



**SUPPLEMENT No. 2**  
**TO**  
**THE SOVEREIGN BASE AREAS GAZETTE**  
**No. 1186 of 8th November 2000**  
**LEGISLATION**

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ORDINANCE 16 OF 2000

**AN ORDINANCE**  
**TO AMEND AND CONSOLIDATE THE ORDINANCE**  
**RELATING TO THE SALE OF GOODS**

**T.W. RIMMER**  
**ADMINISTRATOR**

6th November 2000.

**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 Sale of Goods Ordinance 2000.
2. - (1) In this Ordinance unless the context otherwise requires -

“bulk” means a mass or collection of goods of the same kind which -

- (a) is contained in a defined space or area; and
- (b) is such that any goods in the bulk are interchangeable with other goods therein of the same number or quality;

“buyer” means a person who buys or agrees to buy goods;

“court” means the Judge’s Court of the Areas;

“delivery” means voluntary transfer of possession from one person to another;

“deliverable state” means such a state of the goods that the buyer would under the contract be bound to take delivery of them;

“document of title to goods” includes a bill of lading, dock-warrant, warehouse-keeper’s certificate, wharfinger’s certificate, railway receipt, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented;

Short title.

Interpretation.

“fault” means wrongful act or default;

“future goods” means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale;

“goods” means every kind of movable property other than actionable claims and money and includes stocks and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

“in good faith” in relation to anything being done means done honestly whether it is done negligently or not;

“mercantile agent” means a mercantile agent having in the customary course of business as such agent, authority either to sell goods, or to consign goods for the purposes of sale, or to buy goods, or to raise money on the security of goods;

“price” means the money consideration for a sale of goods;

“property” means the general property in goods, and not merely a special property;

“quality of goods” includes their state or condition;

“section”, “subsection” and “Part” means a section, subsection or Part of this Ordinance;

“seller” means a person who sells or agrees to sell goods;

“specific goods” means goods identified and agreed upon at the time a contract of sale is made.

(2) For the purposes of this Ordinance a person is deemed to be insolvent if he has either ceased to pay his debts in the ordinary course of business or he cannot pay his debts as they become due.

(3) Expressions used but not defined in this Ordinance and defined in the Contract Ordinance have the meanings assigned to them in that Ordinance.

3. The unrepealed provisions of the Contract Ordinance save in so far as they are inconsistent with the express provisions of this Ordinance, shall continue to apply to contracts for the sale of goods.

Application of  
Contract  
Ordinance.  
Cap.149 (Laws of  
Cyprus).

## PART II

### FORMATION OF THE CONTRACT

#### Contract of Sale

4. - (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part-owner and another.

Sale and  
agreement to sell.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

## Formalities of the Contract.

Contract of sale  
how made.

5. - (1) A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed.

(2) Subject to the provisions of any other Ordinance for the time being in force, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

## Subject-matter of Contract.

Existing or future  
goods.

6. - (1) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods.

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

Goods perishing  
before sale but  
after agreement to  
sell.

7. Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to correspond with their description in the contract.

Goods perishing  
before sale but  
after agreement to  
sell.

8. Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to correspond with their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided.

## The Price

Ascertainment of  
price.

9. - (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in the manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay the seller a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Agreement to sell  
at valuation.

10. - (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided:

Provided that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not at fault may maintain a suit for damages against the party at fault.

## Conditions and Warranties.

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

Stipulations as to time.

12. - (1) A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

Conditions and warranties.

(2) A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

(3) A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(4) Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

13. - (1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

When condition to be treated as warranty.

(2) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

(3) Any condition or warranty, the fulfilment of which is excused by law by reason of impossibility or otherwise shall not be affected by the provisions of this section.

14. In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is -

Implied undertaking as to title.

(a) an implied condition on the part of the seller that, in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass;

(b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods;

(c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

15. - (1) Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description.

Sale by description.

(2) If the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

(3) A sale of goods is not prevented from being a sale by description by reason only that, being exposed for sale or hire, they are selected by the buyer.

Implied conditions  
as to quality or  
fitness.

16. - (1) Except as provided in this section and in section 17 and subject to the provisions of any other Ordinance, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale.

(2) Where the seller sells goods in the course of his business, there is an implied condition that the goods supplied under a contract are of satisfactory quality.

(3) For the purposes of this Ordinance, goods are of satisfactory quality if they meet the standard that a reasonable person would regard as satisfactory taking account of any description of the goods, the price (if relevant) and all other relevant circumstances.

