

---

**F I S H E R I E S ( A M E N D M E N T ) ( N O . 2 ) O R D I N A N C E 2 0 1 6**

---

An Ordinance to amend the Fisheries Ordinance 2012 to broaden the powers of the Chief Officer in relation to maritime safety.

**P.E RUSHBROOK**  
**DEPUTY ADMINISTRATOR**

*25 October 2016*

**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 Fisheries (Amendment) (No.2) Ordinance 2016.

**Commencement**

2.—(1) Except as provided in subsection (2), this Ordinance comes into force the day following the date of its publication in the Gazette.

(2) Before the date mentioned in subsection (1), the Administrator shall have the power to make an order under section 38 of the Fisheries Ordinance 2012(a) as amended by section 3 (of this Ordinance), but the provisions of such an order made in exercise of powers conferred by provisions made by those amendments may not come into force before that date.

**Amendment of the Fisheries Ordinance 2012**

3.—(1) Section 38 of the Fisheries Ordinance 2012 is amended as follows.

(2) For the title, substitute “Chief Officer may, by order, prohibit use etc. of vessels or other activities”.

(3) For subsection (1), substitute—

---

(a) 23/2012, amended by Ordinance 8/2016.

“(1) The Chief Officer may, by order made as a public instrument, prohibit for a period specified in the order—

- (a) the use or passage of any vessel or class or classes of vessel,
- (b) the presence of any person or class of persons, or
- (c) the carrying out of any activity,

in the whole or in part of the territorial waters.”.

(4) After subsection (3) , insert—

“(4) Subject to subsection (5), a person who, without reasonable excuse and otherwise than in a way that is an offence under subsection (3), causes a requirement imposed by an order made under subsection (1) to be breached, is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding 2 years or a fine not exceeding €8,542 or to both.

(5) In proceedings against any person for an offence under subsection (4), it shall be a defence for that person to show that the person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) In this section, “activity” includes the following—

- (a) the use of any vessel, apparatus, equipment and goods;
- (b) the carrying on of any trade or profession;
- (c) any recreational activity.”.

## EXPLANATORY NOTE

*(This note is not part of the Ordinance)*

1. This explanatory note relates to the Fisheries (Amendment) (No.2) Ordinance 2016 (“the amending Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of that Ordinance. It does not form part of it.
2. This note should be read in conjunction with the amending Ordinance. It is not, and is not meant to be, a comprehensive description of it.
3. Section 38 of the Fisheries Ordinance 2012 (“the principal Ordinance”) gives powers to the Chief Officer to prohibit, by order made as a public instrument and for a period specified in the order, the passage or use of vessels in any part of the territorial waters of the Areas. *Section (3)* of the amending Ordinance broadens this power to allow the prohibition of the presence of any person or class of persons and the carrying out of any activities. Section 38(6) of the principal Ordinance, as inserted by *section (4)* of the amending Ordinance, gives a non-exhaustive list of what is to be considered an “activity” for those purposes.
4. Section 38(3) of the principal Ordinance provides that the master or owner of a vessel that contravenes an order made under section 38(1) is guilty of an offence. *Section 3(4)* of the amending Ordinance also makes it an offence for any person to otherwise cause a breach of an order made under section 38(1), as amended. That offence is subject to a defence of reasonable care. The burden of proof is on the defendant, on the balance of probabilities.
5. By virtue of section 3(1) of the principal Ordinance, offences under section 38 are deemed to be “fisheries offences” for the purposes of the principal Ordinance. The enforcement powers set out in the principal Ordinance for the purposes of the prevention and detection of such offences, and the apprehension and prosecution of those committing them, are therefore applicable in relation to the offences created by section 38 of the principal Ordinance, as amended by the amending Ordinance.

SBA/AG/2/FI/68