



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

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ANNUAL HOLIDAY WITH PAY (AMENDMENT) ORDINANCE 2012

An Ordinance to amend the Annual Holiday with Pay Ordinance 1973

G. E. STACEY
ADMINISTRATOR

27th January 2012.

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

1. Short title, commencement and interpretation

- (1) This Ordinance may be cited as the Annual Holiday with Pay (Amendment) Ordinance 2012 and comes into force on 1 March 2012.
- (2) In this Ordinance “the principal Ordinance” means the Annual Holiday with Pay Ordinance 1973**(a)**.

2. Section 2 (Interpretation) amended

Section 2 of the principal Ordinance is amended by inserting after the definition of—

- (a) “Inspector”, the following new definition—

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

- (b) “leave year”, the following new definitions—

““maternity leave” is leave on grounds of maternity taken in accordance with the Employment (Maternity) Ordinance 2009**(c)**;

“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;”.

3. Section 3 (Holidays of employees) amended

Section 3 of the principal Ordinance is amended by repealing subsection (4).

4. Section 5 repealed and replaced

Section 5 of the principal Ordinance is repealed and replaced by the following new section—

“5. Length of holidays

- (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 from work due to an accident or illness;
 - (b) maternity leave;
 - (c) parental leave; or
 - (d) leave on the grounds of force majeure.”.

5. Section 6 (Periods excluded from holiday) amended

Section 6(1) of the principal Ordinance is amended by adding after paragraph (e) the following new paragraphs—

- “(f) parental leave; or
- (g) leave on the grounds of force majeure.”.

6. Section 12 repealed and replaced

Section 12 of the principal Ordinance is repealed and replaced by the following new section—

“12. Failure by employers to grant holidays and pay contributions

An employer commits an offence and is liable on conviction to a fine not exceeding €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.”.

7. Revocation

Public Instrument number 43 of 1986(d) is revoked.

Notes

- (a) Ordinance 10/73.
- (b) Ordinance 39/02.
- (c) Ordinance 20/09.
- (d) P.I. 43/86.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

1. This note relates to the Annual Holiday with Pay (Amendment) Ordinance 2012. The note 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 and is not a comprehensive description of the Ordinance.
2. The Ordinance reflects the changes made to the Republican Annual Holiday with Pay Law 1967 by Law 66(I)/2002 and Law 72(I)/2002.
3. Section 3 of the Annual Holiday with Pay Ordinance 1973 (“the principal Ordinance”) is amended by repealing subsection (4) which has the effect that the Administrator no longer has the discretion to specify categories of employees to which the provisions of the principal Ordinance do not apply. However, it should be noted that section 22 of the principal Ordinance provides that the provisions in that Ordinance relating to holiday do not apply to Crown employees or service personnel.
4. The Ordinance replaces section 5 of the principal Ordinance in order to increase the holiday entitlement so that an employee is entitled to 20 working days holiday if he or she works 5 days each week; and 24 working days holiday if he or she works 6 days each week. If an employee works at least 48 weeks for an employer in a leave year, the employee is entitled to all the holiday entitlement. However, if the employee works for at least 13 weeks but less than 48 weeks in a leave year, the employee is entitled to leave on a pro rata basis. For example, if an employee who works a 5 day week, works for 25 weeks in a leave year, the employee accumulates $20 \times 25/52$ days of holiday. An employee has no holiday entitlement if the employee works for less than 13 weeks for an employer in a leave year.
5. The new section 5 of the principal Ordinance also adds to the list of other types of absence which are considered to be working days for the purposes of calculating the number of days in the working week and the number of weeks worked in the leave year.
6. Section 6 of the principal Ordinance, which clarifies those types of absence which are not considered to be holiday, is amended in order to reflect the list in section 5.

