



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1218 of 22nd August 2001
LEGISLATION

ORDINANCE 12 OF 2001

AN ORDINANCE
TO PROVIDE FOR THE PROTECTION OF CONSUMERS
BY REQUIRING CONFORMITY OF CONSUMER GOODS
WITH TERMS OF CONTRACTS OF SALE
AND BY REGULATING GUARANTEES
AND OTHER RELATED MATTERS

D.E. RADCLIFFE
ACTING ADMINISTRATOR

13th August 2001.

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

PART I
PRELIMINARY

1. This Ordinance may be cited as the Sale of Consumer Goods (Conformity with Contracts and Guarantees) Ordinance 2001.

Short title.

2. In this Ordinance, unless the context requires otherwise -

Interpretation.

“conformity” in relation to any consumer goods means their conformity, determined in accordance with section 4, with the terms of the contract of sale of the goods, and “lack of conformity” shall be construed accordingly;

“consumer” means an individual who, as a party to a contract of sale falling within the scope of this Ordinance, acts for a purpose other than his trade, business or profession;

“consumer goods” means any tangible movable item, other than -

- (a) goods sold by way of execution or otherwise by authority of law,
- (b) water and gas where they are not put up for sale in a limited volume or set quantity, and
- (c) electricity;

“Court” means the Judge’s Court of the Areas;

“guarantee” means any undertaking given by a seller or producer to the consumer, at no extra cost to the consumer, to reimburse the price paid, or to replace, repair or handle in any way consumer goods if they are not in accord with the guarantee or any related advertising;

“producer” in relation to any consumer goods means the manufacturer of the consumer goods, the importer of the consumer goods into the Areas or the Republic or any other person purporting to be a producer of the goods by placing his name, trade mark or other distinctive sign on the consumer goods;

“repair” means, in the event of lack of conformity of any consumer goods, bringing the consumer goods into conformity with the terms of the contract of sale;

“seller” means any person who, under a contract of sale, sells consumer goods in the course of his trade, business or profession.

Application.

3. This Ordinance shall apply to contracts of sale of consumer goods made between sellers and consumers.

PART II

GENERAL PROTECTION OF CONSUMERS

Conformity of
consumer goods
with terms of
contract of sale.

4. - (1) Subject to the provisions of this section, all consumer goods supplied or delivered by a seller to a consumer under a contract of sale shall be in conformity with the terms of that contract.

(2) For the purposes of this Ordinance consumer goods are deemed to be in conformity with the terms of the contract of sale if they -

- (a) comply with the description of the consumer goods given by the seller and have the same qualities as those of a sample or model of the consumer goods provided by the seller to the consumer before or at the time of the conclusion of the contract of sale;
- (b) are fit for any particular purpose for which the consumer requires them and which he made known to the seller at the time of conclusion of the contract and which the seller has accepted;
- (c) are fit for the purposes for which goods of the same kind are normally used;
- (d) have the qualities and functional capabilities which are normal in goods of the same type and which the consumer can reasonably expect, given the nature of the goods and the representations as to the goods made by the seller, the producer or his representative by means of advertising, labelling or otherwise.

(3) For the purposes of subsection (2) above, in determining the qualities of any goods, the matters to be taken into account shall include (but shall not be limited to) -

- (a) the availability when required of parts, accessories and trained technicians, for the purposes of the maintenance and repair of the goods;

- (b) the safety of such goods as laid down in the Safety of Consumer Goods Ordinance and regulations made thereunder;
- (c) the durability of the goods;
- (d) the appearance and final finish of the goods; and
- (e) the absence of defects.

(4) For the purposes of this section there shall be deemed to be no lack of conformity of the goods with the terms of the contract of sale if, at the time of concluding the contract, the consumer was aware or could reasonably have become aware of the lack of conformity, or if such lack of conformity is due to or has arisen from materials supplied by the consumer in the manufacture or production of the consumer goods.

(5) The seller shall not be bound by any representations such as are referred to in subsection (2)(d) above, if he shows that -

- (a) at the time that the contract of sale was concluded, he was not aware and he could not reasonably have become aware of the representations;
- (b) by the time that contract of sale was concluded, the representations had been corrected; or
- (c) the consumer's decision to buy the consumer goods could not have been influenced by the representations.

(6) Any lack of conformity of any consumer goods resulting from an incorrect installation of the goods shall be deemed to be equivalent to a lack of conformity of the goods with the terms of the contract -

- (a) where such installation forms part of the contract of sale and the goods were installed by or on behalf of the seller, or
- (b) where, as was intended by the parties to the contract, the installation was by the consumer but the incorrect installation was due to incomplete, inaccurate or wrong installation instructions supplied by the seller to the consumer.

