



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1461 of 25th June 2007
LEGISLATION

ORDINANCE 11 OF 2007

SHOPS ORDINANCE 2007

An Ordinance to make provision for the application in the Sovereign Base Areas of certain legislation made by the Republic of Cyprus relating to the regulation of shops and the terms of employment of shop employees

P. D. DRAYCOTT
DEPUTY ADMINISTRATOR

24th May 2007.

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

1. Short title

This Ordinance may be cited as the Shops Ordinance 2007.

2. Interpretation

In this Ordinance –

“officer of the Areas” means a person authorised by the Chief Officer under section 6(4) to exercise any powers or perform any duties in accordance with this Ordinance;

“officer of the Republic” means –

- (a) a person who, whether or not he is a member of the public service of the Republic;
- (b) a body of persons which, whether or not it is an official body and whether or not it is incorporated,

has any powers conferred, or any duties imposed upon him or it, by or under any shops law;

“shops law” means a Law of the Republic which is listed in the Schedule together with –

- (a) any amendment made to such a Law (whenever enacted);
- (b) any public instrument made under such a Law (whenever enacted);
- (c) any amendment made to such a public instrument (whenever enacted).

3. General application

- (1) Subject to the other provisions of this Ordinance, all such rights, powers, liabilities, obligations and restrictions from time to time created or arising in the Republic by or under any shops law and all such remedies and procedures from time to time provided for by or under such laws are, subject to necessary modification and so far as possible, to be recognised and available in law in the Areas and allowed and followed accordingly.
- (2) A shops law will, unless the Chief Officer by Order to be published in the Gazette otherwise directs, only take effect in the Areas in accordance with subsection (1) after the expiry of 60 days from the date on which that law or any provision of that law came into force in the Republic.
- (3) Subsection (1) does not apply to any power or duty contained in a shops law which permits or requires a person or body to make a public instrument of any kind.
- (4) A shops law which is given effect to in the Areas by virtue of subsection (1) is to be treated for all purposes as if it is subordinate legislation made under this Ordinance.

4. Modifications and adaptations

- (1) The application of a shops law in the Areas is, unless the context otherwise requires, subject to the following –
 - (a) where a shops law is repealed or revoked but is not replaced by the Republic it ceases to have effect in the Areas;
 - (b) where a shops law is repealed and replaced by the Republic with another shops law, the shops law included in the Schedule continues to have effect in the Areas;
 - (c) where a provision of a shops law contains a reference to any other Republican legislation, then –
 - (i) if there is a provision of the Areas (including a provision which has effect in accordance with section 3) corresponding to that other Republican provision, the reference is to be construed as a reference to the corresponding provision of the Areas;
 - (ii) in any other case, the provision of the shops law containing that reference does not have effect in the Areas;
 - (d) a reference to the Republic in a shops law is to be construed as a reference to the Areas;
 - (e) a provision contained in a shops law which –
 - (i) permits or requires the establishment of a body (whether incorporated or not) for the purpose of exercising any duties imposed or powers conferred on it by that law; or
 - (ii) permits or requires the establishment of a body (whether incorporated or not) for the purpose of providing assistance to any officer of the Republic in connection with any such duties or powers conferred or imposed on him by that law; and
 - (iii) in either case creates any liability or duty in relation to the establishment, functioning or termination of such a body,does not have effect in the Areas.
- (2) The application of a shops law in the Areas is, unless the context otherwise requires, subject to the following interpretations notwithstanding anything to the contrary contained in a shops law –

“Court” is to be construed as the Resident Judge’s Court or the Senior Judges’ Court as appropriate;

“Industrial Disputes Tribunal” is to be construed as the Industrial Disputes Tribunal of the Areas established by section 16 Annual Holidays with Pay Ordinance 1973(a).
- (3) The Administrator may by Order to be published in the Gazette provide for the application of a shops law in the Areas to be subject to such additional exceptions, adaptations or modifications, from such date as may be specified in the Order, as he may consider expedient in the circumstances.

- (4) Without prejudice to the generality of subsection (3), the Administrator may by Order to be published in the Gazette provide for a shops law to cease to have effect in the Areas from such date as may be specified in the Order.

5. Application of Citizens of the Republic (Jurisdiction of Courts) Ordinance

- (1) Part III of the Citizens of the Republic (Jurisdiction of Courts) Ordinance 1960**(b)** applies to disputes of a civil nature arising from the application of a shops law in the Areas and, for that purpose –
- (a) any proceedings in connection with such a dispute is to be treated as civil proceedings and, as appropriate, as an action or an appeal;
 - (b) the Industrial Disputes Tribunal (interpreted in accordance with section 4) is to be treated as a Court of the Areas and the Industrial Disputes Court of the Republic is to be treated as a District Court of the Republic; and
 - (c) any corporation, company or other body corporate established in the Republic under or in accordance with a law of the Republic is to be treated as a Cypriot.
- (2) An award by the Industrial Disputes Tribunal (interpreted in accordance with section 4) or by the Industrial Disputes Court of the Republic under a shops law is to be recoverable as a civil debt.

