



**SUPPLEMENT No. 2**  
**TO**  
**THE SOVEREIGN BASE AREAS GAZETTE**  
**No. 1557 of 10th November 2009**  
**LEGISLATION**

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**ROAD TRAFFIC (DANGEROUS GOODS) ORDINANCE 2009**

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An Ordinance to make provision for the application in the Sovereign Base Areas of certain legislation made by the Republic of Cyprus in relation to the transport by road of dangerous goods.

**J. H. GORDON**  
**ADMINISTRATOR**

*9th November 2009.*

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

**1. Short title**

This Ordinance may be cited as the Road Traffic (Dangerous Goods) Ordinance 2009.

**2. Interpretation**

(1) In this Ordinance—

“dangerous goods” has the same meaning as in the dangerous goods law;

“dangerous goods law” means the Republican Road Transport of Dangerous Goods Law of 2004<sup>(a)</sup>;

“officer of the Republic” means a person who has any powers conferred, or any duties imposed upon them of a public nature by or under any dangerous goods law and includes—

(a) such a person whether or not that person is a member of the public service of the Republic;

(b) any body of persons whether or not it is an official body and whether or not it is incorporated;

“officer of the Areas” means a person, other than an officer of the Republic, authorised by the Chief Constable to exercise any powers or perform any duties under section 5(3).

(2) Any reference to a provision of the Areas and a provision of the Republic corresponding one to the other shall be construed as a reference to provisions of the Areas and of the Republic respectively whose effects are similar or substantially similar.

- (3) Any reference to the dangerous goods law includes—
- (a) any amendment made to that law (whether enacted before or after this Ordinance);
  - (b) any public instrument made under that law (whether made before or after this Ordinance);
  - (c) any public instrument made under a public instrument described in paragraph (b) (whether made before or after this Ordinance).

### **3. General application**

- (1) Subject to subsection (3), all rights, powers, liabilities, obligations and restrictions from time to time created or arising in the Republic by or under the dangerous goods law and all remedies and procedures from time to time provided for by or under that law are, subject to necessary adaptation and so far as possible, to be applied and have effect in law in the Areas.
- (2) Unless the Chief Officer by Order to be published in the Gazette otherwise directs, any amendment to the dangerous goods law only takes effect in the Areas in accordance with subsection (1) after the expiry of 60 days from the date on which that law or any provision of that law came into force in the Republic.
- (3) Subsection (1) does not apply to any power conferred or duty imposed by the dangerous goods law which permits or requires a person or body to make a public instrument of any kind.
- (4) The dangerous goods law which is given effect to in the Areas by virtue of subsection (1) is to be treated for all purposes as if it is subordinate legislation made under this Ordinance.

### **4. Modifications and adaptations**

- (1) The application of the dangerous goods law in the Areas is, unless the context otherwise requires, subject to the following—
  - (a) where the dangerous goods law is repealed or revoked but is not replaced by the Republic it ceases to have effect in the Areas;
  - (b) where the dangerous goods law is repealed and replaced by the Republic with another law, the dangerous goods law continues to have effect in the Areas;
  - (c) where a provision of the dangerous goods law contains a reference to any other Republican legislation, then—
    - (i) if there is a provision of the Areas (including a provision which has effect in accordance with section 3) corresponding to that other Republican provision, the reference is to be construed as a reference to the corresponding provision of the Areas;
    - (ii) in any other case, the provision of the dangerous goods law containing that reference does not have effect in the Areas;
  - (d) where a provision of the dangerous goods law refers to the import or export of any item, that provision does not apply to any movement of that item between the Republic and the Areas.
- (2) The application of the dangerous goods law in the Areas is, unless the context otherwise requires, subject to the following interpretations notwithstanding anything to the contrary contained in the dangerous goods law—
  - (a) a reference to a Court is to be construed as the Resident Judge's Court or the Senior Judges' Court as appropriate;
  - (b) a reference to the Republic is to be construed as a reference to the Areas;
  - (c) a reference to a member State is to be construed as a reference to a member State of the European Union excluding the Republic of Cyprus;
  - (d) a reference to a third country is to be construed as a country or territory other than the Areas, the Republic or a member State of the European Union, but includes any other part of the Island of Cyprus not under the effective control of the Republic or the Administration;
  - (e) a reference to a foreign company is to be construed as not including a company that is registered in the Republic or in the Areas.

