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## HUMAN TRAFFICKING AND EXPLOITATION ORDINANCE 2009

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*This is a consolidated version of this legislation i.e. it incorporates all amendments made since the legislation was enacted as set out in the table below. It has been produced by the SBAA as an aid to transparency and easier access to SBA law. However, it is not the official version of SBA legislation and, although every effort has been made to check the document, its accuracy cannot be guaranteed. The official version of legislation is published in the SBA Gazette.*

<b>Legislation incorporated in this Consolidation</b>	<b>Ordinance</b>	<b>Date in Force</b>
Human Trafficking and Exploitation Ordinance 2009	25/2009	04/11/2009
Human Trafficking and Exploitation Ordinance (Amendment) Ordinance 2019	02/2019	04/02/2019

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HUMAN TRAFFICKING AND EXPLOITATION  
ORDINANCE 2015

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An Ordinance to make new provision to prevent human trafficking and exploitation and for related matters

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

**PART 1**

Preliminary

**Short title**

1. This Ordinance may be cited as the Human Trafficking and Exploitation Ordinance 2009.

**Interpretation**

2. In this Ordinance—

“computer system” means any device or group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;

“child” means a person who is under the age of 18 years;

~~“child pornography” means a visual, audiovisual or other representation of— (a)~~

~~(a) a real child involved or engaged in sexually explicit conduct, including lewd exhibition of the genitals or pubic area of a child;~~

~~(b) a real person appearing to be a child involved or engaged in the conduct mentioned in paragraph (a); or~~

~~(c) realistic images of a non-existent child involved or engaged in the conduct mentioned in paragraph (a);~~

“pornography” means visual, audiovisual or other representation of any act of a sexual nature, on or with the participation of, a person;

“traffic” means the use of coercion to recruit, transport, transfer, harbour or receive a person and includes exchange or transfer of control over that person; and

“violence” includes any act or omission which causes bodily or mental harm to a victim.

**Meaning of exploitation, sexual exploitation and coercion**

- 3.—(1) In this Ordinance, a person is exploited if that person is subjected to—

- (a) forced or compulsory labour;
- (b) slavery or servitude of a similar nature;
- (c) the removal of that person’s organs;
- (d) prostitution or any other form of sexual exploitation;

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(a) Definition repealed by Ordinance 02 / 2019 – came into force on 04 February 2019

- (e) the worst forms of child labour as defined in the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour<sup>(a)</sup>, if the person is a child.

(2) In this Ordinance, a person is sexually exploited if that person is ~~coerced~~, **(b)** induced, incited, encouraged, recruited, organised or guided into prostitution or into participating in ~~the making of~~ **(c)** pornography.

(3) In this Ordinance, “coercion” includes—

- (a) use of threats or force;
- (b) abduction, restraint, deceit or fraud;
- (c) abuse of a position of authority or trust or of a position of vulnerability such that the person who is abused has no reasonable alternative but to submit to the abuse involved;
- (d) conduct or a course of action which is intended to create an impression on any person that failing to perform an act will result in injury, *serious damage to property* **(d)** or restraint of a person;
- (e) abuse or threatened abuse of legal or administrative procedures relating to a person’s status;
- (f) paying or conferring a benefit on a person having control over another person for the purpose of controlling that other person;
- (g) *administering any substance with the intention to overpower a person or to impair the senses or the understanding of a person.* **(e)**

## PART 2

### Measures to protect children

#### Trafficking of a child

**4.**—(1) A person must not traffic a child for the purpose of exploiting that child.

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 20 years.

