



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 370 of 8th August, 1973.
LEGISLATION

ORDINANCE 10 OF 1973.

AN ORDINANCE

TO AMEND AND CONSOLIDATE THE ORDINANCES RELATING
TO THE PROVISION OF HOLIDAYS WITH PAY FOR EMPLOYED
PERSONS IN THE SOVEREIGN BASE AREAS AND TO FACILITATE
THEREIN THE OPERATION OF A HOLIDAY FUND ESTABLISHED
IN THE REPUBLIC OF CYPRUS.

JOHN AIKEN

6th August, 1973.

ADMINISTRATOR

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

PART I—PRELIMINARY

1. This Ordinance may be cited as the Annual Holidays with Pay Ordinance, 1973. Short title.

2. In this Ordinance, unless the context otherwise requires:— Interpretation.

“Crown” means the Crown in right of its Government in the United Kingdom, or its administration in the Sovereign Base Areas;

“employee” includes every person who works for another person either under a contract of service or apprenticeship or in such circumstances as to lead to the conclusion that there exists a relationship of employer and employee; and the term “employer” shall be construed accordingly;

“Fund” means the Central Holiday Fund established in the Republic under the provisions of the Republican Law;

“holiday” means the annual holiday with pay to which every employee is entitled under this Ordinance;

“industrial dispute” means any dispute between employers and employees or between employees and employees, connected with the employment or non-employment, or the terms of the employment or with the conditions of labour, of any persons, whether in the service of the employers with whom the dispute has arisen or not ;

“Inspector” means a person designated by the Chief Officer as Inspector under the provisions of this Ordinance ;

“leave year” in relation to an employee, means any period of fifty-two consecutive weeks commencing from the date on which such employee is engaged by an employer or any such other period as may be prescribed by Regulations ;

“privileged person” means—

- (i) a member of a force or civilian component or a dependent of such member as defined in subparagraphs (a), (b) and (d) of paragraph (1) of Section 1 of Annex C of the Treaty of Establishment and includes any person who by virtue of Annex B of the Treaty is granted the same rights and facilities as those enjoyed by such member of a force, civilian component or dependent ;
- (ii) any other person entitled under any other Treaty or any Ordinance relating to customs in force for the time being ;

“Republican Law” means the Annual Holidays with Pay Law of the Republic, any law amending or replacing the same and any subsidiary legislation made thereunder ;

“Tribunal” means the Industrial Disputes Tribunal established under the provisions of Section 16 of this Ordinance ;

“wages” means remuneration in money paid to an employee as a result of his employment and includes any allowance paid by the employer either directly or by implication in respect of the cost of living and any payment of money in lieu of notice of termination of employment. This remuneration may be based on—

- (a) work during normal periods of work excluding overtime ; or
- (b) the number of tasks or journeys completed by the employee ; or
- (c) the volume of work completed by the employee ; or
- (d) any combination of (a), (b) and (c) above :

Provided that where overtime is worked on a fixed regular basis it shall be included in the calculation of an employee’s wages :

Provided further that special gratuities, commissions and ex gratia payments shall not count as wages for the purposes of this Ordinance :

Provided further that where an agreement in writing has been entered into between an employer and an employee specifying any amount as wages for the purposes of this definition, the Administrator may sanction by certificate such agreement and the amount thereby specified shall for the purposes of this definition be the wages of the employee ;

“working week”, in relation to a person, means a week during the whole or part of which such person has worked as an employee.

PART II — HOLIDAYS

3.—(1) Every employee in the Areas shall be entitled to a holiday which shall be granted to him under the provisions of this Ordinance.

Holiday of employees.

(2) An employee who accepts paid employment whether with his regular employer or with any other employer during his holiday may be required by the Tribunal, on application by the Fund, to repay to the Fund the whole or any part of the holiday pay he has received from the Fund in respect of that holiday.

(3) Notwithstanding the provisions of this section, the Chief Officer may, after consultation with the appropriate authorities of the Republic where necessary, by Order allow any person or class of persons to waive their holiday in any leave year when he considers that it is in the public interest to do so :

Provided that the Chief Officer may in any such Order provide for the accumulation of all or part of the holiday waived under the Order.

(4) The provisions of this Ordinance shall not apply to such categories of employees as may be prescribed by an Order made by the Administrator.

4. After the coming into operation of this Ordinance no employer shall be liable to contribute any money to any provisions for holidays other than those provided for by this Ordinance.

No liability on employer to contribute to other holiday funds.

5.—(1) The length of the holiday shall be nine working days where the employee has worked not less than fifty weeks in a leave year :

Length of holiday.

Provided that where an employee is, by virtue of any law, custom, collective agreement or otherwise, entitled to a longer period of holiday than nine days then the number of days in that longer period shall be substituted for the nine days prescribed by this section so long as that law, custom, collective agreement or otherwise continues to be in force.

(2) The Chief Officer may by Order, to be published in the Gazette, increase the number of days of holiday provided for in subsection (1) of this section.

