This is a consolidated version of this legislation i.e. it incorporates all amendments made since the legislation was enacted as set out in the table below. It has been produced by the SBAA as an aid to transparency and easier access to SBA law. However, it is not the official version of SBA legislation and, although every effort has been made to check the document, its accuracy cannot be guaranteed. The official version of legislation is published in the SBA Gazette.

Legislation incorporated in this Consolidation	Ordinance	Date in Force
Annual Holidays with Pay Ordinance 1973	10/73	08/08/1973
Annual Holidays with Pay (Amendment) Ordinance 1979	12/79	06/12/1979
Annual Holidays with Pay (Amendment) Ordinance 1980	21/80	31/12/1980
Annual Holidays with Pay (Amendment) Ordinance 2002	40/02	20/12/2002
Annual Holidays with Pay (Amendment) Ordinance 2010	1/10	14/01/2010
Annual Holidays with Pay (Amendment) Ordinance 2012	3/12	01/03/2012
Annual Holidays with Pay (Amendment) Ordinance 2013	1/13	01/02/2013

ANNUAL HOLIDAYS WITH PAY ORDINANCE 1973

An Ordinance to amend and consolidate the Ordinances relating to the Provisions of Holiday with Pay for Employed Persons in the Sovereign Base Areas and to Facilitate therein the Operation of a Holiday Fund Established in the Republic of Cyprus

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

PART 1

Preliminary

Short Title

1. This Ordinance may be cited as the Annual Holiday with Pay Ordinance, 1973.

Interpretation

- 2. In this Ordinance, unless the context otherwise requires:—
- "Crown" means the Crown in right of its Government in the United Kingdom, or its administration in the Sovereign Base Areas;
- "employee" includes every person who works for another person either under a contract of service or apprenticeship or in such circumstances as to lead to the conclusion that there exists a relationship of employer and employee; and the term "employer" shall be construed accordingly;
- "Fund" means the Central Holiday Fund established in the Republic under the provisions of the Republican Law;
- "holiday" means the annual holiday with pay to which every employee is entitled under this Ordinance;
- "industrial dispute" means any dispute between employers and employees or between employees and employees, connected with the employment or non-employment, or the terms of the employment or with the conditions of labour, of any persons, whether in the service of the employers with whom the dispute has arisen or not;

"Inspector" means a person designated by the Chief Officer as Inspector under the provisions of this Ordinance:

"leave on grounds of force majeure" is leave on the grounds of force majeure taken in accordance with the Parental Leave and Leave on Grounds of Force Majeure Ordinance 2002(a); (b)

"leave year" in relation to an employee, means any period of fifty-two consecutive weeks commencing from the date on which such employee is engaged by an employer or any such other period as may be prescribed by Regulations;

"maternity leave" is leave on grounds of maternity taken in accordance with the Employment (Maternity) Ordinance 2009 (c); (d)

"parental leave" is leave on grounds of parental leave taken in accordance with the Parental Leave Ordinance and Leave on Grounds of Force Majeure Ordinance 2002; (e)

"privileged person" means-

- (i) a member of a force or civilian component or a dependent of such member as defined in subparagraphs (a), (b) and (d) of paragraph (1) of Section 1 of Annex C of the Treaty of Establishment and includes any person who by virtue of Annex B of the Treaty is granted the same rights and facilities as those enjoyed by such member of a force, civilian component or dependent;
- (ii) any other person entitled under any other Treaty or any Ordinance relating to customs in force for the time being;

"Republican Law" means the Annual Holidays with Pay Law of the Republic (f), any law amending or replacing the same and any subsidiary legislation made thereunder;

"Tribunal" means the Industrial Disputes Tribunal established under the provisions of Section 16 of this Ordinance:

"wages" means remuneration in money paid to an employee as a result of his employment and includes any allowance paid by the employer either directly or by implication in respect of the cost of living and any payment of money in lieu of notice of termination of employment.