(4) For the purposes of this Ordinance, the quality of goods includes their state and condition and the following, inter alia, are in appropriate cases aspects of the quality of goods -

- (a) fitness for all the purposes for which goods of the kind in question are commonly supplied;
- (b) appearance and final finish;
- (c) freedom from minor defects;
- (d) safety and
- (e) durability

For the purposes of this subsection "durability" means reasonable durability in the course of time and use taking into account, where necessary, the availability of spare parts and experienced technicians necessary to maintain such durability.

(5) The implied condition referred to in subsection (2) does not extend to any matter making the quality of the goods unsatisfactory -

- (a) which is specifically drawn to the buyer's attention before the contract is made;
- (b) where the buyer examines the goods before the contract is made, which that examination ought to reveal; or
- (c) in the case of a contract of sale by sample, which would have been apparent on a reasonable examination of the sample.

(6) Where the seller sells goods in the course of his business and the buyer, expressly or by implication, makes known to the seller any particular purpose for which the goods are being bought there is an implied condition that the goods supplied under the contract are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied, except where circumstances show that the buyer does not rely or that it is not reasonable for him to rely, on the skill or judgement of the seller.

(7) A warranty or condition as to quality or fitness for a particular purpose may be implied by usage of trade.

(8) The provisions of this section shall apply to a sale by a person who in the course of his business acts as an agent of another as they

apply to a sale by a principal in the course of his business, except where that other person is not selling in the course of his business and either the buyer is aware of this fact or reasonable steps are taken to bring it to the notice of the buyer before the contract of sale.

17. - (1) A contract of sale is a contract for sale by sample where there is an express or implied term to that effect in the contract.

Sale by sample.

(2) In the case of a contract for sale by sample there is an implied condition -

- (a) that the bulk shall correspond with the sample in quality;
- (b) that the goods shall be free from any defect, making their quality unsatisfactory, which would not be apparent on reasonable examination of the sample.

### PART III

#### EFFECTS OF THE CONTRACT

##### Transfer of property as between seller and buyer

18. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained.

Goods must be ascertained.

19. - (1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

Property passes when intended to pass.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

(3) Unless a different intention appears, the rules contained in Sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

20. Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, be postponed.

Specific goods in a deliverable state.

21. Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

Specific goods to be put in a deliverable state.

22. Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Specific goods in a deliverable state, when the seller has to do anything thereto in order to ascertain price.

23. - (1) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

Sale of unascertained goods and appropriation.

(2) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named

by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.

24. When goods are delivered to the buyer on approval or on sale or return or other similar terms, the property therein passes to the buyer -

- (a) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;
- (b) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time.

25. - (1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to a buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is prima facie deemed to reserve the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

26. Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not:

Provided that, where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

Provided further that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party.

### Transfer of Title

27. Subject to the provisions of this Ordinance and of any other Ordinance for the time being in force, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell:

Provided that, where a mercantile agent is, with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course

Goods sent on approval or "sale or return".

Reservation of right of disposal.

Risk prima facie passes with property.

Sale by person not the owner.

of business of a mercantile agent, shall be as valid as if he were expressly authorised by the owner of the goods to make the same if the buyer acts in good faith and has not, at the time of the contract of sale, notice that the seller has not authority to sell.

28. If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods is transferred to any person who buys them from such joint owner in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by one of joint owners.

29. When the seller of goods has obtained possession thereof under a contract voidable under section 18 or section 19 of the Contract Ordinance but the contract has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title.

Sale by person in possession under voidable contract.

30. - (1) Where a person, having sold goods, continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorised by the owner of the goods to make the same.

Seller or buyer in possession after sale.

(2) Where a person, having bought or agreed to buy goods, obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist.

#### PART IV

#### PERFORMANCE OF THE CONTRACT

31. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale.

Duties of seller and buyer.

32. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer shall be ready and willing to pay the price in exchange for possession of the goods.

Payment and delivery are concurrent conditions.

33. Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorised to hold them on his behalf.

Delivery.

34. A delivery of part of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

Effect of part delivery.

35. Apart from any express contract, the seller of goods is not bound to deliver them until the buyer applies for delivery.

Buyer to apply for delivery.

Rule as to  
delivery.

36. - (1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, goods sold are to be delivered at the place at which they are at the time of the sale, and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, or, if not then in existence, at the place at which they are manufactured or produced.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

Delivery of wrong  
quantity.

37. - (1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he shall pay for them at the contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest or he may reject the whole. If the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate.

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or he may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.

38. - (1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and the seller makes no delivery or makes defective delivery in respect of any instalment, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

39. - (1) Where, in pursuance of a contract of sale, the seller is authorised or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of the goods to a wharfinger for safe custody, is prima facie deemed to be a delivery of the goods to the buyer.

Instalment  
deliveries.

Delivery to carrier  
or wharfinger.

