



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1315 of 17th December 2003
LEGISLATION

ORDINANCE 42 OF 2003

AN ORDINANCE
TO AMEND THE HEALTH AND SAFETY AT WORK
ORDINANCE 1999

P. T. C. Pearson CBE
ADMINISTRATOR

8th December 2003.

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 Health and Safety at Work (Amendment) Ordinance 2003 and shall be read as one with the Health and Safety at Work Ordinance 1999 (hereinafter referred to as “the principal Ordinance”).

Short title.

Ordinance 6 of 1999.

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

Amendment of section 2 of the principal Ordinance.

“ “employer” means any person who has an employment relationship with the employee and has responsibility for the undertaking in which the employee works;”

3. The principal Ordinance is hereby amended by inserting after section 2 thereof the following section:-

Amendment of the principal Ordinance by adding a new section 2A.

“Objectives. **2A.** – (1) The provisions of this Ordinance shall have effect with a view to:-

- (a) securing the health and safety of persons at work; and
- (b) protecting persons other than persons at work against risks to health or safety arising out of or in connection with the activities of persons at work.

(2) For the purposes of subsection (1), the Ordinance contains general principles concerning:-

- (a) the prevention of occupational risks;

- (b) the protection of health and safety;
- (c) the elimination of risk and accident factors;
- (d) the informing, consulting balanced participation in accordance with the law, and training of employees and their representatives; and
- (e) the rules for the implementation of these general principles.”

Amendment of section 3 of the principal Ordinance.

4. Section 3 of the principal Ordinance is hereby amended as follows:-

- (a) by substituting subsection (1) thereof with the following subsection:-
 - “ (1) Subject to the provisions of subsections (2), (3) and (4) below, this Ordinance shall apply to all places of work, and to all sectors of activity, both public and private, (including the administrative, agricultural, commercial, cultural, educational, industrial, leisure and service, sectors).”;
- (b) by substituting subsection (2) thereof with the following subsection:-
 - “ (2) This Ordinance shall not apply in relation to a person who employs or is employed as a domestic servant in a private household, except with a view to securing the health, safety and welfare of any female domestic servant who is or may become pregnant or who has recently given birth and only to the extent that specific provision is made therefor elsewhere in this Ordinance or in any regulations made thereunder.”;
- (c) by inserting in subsection (3) thereof, after the words “dock works” (first line) the words “and any works on fishing vessels”;
- (d) by deleting subsection (4) thereof.

Amendment of section 13 of the principal Ordinance.

5. Section 13 of the principal Ordinance is hereby amended as follows:-

- (a) by adding subsection (1) thereof at the beginning, the words “Subject to subsection (1A),” and by deleting from the said subsection the comma and the words and comma “, so far as is reasonably practicable,” (first and second line);
- (b) by inserting after subsection (1) thereof the following subsection:-
 - “ (1A) The employer’s duty to ensure the health, safety and welfare at work of all his employees shall not apply in relation to:-
 - (a) occurrences due to unusual and unforeseeable circumstances, beyond the employer’s control; or
 - (b) exceptional events, the consequences of which could not have been avoided, despite the exercise of all due care.”;
- (c) by substituting in subsection (2) thereof for the words “duties under the preceding subsection and under Part IV and V” (first and second line), the words “duty under subsection (1) and subject to subsection (1A)” and by deleting from paragraphs (a), (b), (c), (d) and (e) of the said subsection the

comma and the words and comma “, so far as is reasonably practicable,” where they appear;

- (d) by deleting subsections (3), (4) and (6) thereof;
- (e) by deleting from subsection (8) thereof the comma and the words and comma “, as far as is reasonably practicable,” (second and third lines);
- (f) by deleting subsection (9) thereof.

6. Section 14 of the principal Ordinance is hereby amended by deleting subsection (3) thereof.

Amendment of section 14 of the principal Ordinance.

7. Section 17 of the principal Ordinance is hereby amended as follows:-

Amendment of section 17 of the principal Ordinance.

- (a) by deleting from subsection (1)(a) the comma and the words and comma “, so far as is reasonably practicable” (first line);
- (b) by inserting in subsection (2) thereof after the word “installs” (first line) the words “or modifies”, by deleting from the said subsection the comma and the words and comma “, so far as is reasonably practicable,” (third and fourth lines) and by inserting in the said subsection after the word “installed” (fifth line) the words “or modified”; and
- (c) by deleting from paragraph (a) of subsection (3) thereof the comma and the words and comma “, so far as is reasonably practicable,” (first line).

8. Section 21 of the principal Ordinance is hereby amended by deleting in subsection (2) the comma and the words and comma “, so far as is reasonably practicable” (first and second line).

Amendment of section 21 of the principal Ordinance.

9. Section 31 of the principal Ordinance is hereby amended as follows:-

Amendment of section 31 of the principal Ordinance.

- (a) by deleting from subsection (1) thereof the words “and such means of fighting fire” (second and third line); and
- (b) by substituting subsection (9) thereof with the following subsection:-

“ (9) The fire-proof or fire-resistant stores referred to in subsection (4) of section 32 shall not be situated in such a position as to endanger the means of escape from the premises or establishment or any part thereof, in the event of fire therein.”.

10. Section 32 of the principal Ordinance is hereby amended by adding after subsection (3) thereof, the following subsections:-

Amendment of section 32 of the principal Ordinance.

“ (4) Where stocks of extremely flammable, highly flammable or flammable substances are kept at any place of work they shall be stored in fire-proof or fire-resistant stores inside or in otherwise safe places outside the premises or establishment concerned.

