The following LEGISLATION is published in this Supplement which forms part of this Gazette: –

Ordinance No.

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SEA BATHERS (PROTECTION) ORDINANCE 2014

An Ordinance to provide for the protection of sea bathers

R. J. CRIPWELL
ADMINISTRATOR

8th April 2014.

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

1. Short title
   This Ordinance may be cited as the Sea Bathers (Protection) Ordinance 2014.

2. Commencement
   This Ordinance comes into force on 14 April 2014.

3. Interpretation
   In this Ordinance, unless the context requires otherwise,—
   “boat” means—
   (a) any mechanically propelled boat or sailing vessel (including a windsurfer, a sea bicycle, a canoe or a sea scooter) and any object being towed by a boat or a sailing vessel;
   (b) any other floating object or floating means of conveyance if the object or conveyance may endanger the safety of bathers in the sea, and any object being towed by a floating object or conveyance;

   “boat lane” means part of the sea in a sea bathing area that is designated as a boat lane in accordance with an order made under section 4;

   “fisheries officer” and “fisheries offence” have the same meaning as in section 3 of the Fisheries Ordinance 2012(a);

   “motor vehicle” has the same meaning as in section 2 of the Motor Vehicles and Road Traffic (Consolidation) Ordinance 2006(b);
“sea bathing area” means an area specified as a sea bathing area in accordance with section 4;
“seashore” has the same meaning as in section 2 of the Seashore Protection Ordinance 2013(c).”.

4. Sea bathing areas

(1) The Chief Officer may, by order made as a public instrument, specify any part of the seashore, together with such adjoining parts of the sea, as a sea bathing area.

(2) Parts of the sea falling within a sea bathing area are reserved for the use of persons bathing in the sea.

(3) An order made under subsection (1) may include provisions as to—
   (a) the period or periods during which the order applies;
   (b) the demarcation of any part of a sea bathing area by clearly visible buoys; and
   (c) the designation, by a public officer, of a boat lane within a sea bathing area.

5. Prohibition on boats and motor vehicles in sea bathing areas

(1) Subject to subsection (2), during the period in which an order made under section 4 applies, it is an offence for any person to—
   (a) use, or permit the use of, a boat or a motor vehicle in a sea bathing area; or
   (b) to anchor a boat or park a motor vehicle in a sea bathing area.

(2) No offence is committed under subsection (1) if—
   (a) a boat is in a boat lane for the purposes of access from a sea bathing area to parts of the sea that are not within a sea bathing area or from such parts of the sea to the seashore;
   (b) a motor vehicle is towing or transporting a boat to or from a boat lane;
   (c) a boat or a motor vehicle is in a sea bathing area for the purposes of preventing harm to a person.

(3) A boat or a motor vehicle found in a sea bathing area, in contravention of subsection (1), may be seized and removed by a fisheries officer.

(4) For the purposes of subsection (3), the powers of removal and seizure of a fisheries officer in section 11 of the Fisheries Ordinance 2012 (power to seize vessels, vehicles, etc) are, with any necessary modifications, exercisable in relation to an offence under subsection (1) as if the offence was a fisheries offence.

(5) A person who commits an offence under subsection (1) will be liable, on conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding €854 or to both.

6. Repeal of Sea Bathers (Protection) (Consolidation) Ordinance 1986

The Sea Bathers (Protection) (Consolidation) Ordinance 1986 is repealed(d).

Notes
(a) Ordinance 23/12. A “fisheries officer” is a customs officer or a police officer.
(b) Ordinance 5/06. Amendments have been made to Ordinance 5/06 but none are relevant to the definition of “motor vehicle”.
(c) Ordinance 10/13.
(d) Ordinance 4/86.
EXPLANATORY NOTE

(This note is not part of the Ordinance)

1. This explanatory note relates to the Sea Bathing (Protection) Ordinance 2014 (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. 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. So, when a section or part of a section does not seem to require any explanation or comment, none is given.

2. This Ordinance repeals and replaces the Sea Bathers (Protection) (Consolidation) Ordinance 1986 (the “1986 Ordinance”).

3. Section 4 of the Ordinance confers a power on the Chief Officer to specify, by order, sea bathing areas for the purposes of protecting persons bathing in the sea at certain beaches. Such orders may also provide for boat lanes to be designated in a sea bathing area for the purposes of access, by boat, to and from the seashore to parts of the sea that are not within the sea bathing area. Orders made under section 4 may also specify the time period during which the order applies.

4. Section 5 replicates a provision in the 1986 Ordinance that makes it a criminal offence for a motor vehicle or a boat to be in a sea bathing area. The offence is punishable, on conviction, by a term of imprisonment of up to 6 months or a fine not exceeding €854 or both. There are limited exceptions that permit a boat or a motor vehicle to be in a sea bathing area. This includes a boat being in a designated boat lane solely for the purposes of access to and from the sea and a motor vehicle being in a sea bathing area solely for the purposes of towing or transporting a boat to a boat lane. The other exception is where a boat or a motor vehicle is in a sea bathing for the purpose of preventing harm to any person.

5. Section 5 also confers a power on a “fisheries officer” (i.e. a customs officer or a police officer) to seize and remove a boat or a motor vehicle found in a sea bathing area.

6. Fishing in a sea bathing area is an offence under sections 12 and 53 of the Fisheries Regulations 2012; a person guilty of this offence, on a first conviction, is liable to a fine of up to €8,543 and, on any further conviction(s), by a term of imprisonment not exceeding 6 months or a fine of up to €8,543 or to both.