- (3) Where the dangerous goods law requires a safety officer to be appointed by an undertaking, that requirement is to apply 60 days after the commencement of this Ordinance.
- (4) The Administrator may by order to be published in the Gazette provide for the application of the dangerous goods law in the Areas to be subject to such additional exceptions, adaptations or modifications, from such date as may be specified in the order, as the Administrator may consider expedient in the circumstances.
- (5) Without prejudice to the generality of subsection (4), the Administrator may by order provide for the dangerous goods law to cease to have effect in the Areas from such date as may be specified in the order.

## **5. Powers and duties**

- (1) Any power conferred or duty imposed on an officer of the Republic under the dangerous goods law is deemed to be conferred or, as the case may be, imposed on the Chief Constable save that any power conferred or duty imposed on the Minister of Communications and Works is deemed to be conferred or, as the case may be, imposed on the Chief Officer.
- (2) Any power conferred or duty imposed on the Chief Constable or the Chief Officer by virtue of subsection (1) is a general delegated function for the purposes of the Delegation of Functions to the Republic Ordinance 2007(b) except for the following, which are qualified delegated functions—
  - (a) any power permitting a vehicle to be stopped and examined;
  - (b) any power of entry, search or seizure.
- (3) Without prejudice to subsection (2), the Chief Constable may authorise any officer of the Areas to perform any duty imposed or exercise any power conferred by the dangerous goods law subject to such restrictions or conditions as the Chief Constable may specify.

## **6. Legal Proceedings**

- (1) A court of the Areas may take judicial notice of Republican law and of any other Republican document of any description granted or otherwise made under Republican law.
- (2) The production of a copy of any part of a Republican enactment—
  - (a) contained in a printed collection of enactments purporting to be printed and published by an authority of the Republic; or
  - (b) contained in an issue of the Official Gazette of the Republic; or
  - (c) purporting to be printed by the Government Printer of the Republic, by whatever name called;
 is evidence for all purposes, and may be held by a Court to be conclusive evidence, of the due and lawful making of that enactment.
- (3) For the purposes of this section, a version of any part of a Republican enactment in the English language—
  - (a) purporting to be produced by an authority of the Republic;
  - (b) certified as being accurate by an officer of the Administration considered by the Court to have been at the time of such certification a competent and adequate translator into the English language from the language in which the Republican enactment was published in the Republic;
  - (c) given or produced in the course of oral evidence of a person whom the Court considers to be a competent translator for the purpose;
  - (d) stated orally in court or produced in writing by a Registrar or official court interpreter;
 may in any of those cases be held by the Court to be conclusive evidence for all purposes that such version is the accurate English version of the Republican enactment or part of the Republican enactment in question.
- (4) For the purposes of this section, the production of—
  - (a) a relevant document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for the relevant enactment under which the relevant document was made; or

- (b) an English translation of a relevant document, the accuracy of which is certified in writing by a translator of recognised competence;
- may be held by the Court to be conclusive evidence for all purposes of the contents of such document.

#### **7. Application to the Crown**

- (1) This Ordinance does not bind the Crown except insofar as its provisions expressly impose duties or confer powers on the Chief Officer or the Chief Constable.
- (2) For the purpose of this section “the Crown” means Her Majesty in right of Her Government of the United Kingdom and in right of Her Administration in the Areas.

#### **8. Commencement**

This Ordinance comes into force on the day it is published in the Gazette.

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#### **Notes**

- (a) Law 29(I)/2004 (Republic of Cyprus).  
(b) Ordinance 17/07.

