

(7)

CONFERRAL OF PROTOCOL FUNCTIONS ON THE REPUBLIC ORDINANCE 2020

**CONFERRAL OF FUNCTIONS (POWERS OF OFFICERS OF THE REPUBLIC)
AUTHORISATION 2022**

I, Clare Elizabeth Simpson, Chief Officer, make this Authorisation in exercise of the powers vested in me by sections 2(1) and 5(4) to (5A) of the Conferral of Protocol Functions on the Republic Ordinance 2020⁽¹⁾ (the Ordinance).

- 1) This Authorisation may be cited as the Conferral of Functions (Powers of Officers of the Republic) Authorisation 2022.
- 2) This Authorisation comes into force on 14 March 2022.
- 3) Subject to section 4), where, but for section 5(3) of the Ordinance, an agricultural law would confer on an officer of the Republic—
 - a. the power to enter or search property, that power is conferred on that officer.
 - b. the power to seize and retain evidence, that power is conferred on that officer.
- 4) Where a power under section 3) is exercised for the purposes of an inspection of goods that are intended for import into or export from the Areas, it may only be exercised in circumstances, and by an officer of the Republic of a class, prescribed by the Fiscal Officer.
- 5) Subject to section 6), where, but for section 5(3) of the Ordinance, a VAT law would confer on an officer of the Republic—
 - a. the power to enter or search property, that power is conferred on that officer,
 - b. the power to seize and retain evidence, that power is conferred on that officer.
- 6) In any instance where the power in section 5)a is used, the officer of the Republic must have received permission on behalf of the Crown in right of its Administration of the Areas.
- 7) Where, but for section 5(3) of the Ordinance, an agricultural law or VAT law would confer on an officer of the Republic the power to issue a fine for any offence or other contravention of any legislative provision or rule of law, that power is conferred on that officer.
- 8) For the purposes of the Ordinance, a customs officer is to be considered an officer of the Republic for the purposes of exercising a power conferred by a VAT law.
- 9) For the purposes of this Authorisation—
 - (a) “agricultural law” means a provision in an agricultural law, within the meaning given by section 2 of the Agricultural Provisions Ordinance 2007⁽²⁾, that is given effect by section 3 of that Ordinance,

⁽¹⁾ Ordinance 46/2020, as amended by Ordinance 03/2022

⁽²⁾ Ordinance 9/2007, amended by Ordinances 29/2014 and 51/2020.

(b) “VAT law” means a provision of a VAT law, within the meaning given by section 2 of the Value Added Tax Ordinance 2008⁽³⁾, that is given effect by section 3 of that Ordinance,

(c) nothing may be interpreted as permitting the exercise of a function referred to in section 5(1) of the Ordinance.

Dated this 10th day of March 2022.

Clare Elizabeth Simpson,
Chief Officer,
Sovereign Base Areas.

⁽³⁾ Ordinance 14/2008, amended by Ordinances 6/2010 and 52/2020.

EXPLANATORY NOTE

(This note is not part of the Authorisation)

1. This explanatory note relates to the Conferral of Functions (Powers of Officers of the Republic) Authorisation 2022 (the Authorisation). 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 Authorisation. It is not intended to be a comprehensive description.

2. The Conferral of Protocol Functions on the Republic Ordinance 2020 (the Ordinance) makes provision for the conferral on officers of the Republic of Cyprus of powers and duties relating to the implementation of 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 (OJ No. L 29, 31.01.2020, p. 7.).

3. Under the Ordinance, a number of powers only form part of conferred functions if the Chief Officer grants an authorisation to that effect (see section 5(3) to (5A) of the Ordinance).

4. Under those provisions, the Chief Officer authorises officers of the Republic to exercise the following powers:

- (a) entry powers, and powers to seize and retain evidence, where conferred by an “agricultural law”, within the meaning of the Agricultural Provisions Ordinance 2007 (see section 3) of the Authorisation); however, where such a power is exercised for the purposes of an inspection of goods which are intended for import into or export from the Areas, it may only be exercised in circumstances, and by an officer of the Republic of a class, prescribed by the Fiscal Officer. (see section 4)).
- (b) entry powers, and powers to seize and retain evidence, where conferred by a VAT law, within the meaning of the Value Added Tax Ordinance 2008 (see section 5)). However, powers of entry may only be exercised with prior permission of the SBA authorities in each specific case (see section 6)).
- (c) the power to issue administrative fines for any offence or other contravention of any legislative provision or rule of law, where the power to issue the fine is conferred by an agricultural law or a VAT law (defined as above) (see section 7).

5. Customs officers are not considered “officers of the Republic”, and are therefore not conferred any powers, under the Ordinance, except to the extent that the Chief Officer so provides (see section 2(1) of the Ordinance). In exercise of those powers, section 8) provides that, for the purposes of the Ordinance, a Republic’s customs officer is to be considered an officer of the Republic for the purposes of exercising a power conferred by a VAT law.

6. Under section 9)(c), nothing in this Authorisation may be interpreted as permitting the exercise of a function referred to in section 5(1) of the Ordinance, which would be beyond the powers of the Chief Officer to permit. These include: arrest; entry into a dwelling; any function in relation to any property owned or occupied by the Crown in right of its Government of the United Kingdom, any act or omission committed on such property, or the acts or omissions of a servant or agent of the Crown, acting in that capacity; or any function that would require entering any property owned or occupied by the Crown in right of its Government of the United Kingdom.