

Ordinance 01 of 2020

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**EUROPEAN UNION (WITHDRAWAL AND
TRANSITION) ORDINANCE 2020**

An Ordinance to make provision in consequence of the United Kingdom's withdrawal from the European Union in order to cater for the transition period provided for in the Withdrawal Agreement concluded between the United Kingdom and the European Union, as it applies to the Sovereign Base Areas.

M.J. Smith
DEPUTY ADMINISTRATOR

28 January 2020

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 European Union (Withdrawal and Transition) Ordinance 2020.

Commencement

2. This Ordinance comes into force at 1:00 a.m. on 1 February 2020.

PART 1

Interpretation of existing legislation

Interpretation of pre-exit legislation generally during transition period

3. This Part applies—

- (a) to the interpretation of any enactment made before exit day; and
- (b) from exit day until the end of the transition period.

(2) In this section “enactment”—

- (a) includes—
 - (i) an Ordinance(a); and
 - (ii) an Act of the United Kingdom Parliament or an Order of Her Majesty in Council, to the extent to which it extends to the Areas; but
- (b) excludes the European Union (Protocol Measures) Ordinance 2004(b).

Interpretation generally: member state

4. Where this Part applies, a reference to a member state of the European Union is deemed to include a reference to the United Kingdom.

Interpretation generally: EU law and related expressions

5.—(1) Where this Part applies, any reference (however expressed) to—

- (a) Protocol-based EU law or any part thereof, or
- (b) any related expressions or concepts,

is deemed to be a reference to any such law, expression or concept so far as it is applicable to and in the Areas by virtue of the European Union (Protocol Measures) Ordinance 2004.

(2) In this section, EU law is “Protocol-based” if, prior to the United Kingdom’s departure from the EU, it applied to and in the Areas by virtue of Protocol 3, as read with Article 2(2) of Protocol 10.

Part 1: interpretation

6. In this Part—

“exit day” has the same meaning as in the European Union (Withdrawal) Act 2018(c), that is—

- (a) 1 February 2020 at 1.00 a.m(d); or
- (b) any other date and time substituted under that Act (as adjusted to Eastern European Time);

“Protocol 3” means Protocol No. 3 on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus attached to the 2003 Accession Treaty(e);

“Protocol 10” means Protocol No. 10 on Cyprus attached to the 2003 Accession Treaty;

(a) “Ordinance” is defined in Schedule 1 to the Interpretation Ordinance 2012 (Ordinance 8/2012).

(b) Ordinance 11/2004 as amended by Ordinances 2/2009, 23/2010 and by this Ordinance.

(c) 2018 c. 16.

(d) See section 20. The definition of “exit day” was amended to 11.00pm Greenwich Mean Time on 31 January 2020 (which is 1.00am on 1 February 2020 on the island of Cyprus) by the European Union (Withdrawal) Act 2018 (Exit Day) (Amendment) (No. 3) Regulations 2019 (S.I. 2019/1423).

(e) Official Journal of the European Communities, L 236, 23.9.2003, p. 940. The “2003 Accession Treaty” is defined in Schedule 1 to the Interpretation Ordinance (Ordinance 8/2012).

“transition period” means the transition or implementation period defined in Articles 126 and 132 of the Withdrawal Agreement;

“Withdrawal Agreement” means the Agreement between the United Kingdom and the European Union under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom’s withdrawal from the EU (as that agreement is modified from time to time in accordance with any provision of it).

PART 2

Amendment of legislation

Amendment of the European Union (Protocol Measures) Ordinance 2004

7. The European Union (Protocol Measures) Ordinance 2004(a) is amended in accordance with this Part.

Amendment of section 2 (interpretation)

8.—(1) Section 2 is amended as follows.

(2) The existing section 2 is renumbered as subsection (1) of that section.

(3) In subsection (1) (as renumbered), insert the following definitions in the appropriate place—

““exit day” has the same meaning as in the European Union (Withdrawal) Act 2018, that is—

(a) 1 February 2020 at 1.00 a.m(b); or

(b) any other date and time substituted under that Act (as adjusted to Eastern European Time);”

““transition period” means the transition or implementation period defined in Articles 126 and 132 of the Withdrawal Agreement;”

““Withdrawal Agreement” means the Agreement under Article 50(2) of the Treaty on European Union which sets out the arrangements for the United Kingdom’s withdrawal from the EU (as that agreement is modified from time to time in accordance with any provision of it).”

(4) In subsection (1) in the definition of “Protocol measures” insert after paragraph (d)—

“(da) Part IV of the Annex to the Protocol, as read with Article 2(2) of Protocol 10 on Cyprus attached to the Act of Accession;”.

(5) At the end of subsection (1) insert—

“(2) In this Ordinance, on and after exit day until the end of the transition period, all references to the Protocol and the Protocol measures mean the Protocol and Protocol measures as applied to and in the Sovereign Base Areas by Part 4 of the Withdrawal Agreement.”

Amendment of section 6 (legal proceedings)

9. At the end of section 6 insert –

“(6) In this section, on and after exit day until the end of the transition period, “Community treaty” includes the Withdrawal Agreement.”

(a) Ordinance 11/2004 as amended by Ordinances 2/2009 and 23/2010.

(b) See section 20. The definition of “exit day” was amended to 11.00pm Greenwich Mean Time on 31 January 2020 (which is 1.00am on 1 February 2020 on the island of Cyprus) by the European Union (Withdrawal) Act 2018 (Exit Day) (Amendment) (No. 3) Regulations 2019 (S.I. 2019/1423).

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the European Union (Withdrawal and Transition) Ordinance 2020 (“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 meant to be a comprehensive description of the Ordinance. Accordingly, not all sections are referred to in the note.

3. The Ordinance makes provision to cater for the fact that, from 1 February 2020, the United Kingdom will no longer be a member state of the European Union and therefore no longer bound directly by Protocol No. 3. This is the Protocol to Cyprus’s Treaty of Accession to the EU, which set out the provisions of EU law which applied in the Areas. The UK has agreed with the EU that during a transition period the Protocol will continue to apply in the Areas as if the UK were still a member state.

4. Part 1 of the Ordinance sets out how existing legislation should be interpreted during the transition period which has been agreed as part of the UK’s Withdrawal Agreement with the EU. It provides that references to a member state of the EU should be interpreted as including the UK (section 4), and that references to other Protocol-related EU law or related expressions should be interpreted on the basis that it continues to apply in the Areas during the transition period, despite the UK’s withdrawal from the EU (section 5).

5. Part 2 of the Ordinance amends the European Union (Protocol Measures) Ordinance 2004 (“the Protocol Measures Ordinance”). This is the Ordinance which provided for the provisions of EU law set out in Protocol No. 3 to have effect as part of the law of the Areas.

6. The amendments to section 2 of the Protocol Measures Ordinance provide that, despite the UK’s withdrawal from the EU, that Ordinance continues to give effect to the measures set out in Protocol No. 3 during the transition period, in accordance with Part 4 of the UK’s Withdrawal Agreement.

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