



S U P P L E M E N T No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1142 of 19th January, 1999
L E G I S L A T I O N

ORDINANCE 1 OF 1999

A N O R D I N A N C E

**TO PROVIDE FOR THE COMPULSORY INSURANCE OF
EMPLOYERS AGAINST LIABILITY FOR BODILY
INJURY OR DISEASE CAUSED TO THEIR EMPLOYEES**

A. I. RAMSAY

18th January 1999.

ADMINISTRATOR

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

1. This Ordinance may be cited as the Employers Liability (Compulsory Insurance) Ordinance 1999. Short title.
2. In this Ordinance, unless the context otherwise requires - Interpretation.

“employee” means an individual who has entered into or works under a contract of service or apprenticeship with an employer whether by way of a manual labour, clerical work or otherwise, whether such contract is expressed or implied, oral or in writing and, in the context of liabilities to which this Ordinance applies arising on the death of the employee or in the case of a deceased employee where such liabilities arose prior to the death of the employee, shall include the personal representatives or the executor of the estate of the deceased employee;

“insurer” means an insurance company or an underwriter approved by the Administrator by order in the Gazette;

“judgment” means a decision or an order of the Judge’s Court of the Sovereign Base Areas in the context of any procedure for the payment of any sum by way of damages for the death, injury or disease arising out of or in the course of an employee’s employment but does not include a decision or an order (judicial or given at arbitration) relating to the registration of foreign judicial decisions, under the provisions of the Foreign Judgments (Mutual Enforcement) Ordinance or any Ordinance amending or repealing the same;

Cap. 10 (Laws of Cyprus).

“policy” means a policy of insurance issued by an insurer for the purposes of and in accordance with requirement of this Ordinance;

“section” or “subsection” means a section or subsection of this Ordinance.

3. The provisions of this Ordinance shall not apply in the following circumstances:-

- (a) where the employment falls within one of the categories of employment listed in Part II of the First Schedule to the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance as amended;
- (b) where the employer is the Crown or the Government of the Republic of Cyprus;
- (c) where the employer falls within an exempted category to be prescribed in regulations made by the Administrator under this Ordinance.

Exempted employments.

Ordinances 16/80, 5/83, 1/84, 5/85, 17/85, 6/87, 24/87, 14/88, 4/90 and 1/93.

Duty to be insured.

4. - (1) Subject to the provisions of this Ordinance, every employer carrying on business within the Areas shall insure and maintain insurance under a policy with an insurer against liability for the death of or bodily injury or disease sustained by his employees and arising out of and in the course of their employment in the Areas (hereinafter in this Ordinance referred to collectively as “insurable liabilities” and each separately as an “insurable liability”).

(2) For the purposes of this section and any policy, the death of an employee or the bodily injury or disease of an employee sustained in the course of the employee’s employment shall, unless the contrary is established, be deemed to be a death, bodily injury or disease arising out of that employment.

Provisions relating to policy.

5. - (1) Notwithstanding the provisions of any other Ordinance, an insurer issuing a policy to an employer by virtue of section 4 of this Ordinance shall be liable under and by virtue of such policy to indemnify the employer specified in the policy in respect of the insurable liabilities which the policy purports to cover in the case of his employees.

(2) A policy shall be of no effect for the purposes of this Ordinance unless and until there is issued by the insurer in favour of the employer by whom the policy is effected a certificate (in this Ordinance referred to as a “certificate of insurance”) in the prescribed form and containing particulars of any conditions subject to which the policy is issued and of such other matters as may be prescribed.

Hospital expenses.

6. Where, in connection with an insurable liability, an employee, to the knowledge of the insurer, has undergone treatment at a hospital in the Areas or at a Government hospital in the Republic, the expenses reasonably incurred by the hospital in providing that treatment, up to a maximum of £1000, shall in addition to any other liability of the insurer be payable by the insurer.

Invalid terms in policy.