(7) For the purposes of subsection (6) above, installation instructions shall be deemed to be incomplete if they are not supplied in English or in one of the official languages of the Republic being an official language of the European Union.

5. - (1) The seller shall, in the manner and to the extent provided for in the following provisions of this Ordinance, be liable to the consumer for any lack of conformity of goods where the lack of conformity existed at the time of the delivery of the goods.

Seller's liabilities
and consumer's
rights.

(2) Where there is such a lack of conformity of goods, the consumer shall be entitled to have the consumer goods brought into conformity free of charge by means of the repair or replacement of the goods, in accordance with subsection (3) below, or to have an appropriate reduction in the price of the consumer goods, or to have the contract of sale of the goods rescinded in accordance with subsection (6) below.

(3) Any consumer has, first, the right to require the seller to repair or replace the consumer goods free of charge, unless this is impossible or disproportionate. Such remedy shall be deemed to be disproportionate if, in comparison with the alternative remedies, it imposes on the seller unreasonable cost, taking into account -

- (a) the value that the goods would have if there were no lack of conformity;
- (b) the degree of the lack of conformity; and
- (c) whether the alternative remedies could be pursued to completion without significant inconvenience to the consumer.

(4) The repair or replacement of any consumer goods shall be completed within a reasonable period of time and without any significant inconvenience to the consumer, taking into account the nature of the goods and the purpose for which the consumer required them.

(5) The expression "free of charge" in subsections (2) and (3) above means free to the consumer of the costs of bringing the goods into conformity, including but not limited to the costs of labour, materials and transportation of the goods by post or other means.

(6) The consumer may require an appropriate reduction of the price of the consumer goods or, subject to subsection (7) below, to have the contract of sale rescinded, if -

- (a) the consumer is not entitled to have the consumer goods repaired or replaced under subsection (3) above, or
- (b) the seller has not completed the remedy of repair or replacement within a reasonable period of time, or
- (c) the seller is unable to complete the remedy of repair or replacement without significant inconvenience to the consumer.

(7) The consumer shall not be entitled to have the contract rescinded where the lack of conformity of the goods is of a minor nature not having a significant effect upon the intended use of the consumer goods.

6. Where there is a lack of conformity of any consumer goods due to an act of commission or omission by the producer of the goods, or by a previous seller of the goods or by any other intermediate person, such rights or remedies as the seller of the goods to the consumer may have against such producer, previous seller or intermediate person shall not be affected by any provision of this Ordinance.

7. - (1) The seller shall cease to be liable to the consumer under the provisions of section 5 above, where the lack of conformity of the consumer goods first becomes apparent more than two years after delivery of the goods to the consumer.

(2) A consumer shall not be entitled to the remedies under section 5 if he fails to notify the seller of the lack of conformity of the consumer goods within two months from the date on which he first became aware of the lack of conformity.

Seller's rights
against third
parties not
affected.

Time limits.

(3) Any lack of conformity of consumer goods which becomes apparent within six months of delivery shall be presumed to have existed at the time of delivery of the goods unless it is proved otherwise or unless such presumption is unreasonable or unjustified having regard to the nature of the goods or the nature of the lack of conformity.

(4) Notwithstanding any general or special provision relating to the limitation of rights, or of their enforcement, but subject to subsection (2) above, the rights of the consumer to the remedies available to him under section 5 shall not expire before two years have elapsed since the delivery of the consumer goods in question.

8. - (1) A guarantee shall be legally binding on the guarantor in accordance with the conditions laid down in the guarantee statement and any associated advertising.

Guarantees.

(2) A guarantee shall –

- (a) state that the consumer has legal rights under the law relating to consumer goods and make clear that such rights are not affected by the guarantee,
- (b) set out in plain and intelligible language, the content of the guarantee and the essential particulars necessary for making claims under the guarantee and in particular the duration and territorial scope of the guarantee and the name and address of the guarantor.

(3) On request by the consumer, the guarantor shall make the guarantee available to the consumer in writing or in some other form readily accessible to the consumer.

(4) The guarantee shall be in English or in one of the two official languages of the Republic, provided that such language is also one of the official languages of the European Union.

(5) A consumer shall be entitled to rely on a guarantee and to require the guarantor to honour it, notwithstanding that any of the requirements of subsection (2), (3) or (4) above have not been complied with.

