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EXERCISE OF FUNCTIONS ORDINANCE 2012

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*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.*

<b>Legislation incorporated in this Consolidation</b>	<b>Ordinance</b>	<b>Date in Force</b>
Exercise of Functions Ordinance 2012	12/2012	01/07/2012
Exercise of Functions (Amendment) Ordinance 2013	25/2013	01/09/2013
Exercise of Functions (Amendment) Ordinance 2015	4/2015	23/02/2015

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## EXERCISE OF FUNCTIONS ORDINANCE 2012

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An Ordinance to provide for the exercise of functions by persons other than those on whom the functions are conferred and for related purposes

**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 Exercise of Functions Ordinance 2012.

### **Commencement**

2. This Ordinance comes into force on 1 July 2012.

### **Interpretation**

3. In this Ordinance—

“function” includes a power and a duty;

“legislative instrument” means a instrument made under an Ordinance that contains 1 or more provisions having legislative effect.

### **Crown application**

4. This Ordinance binds the Crown.

### **Certain office-holders may delegate exercise of functions to others**

5.—(1) Where a function is conferred by or under an Ordinance on the holder of an office set out in Schedule 1 (a “relevant officer”), the relevant officer may, unless expressly prohibited from so doing by law, delegate the exercise of the function to another person or to a class or description of person.

(2) The relevant officer may impose conditions, exceptions and qualifications on the delegation.

(3) A person to whom a function is delegated under subsection (1) may exercise the function from the date of the delegation or from any other date specified by the relevant officer.

(4) The delegation of a function under subsection (1) does not preclude the relevant officer from exercising the function in person.

(5) This section does not authorise a relevant officer to delegate—

(a) the exercise of the function of making a legislative instrument;

(b) the exercise of a function to any person other than a public officer<sup>(a)</sup>, a person in the service of, or holding office under, the Crown in right of the United Kingdom, a member of Her Majesty’s armed forces or an employee of an authorised service organisation.

(6) Nothing in this section prevents a relevant officer from delegating the exercise of a function in accordance with any other Ordinance or law.

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(a) “Public officer” is defined in Schedule 1 to the Interpretation Ordinance 2012 (Ordinance 18/2012)

### **Chief Officer may delegate exercise of function of making legislative instruments (a)**

5A.—(1) Where the function of making a legislative instrument is conferred on the Chief Officer by or under an Ordinance, the Chief Officer may, unless expressly prohibited from doing so by law, delegate the exercise of the function to a public officer<sup>(b)</sup>.

(2) The Chief Officer may impose conditions, exceptions and qualifications on the delegation.

(3) The delegation must be in writing and must be notified in the Gazette.

(4) A person to whom a function is delegated under subsection (1) may exercise the function from the date of the delegation or from any other date specified by the Chief Officer in the delegation.

(5) The delegation of a function under subsection (1) does not preclude the Chief Officer from exercising the function in person.

(6) Nothing in this section prevents the Chief Officer from delegating the exercise of the function of making a legislative instrument in accordance with any other Ordinance or law.

### **Administrator's powers where public officer unable to exercise functions**

6.—(1) Where the Administrator is satisfied that a public officer is unable for any reason to exercise the functions of the office, the Administrator may in writing—

- (a) appoint another person to the office; or
- (b) direct that the functions of the office (including, in a case where the holder of an office set out in Schedule 1 is unable to exercise the functions of the office, the powers in section 5) are to be exercised by a specified person or by the person for the time being holding, or lawfully exercising the functions of, a specified office.

(2) The Administrator may impose conditions, exceptions and qualification on the appointment or direction.

(3) A person appointed under subsection (1)(a) or referred to in a direction under subsection (1)(b) may exercise the functions of the office from the date of the appointment or direction or from any other date specified by the Administrator.

(4) Where notice of appointment to an office is required by or under an Ordinance to be published in the Gazette, notice of an appointment or a direction under subsection (1) in respect of the office must be published in the Gazette.

(5) The exercise of the Administrator's powers in this section may not be delegated under section 5.

