



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 807 of 24th March, 1988.
LEGISLATION

ORDINANCE 2 OF 1988.

AN ORDINANCE

TO PROVIDE FOR THE PROHIBITION OF
FALSE TRADE DESCRIPTIONS IN THE AREAS.

K.W. HAYR,
ADMINISTRATOR

15th March, 1988.

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

1. This Ordinance may be cited as the Trade Descriptions Ordinance, 1988. Short title.

2.—(1) In this Ordinance unless the context otherwise requires — Interpretation.

“advertisement” includes a catalogue, a circular and a price list;

“authorised officer” means any person authorised under Section 23 of this Ordinance;

“goods” includes ships and aircraft, things attached to land and growing crops;

“name” also includes an abbreviated name;

“premises” includes —

- (a) a place where a business, industry, production or trade are conducted or where services, accommodation or facilities are offered;
- (b) a place where goods are stored, guarded or exhibited;
- (c) a dwelling place where any part of it is used for conducting a business, industry, production, trade or the rendering of services, accommodation or facilities;
- (d) a place where books of account or other documents relating to the conducting of business, industry, production,

trade or the rendering of services, accommodation or facilities are kept,

and for the purposes of this term, "place" includes a vehicle, a ship or an aircraft;

"Services" means the undertaking and execution of duties for profit or a reward regarding any matter whatsoever except for the production or supply of goods, but does not include the supply of services to an employer on the grounds of an employment contract;

"ship" includes any boat and any other description of vessel used in navigation;

"supplying" and "supply" include sale, exchange, letting or hire-purchase;

"trade mark" includes a mark registered or not, protected by law in the Areas or in any other territory where an agreement exists for bilateral safeguard of trade marks.

(2) For the purposes of this Ordinance, a trade description or declaration which is published in any newspaper, book or magazine or appears in a film or is broadcast on the television or the radio is not deemed to be a description applied or a declaration that was made in the course of conducting a trade, a business or occupation except where such description is or forms part of an advertisement.

PROHIBITION OF FALSE TRADE DESCRIPTIONS

Prohibition
of false trade
descriptions.

3.—(1) No person shall, in the course of a trade, business or occupation —

- (a) apply a false trade description to any goods; or
- (b) supply or offer to supply goods to which a false trade description is applied.

(2) Sections 4 to 8 of this Ordinance shall have effect for the purposes of this Section and for the interpretation of expressions used in this Section, wherever they occur in this Ordinance.

Trade
description.

4.—(1) A trade description is an indication, direct or indirect, and by whatever means given, of any of the following matters with respect to any goods or parts of goods, that is to say —

- (a) quantity, size or gauge;
- (b) method of manufacture, production, processing or re-conditioning;
- (c) composition;
- (d) fitness for purpose, strength, performance, behaviour or accuracy;
- (e) physical characteristics not included in the preceding paragraphs;
- (f) testing by any person and results thereof;
- (g) approval, authority or licence issued by any person;

- (h) person who manufactures, trades, produces, processes or reconditions goods and the qualities and attributes of such person ;
 - (i) country, place or date of manufacture, production, processing or reconditioning ;
 - (j) other history, including previous ownership or use ;
 - (k) conditions of sale, including the availability of a guarantee, servicing and repairing after such sale ;
 - (l) in compliance with standards approved by a person or which have been established, are recognised and generally used ;
 - (m) that any goods or parts thereof consist an object of an existing patent, royalties or a trade mark,
- and includes the usage of any number, word, letter, mark or a combination of these, generally construed as an indication of the above matters.

(2) The matters specified in subsection (1) of this Section shall be taken —

- (a) in relation to any animal, to include sex, breed or cross, fertility and soundness ;
- (b) in relation to any semen, to include the identity and characteristics of the animal from which it was taken and measure of dilution.

(3) In this Section “quantity” includes length, width, height, area, capacity, weight and number.

5.—(1) A false trade description is a trade description which is false to a degree that a person may be misled.

False trade description.

(2) A trade description which, though not false, is misleading, that is to say, likely to be taken for such an indication of any of the matters specified in Section 4 of this Ordinance as would be false to a material degree, shall be deemed to be a false trade description.

(3) Anything which, though not a trade description, is likely to be taken for an indication of any of those matters specified in Section 4 of this Ordinance and, as such, an indication would be false to a degree that a person may be misled, shall be deemed to be a false trade description.

