



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 991 of 30th April, 1993
LEGISLATION

ORDINANCE 5 OF 1993

AN ORDINANCE
TO AMEND THE MOTOR VEHICLES (THIRD PARTY
INSURANCE) ORDINANCE

A.G.H. HARLEY
ADMINISTRATOR

28th April, 1993.

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 Motor Vehicles (Third Party Insurance) (Amendment) Ordinance, 1993 and shall be read as one with the Motor Vehicles (Third Party Insurance) Ordinance as amended from time to time (hereinafter referred to as "the principal Ordinance").

Short title.

Cap.333 - (Laws of Cyprus), Ordinances 5/66, 15/87, 8/88 and 18/89.

2. Section 4 of the principal Ordinance is hereby amended by deleting the word "article" appearing in the first line of paragraphs (b) and (c) respectively of the proviso to paragraph (b) of subsection (1) thereof and substituting therefor the words "item of property".

Section 4 of the principal Ordinance amended.

3. Section 10 of the principal Ordinance is hereby amended -

Section 10 of the principal Ordinance amended.

(a) by inserting immediately after paragraph (a) of subsection (2) thereof, the following new paragraph and by re-lettering the subsequent paragraphs thereof, as (c) and (d):-

"(b) in respect of any judgement in a claim for material damage, unless within six months of the date on which the cause of action arose, the person entitled to the judgement -

(i) gives notice to the insurer of his intention to submit a claim; and

(ii) gives the insurer reasonable opportunity to inspect the said damage before any repair is effected or any replacement of accessories and/or spare parts takes place:

Provided that the said time limit shall not apply where the person entitled to the judgement was unable to give such notice and/or opportunity to the insurer by reason of any injury suffered by him as a result of the incident giving rise to the cause of action.

(b) by inserting the words "or material damage", immediately after the words "bodily injury" appearing in the third line of paragraph (d) (as this has been re-lettered above), of subsection (2) thereof; and

(c) by inserting after subsection (4) thereof, the following proviso:-

"Provided that irrespective of the total amount adjudged in a claim or claims for material damage arising out of one incident, the maximum liability of the insurer shall be £50,000 and where more than one person is entitled to the benefit of a judgement or judgements, such sum shall be apportioned in relation to the total amount adjudged.

4. The principal Ordinance is hereby amended by adding after Section 15 thereof, the following new Section to be numbered 15A:-

"Limitation
of actions.

15A. Notwithstanding anything in any other Ordinance contained, no action founded on the provisions of this Ordinance may be commenced after the expiry of two years from the date on which the accident giving rise to the cause of action took place:

Provided that in relation to accidents giving rise to causes of action which took place before the coming into effect of this Ordinance, the period of two years shall be deemed to have commenced as from this date."

29th April, 1993
(120/3)

G.L. JONES
Chief Officer.

AN ORDINANCE
TO PROVIDE FOR THE REGULATION
OF DRINKING AND DRIVING

A.G.H. HARLEY
ADMINISTRATOR

30th April, 1993.

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 Drinking and Driving Ordinance, 1993. Short title.

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

“authorised analyst” means any person authorised by the Administrator to make analyses for the purposes of this Section or any person holding an appointment as an analyst by whatever name called in the Public Service of the Government of, or of any Public Authority in, the United Kingdom or the Republic of Cyprus, who is recognized by the Administrator as an authorised analyst for the purposes of this Section;

“breath test” means a preliminary test for the purpose of obtaining, by means of a device of a type approved by the Administrator, an indication whether the proportion of alcohol in the breath of a person is likely to exceed the prescribed limit;

“drug” includes any intoxicant other than alcohol;

“fail” for the purposes of this Ordinance includes refuse;

“hospital” means any institution whether civil or military which provides medical or surgical treatment;

“laboratory test” means the analysis of a specimen provided for that purpose;

“medical practitioner” means a practitioner as defined in the Medical Practitioners’ Ordinance; Ordinance 10 of 1964.

“member of the provost staff” means a provost officer or any person legally exercising authority under or on behalf of a provost officer;

“motor vehicle” means a motor vehicle as defined in the Motor Vehicles and Road Traffic Ordinance; Ordinances 8 of 1973, 5 of 1982, 2 of 1983 and 11 of 1985.