6. Powers and duties

- (1) Any power conferred or duty imposed on an officer of the Republic under a shops law is, subject to subsection (3), deemed to be conferred or, as the case may be, imposed on the Chief Officer.
- (2) Any power conferred or duty imposed on the Chief Officer by virtue of subsection (1) may, subject to any restrictions or conditions imposed by section 7 or under an Order made under section 4, be lawfully exercised, or as the case may require, may lawfully be performed in the Areas or elsewhere by such officer of the Republic as is authorised to exercise a similar power or required to perform a similar duty in the Republic by or under a shops law.
- (3) Any body which, in the Republic, is created as a result of a provision of the kind referred to in section 4(1)(e) is to be recognised in the Areas as having the same rights and duties as if that body had been established under the provisions of this Ordinance and has the same powers and duties as those conferred or imposed upon that body in the Republic for the purpose of carrying out its objects as specified in that provision in the Republic.
- (4) Without prejudice to subsection (2), the Chief Officer may authorise an officer of the Areas to perform any duty or to exercise any power contained in a shops law subject to such restrictions or conditions as he may specify.
- (5) For the purposes of this Ordinance, the exercise of any power or the performance of any duty includes the doing of any act or thing which is permitted or required to be done in relation to the exercise of that power or the performance of that duty.

7. Limits of delegation

- (1) Nothing in this Ordinance has the effect of –
- (a) entitling an officer of the Republic to exercise any power or requiring him to perform any duty in or in relation to the Areas otherwise than –
 - (i) pursuant to section 6, and
 - (ii) in accordance with the shops law under which he purports to act;
 - (b) abridging or in any other way affecting any powers or duties of the Chief Officer or officer of the Areas, under a shops law, which powers may be exercised notwithstanding that an officer of the Republic may be entitled pursuant to section 6(2) or (3) to exercise similar power.
- (2) The exercise or performance of any powers or duties by the Chief Officer or officer of the Areas, deprives the relevant officer of the Republic of the right to exercise or perform the power or duty for as long as the Chief Officer or officer of the Areas, exercises or performs it.

- (3) The authority given to an officer of the Republic under section 6(2) or (3) to exercise any power or to perform any duty is in all cases subject to the condition that the power may not be exercised or the duty performed if to do so it would be necessary for the officer of the Republic to enter –
 - (a) any land occupied by the Crown in any capacity; or
 - (b) any land to which access is controlled or restricted by the Crown in any capacity; or
 - (c) any premises situated within any land such as is referred to in paragraph (b) above,
 unless he has the written authority of the Administrator to enter the land or premises concerned.
- (4) Nothing in section 6 has the effect of conferring any power or imposing any duty on any member of a police force of the Republic, by whatever name such force may be known.
- (5) Nothing in section 6 has the effect of conferring any power or imposing any duty on an officer of the Republic in relation to–
 - (a) any acts or omissions of any person engaged in the service of Her Majesty, being acts or omissions done or arising out of or in the course of that service;
 - (b) any property owned or occupied by the Crown in any capacity, other than property which –
 - (i) is owned by the Crown in right only of its administration in the Areas, and
 - (ii) is not occupied or used, whether continuously or not, by the Crown in any capacity;
 - (c) any property owned or occupied by an authorised service organisation, as defined in the Treaty of Establishment;
 - (d) any act or omission occurring on property to which sub-paragraph (b) or (c) applies.

8. Effect of acts of officers of the Republic

Any power exercised or any duty performed by an officer of the Republic acting pursuant to section 6(2) or (3), and any act or thing whatever done or suffered in connection with the exercise of such a power or the performance of such a duty is of the same force and effect in all respects and for all purposes as if such power had been exercised, or such duty had been performed or such act or thing had been done by the Chief Officer acting pursuant to section 6(1).

9. Protection of officers of the Republic

Any enactment of the Areas giving protection to officers of the Areas against civil or criminal liability in respect of acts done in the course of their duties applies to officers of the Republic acting pursuant to section 6(2) or (3), and to any acts of such officers while so acting, as if such officers were officers of the Areas and as if such acts were the acts of officers of the Areas.

