

Ordinance 02 of 2019

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**HUMAN TRAFFICKING AND EXPLOITATION
(AMENDMENT) ORDINANCE 2019**

An Ordinance to amend the Human Trafficking and Exploitation Ordinance 2009.

J. Illingworth
ADMINISTRATOR

18 January 2019

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

Short title

1. This Ordinance may be cited as the Human Trafficking and Exploitation (Amendment) Ordinance 2019.

Commencement

2. This Ordinance comes into force on 4 February 2019.

Amendment of the Human Trafficking and Exploitation Ordinance 2009

3. The Human Trafficking and Exploitation Ordinance 2009(a) is amended as follows.

Amendment of section 2

4. In section 2 (interpretation) omit the definition of “child pornography”.

Amendment of section 3

5.—(1) Section 3 (meaning of exploitation, sexual exploitation and coercion) is amended as follows.

(2) In subsection (2) omit “coerced,” and “the making of”.

(3) In subsection (3), in paragraph (d) after “injury” insert “, serious damage to property”.

(4) In subsection (3), in paragraph (f) for full stop substitute “;”.

(5) At the end of subsection (3) insert—

“(g) administering any substance with the intention to overpower a person or to impair the senses or the understanding of a person.”

Substitution of section 5

6. For section 5 (sexual exploitation of a child) substitute—

“5. Sexual exploitation of a child

(1) A person (P) commits an offence if P sexually exploits a child (C).

(2) This subsection applies if the sexual exploitation involves coercion.

(3) Unless subsection (2) applies, a person guilty of an offence under this section is liable to—

(a) imprisonment for 20 years if C is under 17, or

(b) imprisonment for 15 years if C is 17.

(4) If subsection (2) applies, a person guilty of an offence under this section is liable to—

(a) imprisonment for 25 years if C is under 17, or

(b) imprisonment for 20 years if C is 17.”

New section 5A

7. After section 5 (sexual exploitation of a child) (as substituted by section 5 above) insert—

“5A. Sexual exploitation of a child under 13

(1) A person (P) commits an offence if—

(a) P sexually exploits a child (C), and

(b) C is under 13.

(2) A person guilty of an offence under this section is liable to imprisonment for life.”

Omission of section 6

8. Section 6 (child pornography) is omitted.

(a) Ordinance 25/2009.

Amendment of section 7

9.—(1) Section 7 (child labour exploitation) is amended as follows.

(2) After subsection (1) insert—

“(1A) A person (P) must not use services of any kind provided by a child (C) if P has reason to suspect that C provides the services in circumstances which involve contravention of subsection (1) by any person.”

(3) After subsection (2) insert—

“(3) A person who contravenes subsection (1A) commits an offence and is liable to imprisonment for 10 years or a fine of €80,000 or both.”

Amendment of section 8

10. In section 8 (trafficking of persons), in subsection (2) for “15 years” substitute “10 years”.

Amendment of section 9

11.—(1) Section 9 (human organ trafficking) is amended as follows.

(2) After subsection (2) insert—

“(2A) A person (P) commits an offence and is liable to imprisonment for 30 years if—
(a) P contravenes subsection (1) in respect of another person (A), and
(b) P intentionally or by gross negligence endangers the life of A.”

Amendment of section 10

12. In section 10 (sexual exploitation), in subsection (2) for “20 years” substitute “10 years”.

Amendment of section 11

13.—(1) Section 11 (labour exploitation) is amended as follows.

(2) After subsection (1) insert—

“(1A) A person (P) must not use services of any kind provided by another person (A) if P has reason to suspect that A provides the services in circumstances which involve contravention of subsection (1) by any person.”

(3) After subsection (2) insert—

“(3) A person who contravenes subsection (1A) commits an offence and is liable to imprisonment for 3 years or a fine of €15,000 or both.”

New section 11A

14. After section 11 (labour exploitation) insert—

“11A. Attempting the commission of an offence

A reference in sections 4 to 11 to an offence includes a reference to attempting the commission of that offence.”

Amendment of section 13

15. In section 13 (retention of personal documents), in subsection (4) for “€17,086” substitute “€17,000”.

Amendment of section 17

16. In section 17 (additional powers of the court), in subsection (4) for “€8,543” substitute “€9,000”.

Amendment of section 20

17.—(1) Section 20 (penalties for bodies corporate) is amended as follows.

(2) In subsection (1) for “€512,580” substitute “€600,000”.

(3) In subsection (3) for “€170,860” substitute “€170,000”.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Human Trafficking and Exploitation (Amendment) Ordinance 2019 (“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 Ordinance amends the Human Trafficking and Exploitation Ordinance 2009 (“the principal Ordinance”) in line with the recent amendments to the corresponding Republican Law.

3. The Ordinance widens the definition of “coercion” in section 3 (meaning of exploitation, sexual exploitation and coercion) of the principal Ordinance to include acts of administering any substance with the intention to overpower a person or to impair the senses or the understanding of a person.

4. Section 5 (sexual exploitation of a child) of the principal Ordinance is substituted for a new section 5. The new section 5 amends the maximum terms of imprisonment available for offences under that section, taking into account the age of the complainant-child at the time the offences are committed.

5. A new section 5A (sexual exploitation of a child under 13) is inserted. The new section creates an offence of sexual exploitation of a child under the age of 13.

6. Section 6 (child pornography) of the principal Ordinance is omitted. Offences relating to child pornography are now contained in the Criminal Code.

7. Section 7 (child labour exploitation) is amended. The amendment creates a new offence of using services provided by a child where there is reason to suspect that the services are provided in circumstances involving child labour exploitation.

8. Section 8 (trafficking of persons) is amended by substituting the maximum term of imprisonment for the offence under that section for 10 years. This mirrors the recent amendment to the corresponding Republican Law.

9. Section 9 (human organ trafficking) of the principal Ordinance is amended. The amendment creates a new offence of intentionally or by gross negligence endangering the life of a person by trafficking the person for the purpose of removing that person’s organs or by receiving or transferring human organs of another where the organs have been removed by coercion.

10. Section 10 (sexual exploitation) is amended by substituting the maximum term of imprisonment for the offences under that section for 10 years. This mirrors the recent amendment to the corresponding Republican Law.

11. Section 11 (labour exploitation) of the principal Ordinance is amended. The amendment creates a new offence of using services provided by a person where there is reason to suspect that the services are provided in circumstances involving labour exploitation of that person.

12. A new section 11A (attempting the commission of an offence) is inserted. The effect of the new section is to provide the same maximum sentencing powers in respect of attempts to commit an offence under sections 4 to 11 of the principal Ordinance and the corresponding substantial offences under that Ordinance.

13. The maximum level of financial penalties under sections 13 (retention of personal documents), 17 (additional powers of the court) and 20 (penalties for bodies corporate) of the principal Ordinance are adjusted in line with the amendments to the corresponding Republican Law.

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