

Ordinance 12 of 2022

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B U S I N E S S R E G U L A T I O N O R D I N A N C E 2 0 2 2

An Ordinance to regulate the establishment and operation of businesses in the Sovereign Base Areas of Akrotiri and Dhekelia.

R. Thomson
ADMINISTRATOR

11 May 2022

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

Short title and commencement

- 1.—(1) This Ordinance may be cited as the Business Regulation Ordinance 2022.
(2) This Ordinance comes into force on 16 May 2022.

Interpretation

2.—(1) In this Ordinance—

“authorised service organisation” has the same meaning as in Annex B Part I of the Treaty of Establishment;

“business” means any commercial or industrial enterprise or undertaking, carried on by any person or body of persons whether corporate or unincorporated, which is carried on for gain or reward, or in the course of which goods or services are supplied otherwise than free of charge.

“business details” means—

- (a) the name of the business;
- (b) the registered address of the business;
- (c) the business’ place(s) of business within the Areas;

- (d) the nature of the business activity undertaken by the business;
- (e) the management of the business; and
- (f) the ownership of the business;

“business licence” means a licence issued under section 3;

“business licence holder” means the person who a business licence authorises to carry out a business;

“illegal business” means a business, other than an authorised service organisation, that is operating otherwise than in accordance with the terms of a valid business licence, unless that business has been exempted from the requirement to hold a business licence by the Administrator in accordance with section 3(3);

“person” means any natural or legal person;

“place of business” means a mobile or fixed premises from which business is conducted including a branch, an office, a factory, a workshop, a mine, or a gas/oil well.

“relevant Area Officer” means—

- (a) the Area Officer for the Area in which a business is, or proposed business will be, registered, or has its place of business, or
- (b) where a business has a place of business in both Areas, either Area Officer, at the discretion of the business owner.

Business licences

3.—(1) Subject to subsection (3), no person other than an authorised service organisation may—

- (a) establish a business in the Areas, or
- (b) carry on a business from a place of business in the Areas,

except under and in accordance with the terms of a licence authorising the operation of that business (a “business licence”).

(2) A business licence shall be in the form set out in the Schedule.

(3) The Administrator may exempt a person or group of people from subsection (1) on exceptional grounds.

(4) The Administrator may grant or refuse any application for a business licence and in exercising this power the Administrator may have regard to—

- (a) the nature of the business and the extent to which the laws of the Areas provide for the effective regulation of that business,
- (b) the impact of the business on the military or security interests of the United Kingdom or the Areas,
- (c) whether or not the business is consistent with the development areas provided for in any development plan prepared, approved and published under the Town and Country Planning Ordinance 2022(a); and
- (d) the impact of the business on the environment.

(5) Subject to subsection (6), the Administrator may—

- (a) revoke a business licence, or
- (b) vary the terms and/or conditions attached to a business licence.

(6) Before exercising the power at subsection (5), the Administrator must—

- (a) give the business licence holder in question no less than 28 days’ notice in writing of their intention to do so, and

(a) Ordinance 10/2022.

- (b) take into consideration any representations in writing which the business licence holder may make during that period.

Change of business details

4.—(1) A business licence holder must inform the relevant Area Officer of any change in the business details.

(2) A notification of change of business details must be made within 14 days of the relevant company resolution and/or other agreement or decision to make such a change.

Offences and penalties

5.—(1) Any person who establishes or carries on an illegal business shall be guilty of an offence and shall upon conviction be liable to—

- (a) imprisonment for a term not exceeding 3 years,
- (b) a fine not exceeding €500,000, or
- (c) both.

(2) Any person who—

- (a) makes any false return, statement or declaration in connection with an application for a business licence whether for himself/herself or any other person; or
- (b) fails to comply with any other obligation under this Ordinance or regulations made under it;

is guilty of an offence, and shall on conviction be liable to imprisonment for a term not exceeding three years, or a fine not exceeding €250,000, or both.

(3) Where proceedings before a court for an offence under this Ordinance have been commenced, the court may make an order prohibiting further operation of the business to which the proceedings relate until such time as the proceedings are finally determined.

(4) An application for an order under subsection (3)—

- (a) may be made without notice; and
- (b) is a civil proceeding within the meaning of the Courts (Constitution and Jurisdiction) Ordinance 2007(a).

(5) A person (“P”) who operates a business that is the subject of an order made under subsection (3) that continues to operate that business—

- (a) commits an offence; and
- (b) is liable, on conviction, to a fine not exceeding the sum of €[x] for each day that P continues to operate the business that is the subject of the order made under subsection (3), beginning with the day after the order was made and ending with the day on P ceases to operate the business.

(6) Where a person has been convicted of an offence under this section, a court may make an order prohibiting—

- (a) the further operation of the business in question,
- (b) that person from operating any further businesses.

Legal proceedings

6.—(1) For the purpose of proceedings arising from this Ordinance, a court may take judicial notice of a law of the Republic and of any Republican document issued under it.

