ORDINANCE 29 OF 2002

AN ORDINANCE TO REGULATE THE TERMS OF EMPLOYMENT OF EMPLOYEES AT PLACES OF ENTERTAINMENT

D.E. RADCLIFFE

19th November 2002.

ACTING ADMINISTRATOR

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 Employees at Places of Entertainment (Terms of Employment) Ordinance 2002.

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

"Committee" means the Committee on the Terms of Employment at Places of Entertainment established under section 3(1) of the corresponding Republican law;

"corresponding Republican law" means Republican Law No. 80 of 1968 as amended by Republican Laws Nos. 58 of 1978, 65(I) of 2002 and 73(I) of 2002, and as it may be further amended or substituted from time to time, and includes any regulations made under that Law;

"employee" includes any person working for another person at a place of entertainment under a contract of employment or in such circumstances as to give rise to a relationship of employee and employer, and the term "employer" shall be construed accordingly:

Provided that a person whose principal occupation is to entertain customers at a place of entertainment by performing or otherwise exercising artistic or similar skills shall not be considered to be an employee for the purposes of this Ordinance;

"service" means continuous and unbroken employment at a place of entertainment or hotel but does not include such employment elsewhere than in the Island of Cyprus:

Provided that none of the following causes shall be taken as breaking the continuity of an employee's employment –

(a) absence from work by reason of lack of work at a place of entertainment or hotel;
Regulations.

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(b) absence from work for reasons of ill health;
(c) absence from work by reason of compulsory service with the Cyprus National Guard;
(d) absence from work on maternity leave;
(e) absence from work on parental leave,

unless, when such cause ceases to apply to the employee, the employee does not resume work at a place of entertainment or hotel;

"service benefit" means any addition to the account of customers at a place of entertainment, for distribution to the employees of that place, not being a gratuity or service charge;

"working hours" means the period during which an employee at a place of entertainment is required to work at that place.

3. The Administrator may make regulations prescribing -

(a) the terms of employment of employees at places of entertainment, including regulations relating to --

(i) personal occupational records,
(ii) daily and weekly working hours,
(iii) overtime,
(iv) weekly day off,
(v) annual leave,
(vi) sick leave,
(vii) notice for the termination of employment,
(viii) the imposition and distribution of service benefits;

(b) the inspection of places of entertainment to determine whether or not the regulations made under this Ordinance are being complied with;

(c) the criteria on which the Committee shall have the discretion, on the approval of the Chief Officer, to exclude any place of entertainment or any category of places of entertainment from the provisions of this Ordinance or of the regulations made under this Ordinance;

(d) penalties of imprisonment not exceeding one year or a fine not exceeding two thousand pounds or both such penalties for infringements of the regulations or of this Ordinance.

4. This Ordinance shall apply to all places of entertainment:

Provided that the Chief Officer may, having regard to any opinion of the Committee, by order published in the Gazette, exclude any place of entertainment or any category of places of entertainment from the provisions of this Ordinance or of the regulations made under this Ordinance.

5. This Ordinance shall come into force on the day of its publication in the Gazette.

19th November 2002

(173/18/1)

J.C. JARVIS,
Chief Officer.
ORDINANCE 30 OF 2002

AN ORDINANCE
TO PROVIDE FOR THE CONTROL OF MISLEADING
AND COMPARATIVE ADVERTISEMENTS AND
RELATED MATTERS

D.E. RADCLIFFE
ACTING ADMINISTRATOR

19th November 2002.

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 Control of Misleading and
Comparative Advertisements Ordinance 2002.

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

"advertisement" (except in the expressions “comparative
advertisement” and “misleading advertisement”) means any
announcement made in relation to a commercial, industrial, craft
or professional activity for the purpose of promoting the supply
of goods or services, including the transfer or other disposal of
immovable property, rights or obligations, and “advertising” shall
be construed accordingly;

“comparative advertisement” means an advertisement, which
expressly or impliedly refers to a competitor or to the goods or
services offered by a competitor of the advertiser; and
“comparative advertising” shall be construed accordingly;

“misleading advertisement” means any advertisement which
in any manner, including its presentation, misleads or is likely
to mislead any person to whom it is addressed or to whose
knowledge it comes and which as a result of its misleading
character, is capable of affecting an economic decision of such
person, or which for such reasons adversely affects or may
adversely affect a competitor of the advertiser;

“non-permitted comparative advertisement” means a
comparative advertisement of a kind which does not meet the
conditions in section 4 or the requirements of section 5.
3. In determining whether an advertisement is misleading regard shall be had to all of its elements and in particular to its indications relating to -

(a) the characteristics by which the goods and services are known, such as their availability, nature, manner of use, composition, method and date of production or supply, suitability, uses, quantity, specifications, place of origin or trade origin or the expected results of their use or the results and material characteristics of the tests or quality controls of the goods or services;

(b) the price and the way of its formulation and the conditions under which the goods and services are provided, such as the conditions of payment or credit, delivery, exchange, return, repair, maintenance and guarantee; and

(c) the professional capacity, the characteristics and the rights of the advertiser such as his identity and property, his capabilities and the possession of industrial, commercial or intellectual property, and his awards and distinctions.