(6) *In this section, a reference to the functions of an office includes a reference to the function of making a legislative instrument.*<sup>(c)</sup>

### **Exercise of Administrator's functions may be indicated by signature of Chief Officer, etc**

7.—(1) Where a function (including the function of making a legislative instrument) is conferred on the Administrator by or under an Ordinance, the exercise of the function by the Administrator may be indicated by the signature of the Chief Officer, ~~the Administrative Secretary~~ <sup>(d)</sup> or the Attorney-General and Legal Adviser.

(2) Despite subsection (1), a warrant, proclamation or other instrument under the public seal of the Areas must be signed by the Administrator in person.

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(a) Section 5A inserted by Ordinance 25/2013 – came into force 01 September 2013

(b) “public officer” is defined in Schedule 1 to the Interpretation Ordinance 2012 (Ordinance 18/2012)

(c) Subsection (6) inserted by Ordinance 25/2013 – came into force on 01 September 2013

(d) Text deleted by Ordinance 25/2013 – came into force on 01 September 2013

## Repeals, revocations and savings

8. Schedule 2 (which provides for repeals, revocations and savings) has effect.

## SCHEDULE 1

(section 5)

### OFFICE-HOLDERS WHO MAY DELEGATE EXERCISE OF FUNCTIONS

1. ~~Administrative Secretary~~. (a)
2. Administrator.
3. Area Officer.
4. Chief Constable.
5. Chief Control Officer(b).
6. Chief Officer.
7. Fiscal Officer.
8. Senior Environmental Adviser.
9. *Senior Registrar(c)*. (d)
10. *Registrar (e)*.

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(a) Deleted by Ordinance 25/2013 – came into force on 01 September 2013

(b) The Chief Officer is the Chief Control Officer for the purposes of the Control (entry, Settlement and Commercial Enterprises) Ordinance 1960 (Ordinance 5/1960) controls the

(c) Section 35, Schedule 1 of the Interpretation Ordinance 2012 defines “Registrar” as the Registrar of the Senior Judges’ Court and the Resident Judge’s Court. The Registrar hold office under section 18 of the Courts (Constitution and Jurisdiction) Ordinance 2007

(d) 9. And 10. Inserted by Ordinance 4/2015 – came into force 23 February 2015

(e) Section 35, Schedule 1 of the Interpretation Ordinance 2012 defines “Registrar” as the Registrar of the Senior Judges’ Court and the Resident Judge’s Court. The Registrar hold office under section 18 of the Courts (Constitution and Jurisdiction) Ordinance 2007

## SCHEDULE 2

(section 8)

### REPEALS, REVOCATIONS AND SAVINGS

#### Repeals

1. The following Ordinances are repealed—
  - (a) the Interpretation Ordinance(a);
  - (b) the Interpretation (Amendment) Ordinance 2007(b);
  - (c) the Delegation of Functions (Internal) Ordinance 2009(c).

#### Revocations

2. The following public instruments are revoked—
  - (a) Public instrument 68/63;
  - (b) Public instrument 33/64;
  - (c) Public instrument 35/80;
  - (d) Public instrument 38/86;
  - (e) Public instrument 62/87.

#### Savings

3.—(1) Despite paragraphs 1 and 2, the deputations of functions referred to in the public instruments referred to in paragraph 2, and any other deputation of a function (other than the function of making a legislative instrument) made under section 22 of the Interpretation Ordinance, in so far as they have not been revoked, continue to have effect as if they had been delegations under section 5 of this Ordinance.

(2) Despite paragraph 1, a delegation of a function (other than the function of making a legislative instrument) made under section 3 of the Delegation of Functions (Internal) Ordinance 2009, in so far as it has not been revoked, continues to have effect as if it had been a delegation under section 5 of this Ordinance.

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(a) Cap.1, Laws of Cyprus, revised edition 159, repealed in part by the Interpretation Ordinance 2012  
(b) Ordinance 27/2007  
(c) Ordinance 32/2009