(4) A false indication, or anything likely to be taken as an indication which would be false, that any goods comply with a standard specified or recognised by any person or implied by the approval of any person shall be deemed to be a false trade description if there is no such person or no standard so specified, recognised or implied.

6.—(1) A person applies a trade description to goods if he —

Applying a trade description.

- (a) affixes or annexes it to or in any manner marks it on or incorporates it with —
 - (i) the goods themselves, or
 - (ii) anything in, on or with which the goods are supplied ;
or

- (b) places the goods in, on or with anything which the trade description has been affixed or annexed to, marked on or incorporated with, or places any such thing with the goods ; or
- (c) uses the trade description in any manner likely to be taken as referring to the goods.

(2) Where goods are supplied in pursuance of a request in which a trade description is used and the circumstances are such as to make it reasonable to conclude that the goods are supplied as goods corresponding to that trade description, the person supplying the goods shall be deemed to have applied that trade description to the goods.

Trade
descriptions
used in
advertisements.

7.—(1) The following provisions of this Section shall have effect where in an advertisement a trade description is used in relation to any class of goods.

(2) The trade description shall be taken as referring to all goods of the class whether or not in existence at the time the advertisement is published —

- (a) for the purpose of determining whether an offence has been committed under paragraph (a) of Section 3 of this Ordinance ; and
- (b) where goods of the class are supplied or offered to be supplied by a person publishing or displaying the advertisement, also for the purpose of determining whether an offence has been committed under paragraph (b) of Section 3 of this Ordinance.

(3) In determining for the purposes of this Section whether any goods are of a class to which a trade description used in an advertisement relates, regard shall be had, not only to the form and content of the advertisement but also to the time, place, manner and frequency of its publication and all other matters making it likely or unlikely that a person to whom the goods are supplied would think of the goods as belonging to the class in relation to which the trade description is used in the advertisement.

Offer to supply.

8. A person exposing goods for supply or having goods in his possession for supply shall be deemed to offer to supply them.

MISSTATEMENTS OTHER THAN FALSE TRADE DESCRIPTIONS

False or
misleading
indications
as to price
of goods.

9.—(1) (a) No person shall, when offering to supply goods of any description, give by whatever means, any false indication to the effect that the price at which the goods are offered is equal to or less than —

- (i) a recommended price ; or
- (ii) the price at which the goods, or goods of the same description were previously offered by him ; or
- (iii) the cost price of the goods offered ; or
- (iv) the price at which similar goods are being offered in another part of the Island of Cyprus.

- (b) No person shall, when offering to supply any goods, give by whatever means, any indication likely to be taken as an indication that the goods are being offered at a price less than that at which they are in fact being offered.

(2) For the purposes of this Section —

- (a) an indication that goods were previously offered at a higher price or at a particular price —
- (i) shall be treated as an indication that they were so offered by the person giving the indication, unless it is expressly stated that they were so offered by others and it is not expressed or implied that they were, or might have been, so offered also by that person ; and
 - (ii) shall be treated, unless the contrary is expressed, as an indication that they were so offered in conspicuous places within the preceding three months for a continuous period of not less than a month ;
- (b) an indication as to a recommended price —
- (i) shall be treated, unless the contrary is expressed, as an indication that it is the price recommended by the manufacturer or producer ; and
 - (ii) shall be treated, unless the contrary is expressed, as an indication that it is a price recommended generally for supply by retail in the Area where the goods are offered ;
- (c) anything likely to be taken as an indication as to a recommended price or price at which goods were previously offered, shall be treated as such an indication ;
- (d) a person advertising goods as available for supply shall be taken as offering to supply them ; and
- (e) cost price shall be deemed to be the amount paid or spent in the course of production or acquirement of goods.

10. No person shall, in the course of any trade, business or occupation, give by whatever means any false indication, direct or indirect, that any goods or services supplied by him are of a kind supplied to any person.

False representations.

11.—(1) Subject to the provisions of any other Ordinance, no person shall in the course of any trade, business or occupation —

False or misleading statements as to services.