This remuneration may be based on-

- (a) work during normal periods of work excluding overtime; or
- (b) the number of tasks or journeys completed by the employee; or
- (c) the volume of work completed by the employee; or
- (d) any combination of (a), (b) and (c) above:

Provided that where overtime is worked on a fixed regular basis it shall be included in the calculation of an employee's wages:

Provided further that special gratuities, commissions and ex gratia payments shall not count as wages for the purposes of this Ordinance:

Provided further that where an agreement in writing has been entered into between an employer and an employee specifying any amount as wages for the purposes of this definition, the Administrator may sanction by certificate such agreement and the amount thereby specified shall for the purposes of this definition be the wages of the employee;

"working week", in relation to a person, means a week during the whole or part of which such person has worked as an employee.

⁽a) Ordinance 10/1973

⁽b) Definition inserted by Ordinance 3/2012 – came into force on 01 March 2012

 ⁽c) Ordinance 39/2002
(d) Definition inserted by Ordinance 3/2012 – came into force on 01 March 2012

⁽e) Definition inserted by Ordinance 3/2012 – came into force on 01 March 2012 (f) Law No. 8 of 1967

PART 2

Holidays

Holiday of employees

3.—(1) Every employee in the Areas shall be entitled to a holiday which shall be granted to him under the provisions of this Ordinance;

Provided that the entitlement of a deceased employee to a holiday shall be transferred to the widow or widower, as the case may be. (a) (b)

- (1A) If an employee dies before he is able to claim payment for holidays to which he is entitled, his widow or widower or any other personal representative of his may apply to Department of Social Insurance of the Republic for such payment.
- (1B) If a person is unable to claim payment for the holidays to which he is entitled, a person authorised by him in writing may apply to the Department of Social Insurance of the Republic for such payment. (c)
- (2) An employee who accepts paid employment whether with his regular employer or with any other employer during his holiday may be required by the Tribunal, on application by the Fund, to repay to the Fund the whole or any part of the holiday pay he has received from the Fund in respect of that holiday.
- (3) Notwithstanding the provisions of this section, the Chief Officer may, after consultation with the appropriate authorities of the Republic where necessary, by Order allow any person or class of persons to waive their holiday in any leave year when he considers that it is in the public interest to do so:

Provided that the Chief Officer may in any such Order provide for the accumulation of all or part of the holiday waived under the Order.

(4) The provisions of this Ordinance shall not apply to such categories of employees as may be prescribed by an Order made by the Administrator. (d)

No liability on employer to contribute to other holiday funds

4. After the coming into operation of this Ordinance no employer shall be liable to contribute any money to any provisions for holidays other than those provided for by this Ordinance.

Length of holiday (e)

5. (1) The length of the holiday shall be nine working days where the employee has worked not less than fifty weeks in a leave year:

Provided that where an employee is, by virtue of any law, custom, collective agreement or otherwise, entitled to a longer period of holiday than nine days then the number of days in that longer period shall be substituted for the nine days prescribed by this section so long as that law, custom, collective agreement or otherwise continues to be in force. (f)

5. (1) Where the employee is working five days a week, the length of his holiday shall be ten working days if he has worked for a period not less than fifty weeks in a leave year and twelve working days where the employee is working six days a week:

⁽a) Proviso inserted by Ordinance 12/1979 – 06 December 1979

⁽b) Proviso deleted by Ordinance 1/2010 – came into force on 14 January 2010

 ⁽c) Subsections (1A) and (1B) inserted by Ordinance 1/2010 – came into force on 14 January 2010
(d) Subsection (4) repealed by Ordinance 3/2012 – 01 March 2012

Section 5 repealed and replaced by Ordinance 3/2012 – came into force on 01 March 2012

⁽f) Subsection (1) repealed and replaced by Ordinance 12/1979 – came into force on 06 December 1979

Provided that where the employee is, by virtue of any law, custom, collective agreement or otherwise, entitled to a longer period of holiday than that prescribed in this section, then the number of days in that longer period shall be substituted for the days prescribed by this Section of the Ordinance so long as that law, custom, collective agreement or otherwise continues to be in force.

