
CONTROL (ENTRY, SETTLEMENT AND COMMERCIAL ENTERPRISES) (AMENDMENT)
ORDINANCE 2010

An Ordinance to amend the Control (Entry, Settlement and Commercial Enterprises)
Ordinance 1960

J. H. GORDON
ADMINISTRATOR

18th October 2010.

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 Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 2010.

2. Section 5(4) (Prohibited immigrants) repealed

Section 5 of the Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960(**a**) (“the principal Ordinance”) is amended by repealing subsection (4).

3. New section 11B inserted

The principal Ordinance is amended by inserting the following new section after section 11A—

“11B. Illegal employment

- (1) A person must not employ a prohibited immigrant.
- (2) A person must not employ a person if such employment is contrary to the terms of any residence permit or work permit held by the person employed, regardless of whether such permit was issued—
 - (a) by the Administration under this Ordinance or under the Refugees Ordinance 2003(**b**); or

- (b) by the Republic under the appropriate Republican Law or under the Republican Refugees Law 2000(c), including any law that amends or replaces those Laws and any subordinate legislation made under those Laws.
- (3) A prohibited immigrant must not undertake employment in the Areas.
- (4) A person must not undertake employment in the Areas if to do so would be contrary to the terms of any residence permit or work permit held by that person, regardless of whether such permit was issued—
 - (a) by the Administration under this Ordinance or under the Refugees Ordinance 2003; or
 - (b) by the Republic under the appropriate Republican Law or under the Republican Refugees Law 2000, including any law that amends or replaces those Laws and any subordinate legislation made under those Laws.
- (5) A person who contravenes subsection (1) or (2) commits an offence and is liable to imprisonment for a term not exceeding 3 years or a fine not exceeding €8,543 or both.
- (6) A person who contravenes subsection (3) or (4) commits an offence and is liable to imprisonment for a term not exceeding 12 months or a fine not exceeding €1,708 or both.
- (7) If a person is convicted of an offence under subsection (5), the Court may, in addition to imposing any other penalty, make an order requiring the person to pay to the funds specified in subsection (8) all contributions (including any penalties in respect of late payment) which would have been payable if the employee had been lawfully employed—
 - (a) in respect of the period during which the employee was employed; or
 - (b) if the employee was employed for less than 3 months, in respect of a period of 3 months.
- (8) The funds specified for the purposes of subsection (7) are the Republican funds recognised in the Areas under the following Ordinances—
 - (a) the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 1980(d);
 - (b) the Annual Holidays with Pay Ordinance 1973(e);
 - (c) the Employment (Termination) Ordinance 2010(f);
 - (d) the Human Resource Development Authority (Republic of Cyprus) (Recognition) Ordinance 2001(g); and
 - (e) the Social Coherence Fund Ordinance 2002(h).

4. New section 24 inserted

The principal Ordinance is amended by adding the following new section after section 23—

“24. Legal proceedings

- (1) For the purpose of proceedings arising from this Ordinance, a Court of the Areas may take judicial notice of a law of the Republic and of any Republican document issued under it.
- (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 that enactment.

- (3) For the purposes of this section, a version of any part of a Republican enactment 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 Republican enactment 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 Republican enactment or part of it 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 enactment 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.”.

5. Commencement

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

Notes

- (a) Ordinance 5/60 (section 11A was inserted by Ordinance 6/01).
- (b) Ordinance 10/03.
- (c) Law No. 6(I)/2000, Republic of Cyprus.
- (d) Ordinance 16/80.
- (e) Ordinance 10/73.
- (f) Ordinance 3/10.
- (g) Ordinance 22/01.
- (h) Ordinance 37/02.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Control (Entry, Settlement and Commercial Enterprises) (Amendment) Ordinance 2010. It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.
2. The note should be read in conjunction with the Ordinance. It is not, and is 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.

Particular points

3. The Ordinance amends the Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960 to introduce new offences relating to the employment of immigrants. The Ordinance replicates the effect of equivalent provisions in the Republican Aliens and Immigration Law (Cap 105).
4. An employer commits an offence if he or she employs a prohibited immigrant or a person who would be in breach of the conditions of a residence or work permit if so employed. This applies to any permit issued by either the Administration or the Republic under either the principal Ordinance or the Refugees Ordinance 2003 or the equivalent Republican legislation. An offence is also committed by the employee.
5. An employer convicted of such an offence is liable to imprisonment for up to 3 years and/or a fine of €8,543. In addition, the employer may be ordered to pay appropriate employers' contributions (including any late payment penalties) to the various Republican funds recognised in the Areas (the Social Insurance Fund, the Central Holiday Fund, the Redundancy Fund, the Human Resource Development Fund and the Social Coherence Fund).
6. The new section 24 provides for a Court of the Areas to take judicial notice of Republican law and documents issued under it (e.g. a Republican residence permit) when dealing with a prosecution for such an offence. Section 24 replaces and is wider than the previous section 5(4), which is repealed.

(SBA/AG/2/IA/276)