- (a) make a statement which he knows to be false ; or
- (b) recklessly make a statement which is false, as to any of the following matters, that is to say —
 - (i) the provision in the course of any trade, business or occupation of any services, accommodation or facilities ;
 - (ii) the nature of any services, accommodation or facilities provided in the course of any trade, business or occupation ;

- (iii) the time or place at which, or persons by whom any services, accommodation or facilities are so provided and the qualifications and attributes of such persons ;
 - (iv) the examination, approval or evaluation by any person of any services, accommodation or facilities so provided ;
 - (v) the location or amenities of any accommodation so provided ; or
 - (vi) the terms of payment and generally the price of any services, accommodation or facilities so provided.
- (2) For the purposes of this Section —
- (a) anything, whether or not a statement as to any of the matters specified in subsection (1) likely to be taken for such a statement as to any of those matters as would be false shall be deemed to be a false statement as to that matter ; and
 - (b) a statement made regardless of whether it is true or false shall be deemed to be made recklessly whether or not the person making it had reasons for believing that it might be false.
- (3) In relation to any services consisting of or including the application of any treatment or process or the carrying out of any repair, the matters specified in subsection (1) of this Section, shall be deemed to include the effect of the treatment, process or repair.
- (4) In this Section “false” means false to a degree that a person may be misled.

INDICATION OF COUNTRY OF MANUFACTURE OR PRODUCTION

Indication of
the country of
manufacture
of goods.

12.—(1) Subject to the provisions of Section 3 and of any other Ordinance, no person shall in the course of trade, business or occupation —

- (a) import into the Areas any goods which at the time of importation are not marked in a distinct manner indicating the country of manufacture or production of such goods ;
- (b) supply or offer to supply within the Areas any goods which are not marked in a distinct manner, indicating the country of manufacture or production of such goods ; or
- (c) publish any advertisement by which it is made possible for persons to be supplied with goods directly, without prior examination of such goods, unless this advertisement contains distinct indication of the country of manufacture or production of the goods.

(2) For the purposes of this Section, false indication of the country of manufacture or production of such goods shall be regarded as absence of such indication.

(3) The Chief Officer may make regulations to be published in the Gazette, under which he may exempt or relieve any form

or category of goods from any of the prohibitions or restrictions contained in paragraphs (a), (b) and (c) of subsection (1) of this Section provided that such exemptions or reliefs are only granted because of practical difficulties and do not conflict with the interests of the persons to whom the goods to which the exemptions or reliefs relate, are supplied. Exemptions or reliefs with regard to any category of goods may be granted under conditions which shall be specified in the Regulations.

13.—(1) For the purposes of this Ordinance, goods shall be deemed to have been manufactured or produced in the country in which they last underwent a treatment or process resulting in a substantial change.

Country of
manufacture
or production.

(2) The Chief Officer may by Order to be published in the Gazette specify —

- (a) in relation to any description of goods, the treatment or process to be regarded for the purposes of this Section as resulting or not resulting in a substantial change ;
- (b) in relation to any description of goods different parts of which were manufactured or produced in different countries or of goods assembled in a country different from that in which their parts were manufactured or produced, in which of those countries the goods are to be regarded for the purposes of this Ordinance as having been manufactured or produced.

14.—(1) Where it appears to the Chief Officer necessary or expedient in the interest of persons to whom any goods are supplied that the goods shall be marked with or accompanied by any information (whether or not amounting to or including a trade description) or instruction relating to the goods, the Chief Officer may, subject to the provisions of this Ordinance, by Order to be published in the Gazette, impose requirements for securing that the goods are so marked or accompanied, and regulate or prohibit the supply of goods in respect of which the requirements are not complied with. The requirements may extend to the form and manner in which the information or instruction is to be given.

Marking Orders.

(2) Where an Order under this Section is in force with respect to goods of any description, no person in the course of any trade, business, or occupation, supplies or offers to supply goods of that description in contravention of the Order.

(3) An Order under this Section may stipulate different provisions for different circumstances and may, in the case of goods supplied in circumstances where the information or instruction required by the Order is not conveyed until after delivery, require the whole or part thereof to be also displayed near the goods.

15.—(1) Where it appears to the Chief Officer necessary or expedient in the interest of persons to whom any goods are to be supplied or services accommodation or facilities are to be provided, that any description of advertisement of the goods should contain or refer to any information (whether or not amounting to or including a trade description or a statement relating to any of the matters specified in subsection (1) of

Information
to be given in
advertisements.

Section 11 of this Ordinance) relating to the goods, services, accommodation or facilities, the Chief Officer may, subject to the provisions of this Ordinance, by Order to be published in the Gazette, impose requirements as to the inclusion of that information, or of an indication of the means by which it may be obtained, in such description of advertisement of the goods as may be specified in the Order.

