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**PROTECTION AND WELFARE OF ANIMALS (AMENDMENT) ORDINANCE 2009**

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An Ordinance to amend the Protection and Welfare of Animals Ordinance 2001

**J. H. GORDON**  
**ADMINISTRATOR**

*4th May 2009.*

**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 Protection and Welfare of Animals (Amendment) Ordinance 2009.

**2. Interpretation**

In this Ordinance, “the principal Ordinance” means the Protection and Welfare of Animals Ordinance 2001(a).

**3. Section 2 amended**

Section 2 (Interpretation) of the principal Ordinance is amended by inserting the following in the appropriate alphabetical place-

““EC Decision” means a Decision, as amended from time to time, listed in the first column of Schedule 1;

“EC Regulation” means a Regulation, as amended from time to time, listed in the first column of Schedule 1;”.

**4. Section 7 amended**

Section 7 (Use of animals for educational or experimental purposes) of the principal Ordinance is amended as follows-

- (a) by repealing “the Animals (Control of Experiments) Law of the Republic, as amended from time to time” in subsection (2) and replacing it with “the Animals

(Scientific Experiments) Law 1995**(b)** of the Republic as recognised and made available in law in the Areas by the Agricultural Provisions Ordinance 2007**(c)**”; and

(b) by inserting the following new subsection (3)-

“(3) The powers conferred by subsection (1) on the competent authority are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007**(d)**.”.

#### **5. Section 12 amended**

Section 12 (Surgery on animals) of the principal Ordinance is amended by repealing “the Animals (Control of Experiments) Law of the Republic as amended from time to time” in subsection (3) and replacing it with “the Animals (Scientific Experiments) Law 1995 of the Republic as recognised and made available in law in the Areas by the Agricultural Provisions Ordinance 2007”.

#### **6. Section 17 amended**

Section 17 (Reducing number of strays) of the principal Ordinance is amended by repealing “the Contagious Diseases (Animals) Ordinance” in subsection (2) and replacing it with “the Animal Health Law 2001**(e)** of the Republic as recognised and made available in law in the Areas by the Agricultural Provisions Ordinance 2007”.

#### **7. Section 18 amended**

Section 18 (Offences) of the principal Ordinance is amended by repealing “by subsection (1) above” in subsection (2) and replacing it with “an offence under this Ordinance”.

#### **8. New Section 18A inserted**

After section 18 of the principal Ordinance, the following new section is inserted-

##### **“18A. Offences in respect of EC Regulations and Decisions**

- (1) A person who contravenes a provision of an EC Regulation or an EC Decision that is listed in the first column of Schedule 1 commits an offence.
- (2) A person who is guilty of an offence under subsection (1) is liable to a penalty in accordance with the penalty scale in the second column of Schedule 1.
- (3) The penalties that may be imposed under subsection (2) are the penalties in the second column of Schedule 2 determined by the appropriate penalty scale in the first column of that Schedule.”.

#### **9. New Section 20A inserted**

After section 20 of the principal Ordinance, the following new section is inserted-

##### **“20A. Administrative fines**

- (1) The competent authority may impose an administrative fine on a person who contravenes a provision of an EC Regulation or an EC Decision that is listed in the first column of Schedule 1.
- (2) An administrative fine imposed under subsection (1) is payable in accordance with the administrative fine scale provided for in the third column of Schedule 1.
- (3) The administrative fine that may be imposed under subsection (1) is calculated in accordance with the administrative fines in the second column of Schedule 3 determined by the appropriate administrative fine scale in the first column of that Schedule.
- (4) Before imposing an administrative fine on a person, the competent authority must give written notice to that person of-
  - (a) the reasons why it intends to impose an administrative fine; and

- (b) a right to make representations within 5 days of the date the notice is received.
- (5) If, at the end of the period in subsection 4(b) and taking account of any representations received, the competent authority decides to impose an administrative fine, it must give a written record of that decision, specifying the provision of an EC Regulation or an EC Decision that has been breached, to the person on whom the administrative fine is imposed.
- (6) The person on whom an administrative fine is imposed may appeal to the Administrator in writing within 10 days of the date that the record of the decision under subsection (5) was received.
- (7) If an appeal is brought in accordance with subsection (6), the Administrator must review the decision and may-
  - (a) confirm the decision;
  - (b) cancel or vary the decision; or
  - (c) make a new decision.
- (8) An administrative fine may be recovered as a civil debt owed to the Sovereign Base Area Administration.
- (9) The powers conferred and duties imposed by this section on the competent authority and the Administrator are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.”.

#### **10. Section 21 amended**

Section 21 (Powers of competent authority and police) of the principal Ordinance is amended as follows-

- (a) by repealing “this Ordinance or of any regulations or orders made under it,” in subsection (1) and replacing it with “this Ordinance, any regulations or orders made under it or an EC Regulation or EC Decision,”;
- (b) by inserting the following new subsection (5)-
  - “(5) The powers conferred by subsection (1) on the competent authority are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007.”.

#### **11. Section 22 amended**

Section 22 (Regulations and Codes of Practice) of the principal Ordinance is amended by replacing the full stop at the end of subsection (2)(h) with a semicolon and inserting the following new paragraph (i)-

“(i) amending Schedule 1 of this Ordinance.”.

