

ORDINANCE 36 OF 2004

**AN ORDINANCE
TO PROVIDE FOR THE RETURN OF PROPERTY AND
THE PAYMENT OF COMPENSATION**

**P. T. C. Pearson CBE
ADMINISTRATOR**

23rd December 2004.

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

1. This Ordinance may be cited as the Property (Provisions for Return and Compensation) Ordinance 2004. Short title.

2. In this Ordinance, any reference to “property” shall be taken to cover the same interests as are protected by the Protection of Property Ordinance 2004. Interpretation.

3.—(1) Subject to subsections (2) and (3), this Ordinance applies to any legislation of the Areas, whether enacted before or after the coming into force of this Ordinance, which authorises any person in connection with an investigation into whether an offence has been committed to – Ordinance
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(a) seize, confiscate, remove, take possession of or detain any property;

(b) destroy, sell or otherwise dispose of any property which has been seized, confiscated, removed, taken possession of or detained.

(2) This Ordinance does not apply to the exercise of any power or duty conferred by any law relating to customs or excise.

(3) This Ordinance applies without prejudice to the provisions of any Ordinance that provides equivalent or more favourable rights to those provided by this Ordinance, however so expressed.

4.—(1) Where in accordance with the Ordinance under which he is appointed to act, a person has exercised or has purported to exercise a power of the kind referred to in section 2(1)(a) and such Return of property.

property has not been destroyed, sold or otherwise disposed of, it shall, on an application being made for this purpose by the lawful owner of it to the body or organisation in possession of it, be returned to such person if –

- (a) criminal proceedings for an offence in respect of a contravention of any Ordinance or public instrument in relation to the property have not been brought within twelve months from the date the property was seized and are not expected to be brought imminently; or
- (b) criminal proceedings have been brought but have not resulted in an order for the confiscation, destruction or other disposal of the property.

(2) Any property which is to be returned in accordance with this section shall be so returned to its owner within 28 days of a decision to grant the application made in accordance with subsection (1).

Compensation.

5.—(1) A person who suffers loss or damage as a result of the exercise of a power of the kind referred to in section 2 may within one month of the expiry of the time period referred to in section 3(1)(a) or within one month from the conclusion of any criminal proceedings, apply to the Chief Officer for compensation for that loss or damage.

(2) Compensation may only be awarded under this section if in the reasonable opinion of the Chief Officer –

- (a) the exercise of the power of the kind referred to in section 2 is not attributable to any neglect or default, including the contravention of any Ordinance or public instrument, by the owner of that property;
- (b) there has been a breach of the right conferred on the owner of the property in accordance with section 3 of the Protection of Property Ordinance 2004; and
- (c) the award is necessary to afford just satisfaction to the owner for that breach.

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(3) In determining –

- (a) whether an award is necessary in accordance with subsection (2)(c), and
- (b) if so, the amount of any award,

the Chief Officer shall take into account the principles applied by the European Court of Human Rights in relation to the award of compensation under Article 41 of the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950.

(4) Where the property in respect of which the loss or damage has been suffered is covered by any compensation scheme funded either by the Administration or by the Republic, any amount payable to the owner of the property under the scheme shall be deducted from the amount of compensation which is payable in respect of that property under this Ordinance.

6. The Meat Hygiene Ordinance 2004 is amended –

- (a) in section 4(6), by repealing “, without payment of any compensation”; and

Amendment to
Meat Hygiene
Ordinance
(Ordinance 3/04).

(b) in section 8(3), by repealing “without payment of any compensation”; and

(c) in section 9(3), by repealing “without payment of any compensation and at the expense of the importer”.

7. This Ordinance binds the Crown.

8. This Ordinance shall come into force on a date to be appointed by the Administrator and published in the Gazette.

Application to
Crown.
Commencement.

23rd December 2004

(128/381)

P. D. Draycott

Chief Officer.