(2) An Order under this Section may specify the form and manner in which any such information or indication is to be included, in advertisements of any description and may make different provisions for different circumstances.

(3) Where an Order under this Section is in force with respect to an advertisement of any goods, services, accommodation or facilities, no person publishes in contravention to such Order an advertisement with regard to such goods, services, accommodation or facilities supplied or offered in the course of conducting any trade, business or occupation.

PROVISIONS AS TO OFFENCES

Offences and
penalties.

16.—(1) Any person who contravenes or fails to comply with any of the provisions of —

- (a) Section 3 (1) ;
- (b) Section 9 (1) ;
- (c) Section 10 ;
- (d) Section 11 (1) ;
- (e) Section 12 (1) ;
- (f) Section 14 (2) ; and
- (g) Section 15 (3),

subject to the provisions of this Ordinance, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding seven hundred and fifty pounds or to imprisonment for a term not exceeding twelve months or to both such imprisonment and fine ; on a second or subsequent conviction, shall be liable to a fine not exceeding one thousand pounds or imprisonment for a term not exceeding two years or to both such imprisonment and fine.

(2) In addition the Court shall have the power to order the forfeiture of any goods or items with which or in relation to which the offence has been committed.

Offences by
officials of
corporations.

17. Where an offence under this Ordinance which has been 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 the punishments provided by this Ordinance, in relation to the specific offence.

18.—(1) Any person who, in the Areas assists in or induces the commission in any other country of an act in respect of goods which, if the act were committed in the Areas, would be an offence under Section 3 of this Ordinance since the false trade description concerned is an indication or anything likely to be taken as an indication that the goods or any part thereof were manufactured, produced, processed or reconditioned in the Areas.

Accessories
to offences
committed
abroad.

(2) Any person found guilty of an offence under subsection (1) of this Section shall be liable to the punishments provided in subsection (1) of Section 16 of this Ordinance.

19. Where the commission by any person of an offence under this Ordinance is due to the act or default of some other person, that other person shall be guilty of the offence, and may be charged with and convicted of the offence by virtue of this Section irrespective of whether proceedings were taken against the first mentioned person.

Offences due to
fault of other
person.

20. Proceedings for an offence under this Ordinance shall not be instituted after the lapse of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.

Lapse of
penalty.

DEFENCE

21.—(1) In any proceedings for an offence under this Ordinance it shall be a defence for the person charged to prove—

Defence of
mistake,
accident, etc.

- (a) that the commission of the offence was due to a mistake or to reliance on information supplied to him or to the act or default of another person, an accident or some other cause beyond his control; and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(2) In any proceedings for an offence under subsection (1) (b) of Section 3 of this Ordinance it shall be a defence for the person charged to prove that he did not know, and could not with reasonable diligence have ascertained —

- (a) that the goods did not conform to the description; or
- (b) that the description had been applied to the goods.

22. In any proceedings for an offence under this Ordinance committed by the publication of an advertisement, it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under this Ordinance.

Innocent
publication of
advertisement.

OFFICERS AND MEANS OF ENFORCEMENT

23. The Chief Officer may, by notice published in the Gazette, authorise any appropriate person or persons to act as authorised officers for the application of this Ordinance and of any Regulations or Orders made under the Ordinance.

Enforcing
authorities.

Power to make
test purchases
etc.

24. An authorised officer shall have power to make purchases of goods and to secure the provision of services, accommodation or facilities as may appear expedient for the purpose of determining whether or not the provisions of this Ordinance and any Order or Regulation made thereunder are being complied with.

Power to enter
premises and
inspect and
seize goods
or documents.

25.—(1) A duly authorised officer shall have power, at all reasonable hours and on production if required, of his credentials, exercise the following powers, that is to say —

- (a) he may, for the purpose of ascertaining whether or not any offence under the provisions of this Ordinance has been committed, enter any premises and inspect any goods and places provided for services, accommodation or facilities ;
- (b) if he has reasonable cause to suspect that an offence under the provisions of this Ordinance has been committed for the purpose of ascertaining whether it has been committed, require any person carrying on a trade, business or occupation or employed in connection with a trade, business or occupation to produce any books or documents relating to the trade, business or occupation and may take copies of, or of any entry in, any such book or document ;
- (c) if he has reasonable cause to believe that an offence under the provisions of this Ordinance has been committed, he may seize and detain any goods for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed ;
- (d) he may seize and detain any goods and documents which he has reason to believe may be required as evidence in proceedings for an offence under the provisions of this Ordinance ;
- (e) he may, for the purpose of exercising his powers under this subsection, to seize goods, but, only if and to the extent that it is reasonably necessary in order to secure that the provisions of this Ordinance and any Order or Regulations made thereunder are duly observed, require any person having authority to do so to break open any container or open any vending machine and, if that person does not comply with the requirement, he may do so himself.