4. Comparative advertising shall, as regards the comparison, be permitted when the following conditions are met -

(a) it is not misleading within the meanings in sections 2 and 3;

(b) it compares goods or services meeting the same needs or having the same purposes;

(c) it objectively compares one or more relevant, verifiable and representative features of such goods or services, which may include the price;

(d) it does not create confusion in the market between the advertiser and a competitor or between the trade marks, trade names, other distinguishing marks, goods or services of the advertiser and those of a competitor;

(e) it does not discredit or denigrate the trade marks, trade names, other distinguishing marks, goods, services, activities or circumstances of a competitor;

(f) for goods with a designation of origin, it relates in each case to goods with the same designation of origin;

(g) it does not take unfair advantage of the reputation of a trade mark, trade name or other distinguishing mark of a competitor or the designation of origin of competing goods;

(h) it does not present goods or services as imitations or replicas of goods or services bearing a protected trademark or trade name.

5. Any comparison referring to a special offer shall specify in a clear and unequivocal manner the date on which the offer ends or where appropriate that the special offer is subject to goods and services being available and in case the special offer has not yet begun, the date it starts or the period during which the special price or conditions will apply.

6. - (1) Subject to subsection (2) below the Chief Officer shall have the duty, in the interest of consumers, competitors and the public
in general, to investigate, following the submission of a complaint or of his own volition, whether any published advertisement or any advertisement imminently to be published, is misleading or a non-permitted comparative advertisement.

(2) The Chief Officer shall, before examining a complaint in accordance with subsection (1), request the complainant to satisfy him that-

(a) he has appealed, in relation to the same or substantially the same complaint in connection with the same advertisement, by means of the established procedures for dealing with such complaints, which the Chief Officer deems appropriate taking into account all the circumstances of the particular case; and

(b) a reasonable time has been afforded for those procedures to have dealt with the said complaint; and

(c) the complaint has not been dealt with in a satisfactory manner by means of those procedures.

(3) The Chief Officer, in exercise of the powers vested in him by this Ordinance, shall have in mind –

(a) all interests involved and in particular the public interest; and

(b) that it is desirable to encourage voluntary control of advertisements by independent organizations, associations or unions.

7. - (1) Where the Chief Officer, following an investigation in relation to an advertisement under section 6(1), thinks that the advertisement is misleading or is a non-permitted comparative advertisement may, if he considers it necessary, apply to the court by originating summons for the issue of a prohibition or mandatory injunction, including a temporary injunction, against any person whom he believes to be involved or is likely to be involved in the issue or publication of the advertisement.

(2) The Chief Officer shall state his reasons for his decision as to whether or not (as the case may be) to submit an application to the court, for the issue of an injunction as provided above, in relation to an advertisement that he is required to investigate under this Ordinance.

8. The right to apply to the court for the issue of a prohibition or mandatory injunction, including a temporary injunction against any person who is or is likely to be involved in the issue or publication of the advertisement shall be available to persons or legally established organizations which either by law or under their articles of association have a sufficient legal interest for the prohibition of misleading advertisements or the regulation of comparative advertisements.

9. - (1) The court before which an application is made, in accordance with section 7 or 8 may issue a prohibition or mandatory injunction subject to such conditions as it thinks necessary, if it is satisfied that the advertisement in relation to which the application has been made is misleading or a non-permitted comparative advertisement. Before the issue of such an injunction, the court shall have regard to all the interests involved and in particular the public interest.
(2) Such an injunction may relate not only to the specific advertisement which is the subject of the application but to any other advertisement which is in similar terms or which is likely to give a similar impression to that given by the specific advertisement.

(3) On the hearing of an application for such an injunction, the court may require any person who in the court’s opinion is responsible for the issue or the publication of the advertisement to which the application relates, to produce evidence to the court as to the accuracy of any alleged facts in the advertisement, if this is deemed necessary in the particular case in order to protect the legitimate interests of the advertiser and of the other parties to the proceedings. In the case of a comparative advertisement the court may require the advertiser to produce such evidence within a short period of time.