- (2) The Chief Officer may by Order, to be published in the Gazette, increase the number of days of holiday provided for in subsection (1) of this section.
- (3) Where an employee has worked less than fifty working weeks in a leave year he shall be entitled during that year to a holiday in accordance with the provisions of sub-section (1) of this section subject to any adjustments which may be prescribed by Regulations made under section 9 of this Ordinance:

Provided that when the employee has worked less than twenty five thirteen (a) working weeks in the leave year he shall not be entitled to a holiday under this Ordinance:

Provided further that where an employee is-

- (a) temporarily absent from work due to accident or illness; or
- (b) absent from work on maternity leave, then these periods of absence shall count as periods of work for the purpose of this sub-section.
- (4) The Chief Officer may by Order, to be published in the Gazette, prescribe a longer holiday for any class of employees if he considers it necessary.

Length of holiday

- 5.—(1) Subject to subsection (2), if an employee works for an employer for 48 weeks or more in a leave year, the employee is entitled to a holiday of—
 - (a) 20 working days if the employee works 5 days each week; or
 - (b) 24 working days if the employee works 6 days each week.
- (2) If, because of any other law, custom or practice, collective agreement or other agreement, an employee is entitled to a longer period of holiday than that provided by subsection (1), the number of days in subsection (1) is substituted for the number of days in the equivalent longer period so long as the law, custom or practice, collective agreement or other agreement remains in force.
- (3) Subject to subsection (4), if an employee works for an employer for less than 48 weeks in a leave year, the employee is entitled to a period of holiday in accordance with subsection (1) or (2) on a pro rata basis but subject to an adjustment which may be prescribed in Regulations.
- (4) If an employee works for an employer for less than 13 weeks in a leave year, the employee is not entitled to a holiday under this Ordinance.
 - (5) For the purposes of this section, the following count as periods of work—
 - (a) temporary absence for work due to an accident or illness;
 - (b) maternity leave;
 - (c) parental leave; or
 - (d) leave on grounds of force majeure.

Periods excluded from holiday

- **6.**—(1) The following shall not be counted as days of annual holiday:-
- (a) public holidays established by law, custom or agreement;

⁽a) Weeks amended by Ordinance 12/1979 – came into force on 06 December 1979

- (b) maternity leave;
- (c) days of incapacity for work arising out of accident or illness;
- (d) days of strike or lock out;
- (e) any period of notice of termination of employment;
- (f) parental leave; or (a)
- (g) leave on grounds of force majeure.
- (2) If one of the cases in subsection (1) of this section arises in the course of the holiday, the holiday shall be considered to be interrupted and shall be completed so far as is possible in the same calendar year.

Minimum holiday period and accumulation of leave

- 7.—(1) The holiday shall include one continuous period of not less than seven nine (b) days.
- (2) Holidays may be accumulated up to a maximum of two years' entitlement by agreement between the employer and the employee.

PART 3

Operation of Republican Holiday Fund in the Areas

Republican Fund to be recognised in the Areas

- **8.**—(1) The Fund shall have legal personality in the Areas and shall have power to enter into contracts, to sue and be sued and carry on any activity necessary to the functioning of the Fund in the Areas.
- (2) The Fund shall be exempt from payment of any dues or duties under any Customs legislation for the time being in force on machinery, including parts and accessories, apparatus, appliances, vehicles, instruments, tools; stores and materials of whatsoever kind imported €or the use of the Fund and not intended for sale to the general public.
- (3) The Fund shall be exempt from payment of stamp duties under any legislation for the time being in force relating to stamp duties.