10. Legal proceedings

- (1) A court of the Areas may take judicial notice of a shops law and of any other Republican document of any description granted or otherwise made under a shops law, to the extent that that law or document is relevant to the exercise of any power or performance of any duty delegated to an official of the Republic in accordance with section 6.
- (2) For the purposes of this section, the production of a copy of any part of a Republican enactment –
 - (a) contained in a printed collection of enactments purporting to be printed and published by an authority of the Republic; or
 - (b) contained in an issue of the Official Gazette of the Republic; or
 - (c) purporting to be printed by the Government Printer of the Republic, by whatever name called,

is evidence for all purposes, and may be held by a Court to be conclusive evidence, of the due and lawful making of such enactment.

- (3) For the purposes of this section, a version of any part of a shops law in the English language –

- (a) purporting to be produced by an authority of the Republic;
- (b) certified as being accurate by an officer of the Administration considered by the Court to have been at the time of such certification a competent and adequate translator into the English language from the language in which the shops law was published in the Republic;
- (c) given or produced in the course of oral evidence of a person whom the Court considers to be a competent translator for the purpose;
- (d) stated orally in court or produced in writing by a Registrar or official court interpreter,

may in any of those cases be held by the Court to be conclusive evidence for all purposes that such version is the accurate English version of the shops law or part of the shops law in question.

- (4) For the purposes of this section, the production of –

- (a) a relevant document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for the relevant shops law under which the relevant document was made; or
- (b) an English translation of a relevant document, the accuracy of which is certified in writing by a translator of recognised competence,

may be held by the Court to be conclusive evidence for all purposes of the contents of such document.

11. Repeal

- (1) The Shop Assistants Ordinance(c), the amendments to that Ordinance and all public instruments made under it are repealed or, as the case may be, revoked.
- (2) The provisions of the repealed Ordinance and the revoked public instruments continue to apply in respect of any licence or permit issued under such law until the expiry of the licence or permit.

12. Commencement

This Ordinance comes into force on the day it is published in the Gazette.

Schedule

(section 2)

- 1. Regulation of the Operation of Shops and the Terms of Service of their Employees Law 2006 (155(I)/06).

Notes

(a) Ordinance 10/73

(b) Ordinance 6/60

(c) Cap 185, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).

EXPLANATORY NOTE

(This note is not part of the Ordinance)

Introduction

1. These explanatory notes relate to the Shops Ordinance 2007. They have been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. They do not form part of the Ordinance.
2. The notes should be read in conjunction with the Ordinance. They are not, and are not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

The Ordinance

3. The Ordinance adopts the Regulation of the Operation of Shops and the Terms of Service of their Employees Law of the Republic of Cyprus (Law 155(I)/2006) and all public instruments made under it. In other words, the Ordinance provides for the Republican Law included in the Schedule, plus any amendments to it and any public instruments made or to be made under it, to have effect in the Sovereign Base Areas as if they had been made by the Administrator. It also allows for the future adoption of any new law relating to the regulation of shops which is later added to the Schedule. These instruments will have effect in the Areas in their original Republican format, and all rights, powers, liabilities and restrictions arising under them will be recognised and available as law in the Areas.
4. This is subject to two exceptions. First, the Ordinance does not enable a Republican person or body to make public instruments in respect of the Areas. Rather, any Republican public instrument made under a Republican shops law stands to be adopted in the Areas under section 3. Secondly, section 4 makes a set of adaptations and modifications to the way the Republican laws are applied in the Areas to ensure that each works properly in the Areas. It also gives the Administrator an unlimited power to make any further modifications or exceptions to the way the Republican laws apply in the Areas.
5. Section 5 provides for Part III of the Citizens of the Republic (Jurisdiction of Courts) Ordinance 1960 to apply to disputes of a civil nature arising from the application of a shops law in the Areas. This facilitates the transfer of certain cases from a court of the Areas to a court of the Republic and for the lawful enforcement in the Areas of certain judgments or orders made by the Republic.
6. Section 6 provides for the delegation of powers and duties arising under a shops law. In the first place, they are all conferred and imposed on the Chief Officer of the Areas. Subsection (2) then provides that, with certain exceptions, each power and duty may be performed in the Areas by whichever Republican officer is authorised to perform a similar function in the Republic. However, such powers and duties can also be exercised by officials of the Areas should the Chief Officer decide. Subsection (3) provides for the recognition of any body which is created in the Republic under a shops law and allows it to exercise, in the Areas, the same rights and duties that it exercises in the Republic. Section 7 sets certain limits on the delegation such as where the Republican officer would need to enter land occupied or controlled etc. by the Crown. Subsection (4) makes clear that the general delegation of powers under section 6 does not have the effect of imposing any powers or duties on any Republican police officer.
7. Sections 8 and 9 contain provisions to ensure that when acting in accordance with the Ordinance, the actions of officials of the Republic are treated as if they are actions of officials of the Areas.
8. Section 11 repeals the Shop Assistants Ordinance and revokes all public instruments made under it. This does not, however, affect any rights, liabilities or obligations incurred under that legislation.

(SBA/AG/2/EM/226)