#### ~~Sexual exploitation of a child~~ **(f)**

~~**5.**—(1) A person must not —~~

- ~~(a) sexually exploit a child; or~~
- ~~(b) engage in sexual activity with a child who has been coerced into that activity.~~

~~(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 20 years.~~

#### *Sexual exploitation of a child*

*5.—(1) A person (P) commits an offence if P sexually exploits a child (C).*

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(a) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO 182), 2001 Cmnd 5213

(b) Deleted by Ordinance 02/2019 – came into force on 04 February 2019

(c) Deleted by Ordinance 02/2019 – came into force on 04 February 2019

(d) Text inserted by Ordinance 02/2019 – came into force on 04 February 2019

(e) Paragraph (g) inserted by Ordinance 02/2019 – came into force on 04 February 2019

(f) Section 5 repealed and replaced by Ordinance 02/2019 – came into force on 04 February 2019

(2) *This subsection applies if the sexual exploitation involves coercion.*

(3) *Unless subsection (2) applies, a person guilty of an offence under this section is liable to—*

- (a) *imprisonment for 20 years if C is under 17, or*
- (b) *imprisonment for 15 years if C is 17.*

(4) *If subsection (2) applies, a person guilty of an offence under this section is liable to—*

- (a) *imprisonment for 25 years if C is under 17, or*
- (b) *imprisonment for 20 years if C is 17.*

### **Sexual exploitation of a child under 13 (a)**

5A.—(1) *A person (P) commits an offence if—*

- (a) *P sexually exploits a child (C), and*
- (b) *C is under 13.*

(2) *A person guilty of an offence under this section is liable to imprisonment for life.*

### **Child pornography (b)**

~~6.—(1) A person must not—~~

- ~~(a) produce child pornography;~~
- ~~(b) distribute, disseminate or transmit child pornography in any way, including by means of a computer system;~~
- ~~(c) offer or provide information about how to obtain child pornography including by means of a computer system;~~
- ~~(d) acquire or possess child pornography in printed form or in a form held on a computer system;~~
- ~~(e) invite a child to participate in child pornography, including by means of a computer system.~~

~~(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 10 years or a fine of €42,715 or both.~~

### **Child labour exploitation**

7.—(1) A person must not coerce a child into—

- (a) forced or compulsory labour; or
- (b) slavery or servitude of a similar nature.

*(1A) A person (P) must not use services of any kind provided by a child (C) if P has reason to suspect that C provides the services in circumstances which involve contravention of subsection (1) by any person. (c)*

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 10 years.

(3) *A person who contravenes subsection (1A) commits an offence and is liable to imprisonment for 10 years or a fine of €80,000 or both. (d)*

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(a) Section 5A inserted by Ordinance 02/2019 – came into force on 04 February 2019

(b) Section 6 repealed by Ordinance 02/2019 – came into force on 04 February 2019

(c) Subsection (1A) inserted by Ordinance 02/2019 – came into force on 04 February 2019

(d) Subsection (3) inserted by Ordinance 02/2019 – came into force on 04 February 2019

## PART 3

### Other protective measures

#### Trafficking of persons

**8.**—(1) A person must not traffic another person for the purpose of exploiting that other person.

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for ~~15 years~~ 10 years. **(a)**

#### Human organ trafficking

**9.**—(1) A person must not—

- (a) traffic another person for the purpose of removing that other person's organs; or
- (b) transport, transfer or receive human organs of another person where those organs have been removed as a result of coercion.

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 25 years.

*(2A) A person (P) commits an offence and is liable to imprisonment for 30 years if—*

- (a) P contravenes subsection (1) in respect of another person (A), and*
- (b) P intentionally or by gross negligence endangers the life of A. **(b)***

(3) A person commits an offence and is liable to imprisonment for life if—

- (a) that person contravenes subsection (1); and
- (b) the person dies as a result of the removal of the organ.

#### Sexual exploitation

**10.**—(1) A person must not—

- (a) sexually exploit another person; or
- (b) engage in sexual activity with a person who has been coerced into that activity.

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for ~~20 years~~ 10 years. **(c)**

#### Labour exploitation

**11.**—(1) A person must not coerce another person into—

- (a) forced or compulsory labour; or
- (b) slavery or servitude of a similar nature.

