

**Ordinance 49 of 2020**

**Published in Gazette No. 1959 of 23 December 2020**

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**C U S T O M S ( A M E N D M E N T ) O R D I N A N C E 2 0 2 0**

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An Ordinance to amend the Customs Ordinance 2005.

R. Thomson  
**ADMINISTRATOR**

*18 December 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 Customs (Amendment) Ordinance 2020.

**Commencement**

2. This Ordinance comes into force on 1 January 2021 at 1:00am.

**Amendment of the Customs Ordinance 2005**

3. The Customs Ordinance 2005(a) is amended in accordance with sections 4 to 11.

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(a) Ordinance 16/2005, as amended by Ordinances 05/2010, 22/2012, 30/2012, 33/2013, 7/2016

## **Amendment of section 2 (interpretation)**

**4.**—(1) Section 2 is amended as follows.

(2) In subsection (1)—

- (a) in the definition of “approved wharf” for “article 46” substitute “article 139”;
  - (b) for the definition of “Code” substitute—

““Code” means Regulation (EU) No. 952/2013 of the Council of the European Communities of 9 October 2013 laying down the Union Customs Code((a));”;
  - (c) omit the definition of “Community”;
  - (d) in the definition of “customs agent” for “article 5” substitute “article 18”;
  - (e) in the definition of “customs duty” for “article 4” substitute “article 5”;
  - (f) after the definition of “customs territory” insert—

““Delegated Regulation” means Commission Delegated Regulation (EEC) No. 2015/2446 of 28 July 2015 supplementing Regulation (EU) No. 952/2013 as regards detailed rules concerning certain provisions of the Code(b);

“dependent” has the meaning assigned to it by paragraph 1 of Part I of Annex B to the Treaty of Establishment;”;
  - (g) in the definition of “duty” for “article 4” substitute “article 5”;
  - (h) in the definition of “export duties” for “article 4(11)” substitute “article 5(21)”;
  - (i) for the definition of “Implementing Regulation” substitute—

““Implementing Regulation” means Commission Implementing Regulation (EU) No. 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of the Code(c), as amended or replaced from time to time;”;
  - (j) in the definition of “import duties” for “Article 4(10)” substitute “Article 5(20)”;
  - (k) omit the definition of “officer”;
  - (l) for the definition of “Protocol” substitute—

““Protocol” means the Protocol relating to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community(d);”;
  - (m) after the definition of “Treaty of Establishment” insert—

““United Kingdom personnel” has the meaning assigned to it by paragraph 1 of Part I of Annex B to the Treaty of Establishment;”.
- (3) In subsection (2) for the words starting from “or Implementing Regulation” to the end, substitute “, Delegated Regulation, or Implementing Regulation shall bear the same meaning given by the Code, Delegated Regulation or Implementing Regulation as the case may be.”.

## **New section 2A**

**5.** After section 2 insert—

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(a) OJ No. L 269 10.10.2013, p. 1. The Regulation was amended by Regulations (EU) 2016/2339, 2019/474, 2019/632.  
(b) OJ L 343 29.12.2015, p. 1. The Regulation was amended by Regulations (EU) 2016/341, 2016/651, 2018/1063, 2018/1118, 2019/841, 2019/1143, 2020/887.  
(c) OJ No. L 343 29.12.2015, p. 558. Regulation amended by Regulations (EU) 2017/989, 2018/604, 2019/1394, 2020/893.  
(d) OJ No. L 29, 31.01.2020, p. 7.

**“Interpretation of the conferral of functions on the Chief Officer, the Fiscal Officer and other officers**

**2A.**—(1) To the extent that a function conferred by a provision of this Ordinance on the Chief Officer, the Fiscal Officer or an officer relates to the implementation of Article 2(7), Article 3 or Article 6 of the Protocol—

- (a) subject to paragraph (b), the Chief Officer, Fiscal Officer or officer may not exercise that function and instead that function is a conferred function for the purposes of the Conferral of Protocol Functions on the Republic Ordinance 2020(a); and
- (b) where the Conferral of Protocol Functions on the Republic Ordinance 2020 prevents such a function from being exercised by an officer of the Republic, that function is exercisable by—
  - (i) if the function is expressed to be conferred on the Chief Officer, the Chief Officer;
  - (ii) if the function is expressed to be conferred on the Fiscal Officer, the Fiscal Officer; and
  - (iii) if the function is expressed to be conferred on an officer, any officer of the Sovereign Base Areas Customs and Immigration Service appointed or commissioned by the Fiscal Officer.