7. - (1) Any condition in a policy issued for the purposes of this Ordinance which provides that no liability shall arise under the policy, or that any such liability so arising shall cease on the happening of a specified act or omission taking place after the right

to claim under the policy has arisen, shall be prohibited for the purposes of this Ordinance and accordingly shall have no effect:

Provided that nothing in this section shall be taken as prejudicing any provision in a policy requiring the insured to repay to the insurer any sum which the insurer may have become liable to pay under the policy and which has been applied to the satisfaction of claims in respect of employees.

(2) Where a certificate of insurance has been issued, so much of the policy to which the certificate relates as purports to restrict the insurance of the employees thereby insured in respect of any of the following matters -

- (a) the number, sex, age, physical or mental condition, nationality, education, training, qualifications, skill, specialisation and generally the ability of the employees or any of them;
- (b) the place, space, time, duration, the means and method in which the work is performed by the employees or any of them if such work is performed within the geographical area to which the policy applies;
- (c) the use or not by the employees or any of them of any tools, machinery, accessories or means of protection;
- (d) the nature of the work of the employees or any of them or of the employer;
- (e) the legality or validity of the contract of employment;
- (f) the wages or allowances of the employees or any of them;
- (g) the demonstration or not by the employer of reasonable care and attention, or his conforming with any legal or regulatory provisions for the protection of his employees;
- (h) the keeping or submitting to any person of any records, details or information by the employer,

shall in respect of any insurable liability be of no effect:

Provided that nothing in this section shall require an insurer to pay any sum in respect of the liability of a person otherwise than in or towards the discharge of that liability and any sum paid by an insurer in or towards the discharge of the liability of any person which is covered by the insurance policy, by virtue only of this section, shall be recoverable by the insurer from that person.

8. Where a certificate of insurance has been issued under the provisions of section 5 of this Ordinance and the policy to which the certificate of insurance relates is cancelled by mutual agreement or by virtue of any provision therein, the employer in whose favour the certificate was issued shall within forty eight hours of the taking effect of the cancellation of such policy, surrender the certificate to the insurer or, if such certificate has been lost or destroyed, swear an affidavit to that effect and any person contravening the provisions of this section shall be guilty of an offence under this Ordinance.

Return of
insurance
certificate.

9. - (1) If after a certificate of insurance has been issued under the provisions of section 5 of this Ordinance judgment, in respect of an insurable liability, being a liability covered by the terms of the policy, is obtained against an employer insured by the policy

Duty of insurer in
respect of court
decision against
insured.

then, notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of such judgment any sum payable thereunder in respect of the liability, including any sum payable in respect of costs and any sum payable by virtue of any Ordinance in respect of interest on that sum or judgment.

(2) No sum shall be payable by an insurer under the provisions of subsection (1) above -

- (a) in respect of any judgment, unless before or within seven days after the commencement of the proceedings in which the judgement was given, the insurer had notice of the bringing of the proceedings; or
- (b) in respect of any judgment, so long as execution thereon is stayed pending an appeal; or
- (c) in connection with any liability, if before the happening of the event, which was the cause of the death or bodily injury or the onset of the disease giving rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained therein, and either -
 - (i) before the happening of such event or the onset of the disease, the certificate of insurance was surrendered to the insurer, or the person in favour of whom the certificate of insurance was issued made an affidavit stating that the certificate of insurance had been lost or destroyed and so could not be surrendered; or
 - (ii) after the happening of such event or onset of the disease, but before the expiration of fourteen days from the taking effect of the cancellation of the policy, the certificate of insurance was surrendered to the insurer, or the person in favour of whom the certificate of insurance was issued made an affidavit that the certificate of insurance had been lost or destroyed and so could not be surrendered; or
 - (iii) either before or after the happening of such event or onset of the disease, but within a period of fourteen days from the taking effect of the cancellation of the policy, the insurer had commenced proceedings under this Ordinance in respect of the failure to surrender the certificate of insurance.