(2) Unless otherwise authorised by the buyer, the seller shall make such contract with the carrier or wharfinger on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do, and the goods are lost or damaged in course of transit or whilst in the custody of the wharfinger, the buyer may decline to treat the delivery to the carrier or wharfinger as a delivery to himself, or may hold the seller responsible in damages.

(3) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, in circumstances in which it is usual to insure, the seller shall give such notice to the buyer as may enable him to insure them during their sea transit, and if the seller fails so to do, the goods shall be deemed to be at his risk during such sea transit.

40. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer shall, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit.

Risk where goods are delivered at a distant place.

41. Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract and, in the case of a contract by sample, to compare the bulk with the sample.

Buyer's right of examining the goods.

42. - (1) The buyer is deemed to have accepted the goods, subject to the provisions of subsection (2) below -

Acceptance of goods and opportunity to examine them.

- (a) when he intimates to the seller that he has accepted them, or
- (b) when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller.

(2) Where goods are delivered to the buyer and he has not previously examined them, then he is not deemed to have accepted them under subsection (1) above until he has had a reasonable opportunity of examining them for the purpose -

- (a) of ascertaining whether they are in accordance with the contract; and
- (b) in the case of a contract by sample of comparing the bulk with the sample.

(3) Where the buyer deals as consumer the buyer cannot lose his rights to rely on subsection (2) above by agreement, waiver or otherwise.

(4) (a) In this Ordinance a party to a contract of sale of goods who is a buyer, "deals as consumer" if -

- (i) he neither makes the contract in the course of a business nor holds himself out as doing so; and
- (ii) the other party, being the seller, does make the contract in the course of a business; and
- (iii) the goods involved are of a type ordinarily supplied for private use or consumption.

(b) But on a sale by auction or competitive tender the buyer is not in any circumstances to be regarded as dealing as consumer.

(c) It is for the seller claiming that the buyer does not deal as consumer to show that he does not.

(5) The buyer is also deemed to have accepted the goods if, after a lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

(6) The buyer is not by virtue of this section deemed to have accepted the goods by reason only that -

(a) he asks for or agrees for them to be repaired by the seller or under any other arrangement with him; or

(b) the goods are delivered to another person under a sub-sale or other disposition.

(7) Where the contract is for the sale of goods making one or more commercial units, a buyer accepting any goods included in a unit is deemed to have accepted all the goods making the unit; and in this subsection "commercial unit" means a unit division of which would materially impair the value of the goods or the character of the unit.

43. - (1) If the buyer has the right to reject the goods by reason of a breach on the part of the seller that affects some or all of them, but accepts some of the goods including, where there are any goods unaffected by the breach, all such unaffected goods, he does not by accepting them lose his right to reject the rest.

(2) Where the buyer has the right to reject an instalment of goods, subsection (1) above shall apply as if any reference to goods was a reference to goods comprised in the instalment.

(3) For the purposes of subsection (1) above, goods are affected by a breach, if by reason of such infringement the goods are not in conformity with the contract.

(4) This section shall apply unless a contrary intention appears in or is to be implied from, the contract.

44. Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.

45. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods:

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

## PART V

### RIGHTS OF UNPAID SELLER AGAINST THE GOODS

46. - (1) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Ordinance -

(a) when the whole of the price has not been paid or tendered;

(b) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

Right to part rejection.

Buyer not bound to return rejected goods.

Liability of buyer for neglecting or refusing delivery of goods.

"Unpaid seller" defined.

(2) In this Part, the term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been endorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

47. - (1) Subject to the provisions of this Ordinance and of any other Ordinance for the time being in force, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law -

Unpaid seller's rights.

- (a) a lien on the goods for the price while he is in possession of them;
- (b) in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them;
- (c) a right of re-sale as limited by this Ordinance.

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer.

#### Unpaid Seller's Lien.

48. - (1) Subject to the provisions of this Ordinance, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely:-

Seller's lien.

- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit, but the term of credit has expired;
- (c) where the buyer becomes insolvent.

(2) The seller may exercise his lien or right of retention notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

49. Where an unpaid seller has made part delivery of the goods, he may exercise his lien or right of retention on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention.

Part delivery.

50. - (1) The unpaid seller of goods loses his lien or right of retention in respect of them -

Termination of lien.

- (a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;
- (b) when the buyer or his agent lawfully obtains possession of the goods;
- (c) by waiver of the lien or right of retention.

(2) An unpaid seller of goods, who has a lien or right of retention of them, does not lose his lien or right of retention by reason only that he has obtained a judgement for the price of the goods.

#### Stoppage in Transit

51. Subject to the provisions of this Ordinance, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit,

Right of stoppage in transit.

that is to say, he may resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price.

Duration of transit.