(a) Ordinance 5/2007, as amended by Ordinances 8/2012, 2/2014, 6/2016, 2/2017, 2/2018, 3/2018, 3/2019 and 7/2020.

(2) For the purposes of this section, the production of a copy of any part of a Republican enactment—

- (a) contained in a printed collection of enactments purporting to be printed and published by an authority of the Republic, or
- (b) contained in an issue of the Official Gazette of the Republic, or
- (c) purporting to be printed by the Government Printer of the Republic, by whatever name called,

is evidence for all purposes, and may be held by a court to be conclusive evidence, of the due and lawful making of that enactment.

(3) For the purposes of this section, a version of any part of a Republican enactment in the English language—

- (a) purporting to be produced by an authority of the Republic,
- (b) certified as being accurate by an officer of the Administration considered by the Court to have been at the time of such certification a competent and adequate translator into the English language from the language in which the Republican enactment was published in the Republic,
- (c) given or produced in the course of oral evidence of a person whom the Court considers to be a competent translator for the purpose,
- (d) stated orally in court or produced in writing by a Registrar or official court interpreter,

may in any of those cases be held by the Court to be conclusive evidence for all purposes that such version is the accurate English version of the Republican enactment or part of it in question.

(4) For the purposes of this section, the production of—

- (a) a relevant document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for the relevant enactment under which the relevant document was made, or
- (b) an English translation of a relevant document, the accuracy of which is certified in writing by a translator of recognised competence,

may be held by the Court to be conclusive evidence for all purposes of the contents of such document.

Regulations

7.—(1) The Administrator may, by way of public instrument, make regulations for the purpose of—

- (a) the regulation of any matter within this Ordinance; or
- (b) the better implementation of this Ordinance,

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may—

- (a) set out the procedure for applying for and renewing a business licence;
- (b) set out the procedure to notify any change of business details;
- (c) prescribe the fees payable on the issue or renewal of a business licence and any exemption from liability to pay such fees;
- (d) prescribe the form to be used for a business licence application;
- (e) prescribe the form to be used to notify any change of business details; or
- (f) set out the period of time for a which a business licence is valid.

Repeal

8. Section 21 of the Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960^(a) is repealed.

Saving

9. Despite the repeal of section 21 of the Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960, any business licence issued under and in accordance with that Ordinance remains valid and is to be treated as if it was a business licence issued under this Ordinance.

(a) Ordinance 5/1960, amended by Ordinances 5/71, 11/1982, 21/1987, 4/2001, 6/2001, 17/2004, 18/2004, 13/2009, 31/2010, 16/2015, 9/2016, 8/2019, 2/2020, 3/2020 and 34/2020, and corrected by a corrigendum published in Gazette No. 1458 on 18 May 2007 and a corrigendum published in Gazette No. 1791 on 24 November 2011.

Licence No.



BUSINESS REGULATION ORDINANCE 2022

BUSINESS LICENCE

**Licence to carry on or set up a commercial or industrial enterprise
in the Sovereign Base Areas.**

Licence is hereby granted to
to carry on or set up the commercial or industrial enterprise of
at
within the Sovereign Base Area of Akrotiri / Dhekelia.

This licence expires on the

Date of issue:

For the Administrator.

Conditions:

EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Business Regulation Ordinance 2022 (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 and is not intended to be a comprehensive description of the Ordinance. It should be read in conjunction with the Ordinance.

2. This Ordinance seeks to make provision to regulate the operation of businesses in the Sovereign Base Areas of Akrotiri and Dhekelia (the “SBAs”), principally by legislating to provide for the business licence system, whereby businesses wishing to operate in the SBAs must first apply to the Administrator for a business licence to permit them to do so.

3. Section 3 provides that no person other than an authorised service organisation may operate a business except with a valid business licence. It also makes provision for the Administrator’s power to grant a business licence, factors which the Administrator may wish to take into account when deciding whether or not grant a business licence, and for the Administrator’s power to exempt a person from the blanket requirement and to revoke or vary a business licence.

4. Under section 4 any business licence holder must report to their local Area Office any change in the details of the business.

5. Section 5 sets out the offences and penalties to persons that violate the terms of this Ordinance. It essentially provides for four offences, one of operating a business without a valid business licence, one of making a false statement in connection with a business licence application, and one of more generally failing to comply with an obligation provided for in the Ordinance or in regulations made under it.

6. Section 6 provides that documents produced by the Republic may be taken into account in the courts of the SBAs in legal proceedings under this Ordinance.

7. Section 7 sets out the regulation making power, under which the Administrator may make regulations for the better implementation of the Ordinance.

8. Sections 8 and 9 provide for the repeal of provisions of the previous Ordinance governing business licences, the Control (Entry, Settlement and Commercial Enterprises) Ordinance 1960, whilst saving business licences issued under that provision.

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