

ORDINANCE 24 OF 2005

AN ORDINANCE TO MAKE PROVISION FOR CERTAIN EUROPEAN COMMUNITY MEASURES APPLYING IN THE REPUBLIC OF CYPRUS TO APPLY IN THE SOVEREIGN BASE AREAS

P. T. C. Pearson CBE
ADMINISTRATOR

12th September 2005.

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 European Community (Specified Measures) Ordinance 2005. Short title.

2. In this Ordinance unless the context otherwise requires— Interpretation.

“the Act of Accession” means the Act concerning the Conditions of Accession of the Republic of Cyprus to the European Union;

“the EC Treaty” means the Treaty establishing the European Community;

“the European Court” means the Court of Justice of the European Communities;

“the Protocol” means the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus attached to the Act of Accession;

“specified EC measure” means a measure which—

(a) applies in the territory of the Republic by virtue of an enactment of the European Community;

(b) is not a Protocol measure as defined by section 2 of the European Community (Protocol Measures) Ordinance 2004; and

(c) is to be applied to the Areas by virtue of an order made under section 3.

Ordinance
11/2004.

Application of specified EC measure by order.

3.—(1) Subject to such exceptions, modifications or additions as he may provide for, the Administrator may by order provide for a specified EC measure to have effect in the Areas.

(2) Any specified EC measure applied to the Areas by virtue of an order made under subsection (1) shall, subject to necessary modification and as far as possible, be recognised and available in law in the Areas and allowed and followed accordingly.

(3) Without prejudice to the generality of subsection (1) the power provided for by that subsection shall include the power to create offences and penalties.

4. A specified EC measure shall be relevant legislation for the purposes of section 7A of the Interpretation Ordinance.

Relevant Legislation Cap.1 (Laws of Cyprus) as amended by 37/2003 and 10/2005.

Powers and duties.

5.—(1) Any power conferred or duty imposed on a competent authority by a specified EC measure shall be deemed to be conferred or, as the case may be, imposed on the Chief Officer.

(2) Any power conferred or duty imposed on the Chief Officer by virtue of subsection (1) may, subject to any restrictions or conditions imposed by the Administrator under this subsection or under any order made under section 3, be lawfully exercised, or as the case may require, may lawfully be performed in the Areas or elsewhere by such officer of the Republic as is authorised to exercise a similar power or required to perform a similar duty in the Republic by or under the EU enactment referred to in the order made under section 3.

(3) For the purposes of this Ordinance, the exercise of any power or the performance of any duty includes the doing of any act or thing which is permitted or required to be done in relation to the exercise of that power or the performance of that duty.

(4) The authority given to an officer of the Republic under subsection (2) to exercise any power or to perform any duty shall in all cases be subject to the condition that the power may not be exercised or the duty performed if to do so it would be necessary for the officer of the Republic to enter—

- (a) any land occupied by the Crown in any capacity; or
- (b) any land to which access is controlled or restricted by the Crown in any capacity; or
- (c) any premises situated within any land such as is referred to in paragraph (b) above,

unless he has the written authority of the Administrator to enter the land or premises concerned.

6. Any power exercised or any duty performed by an officer of the Republic acting pursuant to section 5(2), and any act or thing whatsoever done or suffered in connection with the exercise of such a power or the performance of such a duty shall be of the same force and effect in all respects and for all purposes as if such power had been exercised, or such duty had been performed or such act or thing had been done by the Chief Officer acting pursuant to section 5(1).

Effect of acts of officers of the Republic.

7. Any enactment of the Areas giving protection to officers of the Areas against civil or criminal liability in respect of acts done in the course of their duties, or in any way applying to such acts, shall apply to officers of the Republic acting pursuant to section 5(2), and to any acts of such officers while so acting, as if such officers were officers of the Areas and as if such acts were the acts of officers of the Areas.

Protection of officers of the Republic.

8.—(1) Any question as to the meaning or effect of a specified EC measure or other Community instrument arising in the course of any legal proceedings shall be treated as a question of law and be for determination taking into account the principles laid down by any relevant decision of the European Court but recognising the effects of Article 299(6)(b) of the EC Treaty as substituted in accordance with Article 1 of the Protocol.

Legal proceedings.

(2) Judicial notice shall be taken by a court of the Areas of the Community treaties and other Community instruments, of the Official Journal of the Communities and of any decision of, or expression of opinion by, the European Court on any such question; and the Official Journal shall be admissible as evidence of any instrument or other act thereby communicated of the European Community or of any Community institution.

(3) Evidence of any Community instrument, including any judgment or order of the European Court or of any document in the custody of a Community institution, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of that institution, and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(4) Evidence of any Community instrument may also be given in any legal proceedings—

- (a) by production of a copy purporting to be printed by the Queen's Printer or by the Government Printer of the Republic (by whatever name either is called);
- (b) where the instrument is in the custody of a department of Her Majesty's Government, by production of a copy certified on behalf of the department to be a true copy by an officer of the department generally or specifically authorised to do so;
- (c) by production of a copy certified by a senior official of the Government department of the Republic which is responsible for the relevant law to which the document relates.

(5) Any document purporting to be a copy as mentioned in subsection (4) shall be received in evidence without proof of the official position or handwriting of the person signing the certificate or of his authority to do so or of the document being in the custody of the department.

9. This Ordinance shall come into force on the day of its publication in the Gazette.

Commencement.

12th September 2005
(128/422)

P. D. Draycott
Chief Officer.