**52. - (1)** Goods are deemed to be in course of transit from the time when they are delivered to a carrier or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

(3) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end, even if the seller has refused to receive them back.

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case, whether they are in the possession of the master as a carrier or as agent of the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transit, unless such part delivery has been given in such circumstances as to show an agreement to give up possession of the whole of the goods.

How stoppage in transit is effected.

**53. - (1)** The unpaid seller may exercise his right of stoppage in transit either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effective shall be given at such time and in such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall re-deliver the goods to, or according to the directions of, the seller. The expenses of such re-delivery shall be borne by the seller.

### Transfer by Buyer and Seller

**54. - (1)** Subject to the provisions of this Ordinance, the unpaid seller's right of lien or retention or stoppage in transit is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto:

Provided that where a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods,

Effect of sub-sale or pledge by buyer.

and that person transfers the document to a person who takes the document in good faith and for consideration, then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or stoppage in transit is defeated, and, if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or retention or stoppage in transit can only be exercised subject to the rights of the transferee.

(2) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

**55. - (1)** Subject to the provisions of this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage in transit.

Sale not generally rescinded by lien or stoppage in transit.

(2) Where the goods are of a perishable nature, or where the unpaid seller who has exercised his right of lien or retention or stoppage in transit gives notice to the buyer of his intention to re-sell, and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may re-sell the goods within a reasonable time and recover from the original buyer damages for any loss occasioned by his breach of contract, but the buyer shall not be entitled to any profit which may occur on the re-sale. If such notice is not given, the unpaid seller shall not be entitled to recover such damages and the buyer shall be entitled to the profit, if any on the re-sale.

(3) Where an unpaid seller who has exercised his right of lien or retention or stoppage in transit re-sells the goods, the buyer acquires a good title thereto as against the original buyer, notwithstanding that no notice of the re-sale has been given to the original buyer.

(4) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and, on the buyer making default, re-sells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim which the seller may have for damages.

## PART VI

### ACTIONS FOR BREACH OF THE CONTRACT

**56. - (1)** Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods.

Action for price.

(2) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

**57.** Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance.

Damages for non-acceptance.

**58.** Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.

Damages for non-delivery.

**59.** In any action for breach of contract to deliver specific or

Specific performance.

ascertained goods, the Court may, if it thinks fit, on the application of the plaintiff, by its judgement direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The judgement may be unconditional, or upon such terms and conditions as to damages, payment of the price or otherwise, as the Court may deem just, and the application of the plaintiff may be made at any time before the judgement.

Remedy for breach  
of warranty.

60. - (1) Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may -

- (a) set up against the seller the breach of warranty in diminution or extinction of the price; or
- (b) sue the seller for damages for breach of warranty.

(2) The fact that a buyer has set up a breach of warranty in diminution or extinction of the price does not prevent him from suing for the same breach of warranty if he has suffered further damage.

Repudiation of  
contract before due  
date.

61. Where either party to a contract of sale repudiates the contract before the date of delivery, the other party may either treat the contract as subsisting and wait till the date of delivery or he may treat the contract as rescinded and sue for damages for the breach.

62. - (1) Nothing in this Ordinance shall affect the right of the seller or the buyer -

- (a) to recover interest or special damages in any case where by law interest or special damages may be recoverable;
- (b) to recover the money paid where the consideration for the payment of it has failed.

(2) In the absence of a contract to the contrary, the Court may award interest at such rate as it thinks fit on the amount of the price -

- (a) to the seller in an action by him for the amount of the price from the date of the tender of the goods or from the date on which the price was payable;
- (b) to the buyer in an action by him for the refund of the price in a case of a breach of the contract on the part of the seller from the date on which the payment was made.

## PART VII

### MISCELLANEOUS

63. - (1) Subject to the following provisions of this section, where any right, duty or liability would arise under a contract of sale of goods by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract.

(2) An express condition or warranty in a contract of sale does not negative a condition or warranty implied under this Ordinance unless it is inconsistent with it.

(3) Any term in a contract of sale of goods or any other contract exempting the whole or part of the provisions of section 14 shall be void.

Exclusion of  
applied terms and  
conditions.

Interest by way of  
damages and  
special damages.

(4) Any term in a contract of sale of goods or any other contract exempting the whole or part of the provisions of sections 15, 16 and 17 shall -

- (a) where the buyer deals as consumer, be void; and
- (b) in any other case, be unenforceable if it would be unfair or unreasonable to allow such condition to be relied on.