(2) An officer seizing any goods or documents in the exercise of his powers under this Section shall inform the person from whom they are seized and, in the case of goods seized from a vending machine, the person whose name and address are stated on the machine as being the proprietor's or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which it is affixed.

(3) Subject to the provisions of the Criminal Procedure in relation to the issue and execution of judicial warrants of search, if a Judge on sworn information in writing —

- (a) is satisfied that there is reasonable ground to believe either —

- (i) that any goods, books or documents which a duly authorised officer has power under this Section to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under this Ordinance, or
- (ii) that any offence under this Ordinance has been, is being or is about to be committed on any premises; and
- (b) is also satisfied either —
 - (i) that admission to the premises has been or is likely to be refused ; or
 - (ii) that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the Judge may by warrant under his hand, permit an authorised officer to enter the premises, if need be by force.

(4) An authorised officer entering any premises by virtue of this Section, may take with him such other persons and such equipment as may appear to him necessary and on leaving any premises which he has entered by virtue of a warrant under the preceding subsection shall, if the premises are unoccupied or the occupier is temporarily absent leave them as effectively secured against trespassers as he found them.

(5) If any person discloses to any person —

- (a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of this Section ; or
- (b) any information obtained by him in pursuance of this Ordinance,

he shall be guilty of an offence unless the disclosure was made in or for the purpose of the performance by him or any other person of functions under this Ordinance and shall be liable, on conviction, to imprisonment not exceeding twelve months or to a fine not exceeding seven hundred and fifty pounds or to both such imprisonment and fine.

(6) If any person who is not a duly authorised officer purports to act as such under this Section, he shall be guilty of an offence and on conviction shall be liable to imprisonment not exceeding two years or to a fine not exceeding one thousand pounds or to both such imprisonment and fine.

(7) Nothing in this Section shall be taken to compel the production by an advocate of a document containing privileged communication made by or to him in that capacity or to authorise the seizing of any such document which is in his possession.

26.—(1) Any person who —

- (a) wilfully obstructs an authorised officer acting in pursuance of this Ordinance ; or
- (b) wilfully fails to comply with any requirement properly made to him by an authorised officer under Section 25 of this Ordinance ; or

Obstruction
of authorised
officers.

- (c) without reasonable cause fails to give such an officer any other assistance or information which he may reasonably require of him for the purpose of the performance of his functions under this Ordinance,

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

(2) If any person, in giving any such information as is mentioned in subsection (1) makes any statement which he knows to be false, he shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding seven hundred and fifty pounds or to both such imprisonment and fine.

(3) Nothing in this Section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him.

Notice of test
and intended
prosecution.

27. Where any goods seized or purchased by an authorised officer, under the provisions of this Ordinance, are submitted to a test, then —

- (a) if the goods were seized, the authorised officer shall inform the person mentioned in subsection (2) of Section 25 of this Ordinance the result of the test as soon as possible and in any case within ten days from the date the goods were seized ;
- (b) if the goods were purchased and the test leads to the institution of criminal proceedings for an offence under the provisions of this Ordinance, the authorised officer shall inform the person from whom the goods were purchased, or in the case of goods sold through a vending machine, the person mentioned in subsection (2) of Section 25 of this Ordinance, of the result of the test,

and shall, where as a result of the test, proceedings for an offence under this Ordinance are instituted against any person, allow him to have the goods tested on his behalf if it is reasonably practicable to do so.

Compensation
for loss etc.,
of goods
seized under
Section 25.

28.—(1) Where, in the exercise of his powers under Section 25 of this Ordinance, an authorised officer seizes and detains any goods and their owner suffers loss by reason thereof or by reason that the goods, during the detention, are lost or damaged or deteriorated, then, unless the owner is convicted of an offence under this Ordinance, he shall be entitled to compensation for the loss so suffered.

