

Ordinance 05 of 2019

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**GENERAL HEALTH SYSTEM CONTRIBUTIONS
ORDINANCE 2019**

An Ordinance to provide for the payment of General Health System contributions and related matters.

J. Illingworth
ADMINISTRATOR

01 March 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 General Health System Contributions Ordinance 2019.

Commencement

2. This Ordinance comes into force on 1 March 2019.

Interpretation

3. In this Ordinance—

“corresponding Republican law” means Law number 89(I)/2001(a) (General Health System Law 2001) and includes—

(a) amendments to that Law, whether made before or after the coming into force of this Ordinance, and

(b) public instruments of the Republic made under that Law, whether made before or after the coming into force of this Ordinance;

“the Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration in the Areas;

“earnings” has the meaning given in section 3 of the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 2013(b);

“employed person” has the meaning given in section 2 of the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 2013;

“Fund” means the Health Insurance Fund established under the corresponding Republican law;

“General Health System contribution” means a contribution payable to the Fund;

“pay period” means, in relation to an employed person whose earnings are paid on a monthly basis, the calendar month, and in relation to any other person, the calendar week;

“self-employed person” has the meaning given in section 2 of the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 2013.

Application to the Crown and authorised service organisations

4.—(1) Subject to the provisions of this section, this Ordinance binds the Crown.

(2) This Ordinance does not apply to—

(a) a member of Her Majesty’s Forces;

(b) a member of the civilian component employed by the Crown or by an authorised service organisation;

(c) a person enjoying the rights and facilities of members of Her Majesty’s Forces by virtue of paragraph 3 of section 9 of Part II of Annex B to the Treaty of Establishment;

(d) a person in the service or engaged in duties on behalf of any United Kingdom authority duly authorised and identified as such by a United Kingdom authority;

(e) a dependent, unless section 6(4) applies.

(3) Proceedings for a criminal offence may not be brought against—

(a) the Crown;

(b) an employee of the Crown acting in the course of employment of the Crown;

(c) a member of Her Majesty’s Forces acting in the course of service of the Crown.

(4) Administrative penalties imposed under section 12 do not apply to the Crown.

(5) In this section—

(a) Republic of Cyprus Gazette No. 3497 of 4 May 2001.

(b) Ordinance 19/2013.

(a) “civilian component” is to be construed in accordance with paragraph 1(b) of section 1 of Annex C to the Treaty of Establishment, but with the reference to “territory of the Republic of Cyprus” in paragraph 1(a)(i) of that section substituted with “territory of the Areas”;

(b) “dependent” is to be construed in accordance with paragraph 1(d) of section 1 of Annex C to the Treaty of Establishment, but with the reference to “territory of the Republic of Cyprus” in paragraph 1(a)(i) of that section substituted with “territory of the Areas”.

Obligation to pay General Health System contributions

5.—(1) A liable person has an obligation to pay General Health System contributions on that person’s earnings or other income for each pay period.

(2) In this section “liable person” means—

(a) an employed person;

(b) a self-employed person;

(c) a person who derives income from sources set out in section 5 of the Income Tax Ordinance 2003^(a).

(3) The amount of contributions to be paid under this section is determined by the rates set out in paragraph 1 of the Schedule.

(4) The Administrator may by order, made as a public instrument, amend the rates in the Schedule.

Obligation to pay: employers

6.—(1) An employer (E) has an obligation to pay General Health System contributions in respect of earnings of each person in E’s employment for each pay period.

(2) The amount of contributions to be paid under this section is determined by the rates set out in paragraph 2 of the Schedule.

(3) The Administrator may by order, made as a public instrument, amend the rates in the Schedule.

(4) In this section “an employer” includes a dependent who carries on a business in the Areas and employs at least one person in the Areas in the course of that business.

Obligation to pay: maximum income limit

7.—(1) Where a person’s (P’s) aggregate annual income exceeds €180,000, only P’s income of €180,000 is subject to payment of contributions under section 5.

(2) P’s aggregate annual income is calculated in the following order—

(a) earnings,

(b) pension from sources set out in section 5 of the Income Tax Ordinance 2003, and

(c) income from other sources set out in section 5 of the Income Tax Ordinance 2003.

Time limit for retrospective payments

(a) Ordinance 29/2003, as amended by Ordinances 19/2011, 13/2012, 31/2013, 17/2014 and 1/2018.