(3) The insurer shall not be liable to pay any sum of money under the provisions of this section if, in an action instituted before or within three months from the commencement of the proceedings in which the judgement was given, he has obtained a declaration of the Judge's Court that apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact, or by a representation of a fact which was false in a material particular or if he has avoided the policy on the ground that he had a right to do so, apart from any provision contained therein:

Provided that an insurer who has obtained such a declaration in an action shall not thereby be entitled to the benefit of the provisions

of this subsection in respect of any judgement obtained in any proceedings commenced before the commencement of that action, unless before or within seven days after the commencement of that action he has given notice thereof to the person who is plaintiff in the action under the policy specifying the non-disclosure or false representation on which he proposes to rely and that he intends to seek a declaration and any person to whom notice of such action is given may, if he desires, be made a party thereto.

(4) If the amount which an insurer under the provisions of this section becomes liable to pay in respect of the liability of a person insured by a policy exceeds the amount for which he would, apart from the provisions of this section, be liable to pay under the policy in respect of that liability, he shall be entitled to recover the excess from that person.

(5) In this section -

“liability covered by the terms of the policy” means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled the policy; and “material” means of such a nature as to influence the judgement of a prudent insurer in determining whether he will accept the risk, and if so, at what premium and on what conditions.

10. - (1) Where under a policy an employer (hereinafter referred to as “the insured”) is insured against insurable liabilities then -

Rights of
employee against
insurer.

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
- (b) in the event of the insured being a company and a winding-up order being made or a resolution for the voluntary winding-up of the company being passed in respect of the company or a receiver or manager of the company’s business or undertaking being duly appointed or in the event of possession being taken by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

if either before or after either event any such liability is incurred by the insured his rights against the insurer under the policy in respect of that liability shall, notwithstanding anything in any Ordinance to the contrary contained, be transferred to and vest in the employee to whom the liability was so incurred.

(2) Where under the provisions of any Ordinance an order is made for the administration in bankruptcy of the estate of a deceased debtor then if any debt, which may be proved in bankruptcy, is owing by the deceased in respect of a liability against which he was insured under a policy as being a liability to a an employee then the rights of the deceased debtor against the insurer under that policy shall, notwithstanding anything in any Ordinance to the contrary contained, be transferred to and vest in the person to whom the debt is owing.

(3) Any condition in a policy purporting directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the happening of any of the events specified in the above subsections (1) and (2) shall be prohibited and be of no effect.

(4) Upon a transfer of rights under subsection (1) or subsection (2) above the insurer shall, subject to the provisions of section 12, be under the same liability to the employee as he would have been under to the insured save that -

- (a) if the liability of the insurer to the insured exceeds the liability of the insured to the employee nothing in this Ordinance shall affect the right of the insured against the insurer in respect of such excess; and
- (b) if the liability of the insurer to the insured is less than the liability of the insured to the employee nothing in this Ordinance shall affect the rights of the employee against the insured in respect of the balance.

(5) Sections 10, 11 and 12 shall not apply where a company is wound-up voluntarily merely for the purposes of reorganisation or of amalgamation with another company.

(6) For the purposes of sections 10, 11 and 12 the expression "liabilities to the employee" in relation to a person insured under a policy shall not include any liability of that person in the capacity of insurer under some other policy.

11. - (1) Any person against whom a claim is made in respect of any liability required to be covered by a policy under the provisions of this Ordinance shall on demand by or on behalf of the person making such claim state whether or not he was insured in respect of that liability by any policy having effect for the purposes of this Ordinance or would have been so insured if the insurer had not cancelled or avoided the policy, and, if he were or would have been so insured, give such particulars with regard to that policy as were specified in the certificate of insurance issued in his favour in respect thereof.

(2) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors or in the event of an order being made under the provisions of any Ordinance relating to bankruptcy in respect of the estate of any person or in the case of a winding-up order being made or a resolution for a voluntary winding-up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge, it shall be the duty of the bankrupt debtor, personal representative of the deceased debtor and as the case may be, of the official assignee, trustee, liquidator, receiver, manager, or person in possession of the property to give at the request of any person claiming in respect of a liability to him such information as may reasonably be required to ascertain whether any rights have been transferred to and vested in him under the provisions of this Ordinance, and for the purpose of enforcing such rights, and any provision of the policy in so far as it purports either directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the giving of any such information or otherwise to prohibit, prevent or limit the giving of such information shall be prohibited and be of no effect.