(5) In ascertaining for the purposes of subsection (4) above, whether or not reliance on any such term would be unfair or unreasonable regard shall be had to all the circumstances of the case and in particular the following matters:

- (a) the strength of the bargaining positions of the parties relative to each other having regard, inter alia, to alternative means by which the buyer's requirements could have been met;
- (b) whether the buyer received an inducement to agree to such condition or in accepting it had an opportunity of entering into a similar contract with other persons, but without having to accept a similar term;
- (c) whether the buyer knew or ought reasonably to have known of the existence and extent of the term (in the light, inter alia, of any custom of trade and any previous course of dealing between the parties);
- (d) where the term excludes the whole or part of the provisions of sections 15, 16 or 17 in the case of non-compliance with a certain term of the contract whether it was reasonable at the time when the contract was made to expect that compliance with such term would be practicable;
- (e) whether the goods were manufactured, processed or adapted to the special order of the buyer.

(6) Subsection (5) above shall not prevent the Court from holding in accordance with any rule of law that a term which purports to exclude or restrict any of the provisions of sections 15, 16 and 17 does not constitute a term of the contract.

(7) Any reference in this section to a term exempting from all or any of the provisions of any section of this Ordinance is a reference to a term which purports to exclude or restrict, or has the effect of excluding or restricting, the operation of all or any of the provisions of that section, or the exercise of a right conferred by any provision of the section, or any liability of the seller for breach of a condition or warranty implied by any provision of that section.

(8) Any reference in this section to a term of a contract of sale of goods includes a reference to a term which although not contained in a contract is incorporated in the contract by another term of the contract.

64. Where in this Ordinance any reference is made to a reasonable time, the question what is a reasonable time is a question of fact.

Reasonable time a question of fact.

65. For the purpose of a sale by auction -

Auction sale.

- (a) where goods are put up for sale in lots, each lot is prima facie deemed to be the subject of a separate contract of sale;

- (b) the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; and, until such announcement is made, any bidder may retract his bid;
- (c) a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction;
- (d) where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person; and any sale contravening this paragraph may be treated as fraudulent by the buyer;
- (e) the sale may be notified to be subject to a reserve or upset price;
- (f) if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

66. - (1) The Sale of Goods Ordinance is hereby repealed without prejudice to anything done or left undone thereunder.

(2) Nothing in this Ordinance shall affect or be deemed to affect -

- (a) any right, title, interest, obligation or liability already acquired, accrued or incurred under the said repealed Ordinance or otherwise before the commencement of this Ordinance; or
- (b) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability; or
- (c) anything done or suffered that is affected by the said repealed Ordinance before the commencement of this Ordinance; or
- (d) any enactment relating to the sale of goods which is not expressly repealed by this Ordinance; or
- (e) any rule of law not inconsistent with this Ordinance.

(3) The rules of bankruptcy relating to contracts for the sale of goods shall continue to apply thereto, notwithstanding anything contained in this Ordinance.

(4) The provisions of this Ordinance relating to contracts of sale shall not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security.

6th November 2000

(173/16)

D.J. BONNER,  
Chief Officer.

ORDINANCE 17 OF 2000

**AN ORDINANCE  
TO AMEND THE TRADE DESCRIPTIONS ORDINANCE**

**T.W. RIMMER  
ADMINISTRATOR**

6th November 2000.

**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 (Amendment) Ordinance 2000 and shall be read as one with the Trade Descriptions Ordinance 1988 (hereinafter referred to as “the principal Ordinance”).

Short title.

Ordinance 2 of 1988.

2. Section 2 of the principal Ordinance is hereby amended by inserting in the appropriate alphabetical order of subsection (1) thereof, the following new definitions:-

Section 2 of the principal Ordinance amended.

“consumer” means -

- (a) in relation to any goods, any person who might wish to be supplied with goods for private use or consumption;
- (b) in relation to any services or facilities, any person who might wish to be provided with such services or facilities otherwise than for the purposes of any business of his;
- (c) in relation to any accommodation, any person who might wish to occupy such accommodation otherwise than for the purposes of any business of his;

“price” in relation to any goods, services or accommodation means -

- (a) the aggregate of the sums required to be paid by a consumer for or otherwise in respect of the supply of the goods or the provision of the services, accommodation or facilities;  
or
- (b) except in section 9B below, any method which will be or has been applied for the purpose of determining that aggregate;”.

Section 5 of the principal Ordinance amended.

3. Section 5 of the principal Ordinance is hereby amended -

(a) by inserting immediately after the word "taken" appearing in the second line of subsection (2) thereof, the words "by inference from what it either discloses or fails to disclose"; and

(b) by deleting the words "material degree" appearing in the fourth line of subsection (2) thereof and substituting therefor the words "degree that a person may be misled"; and

(c) by inserting immediately after the word "taken" appearing in the second line of subsection (3) thereof, the words "by inference from what it either discloses or fails to disclose;".