(3) Where an employee has worked less than fifty working weeks in a leave year he shall be entitled during that year to a holiday in accordance with the provisions of sub-section (1) of this section subject to any adjustments which may be prescribed by Regulations made under section 9 of this Ordinance :

Provided that when the employee has worked less than twenty-five working weeks in the leave year he shall not be entitled to a holiday under this Ordinance :

Provided further that where an employee is—

- (a) temporarily absent from work due to accident or illness; or
- (b) absent from work on maternity leave,

then these periods of absence shall count as periods of work for the purpose of this sub-section.

(4) The Chief Officer may by Order, to be published in the Gazette, prescribe a longer holiday for any class of employees if he considers it necessary.

Periods
excluded
from holiday.

6.—(1) The following shall not be counted as days of annual holiday :—

- (a) public holidays established by law, custom or agreement ;
- (b) maternity leave ;
- (c) days of incapacity for work arising out of accident or illness ;
- (d) days of strike or lock out ;
- (e) any period of notice of termination of employment.

(2) If one of the cases in subsection (1) of this section arises in the course of the holiday, the holiday shall be considered to be interrupted and shall be completed so far as is possible in the same calendar year.

Minimum
holiday
period and
accumulation
of leave.

7.—(1) The holiday shall include one continuous period of not less than seven days.

(2) Holidays may be accumulated up to a maximum of two years' entitlement by agreement between the employer and the employee.

PART III

OPERATION OF REPUBLICAN HOLIDAY FUND IN THE AREAS

Republican
Fund
to be recognised
in the Areas.

8.—(1) The Fund shall have legal personality in the Areas and shall have power to enter into contracts, to sue and be sued and carry on any activity necessary to the functioning of the Fund in the Areas.

(2) The Fund shall be exempt from payment of any dues or duties under any Customs legislation for the time being in force on machinery, including parts and accessories, apparatus, appliances, vehicles, instruments, tools, stores and materials of whatsoever kind imported for the use of the Fund and not intended for sale to the general public.

(3) The Fund shall be exempt from payment of stamp duties under any legislation for the time being in force relating to stamp duties.

9. The Chief Officer shall have power to make Regulations for the better carrying into effect of the provisions of this Ordinance or the operation of the Fund in the Areas and in particular in relation to the following matters:—

Power
to make
Regulations.

- (a) the manner in which payments into the Fund are to be made and collected;
- (b) the amount of contributions to be made by the employer in respect of each employee;
- (c) the records to be kept by the employer and the form in which they are to be maintained;
- (d) the methods by which such records or any contents thereof may be proved in any proceedings before any Court or the Tribunal.

PART IV — HOLIDAY SCHEMES

10.—(1) The Administrator shall have power, after consultation with the appropriate authorities of the Republic where necessary, to approve by certificate at his discretion an employer's holiday scheme made in substitution for the provisions in Section 5 of this Ordinance, if in his opinion such scheme is more beneficial in its operation to the employee than the provisions of this Ordinance.

Administrator
may approve
holiday
schemes.

(2) Where the Administrator grants a certificate under the provisions of this section the employer shall be exempted from the provisions of this Ordinance in respect of such class or classes of employee as may be specified in the certificate so long as the certificate is in force.

(3) An employer to whom a certificate is granted under the provisions of this section shall make a statutory declaration to the Chief Officer on such day as the Chief Officer may prescribe declaring that the conditions imposed by the certificate have been complied with in the past year:

Provided that this subsection shall not apply where the employer is the Administrator.

(4) Where an employer knowingly or recklessly makes a declaration under this section which is false in any material particular, the employer shall be liable to a fine not exceeding two hundred and fifty pounds.

PART V — APPOINTMENT OF INSPECTORS

11.—(1) The Chief Officer shall appoint Inspectors to assist in the enforcement of this Ordinance.

Inspectors.

(2) An Inspector shall have free and unrestricted right of entry into any place in which he has reason to believe that persons are employed:

Provided that an Inspector shall not have the right of entry into any private dwelling without the consent of the occupier unless the former is in possession of a court warrant.

(3) An Inspector may question any person in any place he visits about matters arising out of the operation of this Ordinance.

(4) An Inspector shall have the right to examine at any reasonable time all records required to be kept under the provisions of this Ordinance or any Regulations made thereunder.

PART VI — PENAL

Failure by employers to grant holidays and pay contributions.

12.—(1) Any employer who—

- (a) fails to grant any employee in his employment a holiday due under this Ordinance ; or
- (b) fails without good reason to pay the contribution required under the provisions of paragraph (b) of section 9 of this Ordinance,

shall be liable upon conviction to a fine not exceeding fifty pounds and to the payment of such contribution.

Obstruction of Inspectors by employers.

13. Any person who—

- (a) obstructs an Inspector in the exercise of his duties ;
- (b) refuses without any lawful excuse to answer any question put to him by an Inspector which he is bound to answer under the provisions of subsection (3) of section 11 of this Ordinance ;
- (c) fails to keep up to date the records required under the provisions of paragraph (c) of section 9 of this Ordinance,

shall be guilty of an offence and be liable on conviction to a fine not exceeding fifty pounds.

Other Offences.