(3) If the information given to any person in pursuance of the provisions of subsection (2) discloses reasonable grounds of belief

that rights have or may have been transferred to him under the provisions of this Ordinance against any particular insurer that insurer shall be subject to the same duty as is imposed by subsection (2) on the persons therein mentioned.

(4) The duty imposed by this section to give information shall include a duty to allow all policies, receipts for premiums and other relevant documents in the possession, power or control of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

(5) Any person who, without reasonable excuse, the onus of proving which shall be upon him, fails to comply with the provisions of this section or who wilfully or negligently makes any false or misleading statement in reply to a demand for information, shall be guilty of an offence against this Ordinance.

12. Where a person who is insured under a policy has become bankrupt or where such insured person being a company a winding-up order has been made or a resolution for a voluntary winding-up has been passed with respect to that company no agreement made between the insurer and the insured after liability has been incurred to an employee and after the commencement of the bankruptcy or the winding-up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured after such commencement shall be effective to defeat or affect the rights transferred to or vested in the employee under the provisions of this Ordinance and such rights shall be the same as if no such agreement, waiver, assignment, disposition or repayment had been made.

Void agreements
between insurer
and insured
person.

13. Where under the provisions of this Ordinance a certificate of insurance has been issued in favour of the person by whom a policy has been effected the happening in relation to any person insured by the policy of any of the events specified in subsection (1) or subsection (2) of section 10, notwithstanding anything in this Ordinance contained, shall not affect any such liability of that person as is required to be covered by a policy under the provisions of this Ordinance, and nothing in this section shall affect any rights against the insurer conferred under the provisions of sections 10, 11 and 12 of the person to whom the liability was incurred.

14. - (1) No settlement made by an insurer in respect of any claim which might be made by an employee in respect of any liability as is required to be covered by a policy shall be valid unless such employee is a party to such settlement.

Settlement of
claims.

(2) A policy issued under the provisions of this Ordinance shall remain in force and available for employees notwithstanding the death of any person insured under such policy as if such insured person were still alive.

15. - (1) Every employer shall -

- (a) display the certificate of insurance in a conspicuous and accessible place at his main place of business and at any branches thereof and where practicable at any other place of work and shall produce a copy of the certificate of insurance to any employee or other interested party when requested so to do;

Duties of the
employer in
relation to
insurance
certificates.

- (b) produce the certificate of insurance or a copy thereof to any inspector authorised in that behalf by the Chief Officer for the purposes of this Ordinance and produce or send such certificate or a copy thereof to any other persons as may be prescribed in regulations to be made under this Ordinance;
- (c) allow the inspection of the policy or a copy thereof by the persons authorised in that behalf by regulations to be made under this Ordinance.
- (2) An employer or his representative or any employee who contravenes the provisions of this section, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred pounds.

Inspectors.

16. - (1) The Chief Officer shall appoint inspectors for the purposes of ensuring that the requirements of this Ordinance are complied with.

(2) Inspectors appointed under subsection (1) shall have the following powers:-

- (a) to enter, at any reasonable time, any place which is used by an employer as a place of work;
- (b) to carry out such investigations as are necessary in order to establish whether the provisions of this Ordinance are being observed.

(3) An employer shall, either personally or through his agents or employees, furnish to an inspector appointed under subsection (1) above all such information as may reasonably be requested by him for the purposes of carrying out his duties under this Ordinance.

(4) Any person who -

- (a) intentionally delays or obstructs any inspector in the execution of the powers vested in him under this section;
- (b) refuses or fails to answer any question put to him by an inspector or refuses or fails to furnish any information which he is under a duty to furnish,

shall commit an offence and shall be liable on conviction to a fine not exceeding two hundred pounds.

(5) Every inspector shall when carrying out his duties under this Ordinance have in his possession the instrument of his appointment and shall produce it when requested so to do.