4. Section 9 of the principal Ordinance is hereby repealed and replaced by the following new sections:-

"Offences in respect of misleading indications as to price.

9A:- (1) Subject to the provisions of this Ordinance, any person who, in the course of any trade, business or occupation, gives by whatever means to any consumer an indication which is misleading as to the price at which any goods, services, accommodation or facilities are available, shall be guilty of an offence.

(2) Subject as aforesaid, a person shall be guilty of an offence if -

(a) in the course of any trade, business or occupation he has given an indication to any consumer which, after it was given has become misleading, as mentioned in subsection (1) above; and

(b) some or all of those consumers might reasonably be expected to rely on the indication at a time after it has become misleading; and

(c) he fails to take all such steps as are reasonable to prevent those consumers from relying on the indication.

(3) For the purposes of this section, it shall be immaterial -

(a) whether the person who gives or gave the indication is or was acting on his own behalf or on behalf of another;

(b) whether that person is a person included in the category of persons from whom the goods, services, accommodation or facilities are available;

(c) whether the indication is or has become misleading in relation to all the consumers to whom it is or was given or only in relation to some of them.

(4) Without prejudice to section 21 of this Ordinance in any proceedings for an offence under subsection (1) of this section, in respect of any indication it shall be a defence for the person charged to show that -

Section 9 of the principal Ordinance repealed and replaced.

- (a) the indication did not relate to the availability from him of any goods, services, accommodation or facilities;
- (b) a price had been recommended to every person from whom the goods, services, accommodation or facilities were indicated as being available;
- (c) the indication related to that price and was misleading as to that price only by reason of a failure by any person to follow the recommendation; and
- (d) it was reasonable for the person who gave the indication to assume that the recommendation was for the most part followed.

Meaning of misleading indication as to price.

9B.- (1) For the purposes of section 9A above an indication given to any consumer is misleading as to a price, if what is conveyed by the indication or what those consumers might reasonably be expected to infer from the indication, or any omission therefrom, includes any of the following, that is to say:-

- (a) that the price is less than in fact it is;
- (b) that the applicability of the price does not depend on facts or circumstances on which its applicability does in fact depend;
- (c) that the price covers matters in respect of which an additional charge is in fact made;
- (d) that a person who in fact has no such expectation –
  - (i) expects the price to be increased or reduced (whether or not at a particular time or by a particular amount); or
  - (ii) expects the price or the price as increased or reduced to be maintained, (whether or not for a particular period);
- (e) that the facts or circumstances by reference to which the consumers might reasonably be expected to judge the validity of any relevant comparison made or implied by the indication, are not what in fact they are.

(2) For the purposes of paragraph (e) of this section, a comparison is a relevant comparison if it is made between that price and any price or value which is stated or implied to be or is likely to be attributed or attributable to the goods, services, accommodation or facilities in question or to any other goods, services, accommodation or facilities.

Code of practice.

9C.- (1) The Chief Officer may, after consultation with the appropriate authorities of the Republic responsible for consumer protection, issue a code of practice to be published in the Gazette, for the purpose of –

- (a) giving practical guidance with respect to any of the requirements of section 9A; and
- (b) promoting what appear to the Chief Officer to be desirable practices as to the circumstances and manner in which any person gives an indication as to the price at which any goods, services, accommodation or facilities are available or indicates any other matter in respect of which any such indication may be misleading.

(2) Any contravention of the code of practice issued under this section, shall not of itself give rise to any criminal or civil liability, but in any proceedings against any person for an offence under subsections (1) and (2) of section 9A above -

- (a) any contravention of such code by that person may be relied on in relation to any matter for the purpose of establishing that that person committed the offence or of negating any defence; and
- (b) compliance by that person with such code may be relied on in relation to any matter for the purpose of showing that the commission of the offence by that person has not been established or that that person has a defence.

9D.- (1) Without prejudice to the generality of section 34 of this Ordinance the Administrator may by regulations make provision for the purposes of -

- (a) regulating the circumstances and the manner in which any person -
  - (i) gives an indication as to the price at which any goods, services, accommodation or facilities will be or are available or have been supplied or provided; or
  - (ii) indicates any other matter in respect of which any such indication may be misleading;

(b) facilitating the enforcement of the provisions of section 9A or of any regulations made under this section.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may -

- (a) prohibit any indication as to price from referring to such matters as may be prescribed by the regulations;
- (b) require an indication as to price or other matter, to be accompanied or supplemented by such explanation or such additional information may be prescribed by the regulations;

Regulations with regard to indications as to price.