8.—(1) General Health System contributions may not be paid or recovered after the expiration of 6 years from the date on which the contribution was due.

(2) Where the failure to pay the contributions is intentional or dishonest, the time limit specified in subsection (1) is to be read as 12 years.

Voluntary contributions

9. Where an obligation to pay under sections 5 or 6 does not arise, a person may pay a contribution to the Fund as permitted by the corresponding Republican law.

Collection of contributions

10.—(1) An employer must deduct an employed person's contributions from that person's pay for each pay period.

(2) An employer must pay its own contributions and contributions deducted under subsection (1) in the same way as the contributions payable by the employer under the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 2013.

(3) Contributions deducted under subsection (1) and paid by an employer are deemed to be paid by an employed person.

(4) Unless subsection (5) applies, a self-employed person must pay contributions on earnings in the same way as the contributions payable by that person under the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 2013.

(5) This subsection applies where a self-employed person must pay General Health System contributions on earnings other than insurable earnings as defined by section 2 of the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 2013.

(6) If subsection (5) applies, a self-employed person must pay contributions in the same way as taxes payable by that person under the Assessment and Collection of Taxes Ordinance 2003(a).

(7) Contributions payable by a person liable by virtue of section 5(2)(c) must be paid in the same way as taxes payable by that person under the Assessment and Collection of Taxes Ordinance 2003.

Persons employed in private households

11.—(1) This section applies to persons employed within the same pay period by 2 or more employers to carry out domestic work in a private household.

(2) Despite section 10, a person (P) to whom this section applies must pay both the employer's and P's contributions in the same way as the contributions payable by P under the Social Insurance (Facilitation of Republican Social Insurance Scheme) Ordinance 2013.

Administrative penalty

12.—(1) The Chief Officer may by notice impose an administrative penalty on a person (P) if satisfied on the balance of probabilities that P breached any provision of this Ordinance.

(2) Before serving the notice under subsection (1), the Chief Officer must give P the opportunity to make representations.

(3) The amount of penalty that may be imposed under this section is €30,000.

(4) The Chief Officer may impose an additional penalty of between €340 and €3,400 for each day or part of a day on which the breach continues after the service on P of the notice under subsection (1).

(a) Ordinance 30/2003, as amended by Ordinances 25/2012, 5/2015 and 4/2018.

(5) An administrative penalty imposed under this section may be recovered as a civil debt.

Contents of administrative penalty notice

13. The administrative penalty notice under section 12 must specify—

- (a) the amount of penalty;
- (b) the grounds for imposing the penalty;
- (c) how the penalty may be paid;
- (d) the consequences of non-payment.

Offences

14.—(1) An employer who fails to pay General Health System contributions deducted from an employed person's earnings commits an offence and is liable on conviction to imprisonment for 2 years or a fine of €5,400, or both.

(2) A liable person or an employer who fails to pay General Health System contributions commits an offence and is liable on conviction to imprisonment for 1 year or a fine of €3,400, or both.

(3) In case of a second or subsequent conviction for an offence under subsection (2), the maximum penalty is increased to imprisonment for 2 years or a fine of €5,400, or both.

(4) The court may order a person convicted under subsection (2) to pay the unpaid contributions and an additional amount not exceeding 50% of the contributions owed.

(5) A person who fails to pay the additional amount ordered under subsection (4) commits an offence and is liable on conviction to imprisonment for 1 year or a fine of €3,400, or both.

(6) In case of a second or subsequent conviction for an offence under subsection (5), the maximum penalty is increased to imprisonment for 2 years or a fine of €5,400, or both.

(7) Any amount the court orders to pay under subsection (4) may be collected as if it were a fine.

(8) A person (P) commits an offence if, for the purpose of obtaining any benefit under the corresponding Republican law, whether for P or another person, P—

- (a) makes a statement or representation which P knows to be false, or
- (b) produces or knowingly causes or allows to be produced any document or information which P knows to be false as to a material fact.

(9) A person guilty of offence under subsection (8) is liable on conviction to imprisonment for 3 years or a fine of €8,000, or both.

(10) A person, who contravenes or fails to comply with any provision of this Ordinance for which no penalty is expressly provided, is liable on conviction to imprisonment for 2 years or a fine of €5,000, or both.

(11) If an offence committed by a body corporate is committed with the consent of, or is attributable to the negligence of, an officer of that body corporate, the officer also commits an offence and is liable on conviction to the penalty for that offence.