(2) Any disputed question as to the right to or the amount of any compensation payable under this Section shall be determined by the Court.

MISCELLANEOUS PROVISIONS

Prohibition
of importation.

29.—(1) Goods in which a false trade description is applied outside the Island of Cyprus shall not be imported into the Areas, unless they are imported for the private or domestic use of the persons importing them.

(2) Where goods, the importation of which is prohibited under the provisions of subsection (1) of this Section or paragraph (a) of subsection (1) of Section 12 of this Ordinance, and imported into the Areas, subject to the provisions of subsection (6) shall be liable to forfeiture under the relevant provisions of the Customs and Excise Ordinance.

Ordinances
12/69, 9/71, 2/75,
4/77, 8/77
and 20/87.

(3) Where a trade description applied to goods outside the Areas relates to or is purporting to relate to the name of any manufacturer, dealer or trader, or any trade mark and the Fiscal Officer, upon representations made to him by any interested person is satisfied that the use of the name or trade mark is fraudulent, any Customs Officer may require the importer of the goods, or his agent, to produce any documents in his possession relating to the goods, and to furnish information as to the name and address of the person by whom the goods were consigned to the Areas, and the name and address of the person to whom the goods were sent in the Areas, and if the importer or his agent fails within fourteen days to comply with any such requirement, he shall be guilty of an offence and shall be liable, on conviction, to imprisonment not exceeding six months or to a fine not exceeding six hundred pounds or to both such imprisonment and fine.

(4) Any information obtained from the importer of the goods or his agent under the provisions of subsection (3) of this Section or from any other source, may be communicated by the Fiscal Officer to any person whose name or trade mark is alleged to have been used or infringed.

(5) If the import of any goods into the Areas is prohibited under the provisions of this Section, the Chief Officer, after —

- (a) being furnished by the importer thereof with proof of the country in which the goods were made or produced ; and
- (b) being satisfied that the goods are suitable for being marked so as to comply with the requirements of this Ordinance or any Regulations or Order made thereunder,

may, within such time as he may specify, permit the importer of the goods to mark them so as to comply with such requirements and such goods may be imported into the Areas.

30.—(1) Any invoice or other document submitted or used by an importer or any other person in connection with the importation of goods in respect of which a prosecution is brought under this Ordinance may be produced as evidence in any criminal proceedings without calling the person who prepared or signed it.

Rules as to
evidence.

(2) Where in any prosecution for a contravention of this Ordinance the consent of the proprietor or registered user of a trade mark is a relevant issue, the onus of proving the consent of such proprietor or registered user shall lie on the accused.

31.—(1) The fact that a trade description is a trade mark, or part of a trade mark within the meaning of the Trade Marks Ordinance, does not prevent it from being a false trade description when applied to any goods except where the following conditions are satisfied, that is to say —

Cap. 268 (Laws
of Cyprus)
Ordinance 1/63.
Trade marks
containing trade
descriptions.

- (a) that it could have been lawfully applied to the goods if this Ordinance had not been enacted;
- (b) that on the day this Ordinance comes into force, the trade mark either is registered under the provisions of the Trade Marks Ordinance or is in use to indicate a connection in the course of trade between such goods and the proprietor of the trade mark;
- (c) that the trade mark as applied, is used to indicate such a connection between the goods and the proprietor of the trade mark or a person registered under Section 29 of the Trade Marks Ordinance as a registered user of the trade marks; and
- (d) that a person who is the proprietor of the trade mark is the same person as, or a successor in title of, the proprietor on the day this Ordinance comes into force.

Saving for
civil rights.

32. A contract for the supply of goods or grant of services or facilities shall not be void or unenforceable by reason only of a contravention of any provisions of this Ordinance.

Saving Clause.

33.—(1) This Ordinance shall not exempt any person from any action, suit or other proceeding which might, save for the provisions of this Ordinance, be brought against him.

(2) Nothing in this Ordinance shall entitle any person to refuse to make a complete disclosure or to answer any question or questionnaire in any action, but such disclosure or answer shall not be admissible in evidence against him in any prosecution for an offence committed under this Ordinance.

Regulations.

34. The Administrator may make Regulations generally for the better carrying out of the provisions of this Ordinance.

Repeals.

35. The Merchandise Marks Ordinance is hereby repealed.

15th March, 1988.

D.K.A. REYNOLDS,
Chief Officer.

(173/14)