Power to make Regulations

- **9.** The Chief Officer shall have power to make Regulations for the better carrying into effect of the provisions of this Ordinance or the operation of the Fund in the Areas and in particular in relation to the following matters:-
 - (a) the manner in which payments into the Fund are to be made and collected;
 - (b) the amount of contributions to be made by the employer in respect of each employee;
 - (c) the records to be kept by the employer and the form in which they are to be maintained;
 - (d) the methods by which such records or any contents thereof may be proved in any proceedings before any Court or the Tribunal;
 - (e) the imposition of liability to imprisonment not exceeding six months or to a fine not exceeding three hundred pounds or to both such imprisonment and fine in respect of offences related to the collection of contributions to the Fund and the payment of benefits therefrom. (c)

⁽a) Paragraphs (f) and (g) inserted by Ordinance 3/2012 – came into force on 01 March 2012

⁽b) Amended by Ordinance 12/1979 – came into force on 06 December 1979

⁽c) Paragraph (e) inserted by Ordinance 21/1980 – came into force on 31 December 1980

PART 4

Holiday Schemes

Administrator may approve holiday schemes

- 10.—(1) (1) The Administrator shall have power, after consultation with the appropriate authorities of the Republic where necessary, to approve by certificate at his discretion an employer's holiday scheme made in substitution for the provisions in Section 5 of this Ordinance, if in his opinion such scheme is more beneficial in its operation to the employee than the provisions of this Ordinance.
- (2) Where the Administrator grants a certificate under the provisions of this section the employer shall be exempted from the provisions of this Ordinance in respect of such class or classes of employee as may be specified in the certificate so long as the certificate is in force.
- (3) An employer to whom a certificate is granted under the provisions of this section shall make a statutory declaration to the Chief Officer on such day as the Chief Officer may prescribe declaring that the conditions imposed by the certificate have been complied with in the past year:

Provided that this subsection shall not apply where the employer is the Administrator.

(4) Where an employer knowingly or recklessly makes a declaration under this section which is false in any material particular, the employer shall be liable to a fine not exceeding two hundred and fifty pounds

PART 5

Appointment of Inspectors

Inspectors

- 11.—(1) The Chief Officer shall appoint Inspectors to assist in the enforcement of this Ordinance
- (2) An Inspector shall have free and unrestricted right of entry into any place in which he has reason to believe that persons are employed:

Provided that an Inspector shall not have the right of entry into any private dwelling without the consent of the occupier unless the former is in possession of a court warrant.

- (3) An Inspector may question any person in any place he visits about matters arising out of the operation of this Ordinance.
- (4) An Inspector shall have the right to examine at any reasonable time all records required to be kept under the provisions of this Ordinance or any Regulations made thereunder.
- (5) The functions assigned to an Inspector under this section are general delegated functions under the Delegation of Functions to the Republic Ordinance 2007 (a).

PART 6

Penal

Failure by employers to grant holidays and pay contributions (b)

12. (1) Any employer who-

⁽a) Ordinance 17/2007

⁽b) Section 12 repealed and replaced by Ordinance 3/2012 – came into force on 01 March 2012

- (a) fails to grant any employee in his employment a holiday due under this Ordinance; or
- (b) fails without good reason to pay the contribution required under the provisions of paragraph (b) of section 9 of this Ordinance,

shall be liable upon conviction to a fine not exceeding fifty pounds and to the payment of such contribution.

Failure by employer to grant holidays and pay contributions

- 12. An employer commits an offence and is liable on conviction to a fine not exceeding $\in 3,417$ or to imprisonment not exceeding 1 year (or to both) if the employer fails—
 - (a) to grant an employee a holiday to which the employee is entitled in accordance with this Ordinance; or
 - (b) without good reason, to pay a contribution to the Fund calculated in accordance with the Regulations.

Obstruction of Inspectors by employers

- 13. Any person who-
- (a) obstructs an Inspector in the exercise of his duties;
- (b) refuses without any lawful excuse to answer any question put to him by an Inspector which he is bound to answer under the provisions of subsection (3) of section 11 of this Ordinance;
- (c) fails to keep up to date the records required under the provisions of paragraph (c) of section 9 of this Ordinance,

shall be guilty of an offence and be liable on conviction to a fine not exceeding fifty two hundred and fifty (a) pounds.