14.—(1) Any person who knowingly causes or procures to be done or aids, abets or assists in doing any acts as a result of which—

- (a) it is falsely represented, or an attempt is made to represent falsely, that the contributions payable under this Ordinance or under the Republican Law have been paid ; or
- (b) benefits, other than those payable under this Ordinance or under the Republican Law or benefits to a person other than a person entitled to receive such payments under this Ordinance or the Republican Law, have been paid or are likely to be paid or are attempted to be paid,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment not exceeding three months or to both such fine and imprisonment.

(2) Any person who wilfully or knowingly fails to do any act required by this Ordinance with regard to the payment of contributions to the Fund or the payment of any benefits therefrom shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty pounds.

(3) In addition to any punishment on conviction for any of the offences in subsections (1) and (2) of this section, the Court shall direct the payment into the Fund of any contribution due but unpaid in relation to the offence or, as the case may be, the return to the Fund of any payment made in contravention of this Ordinance.

15. When an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by
corporate
bodies.

PART VII — SETTLEMENT OF DISPUTES

16.—(1) There shall be established an Industrial Disputes Tribunal which shall have exclusive jurisdiction to consider and determine the following industrial disputes :—

Establishment
of Industrial
Disputes
Tribunal.

- (a) any industrial disputes, including any ancillary or incidental matter thereto, arising out of the operation of this Ordinance or any Regulations or Rules made thereunder ;
- (b) any industrial disputes, including any ancillary or incidental matter thereto, which may be referred to the Tribunal under the provisions of any other Ordinance or Regulations made thereunder ; and
- (c) any industrial disputes which may be referred to the Tribunal by the Administrator, whether with the joint consent of both parties or under any collective agreement or settlement in force concerning the determination of industrial disputes by arbitration.

(2) The Tribunal shall consist of a Chairman (hereinafter referred to in this Ordinance as “the Chairman”) and two members designated by the Chairman from the panel appointed under the provisions of subsection (4) of this section.

(3) The Chairman shall be a Deputy Senior Judge or Judge designated by the Administrator with the concurrence of the Senior Judge.

(4) The Administrator shall appoint a panel of not less than three members in addition to the Chairman whose names shall be published in the Gazette.

17.—(1) The decision of the Chairman as to the construction of any point of law at any stage during the proceedings shall be binding upon the other members of the Tribunal.

Functions of
Chairman and
panel with
regard to
findings of
law and fact.

(2) All decisions of the Tribunal (other than a decision upon a point which the Chairman holds to be a point of law) shall be taken by a majority of the members of the Tribunal including the Chairman.

18. In determining any dispute or ancillary matter thereto, the Tribunal shall proceed with all reasonable speed to such determination in a summary manner, without being bound by any rules of evidence, and shall give a reasoned judgment.

Method of
determination,
taking of
evidence and
delivery of
judgment of
Tribunal.

19.—(1) The Administrator, in consultation with the Senior Judge, may make Rules under this Ordinance to be published in the Gazette regulating the practice and procedure in connection with any proceedings of the Tribunal.

Power to
make rules.

(2) Without prejudice to the generality of subsection (1) of this section, Rules made under the provisions of this section may make provision :—

- (a) for summoning persons to a hearing before the Tribunal to give evidence and provide documents and for authorising the administration of oaths to witnesses and imposing penalties for failure to attend when duly summoned as well as for contempt of the Tribunal;
- (b) for application to the Tribunal to state a case for the opinion of the Senior Judge's Court on any ground involving a question of law from any judgment of the Tribunal within twenty one days from such judgment;
- (c) for prescribing the forms of proceedings and fees and costs in connection with the proceedings before the Tribunal; and
- (d) for prescribing the periods within which compliance with the provisions of the Rules may be required.

Method of
proof of
decisions of
Tribunal.

20. The production in any proceedings in any Court of the Areas of a document purported to be certified by the Registrar of the Court of the Sovereign Base Areas to be a true copy of a decision of the Tribunal shall, unless the contrary is proved, be sufficient evidence of the facts stated therein.

Part III of
Ordinance 6 of
1960 to apply
to disputes
under this
Ordinance.

21. Part III of the Citizens of the Republic (Jurisdiction of Courts) Ordinance, 1960, shall apply to disputes under this Ordinance, and for such purpose:—

- (i) any such disputes shall be treated as civil proceedings and as appropriate, as an action or an appeal; and
- (ii) the Tribunal shall be treated as a Court of the Areas, and the Industrial Disputes Tribunal established under the provisions of the Republican Law shall be treated as a District Court of the Republic; and,
- (iii) any corporation, company or other corporate body established in the Republic under the provisions of any Republican Law shall be treated as a Cypriot.

PART VIII—SPECIAL PROVISION

Ordinance
to bind the
Crown.

22. This Ordinance shall bind the Crown, except in relation to its employment of privileged persons.

PART IX—REPEAL

Repeal
Ordinances
7 of 1967,
9 of 1968,
8 of 1969,
5 of 1973.

23. The Annual Holidays with Pay Ordinance is hereby repealed.

6th August, 1973.

(SBA/107/15)

W.C. CURTIS
Chief Officer.