(4) Where evidence required by the court is not produced in accordance with subsection (3) above or if the evidence produced is considered insufficient, the court may consider the alleged facts referred to in subsection (3) as being inaccurate.

(5) The court may, where it considers that such measures are necessary for the protection of all the interests involved, and in particular the public interest, order one or more of the following —

(a) the immediate termination or the non-repetition of the misleading advertisement or the non-permitted comparative advertisement;

(b) its prohibition, if a misleading advertisement or non-permitted comparative advertisement has not yet been published but its publication is imminent;

(c) the taking of such corrective measures within such specified period of time as the court may decide, to rectify the unlawful situation arising from the contravention which is the subject of the application;

(d) any other action or measure that may be deemed necessary or reasonable under the circumstances of the particular case.

(6) The court may issue a prohibition or mandatory injunction —

(a) that damage or actual injury to any person is caused by the publication of the advertisement; or

(b) that there has been fraud or negligence on the part of the advertiser.

(7) Furthermore, in order to eliminate the continuing consequences of a misleading advertisement or non-permitted comparative advertisement, the termination of which has been ordered by a final decision, the court may order—

(a) the publication of the decision in whole or in part in a form that it deems appropriate; and

(b) the publication of a rectifying announcement.

10. - (1) For the purposes of facilitating the exercise of the powers vested in him under this Ordinance the Chief Officer may require by a written notice under his hand or on his behalf, any person to furnish information or to produce any documents which are stated or described in the notice.
(2) A notice under subsection (1) -
   (a) shall specify the manner and the time within which the recipient must comply with the notice; and
   (b) may be amended or revoked by a further notice.

(3) No person shall be required to produce or furnish any document or information, which in court proceedings he would have the right to refuse to produce or furnish by reason of legal professional privilege.

(4) If a person fails to comply with a notice under subsection (1) above the court may, on the application of the Chief Officer, issue the relevant order requiring such person to comply with the notice. Such order may provide that all the expenses or costs arising from the application are to be borne by the person or by the officers of the company or other union who is or are responsible for the failure to comply with the notice.

(5) Without prejudice to any other legislation providing to the contrary, the Chief Officer may if he deems it expedient for the control of a misleading or comparative advertisement, communicate to a person any complaint, including any relevant documents relating to an advertisement, or disclose information to any person whether or not such complaint or information has been received pursuant to subsection (1).

(6) For the purposes of applying this Ordinance the disclosure of information received by the Chief Officer under any other legislation shall be permitted.

(7) Subject to subsection (5) above, any person who, except for the purposes of any legal proceedings or reports in relation to any legal proceedings or investigation into a criminal offence, knowingly discloses any information that he has received pursuant to the powers vested in him under subsection (1) above, without the approval either of the person to whom the information relates, or if the information relates to a business, of the person who was involved in the business at the material time, shall be guilty of an offence and on conviction shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding £500 or to both such penalties.

(8) The Chief Officer and the persons and organisations referred to in section 8 may publicise such information and advice relating to the application of this Ordinance as they deem useful to the public and all other persons who are likely to be affected by the provisions of the Ordinance.

11. - (1) The provisions of this Ordinance shall apply subject to any other provisions relating to the advertising of any particular description of goods or services and subject to compliance with any restrictions or prohibitions on advertising through any particular medium of communication imposed under any other provisions.

(2) Comparative advertising of specific goods or services shall not be permitted if the advertising of such goods or services is prohibited under the provisions of any other Ordinance. Where such prohibitions are restricted in their application to specific media of communication, this Ordinance shall apply only to those media which are not covered by such prohibitions.
(3) The making of comparisons in the advertising of professional services may be prohibited or restricted in accordance with the provisions of any other Ordinance.

12. This Ordinance shall come into force on the day of its publication in the Gazette.

19th November 2002
(173/16)

J.C. JARVIS,
Chief Officer.
ORDINANCE 31 OF 2002

AN ORDINANCE
TO AMEND THE LAW RELATING TO PHARMACY
AND POISONS

D.E. RADCLIFFE
ACTING ADMINISTRATOR

19th November 2002.

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 Pharmacy and Poisons Ordinance 2002 and shall be read as one with the Pharmacy and Poisons Ordinance 1964 (hereinafter referred to as “the principal Ordinance”).

2. Section 2 of the principal Ordinance shall be amended by inserting immediately below the definition of “pharmacist” the following new definition –

   “pharmacy” means any premises registered in accordance with section 9;”.