Other Offences

- **14.**—(1) Any person who knowingly causes or procures to be done or aids, abets or assists in doing any acts as a result of which-
 - (a) it is falsely represented, or an attempt is made to represent falsely, that the contributions payable under this Ordinance or under the Republican Law have been paid; or
 - (b) benefits, other than those payable under this Ordinance or under the Republican Law or benefits to a person other than a person entitled to receive such payments under this Ordinance or the Republican Law, have been paid or are likely to be paid or are attempted to be paid,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment not exceeding three months or to both such fine and imprisonment three hundred pounds or to imprisonment not exceeding six months or to both such fine and imprisonment. (b)

(2) Any person who wilfully or knowingly fails to do any act required by this Ordinance with regard to the payment of contributions to the Fund or the payment of any benefits there from shall be guilty of an offence and shall on conviction be liable to a fine not exceeding fifty pounds three hundred pounds or to imprisonment not exceeding six months or to both such fine and imprisonment. (c)

⁽a) Fine amended by Ordinance 21/1980 – came into force on 31 December 1980

⁽b) Text deleted and new text inserted by Ordinance 21/1980 – came into force on 31 December 1980

⁽c) Text deleted and new text inserted by Ordinance 21/1980 – came into force on 31 December 1980

(3) In addition to any punishment on conviction for any of the offences in subsections (1) and (2) of this section, the Court shall direct the payment into the Fund of any contribution due but unpaid in relation to the offence or, as the case may be, the return to the Fund of any payment made in contravention of this Ordinance.

Offences by corporate bodies

15. When an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

PART 7

Settlement of Disputes

Establishment of Industrial Disputes Tribunal

- **16.**—(1) There shall be established an Industrial Disputes Tribunal which shall have exclusive jurisdiction to consider and determine the following industrial disputes:-
 - (a) any industrial disputes, including any ancillary or incidental matter thereto, arising out of the operation of this Ordinance or any Regulations or Rules made thereunder;
 - (b) any industrial disputes, including any ancillary or incidental matter thereto, which may be referred to the Tribunal under the provisions of any other Ordinance or Regulations made thereunder; and
 - (c) any industrial disputes which may be referred to the Tribunal by the Administrator, whether with the joint consent of both parties or under any collective agreement or settlement in force concerning the determination of industrial disputes by arbitration.
- (2) The Tribunal shall consist of a Chairman (hereinafter referred to in this Ordinance as "the Chairman") and two members designated by the Chairman from the panel appointed under the provisions of subsection (4) of this section.
- (3) The Chairman shall be a Deputy Senior Judge or Judge designated by the Administrator with the concurrence of the Senior Judge.
- (4) The Administrator shall appoint a panel of not less than three members in addition to the Chairman whose names shall be published in the Gazette.

General time limit for brining claim in Industrial Disputes Tribunal (a)

- **16ZA.**—(1) This section applies where, by or under an Ordinance, jurisdiction to resolve or determine a dispute or issue of any kind is conferred on the Tribunal.
- (2) A claim in the Tribunal for the resolution or determination of the dispute or issue may not be brought after the expiry of 1 2 months after the date on which the right to bring the claim arose.
- (3) Despite subsection (2), where the right to bring a claim arose before 1 February 2013, the claim may be brought on or before 31 January 2014.
- (4) The general time limits given by subsections (2) and (3) do not apply if provision is made for a different time limit in an Ordinance or a public instrument.
- (5) Nothing in this section affects a claim brought in the Tribunal before 1 February 2013.

⁽a) Section 16ZA inserted by Ordinance 01/2013 – came into force on 01 February 2013

- (6) A reference in this section to an Ordinance or a public instrument is a reference to an Ordinance or, as the case may be, a public instrument made before or after this section comes into force.
- 16A.—(1) Any debt arising from a judgment of the Industrial Disputes Tribunal shall carry interest from the day that the proceedings which gave rise to the judgment were commenced before the Tribunal, or if later, from the day that this section comes into force, until the day that the debt is paid, at the annual rate of interest chargeable on judgments under the Courts Ordinance, or in the absence of such a rate of interest being provided under that Ordinance, at the annual rate of interest chargeable on judgment debts under the Courts Law of the Republic (No. 14 of 1960 as amended):

Provided that if the Industrial Disputes Tribunal were to decide that the judgment debt arose by reason of the dismissal of the judgment creditor from his employment on grounds of redundancy, interest shall be chargeable on the judgment debt at the rate provided for above from the hundred and eighty-fourth day after the judgment creditor's dismissal from his employment until the judgment debt is paid.

