



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

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CONDITIONAL ACCESS (UNAUTHORISED DECODERS) ORDINANCE 2013

An Ordinance to prohibit the possession, etc for commercial purposes of decoders that give access to certain services provided by means of conditional access technology without the authorisation of the service provider and for related purposes

R. J. CRIPWELL
ADMINISTRATOR

30th April 2013.

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 Conditional Access (Unauthorised Decoders) Ordinance 2013.

2. Commencement

This Ordinance comes into force on 1 June 2013.

3. Interpretation

In this Ordinance—

“conditional access technology” means any technical measure or arrangement whereby access to a radio or television broadcasting or cable programme service or an information society service in an intelligible form is made conditional on prior individual authorisation;

“decoder” means any equipment, software or arrangement designed or adapted to give access in an intelligible form to a protected service;

“information society service” has the meaning given in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998, as amended by Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998;

“protected service” means any of the following services, when provided by means of conditional access technology and on payment of a fee,—

- (a) a radio or television broadcasting service or a cable programme service;
- (b) an information society service;

“unauthorised”, in relation to a decoder, means that the decoder is designed or adapted to give access in an intelligible form to a protected service (whether by circumvention of any conditional access technology or by any other means) without the authorisation of the provider of the service.

4. Unauthorised decoders: offences

- (1) A person commits an offence if the person—
 - (a) for commercial purposes, makes, imports, distributes, sells, lets for hire or offers or exposes for sale or hire an unauthorised decoder;
 - (b) for commercial purposes, has an unauthorised decoder in the person’s possession;
 - (c) for commercial purposes, instals, maintains or replaces an unauthorised decoder; or
 - (d) advertises an unauthorised decoder for sale or hire or otherwise promotes an unauthorised decoder by means of commercial communications.
- (2) It is a defence to any prosecution for an offence under subsection (1) for the defendant to prove that the defendant did not know, and had no reasonable ground for believing, that the decoder was an unauthorised decoder.
- (3) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding €1,708 or to both.

5. Unauthorised decoders: forfeiture

- (1) Where a person is convicted of an offence under section 4, the court may make an order for the forfeiture of—
 - (a) any unauthorised decoder in relation to which the offence was committed;
 - (b) any other unauthorised decoder in the possession of the defendant, if the court is satisfied that an offence was committed in relation to the decoder (whether or not the defendant is convicted of an offence in relation to the decoder);
 - (c) the proceeds of the offence.
- (2) Where an unauthorised decoder is forfeited under subsection (1), the court may order that the decoder be destroyed or dealt with in any other way that the court thinks appropriate.

6. Unauthorised decoders: civil wrongs

- (1) It is a civil wrong for the purposes of the Civil Wrongs Ordinance^(a) to do anything referred to in section 4(1).
- (2) If a provider of a protected service or a person authorised by a provider of a protected service to send encrypted transmissions, or to provide conditional access technology, in respect of the protected service suffers injury or damage by reason of a civil wrong referred to in subsection (1), the person is entitled, as against the person committing or liable for the civil wrong, to all the remedies which the court has power to grant under the Civil Wrongs Ordinance.
- (3) In subsection (2), “provider of a protected service” means, where a civil wrong is committed in relation to an unauthorised decoder, the provider of the protected service in relation to which the decoder is unauthorised.

Notes

^(a) Cap. 148. Laws of Cyprus, 1959 ed. Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960. Schedule 2 to the Interpretation Ordinance 2012 provides for the interpretation of such legislation.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

1. This explanatory note relates to the Conditional Access (Unauthorised Decoders) Ordinance 2013 (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.
2. The Ordinance prohibits inter alia the possession for commercial purposes of devices that give access, without the authorisation of the service provider, to radio and television services and information society services provided by means of conditional access technology. Section 4 creates criminal offences. Section 6 provides remedies for certain persons under the Civil Wrongs Ordinance.
3. The Ordinance makes similar provision in the Areas to Law 24(III)/2002 of the Republic.