PART III

PROTECTION OF CONSUMERS BY JUDICIAL ORDERS

9. - (1) The Chief Officer shall have a duty to investigate, upon complaint made to him or of his own volition, any suspected infringement by a seller of any provision of this Ordinance.

Investigation of infringements.

(2) Where, following an investigation in accordance with subsection (1) above, the Chief Officer considers that there has been such an infringement, he may (but shall not be obliged to) apply to the Court for an order under section 10, against any person who, in his opinion, is involved in or is liable for, such infringement.

(3) The Chief Officer may, if he deems it appropriate, take into account any undertaking given to him by or on behalf of any person involved in or liable for such infringement and the possibility of the cessation or rectification of the infringement.

10. - (1) On any application under section 9(2) the Court may make an order of prohibition or mandamus, including an interlocutory order ordering –

Court orders.

- (a) the immediate cessation or non-repetition of the infringement;
- (b) the taking within a fixed period of time of such corrective measures as the Court deems necessary, for the removal or eradication of the effects of the infringement which is the subject of the application;
- (c) any other action or measure the Court may deem necessary or reasonable in the circumstances of the particular case;
- (d) the publishing of the whole or part of the decision of the Court including the corrective measures for the removal or eradication of the effects of the infringement which is the subject of the application.

(2) Any order made under subsection (1) above may relate not only to the actions or behaviour of the defendant in relation to the consumer affected, but also to such actions or behaviour of the defendant as may affect consumers generally.

Right of recourse to court by organisations or associations for the protection of consumers.

11. Any lawfully formed organisation or association having an interest in the protection of the interests of consumers generally shall have the right to apply for a court order under section 9(2).

Power of Chief Officer to publish information.

12. The Chief Officer may publish information and advice, including orders of the Court, relating to the application of this Ordinance, which he considers appropriate in the interests of consumers generally.

PART IV

MISCELLANEOUS PROVISIONS

Compulsory nature of provisions.

13. - (1) Any contractual terms or agreements concluded with the seller before the lack of conformity of any consumer goods is brought to the attention of the seller and which directly or indirectly purport to waive or restrict the rights of the consumer under this Ordinance shall not be binding on the consumer.

(2) In the case of second-hand goods, the seller and the consumer may agree that the period of two years provided for by section 7(1) after which the seller shall cease to be liable to the consumer under section 5, shall be reduced, but such reduced period during which the seller shall remain liable to the consumer under section 5 shall not be shorter than one year.

Contracts of sale to which a foreign law applies

14. Where a contractual term makes or purports to make applicable to a contract of sale of any consumer goods the laws of another country not being a member State of the European Union, the provisions of this Ordinance shall apply for the benefit of the consumer if -

- (a) such applicable laws provide lesser protection to the consumer than the protection provided to him by this Ordinance; or
- (b) at the time of the conclusion of the contract the consumer had his usual place of residence in the Areas or the Republic, or in a member State of the European Union and the necessary steps for the conclusion or execution of the

contract of sale have been taken by the consumer or on his behalf within the jurisdiction of the Areas or the Republic, or a member State of the European Union.

15. The provisions of the Contract Ordinance, the Sale of Goods Ordinance and of all other Ordinances relating to consumer goods shall continue to apply to contracts of sale of consumer goods, save in so far as they are inconsistent or in conflict with any of the provisions of this Ordinance.

Continuation of application of other Ordinances.

Caps 149 and 246 (Laws of Cyprus) and Ordinance 16/2000.

16. - (1) The Administrator may make regulations generally for the more effective application of this Ordinance, and for putting it into effect and any such regulations may make different provisions for different cases or classes of case and may contain such incidental supplementary or transitional provisions as appears to the Administrator to be necessary or expedient for the purposes of this Ordinance or the regulations.

Regulations.

13th August 2001
(173/16)

D.J. BONNER,
Chief Officer.

ORDINANCE 13 OF 2001

**AN ORDINANCE
TO AMEND THE POWERBOATS ORDINANCE**

D.E. RADCLIFFE
ACTING ADMINISTRATOR

15th August 2001.

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

Short title.

1. This Ordinance may be cited as the Powerboats (Amendment) (No. 2) Ordinance 2001.

Amendments to
Ordinance 8/99 as
amended by
Ordinance 5/2001.

2. The Powerboats Ordinance shall be amended as follows -

- (a) in section 3(1), for the words "is over the age of 18" there shall be substituted the words "has attained the age of 17";
- (b) in section 30(3), for the words "subsection (2)" there shall be substituted the words "subsection (1)".

15th August 2001
(157/16)

D.J. BONNER,
Chief Officer.