(2) Nothing in this section shall be construed as allowing interest to be charged on interest. (a)

Functions of Chairman and panel with regard to findings of law and fact

- 17.—(1) The decision of the Chairman as to the construction of any point of law at any stage during the proceedings shall be binding upon the other members of the Tribunal.
- (2) All decisions of the Tribunal (other than a decision upon a point which the Chairman holds to be a point of law) shall be taken by a majority of the members of the Tribunal including the Chairman.

Method of determination, taking of evidence and delivery of judgment of Tribunal

18. In determining any dispute or ancillary matter thereto, the Tribunal shall proceed with all reasonable speed to such determination in a summary manner, without being bound by any rules of evidence, and shall give a reasoned judgment.

Power to make rules

- 19.—(1) The Administrator, in consultation with the Senior Power to Judge, may make Rules under this Ordinance to be published in the Gazette regulating the practice and procedure in connection with any proceedings of the Tribunal.
- (2) Without prejudice to the generality of subsection (1) of this section, Rules made under the provisions of this section may make provision:-
 - (a) for summoning persons to a hearing before the Tribunal to give evidence and provide documents and for authorising the administration of oaths to witnesses and imposing penalties for failure to attend when duly summoned as well as for contempt of the Tribunal;
 - (b) for application to the Tribunal to state a case for the opinion of the Senior Judge's Court on any ground involving a question of law from any judgment of the Tribunal within twenty one days from such judgment;
 - (c) for prescribing the forms of proceedings and fees and costs in connection with the proceedings before the Tribunal; and
 - (d) for prescribing the periods within which compliance with the provisions of the Rules may be required.

⁽a) Section 16A inserted by Ordinance 40/2002 – came into force on 20 December 2002

Method of proof of decisions of Tribunal

20. The production in any proceedings in any Court of the Areas of a document purported to be certified by the Registrar of the Court of the Sovereign Base Areas to be a true copy of a decision of the Tribunal shall, unless the contrary is proved, be sufficient evidence of the facts stated therein.

Part III of Ordinance 6 of 1960 to apply to disputes under this Ordinance

- **21.** Part II1 of the Citizens of the Republic (Jurisdiction of Courts) Ordinance, 1960, shall apply to disputes under this Ordinance, and for such purpose:-
 - (i) any such disputes shall be treated as civil proceedings and as appropriate, as an action or an appeal; and
 - (ii) the Tribunal shall be treated as a Court of the Areas, and the Industrial Disputes Tribunal established under the provisions of the Republican Law shall be treated as a District Court of the Republic; and,
 - (iii) any corporation, company or other corporate body established in the Republic under the provisions of any Republican Law shall be treated as a Cypriot.

PART 8

Special Provisions

Ordinance to bind the Crown (a)

22. This Ordinance shall bind the Crown, except in relation to its employment of privileged persons.

Application to the Crown and authorised service organisations

- **22.**—(1) Subject to subsection (2) this Ordinance does not apply to the Crown.
- (2) Section 16-21 apply to the Crown
- (3) This Ordinance does not apply to authorised service organisations as defined in Annex B to the Treaty of Establishment in relation to their employment of a member of a civilian component as defined in paragraph 1(b) of Section 1 of Annex C to the Treaty of Establishment.

PART 9

Repeals

Repeals

23. The Annual Holidays with Pay Ordinance (b) is hereby repealed.

⁽a) Section 22 repealed and replaced by Ordinance 1/2010 – came into force on 14 January 2010

⁽b) Repeals Ordinance 7/1967, 9/1968, 8/1969 and 5/1973