



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

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MOTOR VEHICLES (PROFESSIONAL DRIVING LICENCES) ORDINANCE 2012

An Ordinance to require certain professional drivers to hold a professional driving licence and for related matters.

G. E. STACEY
ADMINISTRATOR

5th January 2012.

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

1. Short title and commencement

- (1) This Ordinance may be cited as the Motor Vehicles (Professional Driving Licences) Ordinance 2012.
- (2) This Ordinance comes into force on 23 January 2012.

2. Interpretation

- (1) In this Ordinance—
 - “authorised officer” means an officer of the Areas or an officer of the Republic;
 - “authorised service organisation” means an authorised service organisation as defined in Annex B Part I to the Treaty of Establishment;
 - “corresponding Republican Law” means the Republican Professional Licence to Drive Law of 2011(**a**) as amended or substituted from time to time;
 - ““E” licence” means a vehicle licence issued under section 15 of the Republican Admission to the Occupation of Road Haulage or Road Passenger Transport Operator Law of 2002(**b**);
 - “identity card” means the identity card issued to the professional driver under the corresponding Republican Law;
 - “motor vehicle” means a type A1, A2, L or T motor vehicle as defined in subsection (2);
 - “officer of the Areas” means a person, other than an officer of the Republic, authorised by the Chief Constable to exercise any powers or perform any duties under this Ordinance;
 - “officer of the Republic” means a person (other than a member of any police force or customs department of the Republic) who has any powers conferred or any duties imposed upon that person of a public nature by or under the corresponding Republican Law;

“police officer” means a member of the Sovereign Base Areas Police Service;
“prescribed document” means a licence, certificate or other document issued under the corresponding Republican Law;
“professional driver” means a person who holds a recognised professional driving licence;
“recognised professional driving licence” means a professional driving licence issued under section 6 of the corresponding Republican Law; and
“undertaking” means any natural or legal person whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent on an authority having legal personality.

- (2) In this Ordinance, expressions relating to a type of motor vehicle have the following meaning—
- (a) a type A1 motor vehicle means a bus for public use in respect of which an “E” licence has been granted for the carriage of passengers on any route, whether regular or irregular;
 - (b) a type A2 motor vehicle means a bus for public use in respect of which any of the following licences has been granted—
 - (i) an “E” licence for the carriage of passengers on regular routes;
 - (ii) a licence for the conveyance of passengers for reward; or
 - (iii) a licence to be used as a private bus;
 - (c) a type L motor vehicle means a lorry with laden weight of 7.5 tons or more; and
 - (d) a type T motor vehicle means a taxi.
- (3) In this Ordinance, the expression—
- (a) “force” has the same meaning as that ascribed to it by paragraph (1)(a) of section 1 of Annex C to the Treaty of Establishment and includes any authority that is by virtue of Annex B of that Treaty entitled to all the rights and facilities enjoyed in the Republic of Cyprus by a force; and
 - (b) “member of the force” is to be construed—
 - (i) in accordance with paragraph (a); and
 - (ii) as including the persons referred to in paragraph (1)(b) and (d) of section 1 of Annex C to the Treaty of Establishment.

3. Requirement to hold a recognised professional driving licence

- (1) Subject to subsections (5) to (7), a person must not drive a motor vehicle on a road unless that person is the holder of a recognised professional driving licence permitting the holder to drive that type of motor vehicle.
- (2) A person must not suffer, cause or permit another person to contravene subsection (1).
- (3) A professional driver must comply with any conditions stated on the recognised professional driving licence which that person holds.
- (4) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on conviction to imprisonment for 1 year or a fine of €2,000 or both.
- (5) Subsection (1) does not apply to a person who, in the course of a profession or trade concerned with vehicle maintenance or repair, drives a motor vehicle if—
 - (a) the only purpose for driving the motor vehicle is for the performance of mechanical repairs or checks to it; and
 - (b) there are no passengers in that motor vehicle.
- (6) Subsection (1) does not apply to a member of a force.
- (7) Subsection (1) does not apply to—
 - (a) a professional driving instructor who holds a licence issued under the Republican Motor Vehicles (Instructors of Drivers) Laws of 1968 to 1986(c); or
 - (b) a person who holds a trainee licence under the Republican Motor Vehicles and Road Traffic Laws of 1972 to 1985(d).

4. Display of recognised professional driving licence

- (1) A professional driver must, while driving a motor vehicle—
 - (a) carry his or her recognised professional driving licence and produce it at any time when requested to do so by a police officer or an authorised officer; and
 - (b) display his or her identity card in a prominent place on the driver's console.
- (2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 1 year or a fine of €2,000 or both.