(2) Where subsection (1) does not apply, a function expressed to be conferred on an officer may be exercised by any officer of the Sovereign Base Areas Customs and Immigration Service appointed or commissioned by the Chief Officer or Fiscal Officer.”.

**Substitution of section 3 (importations and exportations)**

**6.** For section 3 substitute—

**“Importations and exportations**

**3.**—(1) For the purposes of this Ordinance and anything made or having effect under it, the Areas are deemed to be part of the customs territory of the EU.

(2) Except where they arrived directly from or are moving directly to the territory of the Republic, no goods or any other thing may be imported into or exported from the Areas except through a customs port, customs airport or crossing point.

(3) Subject to subsection (4), no person may import or export goods in the Areas by sea or air.

(4) Goods are permitted to enter or leave the Areas by sea or air—

- (a) for official or military purposes;
- (b) in the personal baggage of United Kingdom personnel or their dependents;
- (c) in the personal baggage of any person travelling on defence or official business; or
- (d) where they are included in parcels sent or received by United Kingdom personnel or their dependents and transported by or on behalf of British Forces Post Office.

(5) For the purposes of this section, “personal baggage” means goods brought by a person arriving in the Areas by sea or air and intended exclusively for personal use.

(6) The Fiscal Officer and officers must ensure compliance with Article 2(6)(b)(i) and (ii) of the Protocol.

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(a) Ordinance 46/2020.

(7) Except as permitted under customs legislation or by the Fiscal Officer, goods imported from outside the customs territory of the EU shall not be delivered or removed on importation until the importer has paid all duty which is due.”

**Substitution of section 4 (application and effects)**

7. For section 4 substitute—

**“Application and effects**

4. Subject to the effects of the Protocol and the European Union (Withdrawal and Implementation of Protocol) Ordinance 2020, nothing in this Ordinance shall—

- (a) affect the operation of the Treaty of Establishment in the Areas; and
- (b) except in relation to goods liable to forfeiture under this Ordinance or the exercise of a power to arrest, restrict the movements (in any direction) of goods or persons between the Areas and the Republic or between the Areas and member States.”

**Amendment of section 5 (powers and duties of Fiscal Officer and officers)**

8. For section 5(2)(b) substitute—

“(b) applying provisions of this Ordinance, the Code, the Implementing Regulation, the Delegated Regulation, other customs legislation and associated legislation which applies in the Areas;”.

**Substitution of section 58 (regulations for postal goods)**

9. For section 58 substitute—

**“Regulations for postal goods**

58. The Administrator may make regulations to provide for customs procedures in relation to goods or any other things which are imported or exported by post and in particular may make provision as to offences.”.

**Amendment of section 67 (customs representation)**

10. In section 67(4)(a) for “article 5” substitute “article 18”.

**Amendment of section 68 (power of entry to places subject to customs supervision)**

11. In section 68(2)(b) for “article 37” substitute “article 134”.

## **EXPLANATORY NOTE**

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

- 1.** This explanatory note relates to the Customs (Amendment) 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.** This note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance.
- 3.** The Ordinance makes amendments to the Customs Ordinance 2005 (“the 2005 Ordinance”) with the purpose of giving effect to article 2 of the Protocol on the Sovereign Base Areas to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (“the Protocol”).
- 4.** Section 5 inserts a new section 2A into the 2005 Ordinance to provide for certain functions of the Fiscal Officer and other customs officers under the Ordinance to, in certain circumstances, be conferred on officers of the Republic, in accordance with article 13 of the Protocol. It does so by reference to the Conferral of Protocol Functions on the Republic Ordinance 2020, which makes more detailed provision about the conferral of functions under the 2005 Ordinance. In all other cases, such functions will be exercisable by the Chief Officer, the Fiscal Officer or other customs officers of the Areas.
- 5.** Section 6 replaces section 3 of the 2005 Ordinance. The new section, amongst other things, limits the types of goods which may be imported or exported directly into or from the Areas by sea or by air, as required by article 2 of the Protocol.
- 6.** The Ordinance also makes other amendments to the 2005 Ordinance to update references to European Union Customs Code and related legislation.

SBA/AG/2/CDT/288

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Published by the Sovereign Base Areas Administration  
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