#### **12. New Section 24 inserted**

After section 23 of the principal Ordinance, the following new section is inserted-

##### **“24. Application to the Crown**

- (1) Subject to subsection (2), this Ordinance and any public instrument made under it bind the Crown and apply to a person employed by or in the service of the Crown as they apply to any other person.
- (2) Notwithstanding subsection (1), a contravention by the Crown of any provision made by or under this Ordinance does not make the Crown criminally liable.
- (3) Where an offence committed under this Ordinance by any person in the service of the Crown is proved to have been committed on the instruction, or with the consent or the connivance of or to have been attributable to neglect on the part of any other person in the service of the Crown who is in a position of authority over the person committing the offence, that

other person, as well as the person who committed the offence, is guilty of the offence and may be proceeded against accordingly.

- (4) For the purposes of this section, “the Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration in the Areas.”.

### 13. New Schedules inserted

After section 24 of the principal Ordinance, the following new Schedules 1, 2 and 3 are inserted-

#### SCHEDULE 1

(sections 2, 18A, 20A and 22)

Serial number	FIRST COLUMN	SECOND COLUMN	THIRD COLUMN
	Provisions of EC Regulations and EC Decisions	Penalty Scales	Administrative Fines Scales
1.	Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97:		
	Article 3	Penalty Scale 3	Administrative Fines Scale 3
	Article 4	Penalty Scale 3	Administrative Fines Scale 3
	Article 5	Penalty Scale 3	Administrative Fines Scale 4
	Article 6	Penalty Scale 3	Administrative Fines Scale 4
	Article 7	Penalty Scale 3	Administrative Fines Scale 4
	Article 8	Penalty Scale 3	Administrative Fines Scale 3
	Article 9	Penalty Scale 3	Administrative Fines Scale 4
	Article 12	Penalty Scale 3	Administrative Fines Scale 4
	Article 23	Penalty Scale 3	Administrative Fines Scale 4
2.	Council Regulation (EC) No 1255/97 of 25 June 1997 concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC:		
	Article 1(2)	Penalty Scale 3	Administrative Fines Scale 4
	Article 4(1) and (3)	Penalty Scale 3	Administrative Fines Scale 3
	Article 5	Penalty Scale 3	Administrative Fines Scale 3
	Article 6(1)	Penalty Scale 3	Administrative Fines Scale 3

## **SCHEDULE 2**

### **(section 18A)**

FIRST COLUMN	SECOND COLUMN
Penalty Scales	Penalties
Penalty Scale 1	Imprisonment for 3 months or fine of €2,500 or both
Penalty Scale 2	Imprisonment for 6 months or fine of €5,000 or both
Penalty Scale 3	Imprisonment for 1 year or fine of €10,000 or both

## **SCHEDULE 3**

### **(section 20A)**

FIRST COLUMN	SECOND COLUMN
Administrative Fine Scales	Administrative Fine
Administrative Fine Scale 1	Administrative fine up to €500 for each day of breach.
Administrative Fine Scale 2	Administrative fine up to €1,000 for each day of breach.
Administrative Fine Scale 3	Administrative fine up to €2,000 for each day of breach.
Administrative Fine Scale 4	Administrative fine up to €5,000 for each day of breach.
Administrative Fine Scale 5	Administrative fine up to €10,000 for each day of breach.
Administrative Fine Scale 6	Administrative fine up to €15,000 for each day of breach.

## **14. Commencement**

This Ordinance comes into force on the day it is published in the Gazette.

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### **Notes**

- (a) Ordinance 20/01.
- (b) Law No 30(I)/95, Republic of Cyprus.
- (c) Ordinance 9/07.
- (d) Ordinance 17/07.
- (e) Law No 109(I)/01, Republic of Cyprus.

## **EXPLANATORY NOTE**

**(This note does not form part of the Ordinance)**

### Introduction

1. This explanatory note relates to the Protection and Welfare of Animals (Amendment) Ordinance 2009 (“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. The note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So when a section or part of a section does not seem to require any explanation or comment, none is given.

### Particular points

3. The Ordinance amends the Protection and Welfare of Animals Ordinance 2001 by adding provisions concerned with delegation to the Republic and introducing criminal penalties and administrative fines for breaches of certain EU legislation on protection of animals. The additional sentencing powers in section 18(2) and the enforcement powers in section 21 are also made applicable in relation to that EU legislation. In addition, references to certain other legislation have been updated.

4. Delegation provisions are added to sections 7 and 21 as well as to the new administrative fines provision (section 20A). Delegated functions are ones which may be carried out in the Areas by an officer of the Republic on whom a corresponding function is placed under Republican law. The Delegation of Functions to the Republic Ordinance 2007 sets out the effects and limits of delegation.

5. The new sections 18A and 20A and the three new Schedules are intended broadly to replicate the effect of amendments made to the Protection and Welfare of Animals Law of the Republic by Law 95(I)/2008. The criminal penalties and administrative fines provisions currently apply to only the two EU Regulations stipulated in Schedule 1 but further Regulations and EU Decisions may be added at a later date and this may be done by public instrument in accordance with the new section 22(2)(i).

6. The general rule is that legislation only applies to the Crown if there is express provision to that effect or by necessary implication. The Ordinance amends the 2001 Ordinance by adding a provision making the 2001 Ordinance and secondary legislation made under it applicable to the Crown and its employees (although the Crown cannot be prosecuted for any criminal offence).