## EXPLANATORY NOTE

**(This note does not form part of the Ordinance)**

### Introduction

1. This explanatory note relates to the Road Traffic (Dangerous Goods) Ordinance 2009 (the “Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.
2. The note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

### Particular points

#### Adoption and delegation

3. The Ordinance adopts the Road Transport of Dangerous Goods Law of 2004 (No. 29(I)/2004) of the Republic (the “Dangerous Goods Law”). In other words, it provides for the Dangerous Goods Law of the Republic as amended at the time this Ordinance enters into force, plus any future amendments to it or public instruments made or to be made under it, to have effect in the Areas as if they had been made by the Administrator.
4. If the Republic enacts a new law on dangerous goods section 2 can be amended so as to adopt the new law in the Areas. These adopted instruments have effect in the Areas in their original Republican format, and all rights, powers, liabilities and restrictions arising under them are recognised and available as law in the Areas. They take effect in the Areas 60 days after entering into force in the Republic.
5. Adoption of laws and public instruments in this way is subject to certain exceptions and restrictions. First, the Ordinance does not enable a Republican person or body to make public instruments in respect of the Areas. Rather, any Republican public instrument made under the Dangerous Goods Law stands to be adopted in the Areas under section 3. Secondly section 4 makes a set of adaptations and modifications to the way the Republican law applies in the Areas to ensure that it works properly in the Areas. For example, it provides that companies registered in the Republic are not to be treated as foreign companies for the purpose of the legislation. It also gives the Administrator a power to make any further modifications or exceptions to the way the Republican law applies in the Areas.
6. Section 5 provides for delegation of the powers and duties arising under the Dangerous Goods Law. In the first place, they are all conferred and imposed on the Chief Constable except powers and duties of the Minister of Communications and Works which are conferred and imposed on the Chief Officer of the Areas. Subsection (2) then provides that the Delegation of Functions to the Republic Ordinance 2007 (“the 2007 Ordinance”) applies to these powers and duties. The 2007 Ordinance provides for the effects and limits of delegations. For example, it covers such matters as the place where an officer of the Republic may carry out a delegated function and exempted property and entry rights.
7. Enforcement of the Dangerous Goods Law in the Areas is delegated to inspectors appointed by the Republican Competent Authority. Most powers and duties under the delegation can be exercised without consent but any powers to stop and examine vehicles and any powers of entry, search and seizure are qualified delegations which means that prior consent of the Chief Constable is required before those powers are exercised (s.5(2)).

### The Dangerous Goods Law

8. The Dangerous Goods Law gives effect to the following European Union directives:
  - Directive 94/55/EEC of the Council of 21 November 1994 on the approximation of the laws of member States with regard to the transport of dangerous goods by road (OJ L 319 of 12.12.1994) as amended by Directive 2001/7/EC of the Commission of 29 January 2001, concerning the third adaptation to technical progress of Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (OJ L 030 of 01.02.2001 p43);
  - Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road (OJ L 249 of 17.10.1995 p.35), as amended by Directive 2001/26/EC of the European Parliament and Council of 7 May 2001, (OJ L 168 of 23.06.2001 p23);

- Directive 96/35/EC of the Council of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail or inland waterway (OJ L 145 of 19.06.1996 p10) (the “Safety Advisers’ Directive”); and
- Directive 2001/18/EC of the European Parliament and the Council of 17 April 2000 on minimum examination requirements for safety advisers for the transport of dangerous goods by road, rail or inland waterway (OJ L 118 of 19.05.2000 p41).

9. “Dangerous goods” means any substance or article the transport of which by road is prohibited or authorised, only under certain conditions in accordance with Schedules A and B of ADR. ADR is the European Agreement concerning the International Carriage of Dangerous Goods by Road.

10. The Dangerous Goods Law requires that the dangerous goods transported by road must be transported in accordance with the ADR, particularly as regards:

- the packaging and labelling of such goods; and
- the construction, equipment and proper operation of the vehicle carrying the goods in question.

11. The Dangerous Goods Law also requires that undertakings which engage in or assign to third parties the transport, loading, unloading, temporary storage, collection or packaging of dangerous goods must appoint a safety adviser who has a Training Certificate issued by the Road Transport Department of the Ministry of Communications and Works. This obligation applies in the Areas 60 days after the Ordinance comes into force.

12. The main task of the safety adviser, for which the head of the undertaking is responsible, is to seek by all appropriate means and by all appropriate action, within the limits of the relevant activities of that undertaking, to facilitate the conduct of those activities in accordance with the rules applicable and in the safest possible way. The safety adviser must also perform the duties listed in Annex I to the Safety Advisers’ Directive which are relevant to the undertaking’s activities.