
SALE OF INTOXICATING LIQUORS (AMENDMENT) ORDINANCE 2010

An Ordinance to amend the Sale of Intoxicating Liquors Ordinance

J. H. GORDON
ADMINISTRATOR

8th March 2010.

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 Sale of Intoxicating Liquors (Amendment) Ordinance 2010.

2. Interpretation

In this Ordinance, the “principal Ordinance” means the Sale of Intoxicating Liquors Ordinance(a).

3. Section 2 (Interpretation) amended

Section 2 of the principal Ordinance is amended by inserting the following definitions in the appropriate alphabetical place—

““corresponding Republican Law” means the Sale of Intoxicating Liquors Law(b) of the Republic and any law that amends or replaces it;

“entitled person” means –

- (a) a member of a force as defined in paragraph 1(a)(i) of Section 1 of Annex C to the Treaty of Establishment;
- (b) a member of a civilian component of such a force as defined in paragraph 1(b) of Section 1 of Annex C to the Treaty of Establishment;
- (c) a person entitled to the rights and facilities enjoyed by members of a force and their dependents by virtue of paragraph 3 of section 9 of Part II of Annex B to the Treaty of Establishment;
- (d) a dependent of a person falling within (a) or (b) as defined in paragraph 1(d) of Section 1 of Annex C to the Treaty of Establishment.”.

4. Section 3 (Sale of intoxicating liquors without a retailer's licence or a dealer's licence prohibited) amended

Section 3(2)(a) is amended by repealing sub-paragraphs (i) and (ii) and replacing them with the following—

- “(i) by any person who is in possession of a licence granted under Chapter B of the Excise Duties Law 2004(c) of the Republic as given effect in the Areas by the Excise Ordinance 2006(d) and who only sells intoxicating liquors otherwise than by retail,
- (ii) in any canteen, mess or institution operating with the consent of the Service Authorities in the Areas for the exclusive use of entitled persons,”.

5. Section 5 (Conditions for granting a retailer's licence) amended

Section 5 is amended by re-numbering the existing text as subsection (1) and inserting the following new subsections—

- “(2) For the purpose of subsection (1)(a) and without prejudice to its generality, a person is not fit and proper if any of the criteria in Schedule 1 apply to him.
- (3) In order to satisfy itself whether a person is fit and proper, the Licensing Authority may do either or both of the following—
 - (a) require the person to produce a certificate issued by the Republican Chief of Police under section 5 of the corresponding Republican Law;
 - (b) request the Chief Constable to provide information about any convictions, which the Chief Constable may then provide.”.

6. New section 6A inserted

After section 6 of the principal Ordinance there is inserted the following—

“6A. Revocation of licence

- (1) The Licensing Authority may revoke a retailer's licence at any time if –
 - (a) the licence was obtained by fraud or by making a false representation or by concealing a material fact;
 - (b) a condition to which the licence is subject is not fulfilled; or
 - (c) the licensee is not a fit and proper person.
- (2) For the purpose of subsection (1)(c) and without prejudice to its generality, a person is not fit and proper if any of the criteria in Schedule 1 apply to him.”.

7. Section 8 (Hours of closing for the sale of intoxicating liquors by retail) amended

- (1) Section 8(2) of the principal Ordinance is amended by repealing “two hundred and fifty mils” and replacing it with “€0.43”.
- (2) Section 8(4) of the principal Ordinance is amended by—
 - (a) repealing paragraph (c); and
 - (b) repealing “twenty-five pounds” and replacing it with “€427”.

8. Section 9A (Prohibitions concerning minors) amended

Section 9A is amended by repealing subsection (8).

9. Sections 11 (Restriction on supply of intoxicating liquors to members of Her Majesty's Forces), 12 (Restriction on supply of intoxicating liquors to persons on Her Majesty's ships) and 13 (Search and seizure by officers in Her Majesty's service) repealed

Sections 11, 12 and 13 of the principal Ordinance are repealed.

10. Section 16 (Fees schedule) amended

Section 16 of the principal Ordinance is amended by repealing “the Schedule to this Law” and replacing it with “Schedule 2”.

11. Section 25 (Penalties) amended

Section 25 of the principal Ordinance is amended by repealing “twenty-five pounds” and replacing it with “€1,708”.

12. New section 28 inserted

After section 27 of the principal Ordinance there is inserted the following—

“28. Legal proceedings

- (1) A Court of the Areas may take judicial notice of Republican law and of any Republican document granted or otherwise made under Republican law.
- (2) For the purposes of this section, 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;
 - (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 law.

- (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; or
 - (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 law or part of it 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.”.

13. Schedule repealed and replaced

The Schedule to the principal Ordinance is repealed and replaced with the following new Schedules—

“SCHEDULE 1

(Sections 5 and 6)

A person is not “fit and proper” if any of the criteria in the following paragraphs apply to him.

1. The person has been convicted at any time of an offence under sections 144 to 177 (offences against morality) or 203 (premeditated murder) of the Criminal Code(e) or of an equivalent offence (however that offence is described) in any other jurisdiction.