- (c) require information or explanations with respect to a price or other matters to be given to an authorised officer and to authorise such an officer to require such information or explanations to be given;
- (d) require any information or explanations provided for the purposes of any regulations made by virtue of the paragraphs (b) or (c) above to be accurate;
- (e) prohibit the inclusion in indications as to price or other matter of statements that the indications are not to be relied upon;
- (f) provide that expressions used in any indication as to price or other matter, shall be construed in a particular way for the purposes of this Ordinance;
- (g) provide that a contravention of any provision of the regulations may be used in any criminal proceedings to prove the commission of an offence or that it constituted a criminal offence punishable as respects fines and imprisonment in the same way and extent as is provided in section 16(1) below;
- (h) apply any provision of this Ordinance while relating to a criminal offence created by virtue of paragraph (g) above.”.

5. Section 11 of the principal Ordinance is hereby amended as follows:-

Section 11 of the principal Ordinance amended.

- (a) subsection (1) thereof is hereby repealed and replaced with the following new subsection:-

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

- (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 service, accommodation or facilities;
- (ii) the nature of any services, accommodation or facilities which are provided in the course of any trade, business or occupation;
- (iii) the time or place at which or the manner in 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.”.

- (b) Paragraph (a) of subsection (2) thereof, is hereby amended by inserting immediately after the word "taken" appearing in the second line thereof, the words "by inference from what it either discloses or fails to disclose,"

6. Section 12 of the principal Ordinance is hereby amended by deleting the words "Section 3 and of any other Ordinance" appearing in subsection (1) thereof and substituting therefor the words "any regulations made under subsection (3) below".

7. Section 16 of the principal Ordinance is hereby amended by deleting the figures "9 (1)" appearing in paragraph (b) of subsection (1) thereof and substituting therefor the figures and letter "9A (1) and (2)".

8. The principal Ordinance is hereby amended by inserting immediately after section 22 thereof, the following new section:-

"Authorised act or omission.

22A. In any proceedings for an offence under this Ordinance in relation to any trade description, statement or indication, it shall be a defence for the person charged to prove that for any act or omission attributed to him, he was authorised to do so for the purposes of this section by regulations made under this Ordinance."

9. Section 29 of the principal Ordinance is hereby repealed and replaced by the following new section:-

"Prohibition of importation.

29.- (1) Goods to 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 person importing them.

(2) Subject to the provisions of subsection (3) of this section, any goods, the importation of which is prohibited under the provisions of subsection (1) above or paragraph (a) of subsection (1) of section 12 of this Ordinance shall, on importation into the Areas, be liable to forfeiture under the relevant provisions of the Customs and Excise Ordinance.

(3) Where the importation of any goods into the Areas is prohibited under this section or paragraph (a) of subsection (1) of section 12 of this Ordinance, the Chief Officer may, if he is satisfied that the goods may be marked in a manner which will comply with the requirements of this Ordinance or regulations or orders made thereunder, and subject to such conditions as he may determine, allow the importer to mark such goods in such a manner so as to comply with such requirements and such goods may be imported into the Areas."

Ordinances 12/69,  
9/71, 2/75, 4/77,  
8/77, 20/87, 19/89,  
9/91 and 19/99.

6th November 2000  
(173/14)

D.J. BONNER,  
Chief Officer.

Section 12 of the  
principal  
Ordinance  
amended.

Section 16 of the  
principal  
Ordinance  
amended.

New section 22A  
added to the  
principal  
Ordinance.

Section 29 of the  
principal  
Ordinance repealed  
and replaced.

ORDINANCE 18 OF 2000

**AN ORDINANCE  
TO AMEND THE EVIDENCE ORDINANCE**

**T.W. RIMMER  
ADMINISTRATOR**

6th November 2000.

**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 Evidence (Amendment) Ordinance 2000 and shall be read as one with the Evidence Ordinance as amended from time to time (hereinafter referred to as "the principal Ordinance.").

Short title.  
Cap.9 (Laws of Cyprus) and Ordinances 8/61, 9/65,5/78,4/82 and 16/85.

2. Section 2 of the principal Ordinance is hereby amended by adding to the end of the definition of "document" the following –  
"and further includes films, microfilms, sound and visual magnetic tapes, video cassettes and all other mechanical and electronic devices used or which may be used or the storage of information capable of being subsequently retrieved or reproduced."

Section 2 of the principal Ordinance amended.

3. Section 4 of the principal Ordinance is hereby amended by inserting after subsection (6) the following new subsection –

Section 4 of the principal Ordinance amended.

"(7)Where in any civil or criminal proceedings as a consequence of incapacity of speech or hearing, a person gives evidence in writing or in sign language, such evidence shall be deemed to have been given orally."

4. The principal Ordinance is hereby amended by adding after section 5 the following new sections:-

New sections added after section 5 of the principal Ordinance.

"Proof of statements produced by electronic computers.