5. Forgery etc.

- (1) A person must not—
 - (a) forge or alter a prescribed document;
 - (b) use or permit to be used any prescribed document which has been forged or altered; or
 - (c) give to or receive from any person a prescribed document knowing it to have been forged or altered.
- (2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 1 year or a fine of €3,000 or both.

6. Powers of police officers and officers of the Areas

- (1) The Chief Constable or a police officer may, so as to examine or investigate any matter relating to the implementation of this Ordinance—
 - (a) stop and examine any motor vehicle;
 - (b) without a warrant, enter any premises (other than a dwelling) from which a transport undertaking operates;
 - (c) require the driver of any motor vehicle to stop and produce his or her professional driving licence;
 - (d) confiscate a licence which has been revoked or suspended under section 8 of the corresponding Republican Law for the purpose of delivering it to the Licensing Authority as defined in that Law; or
 - (e) exercise any other powers in relation to the implementation of this Ordinance.
- (2) The driver of a motor vehicle commits an offence and is liable on conviction to imprisonment for 1 year and a fine of €2,000 if that person contravenes or fails to comply with a lawful instruction or order given to him or her by a police officer in uniform at a time when that police officer is exercising his or her powers under this Ordinance.
- (3) The powers conferred on the Chief Constable under this section are general delegated function for the purposes of the Delegation of Functions to the Republic Ordinance 2007(e) except for the following, which are qualified delegated functions—
 - (a) any power permitting a vehicle to be stopped and examined;
 - (b) any power of entry, examination or seizure.

7. Power of the Court to disqualify person from acting as a professional driver

- (1) A court which convicts a person of an offence listed in the first column of Part 1 of the Schedule may, in addition to any other penalty that it may impose, disqualify that person from driving a motor vehicle of type A1, A2 or T, for a period of time not exceeding the period specified in the second column of Part 1 of the Schedule.
- (2) A court which convicts a person of an offence listed in the first column of Part B of the Schedule may, in addition to any other penalty that it may impose, disqualify that person from driving a motor vehicle, for a period of time not exceeding the period specified in the second column of Part B.
- (3) A person commits an offence and is liable on conviction to imprisonment for 1 year or a fine of €2,000 or both if that person—
 - (a) contravenes a disqualification imposed under subsection (1) or (2); or
 - (b) suffers, causes or permits another person to contravene such a disqualification.

8. Legal proceedings

- (1) A court of the Areas may take judicial notice of Republican law and of any other Republican document of any description granted or otherwise made under Republican law.
- (2) The production of a copy of any part of a Republican enactment may be held by a Court to be conclusive evidence of the due and lawful making of that enactment if it—
 - (a) purports to be printed by the Government Printer of the Republic, by whatever name called; or
 - (b) is contained in any of the following publications—
 - (i) a printed collection of enactments purporting to be printed and published by an authority of the Republic; or
 - (ii) an issue of the Official Gazette of the Republic.
- (3) For the purposes of this section, a version of any part of a Republican enactment in the English language may 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 the Republican enactment in question if it—
 - (a) purports to be produced by an authority of the Republic;
 - (b) is 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) is 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) is stated orally in court or produced in writing by a Registrar or official court interpreter.
- (4) For the purposes of this section, the production of any document specified in subsection (5) may be held by the Court to be conclusive evidence for all purposes of the contents of such document.
- (5) The documents specified in this subsection are—
 - (a) a document made under any Republican enactment 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 document referred to in paragraph (a), the accuracy of which is certified in writing by a translator of recognised competence.

9. Application to the Crown and authorised service organisations

- (1) This Ordinance does not bind the Crown or a person employed by or in the service of the Crown while discharging his or her duties except insofar as its provisions expressly impose duties or confer powers on the Chief Constable or on a police officer.
- (2) This Ordinance does not apply to a person employed by an authorised service organisation while discharging duties of that employment.
- (3) For the purpose of this section “the Crown” means Her Majesty in right of Her Government of the United Kingdom and in right of Her Administration in the Areas.

10. Prosecutions

A prosecution for any offence under this Ordinance may not be instituted except by or with the consent of the Attorney General and Legal Advisor.

11. Repeal

The Motor Vehicles (Professional Driving Licences) Ordinance 2010(f) is repealed.