*(1A) A person (P) must not use services of any kind provided by another person (A) if P has reason to suspect that A provides the services in circumstances which involve contravention of subsection (1) by any person. **(d)***

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 6 years.

*(3) A person who contravenes subsection (1A) commits an offence and is liable to imprisonment for 3 years or a fine of €15,000 or both. **(e)***

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**(a)** Text deleted and new text inserted by Ordinance 02/2019 – came into force on 04 February 2019  
**(b)** Subsection (2A) inserted by Ordinance 02/2019 – came into force on 04 February 2019  
**(c)** Text deleted and new text inserted by Ordinance 02/2019 – came into force on 04 February 2019  
**(d)** Subsection (1A) inserted by Ordinance 02/2019 – came into force on 04 February 2019  
**(e)** Subsection (3) inserted by Ordinance 02/2019 – came into force on 04 February 2019

***Attempting the commission of an offence (a)***

*11A. A reference in sections 4 to 11 to an offence includes a reference to attempting the commission of that offence.*

**Maintenance of a brothel**

**12.**—(1) A person must not—

- (a) knowingly maintain, manage or finance (in whole or in part) a brothel or any other place within which a person is sexually exploited; or
- (b) knowingly let any premises or part of any premises for use as a brothel.

(2) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 5 years or a fine of €17,086 or both.

**Retention of personal documents**

**13.**—(1) Subject to subsection (3) a person must not take, hide or retain a document specified in subsection (2) from the lawful holder of that document—

- (a) with the intention of committing an offence under this Ordinance; or
- (b) with the intention of hindering the freedom of a victim of an offence committed under this Ordinance.

(2) The documents specified in this subsection are—

- (a) a passport or other travel document;
- (b) a document proving the identity of its holder; or
- (c) a residence permit issued under any Ordinance or under the Aliens and Immigration Law of the Republic **(b)**.

(3) A person does not commit an offence under subsection (1) if that person takes or retains a document for a lawful reason or pursuant to any lawful authority.

(4) A person who contravenes subsection (1) commits an offence and is liable to imprisonment for 5 years or a fine of ~~€17,086~~ €17,000 **(c)** or both.

## PART 4

### Legal proceedings

**Jurisdiction of the courts**

**14.**—(1) The courts of the Areas have jurisdiction to try offences committed under this Ordinance if the offence is committed using a computer system accessed from the Areas whether or not the computer system or any interconnected or related device is in the Areas.

(2) Subsection (1) does not affect the operation of Part II of the Citizens of the Republic (Jurisdiction of Courts) Ordinance 1960**(d)**.

**Certain defences not valid**

**15.** The following circumstances are not defences to offences under this Ordinance—

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(a) Section 11A inserted by Ordinance 02/2019 – came into force on 04 February 2019  
(b) Cap. 105, Republic of Cyprus  
(c) Amended by Ordinance 02/2019 – came into force on 04 February 2019  
(d) Ordinance 6/1960

- (a) the fact that the accused did not know or believe that the victim of the offence was a child;
- (b) the fact that the victim consented or received some money or other benefit.

### **Aggravating factors**

**16.**—(1) The following circumstances are to be regarded as aggravating circumstances when sentencing a person for an offence under this Ordinance—

- (a) the offence endangered, either deliberately or by gross negligence, the life of the victim;
- (b) the offence was committed against a child of less than 12 years of age or a child with special needs;
- (c) the offence involved violence to the victim; or
- (d) the offence was committed as part of the activities of a criminal organisation as defined in section 63B of the Criminal Code (a).

(2) The aggravating circumstances listed in subsection (1) are not exhaustive.

### **Additional powers of the court**

**17.**—(1) Notwithstanding any other legislation, the court may make an order in such terms as it determines to be appropriate requiring a person charged with an offence under this Ordinance to act or refrain from acting in a certain manner until the conclusion of the proceedings to which the charge relates.

