
TRADE DESCRIPTIONS (AMENDMENT) ORDINANCE 2009

An Ordinance to amend the Trade Descriptions Ordinance 1988

J. H. GORDON
ADMINISTRATOR

7th December 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 Trade Descriptions (Amendment) Ordinance 2009.

2. Interpretation

In this Ordinance, “the principal Ordinance” means the Trade Descriptions Ordinance 1988(a).

3. Section 12 (Indication of the country of manufacture of goods) repealed

Section 12 of the principal Ordinance is repealed.

4. Section 16 (Offences and penalties) amended

Section 16(1) of the principal Ordinance is amended by repealing paragraph (e).

5. Section 29 (Prohibition of importation) amended

(1) Section 29(2) of the principal Ordinance is amended by—

- (a) repealing “or paragraph (a) of subsection (1) of section 12 of this Ordinance”; and
- (b) repealing “Customs and Excise Ordinance” and replacing it with “Customs Ordinance 2005(b)”.

(2) Section 29(3) of the principal Ordinance is amended by repealing “or paragraph (a) of subsection (1) of section 12 of this Ordinance”.

6. New sections 36 and 37 inserted

After section 35 of the principal Ordinance, the following new sections are inserted—

“36. Delegation to the Republic

- (1) The following are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007(c) –
 - (a) the powers conferred and duties imposed on authorised officers by sections 24, 25 and 27; and
 - (b) the powers conferred and duties imposed on the Chief Officer by section 29.
- (2) Section 24 of the Delegation of Functions to the Republic Ordinance 2007 ceases to apply to section 23.

37. Application to the Crown

- (1) Subject to subsection (2), this Ordinance and any public instrument made under it bind the Crown and any employee of the Crown.
- (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 employee of the Crown is proven to have been committed on the instruction of, or with the consent or connivance of, or to have been attributable to any neglect on the part of, any other person employed by the Crown who is in a position of authority over the person committing the offence, that other person, as well as the person committing the offence, is guilty of the offence and may be proceeded against accordingly.
- (4) For the purposes of this section—

“employee of the Crown” means any person in the service of the Crown whether or not they would be treated as an employee of the Crown apart from this subsection; and

“the Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration in the Areas.”

7. Commencement

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

Notes

- (a) Ordinance 2/88.
- (b) Ordinance 16/05.
- (c) Ordinance 17/07.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

Introduction

1. This explanatory note relates to the Trade Descriptions (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 Trade Descriptions Ordinance 1988.

4. Section 12, which required goods to be marked with the country of manufacture, is repealed. This replicates the effect of an amendment to the Trade Descriptions Law of the Republic made by Law 158(I)/2002. Consequential amendments are made to sections 16 and 29. The reference to customs legislation in section 29 is updated.

5. A new section 36 designates certain powers and duties as general delegated functions. 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. The previous deemed delegation (under section 24 of the 2007 Ordinance) ceases to have effect.

6. The general rule is that legislation only applies to the Crown if there is express provision to that effect or by necessary implication. A new section 37 makes the 1988 Ordinance applicable to the Crown and its employees (although the Crown cannot be prosecuted for any criminal offence).