2. The person has been convicted within the last 10 years of any of the following offences, or of an equivalent offence (however that offence is described) in any other jurisdiction —

- (a) robbery contrary to sections 282 to 286 of the Criminal Code;
- (b) burglary contrary to sections 291 to 296 of the Criminal Code;
- (c) stealing contrary to sections 255 to 272 of the Criminal Code;
- (d) making a false document contrary to section 333 of the Criminal Code;
- (e) uttering a false document contrary to section 339 of the Criminal Code;
- (f) obtaining goods or credit by false pretences contrary to section 298 or 301 respectively of the Criminal Code;
- (g) cheating contrary to section 300 of the Criminal Code;
- (h) conspiracy to defraud contrary to section 302 of the Criminal Code;
- (i) any offence under the Narcotic Drugs and Psychotropic Substances (Consolidation) Ordinance 2006(f);
- (j) any offence under the Violence in the Family Ordinance 2003(g); or
- (k) any offence under the Human Trafficking and Exploitation Ordinance 2009(h).

3. In relation to an offence other than those specified in paragraphs 1 and 2, the person has been sentenced (in any jurisdiction)—

- (a) in the last 5 years, to a term of imprisonment of more than 12 months;
- (b) in the last 7 years, to a term of imprisonment of more than 2 years but no more than 3 years; or
- (c) in the last 10 years, to a term of imprisonment of more than 3 years.

SCHEDULE 2

(Section 16)

Class of Licence	Fee
A. Dealer’s Licence	€68 per year
B. Retailer’s Licence	
1. Cabaret Retail Licence (section 6(b))	€410 per year
2. Club Retail Licence (section 6(c))	€51 per year
3. General Retail Licence (section 6(d))	
(a) for consumption in or off the premises or place	€85 per year
(b) for consumption off the premises or place	€41 per year
(c) for consumption in or off the premises or place in respect of any premises or place where entertainment such as music or singing by artists is provided	€341 per year
C. Special Licence	
1. Fair Licence (section 7(a)(i))	€10 per day
2. Entertainment Licence (section 7(a)(ii))	€10 per day
3. Local Wine Licence (section 7(a)(iii))	€6 per year

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14. Repeal of amending Ordinances

The Sale of Intoxicating Liquors (Amendment) Ordinance 1963**(i)**, the Sale of Intoxicating Liquors (Amendment) Ordinance 1966**(j)** and the Sale of Intoxicating Liquors (Amendment) Ordinance 1985**(k)** are repealed.

15. Commencement

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

Notes

- (a)** Cap. 144, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68). Relevant amendments were made by Ordinances 24/99 and 4/06.
- (b)** Cap. 144, Statute Laws of Cyprus revised edition 1959.
- (c)** Law No 91(I)/04, Republic of Cyprus.
- (d)** Ordinance 3/06.
- (e)** Cap. 154, Statute Laws of Cyprus revised edition 1959 as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom) and the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance 1968 (5/68).
- (f)** Ordinance 16/06.
- (g)** Ordinance 21/03.
- (h)** Ordinance 25/09.
- (i)** Ordinance 21/63.
- (j)** Ordinance 8/66.
- (k)** Ordinance 7/85.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Sale of Intoxicating Liquors (Amendment) Ordinance 2010 (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

3. The Ordinance amends the Sale of Intoxicating Liquors Ordinance (Cap 144), broadly replicating the effects of amendments made to the equivalent Republican legislation by the Republican Sale of Intoxicating Liquors (Amendment) Laws 66(I)/2007 and 6(I)/2009.

4. New criteria are introduced for determining whether an individual is a “fit and proper person” to hold a retailer’s licence (amendment to section 5 and new Schedule 1). There is also a new power to revoke a retailer’s licence if the licensee is not a fit and proper person, or if a condition of the licence is not fulfilled, or if the licence was fraudulently obtained (new section 6A).

5. A person is not “fit and proper” if, within the specified time periods, they have been convicted of any of the offences or sentenced to a term of imprisonment specified in Schedule 1. Schedule 1 sets out various offences under SBA law, but also covers equivalent offences and sentences of imprisonment in other jurisdictions, which includes the Republic. Section 7(1)(d) of the Rehabilitation of Offenders Ordinance 2009 (11/2009) prevents that Ordinance from having effect in relation to these requirements, so convictions which would otherwise be “spent” under that Ordinance are still taken into account when considering whether a person is fit and proper for the purpose of holding a licence under Cap 144.

6. In determining whether a person is fit and proper, the Licensing Authority may require the person to produce a certificate issued by the Republican Police under the equivalent Republican legislation and may make enquiries with the SBA Police as to any convictions. A Court of the Areas may take judicial notice of Republican law and any Republican document issued under it (new section 28).

7. Sections 11, 12 and 13 of Cap 144, which concerned the supply of liquor to Her Majesty’s Forces and on Her Majesty’s ships, are repealed.

8. Several minor amendments have been made to update criminal penalties and references to repealed legislation and old currency. The penalty in section 9A(8) is repealed, but a person convicted of an offence under that section is liable to the penalty in section 25 as amended.

9. The fees for the various classes of licence issued under Cap 144 are updated as set out in the new Schedule 2.

10. The Ordinance supersedes three previous amending ordinances, which are expressly repealed.

(SBA/AG/2/MI/409)