17. In assessing the damages due either under a judgment or in an out of court settlement, any sum of money which has been paid or is due to be paid from the Republican Social Insurance Fund as a benefit or an allowance in respect of the same death, injury or disease to which the said judgement or settlement relates shall be disregarded.

18. Any proceedings under this Ordinance must be commenced within two years from the date of the event giving rise to the death, bodily injury or disease:

Provided that in the case of a disease contracted by an employee, the proceedings must be commenced within two years from the day when the employee first became aware of the said disease.

Assessment of compensation.

Lapse of claim.

19. Notwithstanding the provisions of any other Ordinance, the premiums payable in respect of a policy issued under section 4 of this Ordinance shall be in the discretion of the insurer.

Assessment of Premiums.

20. - (1) An employer who contravenes the provisions of subsection (1) of section 4 of this Ordinance shall be guilty of an offence and shall be liable on conviction to imprisonment not exceeding twelve months or to a fine not exceeding one thousand pounds or to both such penalties.

Offences.

(2) Where an offence under subsection (1) above is committed by a body corporate or partnership or union of persons or organisation without legal personality, every person who, at the time of the commission of the offence, was either a director, a secretary or other employee or representative of the corporate body or the partnership or the union of persons or the organisation, shall be deemed to have committed an offence and shall be liable on conviction to the penalty provided in subsection (1) above, unless such person can prove that he was not aware of the commission of the offence and that he had taken reasonable steps to avoid the commission thereof.

(3) An employer who makes any statement, either verbal or in writing, which is false or misleading in relation to the number of persons in his employment or as to their remuneration or the type of work in which they are employed, or who conceals material facts for the purpose of obtaining a certificate of insurance for the purposes of this Ordinance, shall, unless he can satisfy the Judge's Court that he had not acted with intent to defraud, be guilty of an offence and shall be liable on conviction to imprisonment not exceeding twelve months or to a fine not exceeding one thousand pounds or to both such penalties.

(4) Any person who with intent to defraud -

- (a) forges, falsifies or alters any insurance certificate or any other certificate or document issued under the provisions of this Ordinance, or
- (b) uses or allows any other person to use any forged, falsified or altered insurance certificate or any other certificate or document issued under the provisions of this Ordinance, or
- (c) provides to another person or receives from another person an insurance certificate or any other certificate or document issued under the provisions of this Ordinance, or
- (d) fabricates or has in his possession any document purporting to be a certificate or document issued for the purposes of this Ordinance, or
- (e) issues any insurance certificate or any certificate or document the issue of which is provided in this Ordinance,

shall be guilty of an offence and shall be liable on conviction to imprisonment not exceeding twelve months or to a fine not exceeding one thousand pounds or to both such penalties.

(5) Any person who commits an offence under this Ordinance, for which no specific penalty is provided, shall be liable on conviction to imprisonment not exceeding six months or to a fine not exceeding four hundred and fifty pounds or to both such penalties.

Regulations.

21. - (1) The Administrator may make regulations prescribing anything which may be prescribed under the provisions of this Ordinance and generally for the purpose of putting this Ordinance into effect and in particular but without prejudice to the generality of the foregoing may make regulations -

- (a) prescribing the form and content of certificates of insurance or any other printed papers which are required to be issued or submitted under the provisions of this Ordinance;
- (b) prescribing the fees payable in relation to any services performed under the provisions of this Ordinance;
- (c) prescribing the penalties of imprisonment which shall not exceed a period of six months or the payment of a fine which shall not exceed the sum of four hundred and fifty pounds or both such penalties, for the contravention of any provision of the regulations made under the provisions of this Ordinance;
- (d) prescribing the minimum sums in relation to which an employer is required to insure and maintain insurance either generally or in respect of each of the insurable liabilities under this Ordinance, without prejudice to the obligation of such employer to remit the balance to the employee.

Date of effect of
Ordinance.

22. This Ordinance shall come into force on the date of its publication in the Gazette.

18th January 1999

(107/3)

P.A. ROTHERAM,

Chief Officer