(5) In any premises or establishment where:-

- (a) extremely flammable, highly flammable, flammable or oxidising substances are used, stored, produced or may escape; or

- (b) any dust of such a character and concentration that may possibly cause an explosion or ignition is produced or may escape; and

in every factory, all buildings, floors, stairs, staircases, passages and corridors therein shall be made of fire-proof or fire-resistant material.”.

Amendment of section 33 of the principal Ordinance.

11. Section 33 of the principal Ordinance is hereby amended by deleting in subsection (1) the words “reasonably practicable” (fourth line).

Amendment of section 34 of the principal Ordinance.

12. Section 34 of the principal Ordinance is hereby amended by deleting subsection (4) thereof.

Amendment of section 35 of the principal Ordinance.

13. Section 35 of the principal Ordinance is hereby amended by deleting in subsection (1) the words and comma “so far as is reasonably practicable,” (fourth and fifth line).

Amendment of section 36 of the principal Ordinance.

14. Section 36 of the principal Ordinance is hereby amended as follows:-

- (a) by deleting from subsection (1) thereof the word “reasonably” (fourth line);
- (b) by substituting in subsection (7) thereof for the word “means” (first line) the word “includes”;
- (c) by substituting paragraph (a) of subsection (7) thereof with the following paragraph:-

“(a) substances prescribed as:-

- (i) carcinogenic and mutagenic agents in the Health and Safety at Work (Carcinogenic and Mutagenic Agents) Regulations 2002 [P.I. No.65 of 2002];
- (ii) harmful chemical agents in the Health and Safety at Work (Chemical Agents) Regulations 2002 [P.I. No. 64 of 2002]; and

(d) by substituting paragraph (c) of subsection (7) thereof with the following paragraph:-

“(c) substances prescribed as biological agents in the Health and Safety at Work (Biological Agents) Regulations 2002 [P.I. No. 66 of 2002].”.

Amendment of section 38 of the principal Ordinance.

15. Section 38(3) of the principal Ordinance is hereby amended by deleting paragraphs (b) and (c) thereof.

Amendment of section 53 of the principal Ordinance.

16. Section 53 of the principal Ordinance is hereby amended as follows:-

- (a) by substituting in subsection (1) thereof for the words “Any person who fails to comply with any duty imposed on him under Parts II, III, IV or V or who contravenes any provisions of this Ordinance or any regulations or orders made thereunder,” (first to third line) the words “Subject to subsections (2) to (8), any person who fails to comply with any obligation imposed upon him or contravenes any prohibition under this Ordinance.”;
- (b) by deleting subsections (6) and (7) thereof.

17. The principal Ordinance is hereby amended by inserting after section 56 the following section:-

Amendment of the principal Ordinance by adding a new section 57.

“Application to Crown.

57. – (1) Subject to the provisions of this section, this Ordinance, and any regulations made thereunder, shall bind the Crown.

(2) Sections 45 to 49 and 52 to 54 shall not bind the Crown.

(3) Notwithstanding subsection (2), this Ordinance and any regulations made thereunder shall apply to persons in the service of the Crown as they apply to other persons.

(4) For the purposes of this Ordinance and any regulations made thereunder, persons in the service of the Crown shall be treated as employees of the Crown, whether or not they would otherwise be so treated apart from this subsection.

(5) The Administrator by Order may, for as long as it appears to him to be requisite or expedient to do so in the interests of national security, exempt any Crown premises or any category of persons employed by or on behalf of the Crown from all or any provisions of this Ordinance or any regulations made thereunder, provided that the health and safety of persons at work and other persons who may be affected by such work is otherwise adequately safeguarded.

(6) Where an offence committed under this Ordinance by any employee of the Crown is proved to have been committed on the instruction, or with the consent or connivance of or to have been attributable to any neglect on the part of that person’s Head of Department or any other person employed by the Crown who is in a position of authority over him, the Head of Department or that other person, as the case may be, as well as the employee himself, shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(7) For the purposes of this section:-

“the Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration in the Areas;

“Crown premises” means premises held or used by or on behalf of the Crown.”.

18. (1) Subject to subsection (2), this Ordinance shall come into force on the date of its publication in the Gazette.

Commencement of Ordinance.

(2) The amendments made to the principal Ordinance by sections 4(b), 5, 7, 8, 11, 13 and 14(a) of this Ordinance shall not bind the Crown or apply to persons in the service of the Crown or to any Crown premises until such day as the Administrator, by notification in the Gazette, shall appoint.

10th December 2003

P. D. Draycott
Chief Officer.

(128/201)
(107/6)

Marginal Notes
(To be inserted alongside first line of section unless otherwise stated)

- Section 1. Short title.
- Section 1. (last line) Ordinance 6 of 1999.
- Section 2. Amendment of section 2 of the principal Ordinance.
- Section 3. Amendment of the principal Ordinance by adding a new section 2A.
- Section 4. Amendment of section 3 of the principal Ordinance.
- Section 5. Amendment of section 13 of the principal Ordinance.
- Section 6. Amendment of section 14 of the principal Ordinance.
- Section 7. Amendment of section 17 of the principal Ordinance.
- Section 8. Amendment of section 21 of the principal Ordinance.
- Section 9. Amendment of section 31 of the principal Ordinance.
- Section 10. Amendment of section 32 of the principal Ordinance.
- Section 11. Amendment of section 33 of the principal Ordinance.
- Section 12. Amendment of section 34 of the principal Ordinance.
- Section 13.. Amendment of section 35 of the principal Ordinance.
- Section 14. Amendment of section 36 of the principal Ordinance.
- Section 15. Amendment of section 38 of the principal Ordinance.
- Section 16. Amendment of section 53 of the principal Ordinance.
- Section 17. Amendment of the principal Ordinance by adding a new section 57.
- Section 18. Commencement of Ordinance.