3. Subsection (1) of section 6 of the principal Ordinance shall be amended by substituting for that subsection the following –

   (1) Save as hereinafter provided, only a pharmacist carrying on business in a pharmacy or a pharmacist employed in a pharmacy may dispense any prescription or sell or supply any medicine to any person:

   Provided that the Chief Officer may issue a licence to any Authorised Service Organisation, as defined in the Treaty of Establishment, to sell in the Areas non-poisonous drugs to persons who are entitled under the provisions of the said Treaty to purchase goods from Authorised Service Organisations.”.

4. Subsection (1) of section 9 of the principal Ordinance shall be amended by substituting a colon for the full stop at the end of the subsection and by adding immediately thereafter the following proviso –

   “Provided that no person may own more than one pharmacy or own or be entitled to more than 51% of the stock capital of more than one company which carries on the business of a pharmacy.”.
5. For paragraph (b) of section 10(1) of the principal Ordinance there shall be substituted the following –

“(b) a company carrying on the business of a pharmacist in accordance with the provisions of this section shall be an authorised seller of poisons within the meaning of this Ordinance and may, if the person specified in subparagraph (i) of paragraph (a) of this subsection is a member of the board of the company and owns at least 51% of the stock capital of the company, use the description “pharmacist” in relation to such business and the description “pharmacy” in relation to the premises;”.

6. Section 27(1) of the principal Ordinance shall be amended by substituting for the words “British Pharmacopeia or British Pharmaceutical Codex” the words “European Pharmacopoeia or British Pharmacopoeia (with the European Pharmacopoeia prevailing in any case where the standards laid down in these two Pharmacopoeia differ) or where no relevant standards are laid down in either of these Pharmacopoeia, to the generally accepted standards.”.

7. Subsection (1) of section 38 of the principal Ordinance shall be amended as follows -

(a) for paragraph (i) there shall be substituted the following –

“(i) for regulating the public holidays, half-days, the closing and opening of pharmacies by rotation and compelling any pharmacist to keep his pharmacy open or closed during any prescribed hours:

Provided that the Administrator may assign any of the powers vested in him under this paragraph, wholly or partly, to the Pharmaceutical Board of the Republic;” and

(b) by substituting a semi-colon for the full stop at the end of paragraph (k) and by adding immediately after that paragraph the following new paragraph to be lettered (l)-

“(l) for specifying the appearance, size, design and equipment of pharmacies.”.

8. A person who, or a company which is carrying on the business of a pharmacist on the day that this Ordinance comes into force, in such circumstances that the business is not carried on in conformity with the proviso to section 9(1) or with the provisions of section 10(1)(b) of the principal Ordinance (as added and amended respectively by sections 4 and 5 of this Ordinance), shall not be required to comply with that proviso or those provisions, in relation to that business as long as the business continues to be carried on at the same premises, until 3rd November 2015.

9. This Ordinance shall come into force on the day of its publication in the Gazette.

19th November 2002

(205)

J.C. JARVIS,
Chief Officer.
ORDINANCE 32 OF 2002

AN ORDINANCE
TO AMEND THE TRADE DESCRIPTIONS
ORDINANCE 1988

D.E. RADCLIFFE
ACTING ADMINISTRATOR

19th November 2002.

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 2002 and shall come into force on the day of its publication in the Gazette.

2. In this Ordinance -
   “the principal Ordinance” means the Trade Descriptions Ordinance 1988.

3. Section 14 of the principal Ordinance shall be amended by substituting for subsection (2), the following –
   “(2) Where an order under this section is in force with respect to goods of any description, no person shall, in the course of any trade, business or occupation, supply or offer to supply goods of that description in contravention of the order, or provide any information which may cause confusion concerning the names of, or indications relating to, such goods.”.

4. For section 34 of the principal Ordinance there shall be substituted the following -
   “Regulations. 34. The Administrator may make regulations generally for the more effective carrying out of the provisions of this Ordinance, and in particular for regulating the manner of taking samples and the method of carrying out any analysis or test under the provisions of this Ordinance.”.

19th November 2002

(173/14)

J.C. JARVIS,
Chief Officer.
ORDINANCE 33 OF 2002

AN ORDINANCE
TO AMEND THE FOREST ORDINANCE

D.E. RADCLIFFE
ACTING ADMINISTRATOR

19th November 2002.

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 Forest (Amendment) Ordinance 2002 and shall come into force on the day of its publication in the Gazette.