5A - (1) In any civil or criminal proceedings a statement contained in a document produced by computer shall be admissible as evidence of any fact stated therein of which oral evidence would have been admissible, if the conditions in subsection (2) below are satisfied in relation to the statement and the computer in question.

(2) The said conditions are:-

- (a) that the document containing the statement was produced by the computer during a period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period, whether for profit or not, by any body, whether corporate or not, or by any individual;
- (b) that over that period there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind from which the information so contained is derived;
- (c) that throughout the material part of that period the computer was operating properly or, if not, that any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of its contents; and
- (d) that the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of those activities.

(3) Where over a period the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in subsection (2)(a) above was regularly performed by computers, whether -

- (a) by a combination of computers operating over that period; or
- (b) by different computers operating in succession over that period; or
- (c) by different combinations of computers operating in succession over that period; or
- (d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this Ordinance as constituting a single computer; and references in this Ordinance to an electronic computer or computer shall be construed accordingly.

(4) In any civil or criminal proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say -

- (a) identifying the document containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;
- (c) dealing with any of the matters to which the conditions mentioned in subsection (2) above relate,

and purporting to be signed by a person occupying a responsible position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section –

- (a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
- (b) where, in the course of activities carried on by any individual or body, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;
- (c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

(6) Subject to subsection (3) above, in this Ordinance “computer” means a device for storing and processing information, and any reference to information being derived from other information is a reference to its being derived therefrom by calculation, comparison or any other process.

(7) If any person in a certificate tendered in evidence in civil or criminal proceedings by virtue of section 5A(4) of this Ordinance wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true, he shall be liable on conviction to imprisonment for a term not exceeding two years or a fine or both.

Evaluation of weight to be attached in statements produced by electronic computers.

5B. In estimating the weight, if any, to be attached to a statement admissible in evidence by virtue of section 5A of this Ordinance, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular -

In the case of a statement falling within section 5A (1) of this Ordinance, to the question whether or not the information which the information contained in the statement reproduces or is derived from was supplied to the relevant computer, or recorded for the purpose of being supplied thereto, contemporaneously with the occurrence or existence of the facts dealt with in that information, and to the question whether or not any person concerned with the supply of information to that computer, or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent the facts."

5. The principal Ordinance is hereby amended by inserting immediately after section 20 the following sections:

"Copies of microphotography and microimages.

21. The contents of a document (whether or not this continues in existence or not) may be proved in any civil or criminal proceedings by the production of an enlarged copy of the document or the relevant part of it, which has been reproduced by microphotography or microimaging processes or by its transfer to an electronic disk which imprints visual images and provided the Court is satisfied as to its authenticity by production of a written certificate in that respect, or in any other way the Court deems appropriate.

Bankers Books.

22.- (1) Subject to the provisions of this section, a copy of an entry in the books of a bank shall be admissible in any civil or criminal proceedings as prima facie evidence of such entry and of the matters, business transactions and accounts recorded therein.

(2) A copy of an entry in the books of a bank shall not be admissible under this section, unless it is first proved that at the time of the entry, the book was one of the usual books of the bank and the entry was made in the normal course of conducting business and the book is under the protection and supervision of the bank.

Such proof may be given by the manager or an employee of the bank either orally or by affidavit.

(3) A copy of an entry in the books of a bank shall not be admissible as proof under this section, unless it is further proved that the copy was compared with the original entry and has been ascertained to be correct.

New sections 21 and 22 added to the principal Ordinance.

Such proof may be given by a person who compared the copy with the original entry either orally or by affidavit.

(4) A banker or an employee of a bank shall not in any legal proceedings to which the bank is not a party be compelled to produce any book of the bank, the contents of which may be proved under the provisions of this section, or to appear as a witness in order to prove any matter, business transactions and accounts entered in it, unless a Court order is issued specifically for this purpose.

(5) On an application by a party to the proceedings, the Court may issue an order, allowing a party to inspect and take copies of any entries in the books of a bank for the purposes of the proceedings. An order under this section may be issued whether by summoning the bank or not or other party to the proceedings and shall be served upon the bank three days before the day on which the bank shall comply with the order, unless the Court orders otherwise (excluding bank holidays as specified in the Bank Holidays Ordinance.

(6) In this section –

“bank” or “banker” means a bank which is licensed under any Republican law to conduct business as a bank, the operation of which is recognised in the Areas;

“bankers books” includes ledgers, diaries, cash-books, account books and other records used in the course of the normal business of the bank, whether they are in writing or are kept on microfilm, magnetic tape or in any other mechanical or electronic means for the recovery of information.”

Cap. 123 and  
Law 34 of 1959  
(Republic).

6th November 2000  
(128/16)

D.J. BONNER,  
Chief Officer.