



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1677 of 29th January 2013
LEGISLATION

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ANNUAL HOLIDAYS WITH PAY (AMENDMENT) ORDINANCE 2013

An Ordinance to amend the Annual Holidays with Pay Ordinance 1973 and other employment legislation to provide for time limits for bringing claims in the Industrial Disputes Tribunal and for related purposes

J. S. WRIGHT
DEPUTY ADMINISTRATOR

22nd January 2013.

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 Annual Holidays with Pay (Amendment) Ordinance 2013.

2. Commencement

This Ordinance comes into force on 1 February 2013.

3. Annual Holidays with Pay Ordinance 1973 amended

The Annual Holidays with Pay Ordinance 1973(a) is amended in accordance with section 4.

4. New section 16ZA inserted

The following new section is inserted after section 16—

“16ZA. General time limit for bringing claims in Industrial Disputes Tribunal

- (1) This section applies where, by or under an Ordinance, jurisdiction to resolve or determine a dispute or issue of any kind is conferred on the Tribunal.
- (2) A claim in the Tribunal for the resolution or determination of the dispute or issue may not be brought after the expiry of 12 months after the date on which the right to bring the claim arose.

- (3) Despite subsection (2), where the right to bring a claim arose before 1 February 2013, the claim may be brought on or before 31 January 2014.
- (4) The general time limits given by subsections (2) and (3) do not apply if provision is made for a different time limit in an Ordinance or a public instrument.
- (5) Nothing in this section affects a claim brought in the Tribunal before 1 February 2013.
- (6) A reference in this section to an Ordinance or a public instrument is a reference to an Ordinance or, as the case may be, a public instrument made before or after this section comes into force.”

5. Other employment legislation amended

The Schedule (other employment legislation amended) has effect.

SCHEDULE

(section 5)

OTHER EMPLOYMENT LEGISLATION AMENDED

Equal Treatment Ordinance 2004 amended

1. (1) The Equal Treatment Ordinance 2004**(b)** is amended in accordance with this paragraph.
 - (2) Section 16(2) (complaint to Tribunal) is amended by omitting “six months” and substituting “12 months”.
 - (3) Section 16 is amended by omitting the proviso following subsection (2).
 - (4) Section 16 is amended by inserting the following subsections after subsection (2)—
 - “(2A) Despite subsection (2) and subject to section 26(5), where the act complained of was done before 1 February 2013, the Tribunal must not consider a complaint brought after the expiry of 6 months after the date on which the act complained of was done unless, in all the circumstances of the case, the Tribunal considers it just and equitable to do so.
 - (2B) For the purposes of subsections (2) and (2A), conduct extending over a period is to be treated as done at the end of the period.”
 - (5) Despite sub-paragraphs (2) to (4), the Equal Treatment Ordinance 2004 applies to claims brought in the Industrial Disputes Tribunal before 1 February 2013 as if the amendments made to that Ordinance by this paragraph had not been made.

Employment (Termination) Ordinance 2010 amended

2. (1) The Employment (Termination) Ordinance 2010**(c)** is amended in accordance with this paragraph.
 - (2) Section 2 (interpretation) is amended by inserting the following definition in its appropriate alphabetical order—
 - “ “effective date of termination” —
 - (a) in relation to an employee whose contract of employment is terminated by notice (whether given by the employer or by the employee), means the date on which the notice expires;
 - (b) in relation to an employee whose contract of employment is terminated without notice, means the date on which the termination takes effect;”.
 - (3) Section 41 (Industrial Disputes Tribunal to have jurisdiction) is amended by inserting the following subsections after subsection (2)—