(2) If a person is convicted of an offence under this Ordinance the court may, in addition to any other sentence it may impose under this Ordinance, make an order in such terms as it determines to be appropriate requiring that a person act or refrain from acting in a certain manner for such time as it may prescribe.

(3) Without prejudice to the generality of subsections (1) and (2), the court may—

- (a) require a person to refrain from exercising a profession or operating a business;
- (b) order that any object by which an offence may have been committed under this Ordinance is forfeited.

(4) A person who fails to comply with an order made under subsection (1) or (2) commits an offence and is liable to imprisonment for 3 years or a fine of ~~€8,543~~ €9,000 (b) or both.

### **Corroboration not required**

**18.** Corroboration of evidence is not necessary for the purpose of proving an offence under this Ordinance.

### **Liability of bodies corporate**

**19.**—(1) A body corporate may be convicted of an offence under this Ordinance if—

- (a) the offence is committed for its benefit by a natural person acting either individually or as part of the organisation of that body corporate; and
- (b) the natural person has—
  - (i) power to represent the body corporate;
  - (ii) authority to take decisions on behalf of the body corporate; or

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(a) Cap 154, Statue 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 (5/1968). Section 63B was inserted by Ordinance 7/03

(b) Amended by Ordinance xx/2019 – came into force on 04 February 2019



(iii) authority to exercise control within the body corporate.

(2) A body corporate must, so far as is reasonably practicable, ensure that a person referred to in subsection (1) does not commit an offence under this Ordinance for the benefit of the body corporate.

(3) A body corporate which contravenes subsection (2) commits an offence.

(4) Nothing in this section prevents criminal proceedings under this Ordinance being brought against a natural person referred to in subsection (1).

### **Penalties for bodies corporate**

**20.**—(1) A body corporate convicted of an offence under this Ordinance is liable to a fine of ~~€512,580~~ €600,000. **(a)**

(2) If a body corporate is convicted of an offence under this Ordinance, the court may, in addition to any penalty imposed under subsection (1), make an order—

- (a) temporarily or permanently excluding the body corporate from any public benefits or aid;
- (b) temporarily or permanently prohibiting the body corporate from engaging in specified commercial activities;
- (c) subjecting the body corporate to judicial supervision;
- (d) winding up the body corporate;
- (e) temporarily or permanently closing establishments used to commit the offence;
- (f) forfeiting property used to commit the offence.

(3) A person who fails to comply with an order made under subsection (2) commits an offence and is liable to a fine of ~~€170,860~~ €170,000. **(b)**

## **PART 5**

### **Miscellaneous and final provisions**

#### **Amendments to the Criminal Code**

**21.** Sections 165 (Woman aiding, etc., for gain prostitution of another woman) and 254 (Unlawful compulsory labour) of the Criminal Code are repealed.

#### **Amendment to the Protection of Witnesses Ordinance 2005**

**22.** Section 3(4) of the Protection of Witnesses Ordinance 2005(c) is amended by inserting “or the Human Trafficking and Exploitation Ordinance 2009” after “Violence in the Family Ordinance 2003”.

#### **Amendments to the Notification of Sexual Offences Ordinance 2008**

**23.** The Schedule to the Notification of Sexual Offences Ordinance 2008(d) is amended by inserting after paragraph 20—

“The following offences under the Human Trafficking and Exploitation Ordinance 2009—

- 21.** section 5 (sexual exploitation of a child);

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(a) Amended by Ordinance 02/2019 – came into force on 04 February 2019

(b) Amended by Ordinance 02/2019 – came into force on 04 February 2019

(c) Ordinance 4/2005

(d) Ordinance 17/2008

**22.** section 6 (child pornography) if—

(1) the pornographic material depicted a person under the age of 16 years; and

(2) the offender—

(a) was 18 years or over; or

(b) is sentenced (in respect of the offence) to imprisonment for a term of at least 12 months;

**23.** section 10 (sexual exploitation).