“police officer” means any member of the Sovereign Base Areas Police and in relation to persons subject to Service discipline, any member of the provost staff;

“police station” means any police station manned by the Sovereign Base Areas Police and in relation to persons subject to Service discipline any military or air-force unit or establishment;

“person subject to Service discipline” means a person subject to the Naval Discipline Act 1957 or the Army Act 1955 or the Air Force Act 1955 and includes any person specified in the Fifth Schedule of either of the last two aforementioned Acts or any Regulations made thereunder;

“prescribed limit” means as the case may require -

- (a) 39 microgrammes of alcohol in 100 millilitres of breath;
- (b) 90 milligrammes of alcohol in 100 millilitres of blood; or
- (c) 120 milligrammes of alcohol in 100 millilitres of urine;

“provost officer” means a person who is a provost officer within the meaning of the said Act of 1957 or either of the said Acts of 1955;

“road” means a road as defined in the Motor Vehicles and Road Traffic Ordinance;

“specimen of breath” means a quantity of breath which is -

- (a) sufficient to enable the test or analysis to be carried out; and
- (b) provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved;

“statement” means the indication of the quantity or proportion of alcohol in a specimen of breath automatically produced by the device and printed on paper or other material.

Ordinances 8/73,
5/82, 2/83 and 11/85.

Driving or being in
charge of a motor
vehicle when under
influence of drink or
drug.

3. - (1) A person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.

(2) Without prejudice to subsection (1) above, a person who, when in charge of a motor vehicle which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.

(3) For the purposes of subsection (2) above, a person shall be deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving it, so long as he remained unfit to drive through drink or drugs.

(4) The Court may, in determining whether there was such a likelihood as is mentioned in subsection (3) above, disregard any injury to him and any damage to the vehicle.

(5) For the purposes of this Section, a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

(6) A police officer may arrest a person without warrant if he has reasonable cause to suspect that, that person is or has been committing an offence under this Section.

Driving or being in
charge of a motor
vehicle with alcohol
concentration above
the prescribed limit.

4. - (1) If a person -

(a) drives or attempts to drive a motor vehicle on a road or other public place, or

(b) is in charge of a motor vehicle on a road or other public place, after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit, he is guilty of an offence.

(2) It is a defence for a person charged with an offence under subsection (1) (b) above to prove that at the time he is alleged to have

committed the offence, the circumstances were such that there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath, blood or urine remained likely to exceed the prescribed limit.

(3) The Court may, in determining whether there was such a likelihood as is mentioned in subsection (2) above, disregard any injury to him and any damage to the vehicle.

5. - (1) Where a police officer has reasonable cause to suspect -

Breath test.

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his body or has committed a traffic offence whilst the vehicle was in motion; or
- (b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place with alcohol in his body and that person still has alcohol in his body; or
- (c) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place and has committed a traffic offence whilst the motor vehicle was in motion,

he may, subject to Section 7 of this Ordinance, require him to provide a specimen of breath for a breath test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place, a police officer may, subject to Section 8 of this Ordinance require any person whom he has reasonable cause to believe was driving or attempting to drive the motor vehicle at the time of the accident to provide a specimen of breath for a breath test.

(3) A person may be required, under subsections (1) or (2) above, to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under subsection (2) above and the police officer making the requirement thinks fit, at a Police Station specified by him.

(4) A person who, without reasonable excuse, fails to provide a specimen of breath when required to do so under the provisions of this Section, is guilty of an offence.

(5) A police officer may arrest a person without warrant if:-

- (a) as a result of a breath test he has reasonable cause to suspect that the proportion of alcohol in that persons's breath or blood exceeds the prescribed limit; or
- (b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this Section and the police officer has reasonable cause to suspect that he has alcohol in his body,

but a person shall not be arrested under the provisions of this Section when he is at a hospital as a patient.

6. - (1) In the course of an investigation whether a person has committed an offence under Sections 3 or 4 of this Ordinance, a police officer may, subject to the following provisions of this Section and Section 8 of this Ordinance require him -

Provision of specimens for analysis.

- (a) to provide two specimens of breath for analysis by means of a device of a type approved by the Administrator; or
- (b) to provide a specimen of blood or urine for a laboratory test.

(2) A requirement under this Section to provide specimens of breath can only be made at a Police Station.

(3) A requirement under this Section to provide a specimen of blood or urine can only be made at a Police Station or at a hospital and it cannot be made at a Police Station unless -

- (a) the police officer making the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required; or
- (b) at the time the requirement is made a device or a reliable device of the type mentioned in subsection (1) (a) above is not available at the Police Station or it is then for any other reason not practicable to use such a device there; or
- (c) the suspected offence is one under Section 3 of this Ordinance and the police officer making the requirement has been advised by a medical practitioner that the condition of the person required to provide the specimen might be due to some drug,

but may then be made notwithstanding that the person required to provide the specimen has already provided or been required to provide two specimens of breath.

