



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1285 of 17th April 2003
LEGISLATION

ORDINANCE 12 OF 2003
AN ORDINANCE
TO AMEND THE FISH FARMING ORDINANCE 2001

T.W. RIMMER
ADMINISTRATOR

14th April 2003.

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 Fish Farming (Amendment) Ordinance 2003 and shall be read as one with the Fish Farming Ordinance 2001 (hereinafter referred to as “the principal Ordinance”).

Short title.

Ordinance 18 of 2001.

2. For section 4(2) of the principal Ordinance there is substituted the following -

Amendment of section 4 of the principal Ordinance.

“(2) A permit such as is described in subsection (1) shall be granted to an applicant on his making an application in accordance with the procedure prescribed by regulations made under section 23:

Provided that if an application relates to a fish farm which is to be operated in a sea area of the Areas, the application shall not be accepted unless it is submitted following a notice which has been published in accordance with section 5.”.

3. For section 5 of the principal Ordinance there is substituted the following -

Substitution of section 5 of the principal Ordinance.

“**5.** - (1) The Fiscal Officer may, with the consent of the Chief Officer, by notice published in the Gazette and in at least two daily newspapers published in the Island of Cyprus and circulated in the Areas, publicise his intention to grant a specified number of permits for the establishment and operation of fish farms in a sea area of the Areas and shall include in such a notice an invitation to interested persons to submit their applications for such a permit .

(2) A notice such as is referred to in subsection (1) may contain such additional information as the Fiscal Officer may consider

to be useful to interested persons and the general public, including information relating to the places or the areas in which the establishment and the operation of the fish farms will be permitted and the conditions which may be imposed upon the granting of a permit.”.

4. For section 6(1) of the principal Ordinance there is substituted the following -

“(1) A permit such as is referred to in section 4 shall not be granted, unless -

- (a) the applicant has produced to the Fiscal Officer all particulars and documents requested of him whether such request is made before or after the submission of his application;
- (b) the applicant has obtained all approvals required under any legislation in respect of the construction of the fish farm in question, including approvals in respect of the use of the site and of water; and
- (c) the construction works and plant of the fish farm are all in conformity with all legislation relevant to their construction and installation.

5. Section 8(1) of the principal Ordinance is amended as follows -

- (a) for paragraph (a) there shall be substituted the following –
“(a) the layout of the fish farm to which the permit relates;”;
- (b) in paragraph (b) the words “construction works,” are repealed; and
- (c) in paragraph (c) the words “those construction works are to be completed and” are repealed.

6. Section 13(1) of the principal Ordinance is amended by substituting a semi-colon for the full stop at the end of the subsection and adding the following proviso to the subsection –

“Provided that nothing in this subsection shall affect the application of the Environmental Impact Assessment Ordinance 2003.”.

7. Section 16(c) of the principal Ordinance is amended by adding after “laws of the Republic” the words “or may prohibit the removal of such fish farming products from a fish farm”.

8. Section 17 of the principal Ordinance is amended as follows -

- (a) in subsection (1) for the words “seized under the provisions of this Ordinance” there are substituted the words “which have been seized or whose removal is prohibited under the provisions of this Ordinance and ”;
- (b) in subsection (2) for the words “seized by the Fiscal Officer” there are substituted the words “ which have been seized by the Fiscal Officer or whose removal is prohibited”; and
- (c) after subsection (3) the following new subsection is added -
“(4) In order for the sale or destruction by the Fiscal Officer of any fish farming products to be carried out under

Amendment of section 6 of the principal Ordinance.

Amendment of section 8 of the principal Ordinance.

Amendment of section 13 of the principal Ordinance.

Ordinance 11/2003.

Amendment of section 16 of the principal Ordinance.

Amendment of section 17 of the principal Ordinance.

subsection (1) or (2) above, an order is required from the Court trying the criminal offence relating to the products, and in considering whether to issue such an order the Court shall apply, subject to appropriate modifications, section 32 of the Criminal Procedure Ordinance (which relates to detention or disposal of things seized under search warrant).”.

Cap.155 (Laws of Cyprus) as amended by Ordinances 4/1960, 19/1963, 1/1966, 2/1972, 2/1973, 10/1975, 4/1978, 11/1979, 22/1987, 4/1992, 8/1996, 1/1997 and 27/1999.

9. For section 18(6) and (7) of the principal Ordinance there is substituted the following -

Amendment of section 18 of the principal Ordinance.

“(6) Any person who obstructs the Fiscal Officer or any other officer of the Areas in the exercise of his powers or the performance of his duties under this Ordinance, or who refuses or fails to comply with any direction, order or prohibition made by the Fiscal Officer under this Ordinance, shall be guilty of an offence and on conviction shall be liable to imprisonment not exceeding six months or to a fine not exceeding three thousand pounds or to both such penalties.

(7) At any stage during a trial for an offence under subsection (1) or (2) above the Court may issue an order for the cessation of the operation of the fish farm concerned and for the sale or other disposal of any plant there, in accordance with such directions as are included in the order of the Court.

(8) Any person who contravenes any provision of this Ordinance or of any regulations made under this Ordinance shall be guilty of an offence and if no other penalty is provided for such offence, he shall be liable on conviction to imprisonment not exceeding three months or to a fine not exceeding two thousand pounds or to both such penalties.”.

10. Immediately after section 18 of the principal Ordinance there shall be inserted the following new section -

Insertion of section 18A into the principal Ordinance.

