

**AN ORDINANCE
TO MAKE PROVISION IN RELATION TO THE DIRECT
APPLICATION OF CERTAIN EUROPEAN COMMUNITY
LEGAL MEASURES
IN THE SOVEREIGN BASE AREAS**

**P. T. C. Pearson CBE
ADMINISTRATOR**

5th April 2004.

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

1. This Ordinance may be cited as the European Community (Protocol Measures) Ordinance 2004. Short title.

2. In this Ordinance unless the context otherwise requires— Interpretation.

“the Act of Accession” means the Act concerning the Conditions of Accession of the Republic of Cyprus to the European Union;

“the EC Treaty” means the Treaty establishing the European Community;

“the European Court” means the Court of Justice of the European Communities;

“the Protocol” means the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus attached to the Act of Accession;

“the Protocol measures” means—

(a) the measures referred to in Part I of the Annex to the Protocol (customs and common commercial policy), with the amendments set out in that Annex;

(b) the measures referred to in Part II of the Annex to the Protocol (turnover taxes, excise duties and other forms of indirect taxation), with the amendments set out in that Annex and those set out as applying to the Republic of Cyprus in the Act of Accession;

- (c) Title II of Part Three of the EC Treaty on agriculture and the provisions adopted on their basis (having regard to the declaration made by the European Commission and recorded in the Annex to the Protocol);
- (d) measures adopted under article 152(4)(b) of the EC Treaty (measures in the veterinary and phytosanitary fields);
- (e) such other provisions of the EC Treaty and related Community legislation as are applied to the Sovereign Base Areas pursuant to article 6 of the Protocol and in respect of those Protocol measures which are directives and regulations, they shall be interpreted for the purposes of this Ordinance in the same way as they are to be interpreted for the purposes of the Protocol;

“relevant Protocol obligation” means any obligation created or arising by or under the Protocol measures, whether enforceable or not, and whether relating to the Community or the European Economic Area.

General application.

3. All such rights, powers, liabilities, obligations and restrictions from time to time created or arising by or under the Protocol measures and all such remedies and procedures from time to time provided for by or under the Protocol measures, as are, in accordance with the law of the European Communities, to be given legal effect without further enactment or used in the Sovereign Base Areas shall be recognised and available in law, allowed and followed accordingly; and the expression “enforceable Community right” and similar expressions shall be read as referring to one to which this section applies.

Power to make regulations, orders and rules.

4. The Administrator may make regulations, orders and rules—

- (a) for the purpose of implementing any relevant Protocol obligation, or enabling any such obligation to be implemented or of enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of the Protocol measures to be exercised; or
- (b) for the purpose of dealing with matters arising out of or related to any such obligation or rights or the coming into force, or the operation from time to time of section 3 above.

Exercise of powers and duties and construction of enactments.

5. In the exercise of any power or duty contained in any Ordinance, including any power to give directions or to legislate by means of orders, rules, regulations or other subordinate instrument, the person entrusted with the power or duty may have regard to the objects of the Protocol and to any relevant Protocol obligation or to such rights as aforesaid and any enactment passed or to be passed other than one contained in this Ordinance shall be construed and have effect subject to this section.

Legal proceedings.

6.—(1) For the purposes of all legal proceedings any question as to the meaning or effect of any Community treaty or as to the validity, meaning or effect of any Community instrument, shall be treated as a question of law and (if not referred to the European Court) be for determination as such in accordance with the principles laid down by and any relevant decision of the European Court or any court attached thereto.

(2) Judicial notice shall be taken by a court of the Areas of the Community treaties, of the Official Journal of the Communities and of any decision of, or expression of opinion by, the European Court or any court attached thereto on any such question as aforesaid; and the Official Journal shall be admissible as evidence of any instrument or other act thereby communicated of the European Community or of any Community institution.

(3) Evidence of any instrument issued by a Community institution, including any judgment or order of the European Court or any court attached thereto, or of any document in the custody of a Community institution, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of that institution, and any document purporting to be such a copy shall be received in evidence without proof of the official position or handwriting of the person signing the certificate.

(4) Evidence of any Community instrument may also be given in any legal proceedings-

- (a) by production of a copy purporting to be printed by the Queen's Printer or by the Government Printer of the Republic (by whatever name either is called);
- (b) where the instrument is in the custody of a department of Her Majesty's Government, by production of a copy certified on behalf of the department to be a true copy by an officer of the department generally or specifically authorised to do so;
- (c) by production of a copy certified by a senior official of the Government department of the Republic which is responsible for the relevant law to which the document relates.

(5) Any document purporting to be a copy as mentioned in subsection (4) shall be received in evidence without proof of the official position or handwriting of the person signing the certificate or of his authority to do so or of the document being in the custody of the department.

7.—(1) In this section "order" means an order referring a question to the European Court for a preliminary ruling under article 234 of the EC Treaty.

References to the European Court.

(2) An order may be made by a court of the Areas on its own initiative at any stage of any proceedings or upon the application by a party before or at the trial or hearing of those proceedings.

(3) An order shall set out in a schedule the request for the preliminary ruling of the European Court, and the court may give directions as to the manner and form in which the schedule is to be prepared.

(4) The proceedings in which an order is made shall, unless the court otherwise directs, be stayed until the European Court has given a preliminary ruling on the question referred to it.

(5) When an order has been made the Senior Registrar shall send a copy of it to the Registrar of the European Court but shall not do so, unless the court otherwise orders, until the time for appealing

against the order has expired or, if an appeal is entered within that time, until the appeal has been determined or otherwise disposed of.

(6) The Administrator may make rules of court in relation to the making of orders.

Provision of information.

8. Any estimate, return or other information that may, in accordance with any enactment, be furnished to an officer of the Administration or an officer of a department of the Republic of Cyprus may, in like manner, be disclosed pursuant to a relevant Community obligation, to a Community institution.

9. This Ordinance shall take effect from 1st May 2004.

5th April 2004
(SBA/128/269)

P. D. Draycott,
Chief Officer.