(4) If the provision of a specimen other than a specimen of breath may be required in pursuance of this Section, the question whether it is to be a specimen of blood or a specimen of urine shall be decided by the police officer making the requirement, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken the specimen shall be a specimen of urine.

(5) A specimen of urine shall be provided within one hour of the requirement for its provision being made and after the provision of a previous specimen of urine.

(6) A person who, without reasonable excuse, fails to provide a specimen when required to do so in pursuance of this Section, is guilty of an offence.

(7) A police officer must, on requiring any person to provide a specimen in pursuance of this Section, warn him that a failure to provide it may render him liable to prosecution.

7. Of any two specimens of breath provided by any person in pursuance of Section 5 of this Ordinance, that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

8. - (1) While a person is at a hospital as a patient, he shall not be required to provide a specimen of breath for a breath test or to provide a specimen for a laboratory test unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement; and

- (a) if the requirement is then made, it shall be for the provision of a specimen at the hospital, but
- (b) if the medical practitioner objects on the grounds specified in subsection (2) below, the requirement shall not be made.

Choice of breath specimen.

Protection of persons under hospital treatment.

(2) The ground on which the medical practitioner may object is that the requirement of the provision of a specimen or, in the case of a specimen of blood or urine the warning required under Section 6(7) of this Ordinance, would be prejudicial to the proper care and treatment of the patient.

9. - (1) Subject to subsections (2) and (3) below, a person required to provide a specimen of breath, blood or urine, may afterwards be detained at a police station until it appears to the police officer that, were that person then driving or attempting to drive a motor vehicle on a road, he would not be committing an offence under Sections 3 and 4 of this Ordinance.

Detention of persons affected by alcohol or a drug.

(2) A person shall not be detained in pursuance of this Section if it appears to a police officer that there is no likelihood of his driving or attempting to drive a motor vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(3) A police officer must consult a medical practitioner on any question arising under this Section whether a person's ability to drive properly is or might be impaired through drugs and must act on the medical practitioner's advice.

10. - (1) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by the accused shall, in all cases, be taken into account and, subject to subsection (2) below, it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine, at the time of the alleged offence was not less than in the specimen.

Use of specimens in proceedings for offences under Sections 3 and 4.

(2) The assumption in subsection (1) above shall not be made if the accused proves -

- (a) that he consumed alcohol after he had ceased to drive, attempt to drive or be in charge of a motor vehicle on a road and before he provided the specimen; and
- (b) that had he not done so, the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and if the proceedings are for an offence under Section 3 of the Ordinance, would not have been such as to impair his ability to drive properly.

(3) A specimen of blood shall be disregarded unless it was taken from the accused with his consent by a medical practitioner.

(4) Where, at the time a specimen of blood or urine was provided by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless -

- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen provided by the accused was divided at the time it was provided; and
- (b) the other part was supplied to the accused or the accused refused to accept the said part.

11. - (1) Evidence of the proportion of alcohol or drug in a specimen of breath, blood or urine may, subject to subsections (3) and (4) below and to subsection (4) of Section 10 of this Ordinance, be given by the production of a document or documents purporting to be whichever of the following is appropriate, that is to say -

Documentary evidence as to specimens for use in proceedings under Sections 3 and 4.

- (a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a police officer (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement; and
- (b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.

(2) Subject to subsections (3) and (4) below, evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner may be given by the production of a document purporting to certify that fact and to be signed by a medical practitioner.

(3) Subject to subsection (4) below -

- (a) a document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in subsection (1)(a) above, is admissible in evidence on behalf of the prosecution in pursuance of this Section, only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing; and
- (b) any other document is so admissible only if a copy of it has been served on the accused not later than seven days before the hearing.

(4) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than three days before the hearing or within such further time as the Court may in special circumstances allow, has served notice on the prosecutor requiring the attendance at the hearing of the person by whom the document purports to be signed.

12. - (1) Any person who commits an offence under the provisions of Sections 3, 4 or 5 of this Ordinance shall on conviction, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand pounds or to both such imprisonment and fine.

(2) Any person convicted of an offence under Sections 3, 4 or 5 of this Ordinance shall, unless the Court for special reasons thinks fit to order otherwise, and without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of twelve months from the date of the conviction from holding or obtaining a driving licence.

13. Without prejudice to anything done or left undone thereunder, Sections 7 and 7A of the Motor Vehicles and Road Traffic Ordinance are hereby repealed.

14. This Ordinance shall come into effect on the 1st day of June, 1993.

30th April, 1993
(120/8)

G.L. JONES
Chief Officer.

Offences and penalties.

Repeal and savings.
Ordinances 8/73,
5/82, 2/83 and 11/85.

Date of effect of the Ordinance.