- “(2A) A claim in the Industrial Disputes Tribunal or the Resident Judge’s Court may not be brought after the later of—
- (a) where the claim is for unfair dismissal, the expiry of 12 months after the effective date of termination; or
 - (b) where the claim is in respect of a decision of the Redundancy Fund, the expiry of 9 months after the date on which the claimant was notified of the decision.
- (2B) Despite subsection (2A), where, in the case of a claim for unfair dismissal, the effective date of termination was before 1 February 2013 or, in the case of a claim in respect of a decision of the Redundancy Fund, the claimant was notified of the decision before 1 February 2013, the question of whether the claim may be considered by the Industrial Disputes Tribunal must be determined in accordance with the Industrial Disputes Tribunal Rules 2007(d) as if the amendments made to those Rules by the Annual Holidays with Pay (Amendment) Ordinance 2013 had not been made.”
- (2C) Despite subsection (2A), where, in the case of a claim for unfair dismissal, the effective date of termination was before 1 February 2013, a claim in the Resident Judge’s Court may be brought on or before 30 April 2013.”
- (4) Despite sub-paragraphs (2) and (3), the Employment (Termination) Ordinance 2010 applies to claims brought in the Industrial Disputes Tribunal or the Resident Judge’s Court before 1 February 2013 as if the amendments made to that Ordinance by this paragraph had not been made.

Industrial Disputes Tribunal Rules 2007 amended

3. (1) The Industrial Disputes Tribunal Rules 2007 are amended in accordance with this paragraph.
- (2) The heading above rule 4 is revoked and the following heading substituted—
- “Claim presented after notice of dismissal but before effective date of termination”.**
- (3) Rule 4 is amended by revoking paragraph (1).
- (4) Despite sub-paragraphs (2) and (3), the Industrial Disputes Tribunal Rules 2007 apply to claims brought in the Industrial Disputes Tribunal before 1 February 2013 as if the amendments made to those Rules by this paragraph had not been made.

Notes

- (a) Ordinance 10/73, amended by Ordinances 12/79, 21/80, 40/02, 1/10 and 3/12.
- (b) Ordinance 22/04, amended by Ordinance 25/06.
- (c) Ordinance 3/10, amended by Ordinance 22/11.
- (d) Public Instrument 20/07.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

1. This explanatory note relates to the Annual Holidays with Pay (Amendment) Ordinance 2013 (the “Ordinance”). It has been prepared by the Office of the Attorney-General and Legal Adviser in order to assist the reader and should be read in conjunction with the Ordinance.
2. The Ordinance amends the Annual Holidays with Pay Ordinance 1973 (the “principal Ordinance”) and other employment legislation to provide inter alia for time limits for bringing claims in the Industrial Disputes Tribunal (the “Tribunal”), established by section 16 of the principal Ordinance. The Ordinance makes similar provision to that made by Law 169(I)/2002 of the Republic.
3. New section 16ZA of the principal Ordinance provides for a general time limit of 12 months for bringing claims in the Tribunal. Where the right to bring a claim arose before 1 February 2013, the claim must be brought by 31 January 2014. These general time limits apply unless other legislation provides for different time limits.
4. Section 16 of the Equal Treatment Ordinance 2004 is amended to raise from 6 to 12 months the time limit for bringing a complaint in the Tribunal under that Ordinance. Where the act complained of was done before 1 February 2013, the previous time limit applies.
5. New section 16(2B) of the Equal Treatment Ordinance 2004 provides expressly that conduct extending over a period is to be treated as done at the end of the period.
6. Section 41 of the Employment (Termination) Ordinance 2010 and rule 4 of the Industrial Tribunal Rules 2007 are amended to raise from 3 to 12 months the time limit for bringing an unfair dismissal claim in the Tribunal under that Ordinance. The “effective date of termination”, from which time runs, is now defined. Where the effective date of termination was before 1 February 2013, the previous time limit applies.
7. A claim under the Employment (Termination) Ordinance 2010 in respect of a decision of the Redundancy Fund must be brought within 9 months of notification to the claimant. Where the claimant was notified before 1 February 2013, the previous time limit applies.
8. New section 41(2A) and (2C) of the Employment (Termination) Ordinance 2010 provide time limits for bringing claims in the Resident Judge’s Court under that Ordinance.
9. Claims brought under employment legislation in the Tribunal or the Resident Judge’s Court before 1 February 2013 are unaffected by the Ordinance.