2. Subsection (2) of section 23 of the Forest Ordinance 1980 shall be amended as follows –

(a) for the words “nine months” there shall be substituted the words “five years”; and

(b) for the word “hundred” there shall be substituted the word “thousand”.

19th November 2002

(106/11)

J.C. JARVIS,
Chief Officer.
AN ORDINANCE
TO AMEND THE PROPAGATING MATERIAL
ORDINANCE 2000

D.E. RADCLIFFE
ACTING ADMINISTRATOR

19th November 2002.

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 Propagating Material (Amendment) Ordinance 2002.

2. In this Ordinance-

"the principal Ordinance" means the Propagating Material Ordinance 2000.

3. Section 2 (interpretation) of the principal Ordinance shall be amended by-

(a) substituting a semi-colon for the full-stop at the end of the section; and

(b) adding immediately below the definitions of "section" and "subsection" the following two definitions –

"trading", in relation to plant propagating material or plants, means their possession for the purposes of distribution or as stock, their display or offering for sale, their sale or their delivery to any person, and cognate expressions shall be construed accordingly;

"third country" means a country, other than the Republic, which is not a member State of the European Union.

4. Section 5 (propagating material) of the principal Ordinance shall be amended as follows –

(a) for paragraph (a) of subsection (2) there shall be substituted the following –

"(a) pre-basic plant propagating material;”;

(b) paragraph (b) of subsection (2) shall be repealed;
(c) for the full-stop at the end of paragraph (d) of subsection (2) there shall be substituted a semi-colon, and after that paragraph there shall be inserted the following new paragraph, to be lettered paragraph (e) –

“(e) commercial plant propagating material Conformity Agraria Communitatis (C.A.C.).”;

(d) after subsection (2) there shall be added the following new subsection, to be numbered subsection (3) –

“(3) pre-basic plant propagating material, basic propagating material and certified propagating material constitute categories of the mother material.”.

5. Section 7 (trading of propagating material) of the principal Ordinance shall be amended by substituting for the words in subsection (1) “conditions provided in this Ordinance regarding its production and movement” the words “preconditions provided for in this Ordinance and any regulations made under it”.

6. Section 12 (regulations) of the principal Ordinance shall be amended by substituting a semi-colon for the full-stop at the end of subsection (2) and adding after paragraph (h) of that subsection the following new paragraph, to be lettered as paragraph (i) –

“(i) the preconditions for authorising registered nurseries to certify propagating material and for approving laboratories to carry out analyses of such material, after ascertaining that such nurseries and laboratories respectively are competent to perform such tasks.”.

7. There shall be added after section 12 of the principal Ordinance the following new section, to be numbered section 13 –

“Material to which this Ordinance shall not apply.

13. This Ordinance shall not apply to plant propagating material intended for –

(a) export to a third country, provided that the material is labelled accordingly and kept separate from other material, and is in conformity with the legislation relating to plant health;

(b) experimental or scientific purposes, for developing varieties of plants or for conserving the genetic diversity of plants.”.

8. This Ordinance shall come into force on the day of its publication in the Gazette

19th November 2002
(195/2/1)

J.C. JARVIS,
Chief Officer.
ORDINANCE 35 OF 2002

AN ORDINANCE
TO AMEND THE PREVENTION OF FIRES
IN OPEN COUNTRY ORDINANCE 1989

D.E. RADCLIFFE
ACTING ADMINISTRATOR

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 Prevention of Fires in Open Country (Amendment) Ordinance 2002.

2. Section 5 (offences and penalties) of the Prevention of Fires in Open Country Ordinance 1989 shall be amended as follows –

   (a) for the words “one year” there shall be substituted the words “three years”; and

   (b) for the words “one thousand” there shall be substituted the words “five thousand”.

3. This Ordinance shall come into force on the day of its publication in the Gazette.

19th November 2002

J.C. JARVIS,
Chief Officer.
ORDINANCE 36 OF 2002

AN ORDINANCE
TO AMEND THE VALUE ADDED TAX ORDINANCE
2001

D.E. RADCLIFFE
ACTING ADMINISTRATOR

19th November 2002.

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 Value Added Tax (Amendment) (No.2) Ordinance 2002.

2. Section 17 of the Value Added Tax Ordinance 2001 (standard rate of VAT) shall be amended by substituting for the words and figure “thirteen percent (13%)” the words and figure “fifteen percent (15%)”.

3. This Ordinance shall come into force on 1st January 2003.

19th November 2002
(119/8/2)

J.C. JARVIS,
Chief Officer

Printed by the Sovereign Base Areas Administration Printing Press