Schedule
(Section 7)
Periods of disqualification
Part A

First Column	Second Column
Offences	Applicable period of disqualification
Any offence under the Narcotic Drugs and Psychotropic Substances (Consolidation) Ordinance 2006(g)	7 years
Rape contrary to section 144 of the Criminal Code(h)	Lifetime
Attempted rape contrary to section 146 of the Criminal Code	5 years
Abduction contrary to section 148 or 149 of the Criminal Code	5 years
Defilement of a girl under the age of 13 years of age contrary to section 153 of the Criminal Code	10 years
Defilement of a girl between the age of 13 and 17 years of age contrary to section 154 of the Criminal Code	10 years
Defilement of woman with a mental defect contrary to section 155 of the Criminal Code	5 years
Management of a brothel contrary to section 156 of the Criminal Code	5 years
Procuration contrary to section 157 of the Criminal Code	5 years
Procuring defilement contrary to section 159 of the Criminal Code	5 years
Tolerating or inciting defilement of a girl under 13 years of age contrary to section 160 of the Criminal Code	3 years
Tolerating or inciting defilement of a girl between 13 and 17 years of age contrary to section 161 of the Criminal Code	3 years
Unlawful detention contrary to section 162 of the Criminal code	3 years
Living on the earnings of prostitution or soliciting contrary to section 164 of the Criminal Code	3 years
Conspiracy to defile a woman contrary to section 166 of the Criminal Code	5 years
Buggery with violence contrary to section 172 of the Criminal Code	7 years
Attempted buggery with violence contrary to section 173 of the Criminal Code	7 years
Buggery of a male contrary to section 174 of the Criminal Code	7 years
Indecency contrary to section 176 of the Criminal Code	1 year
Premeditated murder contrary to section 203 of the Criminal Code	Lifetime
Homicide contrary to section 205 of the Criminal Code	5 years
Killing on provocation contrary to section 208 of the Criminal Code	5 years
Stealing contrary to sections 255 to 272 of the Criminal Code	10 years
Robbery contrary to sections 282 to 286 of the Criminal Code	3 years
Burglary contrary to sections 291 to 296 of the Criminal Code	3 years
Cheating contrary to section 300 of the Criminal Code	5 years

Part B

First Column	Second Column
Offences	Applicable period of disqualification
Causing death by reckless, rash or dangerous act contrary to section 210 of the Criminal Code when driving a motor vehicle	5 years

Notes

- (a) Law No 80(I)2011, Republic of Cyprus.
- (b) Law No 101(I)/01, Republic of Cyprus.
- (c) Law No 112 of 1968, Republic of Cyprus.
- (d) Law No 86 of 1972, Republic of Cyprus.
- (e) Ordinance 17/07.
- (f) Ordinance 28/10.
- (g) Ordinance 16/06.
- (h) Cap 154 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 does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Motor Vehicles (Professional Driving Licences) Ordinance 2012 (the “Ordinance”). 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 gives effect to the Republican Professional Licence to Drive Law of 2011 (Law 80(I)/2011) (the “corresponding Republican Law”) within the Areas. The corresponding Republican Law repeals and replaces the Professional Licence to Drive Law of 1989 (Law 225(I)/1989), which was given effect in the Areas by the Motor Vehicles (Professional Driving Licences) Ordinance 2010 (the “repealed Ordinance”).
4. The Ordinance imposes a requirement that the drivers of particular types of vehicle must have a recognised professional driving licence, which is in addition to the driving licence which must be held under the Motor Vehicles and Road Traffic (Driver Licensing) Regulations 2009. A recognised professional driving licence is one which has been issued under the corresponding Republican Law.
5. In the context of the Ordinance the expression “motor vehicle” has a narrow meaning and means a type A1, A2, L or T motor vehicle as defined in section 2(2). The provisions of this Ordinance do not apply to other motor vehicles.
6. The requirement to hold a professional driving licence does not apply to the drivers of vehicles being driven on behalf of the Crown. Nor does it apply to a person who needs to drive a motor vehicle for the purposes of maintenance and repair provided that motor vehicle is not carrying passengers.
7. A police officer may stop a motor vehicle and may require the driver to produce his or her professional driving licence. A police officer may also enter the premises of a transport undertaking for the purpose of enforcing the Ordinance. Republican officials also have powers to ensure compliance with the Ordinance. However, before exercising powers to stop a vehicle or to enter premises Republican officials must first consult the Chief Constable.
8. The major changes between the Ordinance and the repealed Ordinance are as follows—
 - there has been a general increase in the level of the maximum fines which may be imposed under the Ordinance; and
 - there is a new provision giving the court a power to disqualify offenders convicted of an offence listed in the Schedule from acting as a professional driver for a maximum period specified in the Schedule.

(SBA/AG/2/AM/325)