Fines and penalties due to the Fund

15. The Chief Officer is to pay fines, penalties and any other monies recovered under this Ordinance to the Fund.

Power to make regulations

16.—(1) The Administrator may make regulations about any matter connected with the implementation and functioning of this Ordinance.

(2) Regulations made under subsection (1) may include provisions relating to—

- (a) payment and collection of contributions;
- (b) voluntary contributions;
- (c) administrative penalties.

Delegation of functions to the Republic

17. The functions of the Chief Officer under sections 12 (administrative penalty) and 15 (fines and penalties due to the Fund) are general delegated functions for the purpose of the Delegation of Functions to the Republic Ordinance 2007(a).

SCHEDULE

(sections 5(3) and 6(2))

Rates of General Health System contributions

1. The rates of General Health System contributions payable under section 5 are—

Categories	From 1 March 2019	From 1 March 2020
Employed person's earnings	1.70% of earnings in a single pay period	2.65% of earnings in a single pay period
Self-employed person's earnings	2.55% of earnings in a single pay period	4.00% of earnings in a single pay period
Other income	1.70% of income in a single pay period	2.65% of income in a single pay period

2. The rates of General Health System contributions payable under section 6 are—

Categories	From 1 March 2019	From 1 March 2020
Employers	1.85% of earnings of each employed person in a single pay period	2.90% of earnings of each employed person in a single pay period

(a) Ordinance 17/2007, as amended by Ordinance 8/2012.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the General Health System Contributions 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. This note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. When a section or part of a section does not seem to require explanation, none is given.

3. The Ordinance makes provisions for payment of General Health System contributions by employers, employed and self-employed persons and other individuals deriving income from certain sources. The Ordinance mirrors the Republican General Health System Law (89(I)/2001) in respect of provisions on liability for payments, collection of contributions, related administrative penalties and offences. The provisions on establishment and management of the Republican General Health System have not been replicated.

4. The effect of section 4 (application to the Crown and authorised service organisations) is to extend the application of the Ordinance to the Crown in its capacity of an employer in the Areas. Categories of persons listed in section 4(2) are exempt from the application of the Ordinance. Dependents who carry on a business in the Areas and employ at least one person in the Areas in the course of that business are not exempt from employer’s obligations to pay contributions in respect of earnings of each person they employ in the Areas.

5. Section 5 (obligation to pay General Health System contributions) establishes an obligation to pay General Health System contributions for employed and self-employed persons as well as persons deriving income from sources set out in section 5 of the Income Tax Ordinance 2003. The category of “employed persons” includes office holders. The category under section 5(2)(c) includes a person deriving income from a pension on which income tax is charged under section 5 of the Income Tax Ordinance 2003. The amount of contributions to be paid is determined by rates set out in paragraph 1 of the Schedule to the Ordinance (section 5(3)).

6. A person may fall under more than one liability category under section 5. For example, a person may be employed and at the same time receive income from dividends, which are a source of income specified in section 5 of the Income Tax Ordinance 2003. Such a person will be liable to pay General Health System contributions on his or her earnings from employment by virtue of section 5(2)(a) and on the income from dividends by virtue of section 5(2)(c).

7. Section 6 (obligation to pay: employers) establishes an obligation to pay General Health System contributions for employers. The amount of contributions to be paid is determined by rates set out in paragraph 2 of the Schedule to the Ordinance (section 6(2)).

8. Section 9 (voluntary contributions) permits voluntary payment of General Health System contributions by persons exempt from liability to pay under section 4 or otherwise not liable to make contributions. Voluntary payments are to be made in accordance with the relevant provisions of the Republican law if and when such provisions are enacted in the Republic.

9. Section 10 (collection of contributions) establishes how contributions are to be collected and paid to the Health Insurance Fund of the Republic. Section 11 (persons employed in private households) contains special provisions for persons employed in 2 or more private households for domestic work.

10. Section 12 (administrative penalty) and 13 (contents of administrative penalty notice) contain provisions for imposition of administrative penalties. Section 14 (offences) sets out offences and penalties for those offences.

11. Section 17 (delegation of functions to the Republic) delegates to the Republic the functions of the Chief Officer in relation to imposition of administrative penalties under section 12 and payment of monies recovered under this Ordinance to the Health Insurance Fund of the Republic.

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