commissioner appointed pursuant to such other law and/or act of the President of the Republic, provided that, irrespective of the number of appointments, the term of office of the Commissioner pursuant to this Law does not exceed twelve years in total.

(3) The Commissioner shall dedicate the whole of his time to the
exercise of his competences pursuant to this Law and may not–

(a) hold any other public office in the Republic, or

(b) be engaged in any other office or employment on payment,
or

(c) exercise any other occupation:

Provided that, the parallel exercise by the Commissioner of the duties of an independent Commissioner under another law and/or act of the President of the Republic shall not be deemed to contravene any of the provisions of this subsection.

(4) The Commissioner shall before assumption of his duties make before the President of the Republic an affirmation that he shall exercise his duties faithfully in the best interest of the children and the public interest in general.

11. The Commissioner shall receive such remuneration and benefits, as the Council of Ministers may from time to time approve.

12.- (1) The Commissioner shall, for the exercise of his task, have an Office, the staff of which may consist of officers having such qualifications and serving upon such conditions, as may be prescribed.

(2) Until fiscal conditions permit the appointment of staff in accordance with the provisions of subsection (1) of this section, the Office of the Commissioner shall be staffed either by secondment of public officers, pursuant to the provisions of the Public Service Law, as amended or substituted for the time being, or/and by provision thereto of the services of educational officers, pursuant to the provisions of the Public Educational Service Law, as amended or substituted for the time being.
31(I) of 2004
218(I) of 2004
68(I) of 2005
79(I) of 2005
105(I) of 2005
96(I) of 2006
107(I) of 2008
137(I) of 2009
194(I) of 2011
78(I) of 2013
7(I) of 2014
21(I) of 2014.

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1969
67 of 1978
53 of 1979
4 of 1985
100 of 1985
168 of 1986
65 of 1987
129 of 1987
157 of 1987
162 of 1987
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245 of 1987
76 of 1988
107 of 1988
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50(I) of 1992
78(I) of 1992
80(I) of 1992
81(I) of 1992
116(I) of 1992
40(I) of 1993
41(I) of 1993
46(I) of 1993
8(I) of 1994
37(I) of 1994
26(I) of 1995
72(I) of 1995
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88(I) of 1997
5(I) of 1998
23(I) of 1998
46(I) of 1998
57(I) of 1998
79(I) of 1998
12(I) of 1999
30(I) of 1999
44(I) of 1999
84(I) of 1999
157(I) of 1999
31(I) of 2000

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13.—(1) There shall be established a Commissioner’s Young Advisors Team (YAT), consisting of children aged thirteen to seventeen years for-

(a) exchanging views between the young persons and the Commissioner on any matter concerning children’s rights;

(b) forming opinions, proposals, suggestions and submitting them to the Commissioner, on any matter concerning children and their rights;

(c) discussing with the Commissioner issues concerning children and which the children themselves consider important;

(d) empowerment of the children through workshops on matters concerning children’s rights and or/matters of interest to, and/or affecting, children;

(e) exchanging views, co-operating and taking part in activities of other young advisors teams in other European states and/or taking part in programs of the European Network of Ombudspersons for Children-ENOC;

(f) co-organizing and taking part in activities of the Office of the Commissioner in relation to children’s rights.

(2) The YAT shall consist of young persons with, as far as possible, a balanced representation of Cypriot society, in terms of geographical area,
sex, age, ethnic background, religious beliefs, cultural origin and social
groups, including children with disabilities:

Provided that, in the composition of the YAT there shall be, if possible,
at least one representative from the Children’s Parliament and one
representative from the Pancyprian Co-ordinating Students’ Committee
(PSEM).

(3) The selection process, the manner of functioning, the duration and
mode of renewal of its term as well as any other matters relating to the
smooth and efficient functioning of the YAT, shall be prescribed by
guidelines compiled by the Commissioner in consultation with the YAT:

Provided that, for the compilation of the first guidelines there shall be
consultation with the YAT existing on the date of the entry into force of
this Law.

Consultation of
the Commissioner
with organized
groups of
children.
8 of 44(I)/2014.

13A. The Commissioner shall consult with organized groups of children,
in particular the Children’s Parliament and the Pancyprian Co-ordinating
Students’ Committee (PSEM). The manner of consultation between
the Commissioner and the said organized groups of children may be made on
the basis of guidelines to be prescribed after consultation of the
Commissioner with each one of the said groups.

Specialized groups
of children.
8 of 44(I)/2014.

13B. (1) The Commissioner may form ad-hoc groups of children of any
age and, in particular, children who because of their age cannot
participate in the YAT, to discuss specific issues concerning children, to
exchange views with the Commissioner in relation to his priorities as well
as to how the Commissioner can best implement his various action plans,
in relation to such specific issues.

(2) The manner of establishment, functioning and any other matters
concerning the better and more efficient functioning of such groups shall
be prescribed by guidelines compiled by the Commissioner, after
consultation with the YAT.

Consultation with
non-governmental
organizations.
8 of 44(I)/2014.

13C. The Commissioner shall, in the execution of his duties, consult with
non-governmental organizations engaged in matters concerning either
directly or indirectly children.

Informing the
House of
13D. The Commissioner shall inform on an annual basis the House of
Representatives for any revision of the guidelines.

14. The Commissioner may submit his resignation in writing to the Council of Ministers, which shall not be revocable and takes immediately effect without the prior acceptance of the Council of Ministers being a prerequisite.

15. The Commissioner may not be dismissed or retired from his office before the expiration of his term of office, except for the same reasons and in the same manner as the Judges of the Supreme Court are dismissed or retired from office, or in case he is convicted for an offence pursuant to subsection (4) of section 8.

PART IV – MISCELLANEOUS PROVISIONS

16. (1) The first Commissioner shall be appointed within sixty (60) days from the entry into force of this Law.

(2) The time of the assumption of duties of the first Commissioner shall, after the necessary stage for the preparation of his Office, be specified, by a decision of the Council of Ministers, issued within not later than three months from the appointment of the Commissioner.

17. Any person who--

(a) omits, without lawful justification, to provide any information required by the Commissioner or willingly in any way obstructs the provision of such information, or

(b) provides any information or particulars, knowing them to be inaccurate or which has adequate reason to believe that they are inaccurate, or

(c) insults, obstructs or harasses the Commissioner or any person authorized by him,

shall be guilty of an offence, and shall be liable on conviction to imprisonment not exceeding one year or to a fine not exceeding eight
thousand five hundred and forty three euros (€8,543,00) or to both such penalties.

18. The Council of Ministers may, upon the recommendation of the Commissioner, make Regulations for prescribing any matter which under the provisions of this Law is required or permitted to be prescribed.

19. The Supreme Court may make Rules of Court to be published in the Official Gazette of the Republic, for the better carrying into effect of the provisions of paragraphs (g) and (h) of subsection (1) of section 4 of this Law.

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* P.I. 312/2007 issued pursuant to section 9(1) of the Adoption of the Euro Law, 2007 [L. 33(I)/2007, as amended].