“Compounding offences

18A. – (1) Where the Fiscal Officer has reasonable cause to believe that a person (“ the offender”) has committed an offence under subsection (2) or (5) of section 18, or contrary to any regulation made under this Ordinance, he may compound the offence on payment by the offender of such amount (not exceeding the amount of the fine which could be imposed on a conviction for the offence) as the Fiscal Officer may specify.

(2) If, after the Fiscal Officer has compounded any offence and after the expiration of such reasonable period of time as the Fiscal Officer may have directed for the offender to cease the conduct which had led the Fiscal Officer to believe that the offender had committed an offence such as is described in subsection (1) above, the offender does not cease such conduct, or if he repeats it, then for each day that the offender continues or repeats such conduct,

the Fiscal Officer may consider the offender to have committed a further offence which the Fiscal Officer may compound under subsection (1) above or for which the offender may be prosecuted.

(3) Any amount paid pursuant to subsection (1) or (2) shall be treated as if it were a fine imposed on a conviction for the relevant offence.

(4) On receiving payment of any amount under this section the Fiscal Officer shall issue a receipt to the offender showing the following particulars –

- (a) the name of the offender;
- (b) a brief description of the offence being compounded;
- (c) the place and date that the offence being compounded was committed; and
- (d) the amount paid.

(5) Following the compounding of an offence, payment of the amount required and the issue of a receipt such as is referred to above in respect of the compounded offence, no further proceedings in relation to that offence may be instituted: in the event that any such proceedings are instituted, the production before the Court of a receipt such as is referred to in subsection (4) above in respect of the offence shall constitute full proof of the facts stated therein and shall entitle the accused to an acquittal in those proceedings.

(6) The compounding of an offence and the payment of the amount required in accordance with the above provisions shall not be considered as a conviction. But in the event of the conviction of the offender subsequently for a similar offence, the Court may be informed about the offence previously compounded and may take it into account for the purposes of determining the sentence for the offence for which the offender is then before the Court.”.

11. Section 23(2) of the principal Ordinance is amended as follows -

(a) for paragraph (c) there is substituted the following –

“(c) the prohibition of fishing near a fish farm operating in a sea area and the imposition of penalties not exceeding imprisonment of six months and a fine of five thousand pounds for a breach of such prohibition; and

(b) by inserting, immediately after paragraph (m) the following new paragraphs –

“(ma) the drawing up and the implementation by the owner of a fish farm of a programme for the operation of the fish farm;

(mb) the giving of directions by the Fiscal Officer in respect of the layout and location of the plant and equipment of a fish farm operating in a sea area;”.

12. For section 24 of the principal Ordinance there shall be substituted the following -

Amendment of section 24 of the principal Ordinance.

“ **24.** - (1) Notwithstanding the provisions of sections 4 to 7 and subject to the provisions of subsection (2) below, a fish farm in operation on 20th September 2001 in accordance with a permit issued under the provisions of the Fisheries (Consolidation) Ordinance 1982 and the regulations made thereunder, may continue to be operated, subject to the provisions of this Ordinance, and shall be treated as if a permit issued in accordance with this Ordinance and valid until 21st August 2003 had been granted in respect of it. For the continued operation of such a fish farm after that date, a renewal of the permit is required in accordance with the relevant regulations.

Ordinance 2/1982 as amended by Ordinances 3/1991, 5/1994 and 1/2002.

(2) In respect of fish farms which were operating in the sea area of the Areas on 20th September 2001, the following provisions shall apply -

- (a) if the fish farm is being operated in an area of the sea outside the area of a port and its operator is not required to pay any fees for using the area of the sea, he may continue to operate the fish farm in the same area (or at such other site to which he may have been ordered to move under section 13(1)) without having to pay any fees until 31st December 2003;
- (b) after that date the operation of the fish farm shall cease unless -
 - (i) the Administrator grants a permit for the sea area in question to be used for fish farming, following an application by the operator to the Fiscal Officer made no later than 30th June 2003; and
 - (ii) the Fiscal Officer issues a permit for the operation of the fish farm;
- (c) in relation to the issuing of a permit such as is described in paragraph (b)(ii) above, the Fiscal Officer shall have regard to the provisions of sections 4,7,8,9,11, 13 and 20 and to any regulations made under section 23;
- (d) upon the granting of a permit such as is described in paragraph (b)(i) above, the Administrator may impose such conditions in respect of the use of the sea area as he considers appropriate, including conditions relating to safety and protection of the environment.”.

13. This Ordinance shall come into force on the day of its publication in the Gazette.

Commencement.

17th April 2003
(157/2B)

J.C.A. JARVIS CBE,
Chief Officer

Marginal Notes:

1. Short title.
2. Ordinance 18 of 2001.
3. Amendment of s.4 of the principal Ordinance.
4. Substitution of s.5 of the principal Ordinance.
5. Amendment of s.6 of the principal Ordinance.
6. Amendment of s.8 of the principal Ordinance.
7. Amendment of s.13 of the principal Ordinance.
8. Ordinance /2003.
9. Amendment of s.16 of the principal Ordinance.
10. Amendment of s.17 of the principal Ordinance.
11. Cap.155 (Laws of Cyprus) as amended by Ordinances 4/1960, 19/1963, 1/1966, 2/1972, 2/1973, 10/1975, 4/1978, 11/1979, 22/1987, 4/1992, 8/1996, 1/1997 and 27/1999.
12. Amendment of s.18 of the principal Ordinance.
13. Insertion of s.18A into the principal Ordinance.
14. Amendment of s.23 of the principal Ordinance.
15. Amendment of s.24 of the principal Ordinance.
16. Ordinance 2/1982 as amended by Ordinances 3/1991, 5/1994 and 1/2002.
17. Commencement.

